

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Reliability Standards Development and)
NERC and Regional Entity Enforcement)

Docket No. AD10-14-000

Commissioner-Led Technical Conference:
Reliability Standards Development Technical Conference

Federal Energy Regulatory
Commission
2C - Commission Meeting Room
888 First Street, Northeast
Washington, D.C.

Tuesday, July 6, 2010

The Technical Conference, pursuant to notice, convened
at 10 a.m., before:

Commission:

- JON WELLINGHOFF, Chairman
- PHILIP MOELLER, Commissioner
- MARC SPITZER, Commissioner
- JOHN NORRIS, Commissioner

1 Commission Staff:

2 Joseph McClelland, Office of Electric Reliability

3 Jim Pederson, Chief of Staff

4 Roger Morie, Office of Enforcement

5 Norman Bay, Office of Enforcement

6 Larry Gasteiger, Office of Enforcement

7 Thomas Sheets, Office of General Counsel

8 John Carlson, Electric Reliability

9 Michael Bardee, Office of General Counsel

10 Jonathan First, Office of General Counsel

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 PANELISTS:

2 Panel 1 Presentations and Discussion on the
3 Current State of Mandatory Reliability Standards
4 Development

5 Mary Anne Aldred, General Counsel, Ontario Energy
6 Board

7 John Q. Anderson, Chairman of the Board, NERC

8 Gregory E. Abel, President and Chief Executive
9 Officer, MidAmerican Energy

10 Louise McCarren, Chief Executive Officer, WECC

11 John A. Anderson, President, ELCON

12 Mark Crisson, Chief Executive Officer, American
13 Public Power Association

14 Stephen J. Wright, Administrator and Chief
15 Executive Officer, Bonneville Power

16 Administration
17
18
19
20
21
22
23
24
25

1 Panel 2 Reliability Standards Development

2 Process

3 Gerry W. Cauley, President and Chief Executive
4 Officer, NERC

5 Allen Mosher, Senior Director of Policy Analysis
6 and Reliability, APPA

7 Nancy Saracino, Vice President, General Counsel,
8 Corporate Secretary and Chief Compliance
9 Officer, CAISO

10 David Mohre, Executive Director for Energy
11 Policy, NRECA

12 Tim Gallagher, Chief Executive Officer,
13 ReliabilityFirst (Regional Entity Management
14 Group)

15 William O. Ball, Executive Vice President and
16 Chief, Transmission Planning and Operations,
17 Southern Company Services, Inc. (EEI)

18 Nicholas Ingman, Manager, Operational Excellence,
19 Ontario Independent System Operator (Canadian
20 Electricity Association)

21

22 Q-A session

23

24

25

1 PROCEEDINGS

2 CHAIRMAN WELLINGHOFF: I have no gavel this
3 morning, so we're a little bit impaired here. Good morning
4 everybody. I appreciate you all attending this technical
5 conference on Reliability Standards Development. The first
6 announcement I want to make is no one will be allowed to
7 testify unless you take off your tie and your coat.

8 (Laughter.)

9 CHAIRMAN WELLINGHOFF: I'm serious. It's way too
10 hot out there. It's 102 degrees. So let's everybody take
11 off your ties, take off your coat. There's a man who's
12 complying.

13 PANELIST: You don't have to say that twice.

14 CHAIRMAN WELLINGHOFF: Joe McClelland, you've got
15 to take off your tie, okay. You guys have to take off your
16 ties as well. I'm serious. The ties have got to come off.
17 I'm serious. It's hot here, okay.

18 Okay, all right. It's the power of the chairman.
19 The chairman does have some power. Thank you all. There
20 you go, okay. Stop with the coats. Do not go any further.
21 It's hot in the elevators in this building, so hopefully
22 we'll want to get a little comfortable here, because we do
23 want to spend some time listening to our panelists, and we
24 have a fine panel here.

25 Again, I appreciate all of you coming today and

1 spending the time. I know some of you have come quite far
2 away, Louise, Stephen. I appreciate you coming out this
3 far to Mary Anne, take the time and give us your thoughts
4 on reliability standards and NERC and FERC's relationship.

5 I don't have any extensive remarks. I'll turn it
6 over -- in fact, I have no remarks. I'll turn it over to
7 my fellow colleagues, if they have any remarks. Once they
8 get done, then we're going to turn it over to Joe
9 McClelland, who's going to run this for us. Okay, go
10 ahead.

11 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
12 It's great to have this day finally come. I think it's
13 probably a bit overdue that we could all talk about these
14 issues, and particularly thank the panelists who had to
15 travel yesterday, which was for us a federal holiday. So
16 coming away, leaving your families and coming to talk about
17 reliability, and we appreciate it very much.

18 I think these meetings need to be held on a
19 regular basis, so that FERC, NERC and the industry are able
20 to continue a dialogue. There will be times when we
21 disagree, and that's okay. But I think we just need to
22 make sure that we're open with our communication, so that
23 we understand the concerns for NERC and the industry and
24 vice-versa.

25 There will be times probably when we have a

1 distinctly different view, and I'm hoping we can telegraph
2 that better, so that we can get a chance to air out some of
3 those concerns prior to the more formal processes that we
4 go through.

5 Today is a fitting day to be holding this,
6 because in unseen countless control rooms across the
7 country, people are working hard to keep both the lights on
8 and probably more importantly, the HVAC systems on, so that
9 it's truly a matter of health and safety and survivability
10 for some people.

11 We do have the best grid in the world, and we
12 need to keep focused on improving it. But today is a day
13 when we celebrate the fact that many people are working on
14 this very issue hard, and we appreciate that. So with
15 that, Mr. Chairman, thank you for having this conference.
16 I look forward to it, and hopefully ones in the future as
17 well.

18 CHAIRMAN WELLINGHOFF: Welcome, Phil. John or
19 Marc? Marc, go ahead.

20 COMMISSIONER SPITZER: Thank you, Mr. Chairman,
21 and I want to echo your comments and those of Commissioner
22 Moeller, that we appreciate the panelists coming,
23 accommodating the short time deadline that was due to very
24 hectic schedules here at FERC, but it means a lot for the -
25 - particularly those who have come far and wide to be here.

1 I'd also like to reinforce the great success of
2 the American electric grid, the most reliable in the world,
3 and unfortunately, it's a degree of reliability that's
4 often taken for granted. But it's not taken for granted by
5 us here. It's not taken for granted by the people that we
6 are accountable to, and the ratepayers of the United
7 States, on a day that is awfully difficult from a
8 consumption point of view, do not take it for granted.

9 A few, just a few general observations. We
10 recognize that there was concern arising from the March 18
11 orders. It is important to understand that there can be
12 respectful disagreements. Commissioner Moeller alluded to
13 it, the fact that we not always agree. But when we
14 disagree, we must do it in a manner that is respectful and
15 not disagreeable.

16 The March 18 letter should not be construed as a
17 belief or a misapprehension that the Commission thinks the
18 industry has done a poor of ensuring the reliability of the
19 bulk of the electric system. That is not the case, and one
20 of the many outcomes of these public conferences is to
21 underscore an effort where we can work together better to
22 obtain common objectives.

23 But we feel you're doing a good job, and nothing
24 in any of our orders gainsays our belief and confidence in
25 NERC and in the participants, or in the industry.

1 Then with regard to the loss of load that is a
2 difficult and often contentious issue, there are two
3 aspects of this. I want to assure you that loss of load is
4 not a per se violation of the reliability standards.
5 There's some misapprehension that on a post hoc basis,
6 Congress thought that they were criminalizing or outlawing
7 all loss of load.

8 That's not the case. That's not the Federal
9 Power Act. We recognize, and it will be the subject of
10 discussion today and in the very able materials that you've
11 given us in advance, make very clear the burden of
12 government in balancing competing interests, and the most
13 salient competing interest is cost and reliability.

14 We recognize that there are on occasion
15 disagreements on how to properly balance cost and
16 reliability. We share different perspectives. We're
17 accountable to different constituencies, and one might
18 predict that we would take different positions on how cost
19 and reliability are to be balanced. But it is a far
20 different issue and it arose in connection with the penalty
21 guidelines that is subject for a conference on another day,
22 wherein the industry felt beleaguered by the ex post facto
23 determination that loss of load is per se subject to
24 penalty.

25 I really think it's important to clear the air

1 that that's not the case, and let's -- if we must disagree,
2 agree on the narrowness of the scope of the disagreement
3 that is the bulk of the discussions today. So I'm very
4 attentive to that. I thank you, Mr. Chairman, and look
5 forward to the discussions.

6 CHAIRMAN WELLINGHOFF: Thank you, Marc, and I
7 agree with all your remarks. Thank you very much. John?

8 COMMISSIONER NORRIS: Thank you. Let me also
9 echo everyone's comments. We really appreciate you being
10 here. I've been looking forward to this conference since
11 the Chairman announced it, and had conversations with many
12 of you in the interim. So we really appreciate you being
13 here.

14 I was trying to think of how to set the -- help
15 set the plate for today's discussion, and I think
16 everyone's done a good job here, so I won't go too long.
17 But you know, we've had investor owneds and public power
18 and coops and people engaged in this business delivering
19 electricity for over 100 years.

20 But times have certainly changed in those 100
21 years. I remember growing up on a farm. We'd lose power,
22 you know, I think it was in your service area, Gary.

23 (Laughter.)

24 COMMISSIONER NORRIS: You know, you just can't
25 stop a stray lightening bolt once in a while and whatever

1 else came our way. We seemed to get along without it, I
2 mean, and industry, while dependent upon electricity 20,
3 30, 40 years ago, they could probably handle it, a loss of
4 power for a while.

5 Heck, you know, I even think of my dad. He'd go
6 in sometimes to visit the stockbroker to do his hedging.
7 It would be unheard now. Everyone wants to go online and
8 everyone wants to do business simultaneously, minute by
9 minute.

10 Industry's under a lot more pressure, losing
11 fractions of an hour to competition in a growing
12 marketplace, because sometimes it may make it or break it.
13 So we changed. I think that kind of drives us to where
14 we're at today. You throw on top of that open access
15 transmission, Order 888, a few rolling blackouts, and
16 suddenly everyone said "whoa, let's take a look at
17 reliability and maybe do we need to change something here."

18 So I think we're in that change process. My
19 guess is you all are going to run to Capitol Hill and say
20 would the federal government just take over this
21 reliability issue for us? Okay. I know that didn't
22 happen.

23 But I also know that Congress didn't say you know
24 what? We'll just let industry take care of it. They've
25 been doing it for years, because they had to be responsive

1 to the changing dynamic out there in this highly-
2 competitive marketplace where our society is much more
3 dependable on electricity every hour, every minute of the
4 day.

5 So now we're in this spot where we're figuring
6 out how this is going to go forward, and I think the March
7 18th orders kind of were a signal, from the reaction I
8 heard, that maybe there's a wheel off the track here.

9 How do we get back on track, and what are the
10 roles we're all going to play going forward, to make sure
11 that we are addressing this side only we have, which is an
12 insatiable appetite for energy at all hours of the day, all
13 minutes of the day. But it has to be reliable, and our
14 economy is incredibly tied to it, and the health and safety
15 our citizens are incredibly tied to it.

16 So I do think it's going to take a high level of
17 communication from the Commissioner and CEO and NERC level,
18 on down through everyone who's helping make this work. So
19 I'm glad we started with this discussion and this panel
20 today, because we've got to send a message to everyone
21 who's involved in this that communication is key.

22 We're all on board with making this work and how
23 do we make it work in the most efficient way possible? So
24 thanks for being here, and I look forward to discussing it
25 with you.

1 CHAIRMAN WELLINGHOFF: Thank you, John, for your
2 remarks. all right. I will turn this over then to Joe
3 McClelland to run this workshop. Thank you.

4 MR. McCLELLAND: I'd like to echo everyone's good
5 mornings and welcomes to the Federal Energy Regulatory
6 Commission. For those of you who don't know me or know of
7 me, my name is John McClelland, and I'm the Director of the
8 Office of Electric Reliability here at FERC.

9 I'll begin with just a few housekeeping items.
10 Please feel free to step in and out of the conference room
11 as necessary. The restrooms are located past the elevators
12 in the left and right hallways. At this time, please be
13 certain to turn the ringers off of your cell phones.
14 Lastly, the Commission will accept comments to this
15 conference through July 26th, 2010. The docket number
16 under which to file the comments is AD-10-14-000.

17 On August 8th, 2005, the Energy Policy Act of
18 2005 or EAct was signed into law. EAct established new
19 Section 215 of the Federal Power Act, which authorizes the
20 setting of mandatory reliability standards, including
21 cyber-security standards for the users, owners and
22 operators of the bulk power system of the United States of
23 America.

24 To accomplish this objective, EAct required that
25 the Commission certify an Electric Reliability Organization

1 or ERO. The ERO has two primary statutory purposes. The
2 first is to develop reliability standards, and the second
3 was to enforce them after they are implemented.

4 EPAct requires that the ERO develop the
5 reliability standards through an open and inclusive
6 process, after which the standards are submitted to the
7 Commission for review and either approval or remand. Only
8 after they are approved are the reliability standards
9 mandatory and enforceable in the United States by the ERO,
10 subject to Commission oversight or by the Commission
11 independently.

12 On February 3rd, 2006, the Commission issued
13 Order 672 to implement the requirements of Section 215 of
14 the Federal Power Act. This included setting forth a
15 process for certifying a single ERO on its standards-
16 development and enforcement responsibilities in the United
17 States. On July 20th, 2006, the Commission certified the
18 North American Electric Reliability Corporation or NERC as
19 the ERO.

20 FPA Section 215 allows the ERO to delegate
21 enforcement responsibilities to regional entities, which it
22 has done through the delegation agreements approved by the
23 Commission. Specifically, NERC has delegated authority to
24 eight regional entities to audit, investigate and otherwise
25 ensure that users or owners and operators of the bulk power

1 system comply with the mandatory reliability standards.

2 On March 15th, 2007, FERC issued Order 693, which
3 approved 83 of 107 proposed reliability standards. As a
4 result, on June 18th, 2007, the first mandatory enforceable
5 reliability standards became effective. Now on January
6 18th, 2008, the Commission issued Order 706, which approved
7 the security standards.

8 In fact, since the enactment of EPOA 2005, the
9 Commission has issued approximately 180 orders dealing with
10 a wide array of reliability matters, including NERC's
11 proposed budgets, rules of procedures, bylaws, hearing
12 procedures, penalty matrices and other functions.

13 Of those orders, the Commission has approved 125
14 new and revised reliability standards, including nine
15 critical infrastructure protection standards, and has
16 proposed to approve two more standards. Of the 153
17 standards filed by the ERO, the Commission has directed
18 modification to 79 standards, and has proposed remand on
19 just two.

20 In so doing, the Commission has reviewed
21 thousands of pages of comments from hundreds of industry
22 and stakeholder commenters. So at present, 102 reliability
23 standards, including 1,246 requirements and sub-
24 requirements are currently mandatory and effective.

25 We here at the Commission appreciate the hard

1 work and effort expended by the ERO. I want to say that
2 again. We do appreciate the hard work and effort expended
3 by the ERO and all of the industry stakeholders that
4 participated in this process. Without your leadership and
5 cooperation in this effort, it would have been impossible
6 to establish these achievements.

7 In summary, it's been three years since the
8 reliability standards first became mandatory and
9 enforceable. Today's technical conference provides a forum
10 for the Commission to have a dialogue with the industry, to
11 review the reliability standards and implementation
12 processes, and discuss what's working, what's not working
13 and where and how we can improve the system.

14 Our first panel has been asked to express their
15 views regarding the progress of developing and implementing
16 mandatory and enforceable reliability standards, and
17 represents a cross-section of the electric utility industry
18 and its stakeholders, the ERO, the ROE, the electric
19 utility industry, industrial users and a governmental
20 representative from Canada.

21 It will provide perspectives on how standard
22 priorities should be identified by communication and
23 cooperation between FERC, the industry and Canada can
24 improve, and what issues have arisen in the development of
25 the reliability standards.

1 Let's begin with brief introductions. Would you
2 please begin your presentation, and I don't mean to go down
3 the panel with the introductions. Just start your
4 presentations by stating your name, title and organization
5 that you represent, and a brief description of your
6 organization's purpose would be helpful also.

7 Each of you will have five minutes, and John
8 Carlson has the unenviable task of warning you when there's
9 one minute left. So I'll ask you to stay on script and
10 stick with the five minutes. With all this said, let's
11 start with Ms. Mary Anne Aldred, General Counsel for the
12 Ontario Energy Board. Ms. Aldred, the floor is yours.

13 MS. ALDRED: Thank you. Good morning,
14 Commissioners. As already said, my name is Mary Anne
15 Aldred. I'm the General Counsel of the Ontario Energy
16 Board or OEB, and I'm very pleased to be here this morning
17 to talk to you about the role of the OEB in the context of
18 reliability standards.

19 My remarks this morning are going to be focused
20 on Ontario, as there are many Canadian perspectives which
21 are dependent on the individual provincial regulatory
22 regime. The OEB is an independent quasi-judicial tribunal
23 which regulates the natural gas and electricity sectors in
24 the public interest in Ontario.

25 Another important actor in Ontario is the

1 independent electricity system operator or IESO, and that
2 body has the statutory mandate to direct the operation and
3 maintain the reliability of the transmission system, and to
4 participate in the development of standards by NERC, NPCC
5 and other relevant standards authorities.

6 In Ontario, reliability standards are
7 administered and enforced principally by the IESO. NERC
8 reliability standards and NPCC regional criteria are not
9 subject to formal approval by either the IESO or the OEB as
10 a condition of their application or operation in Ontario.

11 Absent a challenge, these standards and criteria
12 therefore have effect in Ontario once they are proved by
13 the relevant standards authority. Ontario has in fact had
14 mandatory reliability standards in place since 2002. The
15 IESO has had the statutory authority to develop and enforce
16 these standards as part of the Ontario market rules.

17 Although market participants are accountable to
18 the Board for complying with all applicable reliability
19 standards, as a practical matter, the Board or the OEB has
20 relied on the IESO to enforce compliance. NERC and NPCC
21 have been formally recognized in Ontario as reliability
22 standard-setting authorities, and both the IESO and the OEB
23 have signed MOUs with NERC, and the OEB anticipates that it
24 will engage NPCC in similar discussions. The ISO also has
25 an MOU with the NPCC.

1 Following recognition of NERC as an ERO, the
2 legislation in Ontario was changed, and OEB was given the
3 ability to remand a NERC or NPCC reliability standard.
4 This has created the need to consider the public interest
5 in Ontario, while still accommodating the international
6 standard-setting process.

7 The new remand provisions require the IESO to
8 post a reliability standard within seven days of approval,
9 with a 21-day window for anyone, including the IESO, to
10 apply to the OEB for review. The OEB is also able to
11 initiate its own review of a standard within 120 days of
12 its posting, and this longer review period will facilitate
13 consultation and coordination by the OEB with regulatory
14 bodies in other jurisdictions.

15 The OEB may remand a standard for one of three
16 reasons. The first is if it finds the standard is
17 inconsistent with any one or more of the purposes of the
18 Electricity Act, or legislation, and these include ensuring
19 adequacy and sustainability of supply in Ontario,
20 protecting the interests of consumers with respect to
21 prices, and the adequacy and reliability of electricity
22 service, and considerations related to economic efficiency.

23 As you can see, a number of these tasks that need
24 to be applied are economic in nature, and so important a
25 more wide-ranging analysis than considerations related only

1 to reliability. The Board can also remand a standard if it
2 finds it unjustly discriminates against a market
3 participant, or if the Board finds that there's a need to
4 coordinate with other jurisdictions regarding the
5 reliability standard.

6 It is worth noting that the Board has never had
7 to request -- the Board has never had a request to remand,
8 nor has it ever entertained an appeal of a compliance
9 action taken by the IESO over a reliability standard. It
10 is also worth noting that to the extent that FERC remands
11 or alters a standard, those changes will be automatically
12 operative in Ontario, unless reviewed by the OEB.

13 In terms of a remand, it seems possible that the
14 Ontario regulatory scheme may create a different dynamic.
15 Firstly, participation in a remand proceeding could be
16 broader than those parties that have traditionally
17 participated in standards development, as any person can
18 appeal a standard.

19 Although one would expect that stakeholders would
20 participate in industry processes first, there is in fact a
21 low threshold to meet in Ontario in order to bring a remand
22 request. One could speculate to the extent that the
23 standards are not developed in a way with which all
24 stakeholders are satisfied remand request could result.

25 Secondly, the process in Ontario is adjudicative.

1 A wide variety of parties tend to participate in our
2 proceedings, and for that reason the complexion of the
3 hearing could be different than remand processes in other
4 jurisdictions. I can only speculate, but one of the
5 criteria applied by the OEB is cost, and it might well be
6 that a ratepayer group or groups would be involved in any
7 remand process before the Board, especially since they do
8 get cost awards.

9 It would seem then quite possible that the OEB
10 could arrive at a different conclusion than other
11 jurisdictions, having regard to issues that may be specific
12 to Ontario. Having said that, the statute also allows the
13 Board to revoke or remand or stay application of its
14 standard if it finds it needs to coordinate with other
15 jurisdictions.

16 Given the statutory framework, the Board would be
17 able to exercise its independent judgment as to whether a
18 standard is in the public interest in Ontario, with the
19 ability to consider coordination with other jurisdictions
20 as it does so.

21 Given the recognized importance of cross-border
22 coordination on matters of reliability, I would suggest
23 that it would be helpful to continue with an enhance
24 information-sharing among the various agencies. I note in
25 conclusion that continuation of work on an MOU between FERC

1 and the OEB would be very helpful. Thank you. Those are
2 my comments.

3 MR. McCLELLAND: Thank you. Nicely done. Our
4 next speaker is Mr. John Q. Anderson, not to be confused
5 with Mr. John Anderson, Chairman of the Board of NERC. Mr.
6 Anderson.

7 MR. JOHN Q. ANDERSON: Thank you. It's good to
8 get to speak before my partner John A. Anderson.
9 Alphabetically, he usually speaks first though. Well, I am
10 the Chairman of the Board for the North American Electric
11 Reliability Corporation. I've been on that Board for about
12 ten years, so I've been through various phases.

13 I would like to add my thanks, Mr. Chairman, as
14 well as the rest of the Commissioners and Joe, for holding
15 this excellent forum for us. We really appreciate that.
16 As I think you all know, NERC's single mission is to ensure
17 and enhance the reliability of the bulk power system in all
18 of North America, to the benefit of citizens in both the
19 United States and Canada. Our reliability standards and
20 all of our other programs are directed to that end.

21 We believe that Congress got the standard-setting
22 process right when it outlined the requirements for the ERO
23 model in the Energy Policy Act of 2005 and in Section 215.

24

25 The ERO model provides the opportunity to engage

1 many hundreds of industry experts that are subject matter
2 experts as well as policy experts, along with other
3 stakeholders such as large and small customers and
4 governmental authorities who might say are on the receiving
5 end of reliability standards.

6 The ERO model also provides the opportunity to
7 recognize that the interconnected bulk power system is
8 international in scope. Under the ERO model, interests
9 from both countries can come together in a single forum to
10 develop common reliability solutions, which can then be
11 taken back to their respective regulators for approvals
12 needed to make the standards mandatory and enforceable.

13 The recent Commission order directing NERC to
14 modify its standards process to allow the Board to respond
15 to regulatory directives, presents a complex situation,
16 because developing standards under Section 215 requires a
17 balancing act.

18 On the one hand, the expertise is in the
19 industry, and we need to encourage continued participation
20 through the NERC standards process, which has been
21 accredited by the American National Standards Institute.

22 On the other hand, FERC has strong responsibility
23 under the law of the U.S. to oversee reliability, and as an
24 economist would say, on the other hand, the success we have
25 had in gaining Canadian support for the NERC standards has

1 much to do with the opportunity that Canadian interests
2 have had to participate directly in standards development
3 through NERC.

4 Further, unlike the Commission, NERC does not
5 enjoy sovereign immunity for the consequences of our
6 actions. To make up for that, we rigorously follow a
7 standards development process that has been accredited as
8 meeting ANSI's standard-setting requirements.

9 My colleagues on the NERC board and I have long
10 and serious discussions about what course we might take in
11 response to the Commission's order. No one questions that
12 the Commission has the authority under Section 215 to
13 direct the ERO to develop a reliability standard that
14 addresses a specific matter, if the Commission considers
15 such a standard appropriate for reliability.

16 The question has been how to do that in a way
17 that continues to meet the requirements in Section 215,
18 that our standards process continues to provide for
19 reasonable notice and opportunity for public comments, due
20 process, openness and balance of interests.

21 I can tell you that the Board is evaluating its
22 oversight of the standards process as we speak, and I
23 expect a more active role for the Board in ensuring
24 accountability in the standards process going forward.

25 At this juncture, what we believe is needed to

1 better identify priorities and improve communication and
2 cooperation between the Commission, NERC, Canadian
3 participants and the industry is open communication between
4 NERC and the Commission in an open forum, where we can
5 understand the Commission's view of priorities and policies
6 in advance of orders.

7 Both NERC and FERC staffs, as well as
8 stakeholders, can be informed about concerns and objectives
9 that the Commission has through such a process, and all
10 parties, including the Commission, can discuss avenues for
11 reaching solutions that best meet those objectives, while
12 keeping the ERO process and systems intact.

13 In my written remarks, I also raise the topic of
14 reliability, as defined by preventing cascading outages,
15 which includes load shedding, versus what some were hearing
16 about no loss of load. So I'm glad that Commissioner
17 Spitzer raised this. It's a very important topic and also
18 in need of more open communication, as is the issue of
19 critical infrastructure protection, for example, and the
20 standards that are required there.

21 I again want to express on behalf of myself and
22 the NERC Board my appreciation for the Commission to
23 opening this forum. I look forward to the rest of the
24 discussion today, and believe that we will gain much from
25 this particular forum, as well as from future opportunities

1 to have this kind of communication. Thank you.

2 MR. McCLELLAND: Thank you, John. Next we have
3 Mr. Gregory Abel, President and CEO of MidAmerican Energy.

4 MR. ABEL: Thanks, Joe. Chairman Wellinghoff,
5 Commissioners and other panel members, thank you for the
6 opportunity appear before you today. I'm Greg Abel,
7 President and Chief Executive Officer of MidAmerican. I'm
8 appearing on behalf of Edison Electric Institute and
9 MidAmerican.

10 EEI members represent approximately 70 percent of
11 the U.S. electric power industry. EEI and MidAmerican
12 thank the Commission for holding this conference. It's
13 vitally important that we continue the dialogue on
14 reliability.

15 MidAmerican, EEI and the industry understand the
16 problem at hand. The adage that when everything becomes a
17 priority, nothing is a priority rings true in this case.
18 I'm here today to address these issues and present policy
19 recommendations we believe offer a promising way forward.

20 My comments will focus on three areas:
21 clarification of existing reliability rules, improvement in
22 cooperation and communication and enhancement of industry
23 self-assessment.

24 With regard to the clarification of existing
25 reliability rules, FERC, NERC and the industry need to

1 provide clarification on mandatory reliability standards to
2 remove lingering ambiguity around the various
3 interpretations of standards. As a group, we need to
4 identify and prioritize standards that are ambiguous, and
5 NERC, with industry assistance, should proceed to revise
6 these standards and file them before FERC for approval.

7 We're concerned the Commission is inadvertently
8 supplanting the NERC standards development process by
9 independently interpreting standards through orders and
10 enforcement, in some instances significantly altering the
11 requirements that the industry must meet without advance
12 notice of these expectations.

13 Interpretations of standards should in the first
14 instance be made by NERC, and NERC should develop processes
15 to render the interpretations promptly and efficiently. We
16 appreciate the Commission has a talented Reliability staff
17 and statutory authority to oversee NERC. It is appropriate
18 the Commission use its staff for policy and technical
19 guidance.

20 The Commission must keep in mind that the
21 reliable operation we strive for under Section 215 means
22 bulk power system stability, equipment protection and
23 avoidance of cascading failures. It does mean avoiding
24 loss of load at any cost. The focus initially should be on
25 the most important needs, standards that can have a

1 significant impact on reliability, ambiguous standards that
2 need to be resolved, and the sequence in which these highly
3 interrelated standards are addressed is absolutely
4 critical.

5 For example, the Commission has proposed an
6 interpretation of the TPL-002 standard that the industry
7 finds extremely troubling, and a more complete
8 understanding of the practical implications of revising
9 these planning standards, of revising any planning standard
10 is also necessary.

11 Finally, a change to planning
12 standards requires sufficient time to plan, procure,
13 design, permit and construct new or modified facilities.
14 Next, I will address improvements in cooperation and
15 collaboration and communication that can promote sound
16 outcomes and enhance reliability.

17 FERC, NERC and the industry need to cooperate
18 prospectively to develop mandatory reliability standards
19 that are clear, unambiguous and enforceable and do so in a
20 timely manner. For example, the Commission might provide a
21 staff analysis of the proposed standard, and ask for
22 comments, issue an advanced notice of proposed rulemaking,
23 or hold a technical conference before issuing the actual
24 notice of proposed rulemaking.

25 With this approach, we can avoid debating

1 important technical issues and a barrage of paper. NERC,
2 FERC and the industry should begin focusing on risk-based
3 standards that take into consideration the incremental
4 benefits of reliability, along with the associated costs.

5 At the same time, NERC and the industry need to
6 be more responsive to the Commission, and specifically
7 their concerns about improving reliability standards. In
8 short, when the Commission determines that a standard needs
9 to be improved, we need to develop the improved standard on
10 a timely basis.

11 As I mentioned earlier, the industry is committed
12 to a strong, reliable bulk electric system. However, we
13 seem to be operating in a regulatory environment in which
14 our dedication to excellence merits relatively little
15 credit, and honest mistakes or equipment failures can be
16 severely penalized.

17 This approach does not necessarily lead to
18 enhanced reliability. A system disturbance should not
19 result in the automatic presumption that a compliance
20 failure has occurred. The focus should be on event
21 analysis to implement lessons learned from the industry
22 experience.

23 In my final remarks, I'd like to focus on how the
24 industry can improve its self-assessment. The industry has
25 been and continues to be focused on reliability. However,

1 the industry also recognizes we can improve on that by
2 using self-assessment and evaluation similar to the INPO
3 model. We can ensure the structure is in place to foster
4 improvement.

5 The industry is taking steps to put this
6 structure in place. In fact, our ability to meet
7 reliability goals is a key metric by which we measure the
8 success of our businesses. We're not accountable just to
9 NERC and FERC, but we're also accountable to our customers
10 and many other stakeholders.

11 Our companies believe very strongly that the core
12 responsibility and expertise for reliability lies with our
13 own employees, who every day perform a wide variety of
14 utility tasks aimed at ensuring reliable service. Again, I
15 appreciate the Commission's invitation to participate in
16 this important conference. Thank you.

17 MR. McCLELLAND: Thank you, Greg. Next, we have
18 Ms. Louise McCarren, Chief Executive Officer of the Western
19 Electricity Coordinating Council. Louise?

20 MS. McCARREN: Thank you, Joe, and thank you
21 Chairman Wellinghoff and Commissioners. I'm here today
22 speaking on behalf of the other regional entity managers,
23 and I want to recognize Tim Gallagher and Stacey Behoda who
24 are here, and I believe those were the two folks that were
25 able to make it today.

1 I'm not going to repeat all of the comments that
2 have been made, but I want to make a couple of key points
3 on what has worked well and what improvements we need to
4 make. Though this conference is not about compliance, I do
5 want to observe that over the last three years, we've come
6 a long way in working through what was some very difficult
7 issues on compliance.

8 The lesson that I believe is applicable to
9 standards is that outreach and communication played a very
10 large role in that. It took us a while, but we all
11 ultimately understood what was expected, the quality of
12 information, what the arrangements really were.

13 Once we worked through that, I would suggest that
14 now things are running very smoothly. So that's a lesson
15 learned, outreach and communication, and I think we can
16 apply that to the bumps in the road we're having now on
17 standard-setting.

18 What needs improvement? I think what needs
19 improvement is increased clarity on roles and
20 responsibilities, particularly with respect to the roles
21 and responsibilities of FERC, NERC, the regions and the
22 industries in the standard-setting process. The standard-
23 setting process is benefited enormously by the
24 contributions and the expertise of industry, and the FERC
25 and the NERC and the regional entities' participation in

1 that.

2 But more clarity on their actual roles, I think,
3 would go a long way to removing some of the bumps in the
4 road. I think the second area of clarity needs to be what
5 are the attributes of good standards, good standards from
6 the FERC's perspective?

7 You know, it took us again, it took us a while to
8 understand the attributes of a good settlement, the
9 attributes of a good notice of penalty, and I think that
10 that would go a long way if we had better clarity on how
11 prescriptive the standard should be, and from FERC's point
12 of view, the policies it would like to see implemented on
13 good standards.

14 The third issue is I think what needs improvement
15 is focus on the most important issues. I think my
16 colleagues here have mentioned that clearly, as we went
17 through compliance. You told us focus on the big issues,
18 focus on what really matters. We did that, and I think
19 that goes a long way.

20 I think the whole process does get diluted if, as
21 Greg Abel said, if everything's a priority, nothing's a
22 priority. So increased clarity on that would be very, very
23 helpful. Again, I think we need to continue to improve
24 communications, because it is forums like this that allow
25 us all to speak to each other. But there should be more

1 communication on what the expectations are.

2 Also, we need to, and I know this is very
3 important to you as well, we need to respect our Canadian
4 and Mexican partners in this. They have different
5 processes. They are in one case a sovereign nation and
6 sovereign provinces, but provinces who are in charge, and
7 we need to respect that.

8 The final comment I want to make is that as we've
9 gone through the compliance process, out in the field the
10 auditors have gained a substantial amount of information
11 and data, and this information and data can be used and
12 analyzed to really understand how standards are applied in
13 the field, and where they are effective and where they
14 should be focused, and that data and information should be
15 cycled back to the standard-setting groups and to FERC.

16 There's a treasure trove of data and information,
17 and I'm just speaking for WECC just briefly now. But we
18 have a project underway to analyze that data. With that,
19 thank you very much, and you can have my 51 seconds.

20 MR. McCLELLAND: Thank you very much.

21 (Laughter.)

22 MR. McCLELLAND: All right, thank you Louise.
23 Next we have Mr. John A. Anderson, and he's the President
24 of Electricity Consumers Resource Council, or ELCON, I know
25 it as ELCON, and John, the floor is yours.

1 MR. JOHN A. ANDERSON: Thank you very much,
2 Commissioners, Chairman Wellinghoff, Joe. I appreciate it
3 very much. Yes, I am the president and CEO of ELCON, which
4 is the national association representing large industrial
5 electricity consumers.

6 The reliability of the electricity grid is of
7 tremendous importance to industrial electricity consumers.
8 Increasingly, the productive processes of industrial
9 facilities from steel to automobiles to oil refineries, are
10 dependent on highly reliable electricity supplies.

11 However, especially in these very difficulty
12 economic times, we must be sure that the expenditures, even
13 though made in the name of reliability, are both cost-
14 effective and results oriented.

15 For this reason, we have been very active
16 participants in the process that has brought about NERC.
17 We are strong supporters of NERC as a fair, open, inclusive
18 organization that develops reliability standards subject to
19 FERC approval, that balances the risk of outages with the
20 cost of assuring reliability.

21 However, we're concerned that today there's not a
22 good working relationship between FERC, the regulator, and
23 NERC, and we don't think this is in the best interest of
24 consumers or other stakeholders. So why are we here today?
25 Well, as several people have mentioned, on March 18th, FERC

1 issued 12 orders and notices that completely caught NERC
2 and its stakeholders off guard. It was real wake-up call,
3 by anyone's definition.

4 Obviously, FERC did not believe that NERC was a
5 strong enough organization to assure the level of
6 reliability that FERC believed necessary. Several of the
7 orders are of considerable concern to, and may have direct
8 impact on, my members.

9 The March 18th orders clearly got NERC's
10 attention, and have resulted in substantial change. In my
11 view, NERC certainly has demonstrated with both actions and
12 words that it has heard the wake-up call, and is taking
13 very significant actions to meet the challenges set forth
14 by FERC.

15 In reaction to NERC's filing requesting
16 rehearing, certification, extension of times and so forth,
17 FERC agreed to a rehearing request, granted partial
18 clarification on one issue and scheduled this conference
19 today, which is an extremely positive step in the right
20 direction.

21 So why is the NERC-FERC relationship so
22 difficult? I think there are several reasons. First, who
23 should be the primary reliability expert, FERC or NERC?
24 The electricity system in North America is a very, very big
25 machine. While there's certainly been technological

1 innovation, it still relies on individuals, real people
2 making individual decisions, and very specific and personal
3 industry expertise.

4 Much of that expertise lies in the electric
5 industry, as it works even through NERC. FERC certainly
6 has very, very capable reliability staff and others. But
7 FERC will never be able to, nor should it try to duplicate
8 the depth of the industry's expertise.

9 Second, can we afford 100 percent reliability?
10 I'm glad that it was clarified, Commissioner Spitzer
11 particularly today, because it seems to be a growing
12 sentiment that FERC wants 100 percent reliability. We must
13 recognize that we'll never have 100 reliability. It's
14 impossible and it's far too expensive to even try.

15 The objective should be to establish a bulk power
16 system that minimizes outages and avoids both cascading
17 outages and long-term equipment damages, while providing a
18 level of reliability that meets the needs of consumer at
19 reasonable cost. That's a big handful.

20 What does the law require? There are significant
21 conflicting or unclear mandates. FERC certainly has its
22 charges and so does NERC. But FERC must give due rate to
23 the technical expertise of the ERO with respect to the
24 content of the standard.

25 Fourth, is NERC a North American ERO or an

1 American ERO? This has been well-covered by my other
2 colleagues, but we believe very strongly that it's a North
3 American ERO and that carries with it a lot of
4 requirements.

5 Fifth, how high must penalties for violations of
6 reliability standards be set? There seems to be
7 substantial differences in broad objectives between FERC
8 and NERC, and we need to come to agreement on what these
9 are.

10 Sixth, what are the real priorities? FERC and
11 NERC seem to have different views on priorities. FERC has
12 issued directives, requirements changes in NERC's processes
13 and procedures.

14 While there probably are very good reasons for
15 such actions, the fact is that considerable resources are
16 required to make adjustments to elements of standards,
17 rather than allocating time to improve existing
18 requirements, in a manner that addresses the reliability-
19 related directives of Order 693.

20 And finally, are we really focusing on the right
21 entities? As ELCON emphasized in our July 20th, 2006
22 comments, over-registration will distract compliance staff
23 in both NERC and the regions. FERC agreed with the
24 rationale of NERC and other commenters, and at least
25 initially approved NERC's rules and procedures that require

1 only entities that have a material impact on the bulk power
2 system to be in the NERC registry, and that's subject to
3 the reliability standards. We hope that that will
4 continue.

5 So where are we? Reliability regulation is a
6 work in progress and it will be for some time. With the
7 March 18th orders FERC asserted out of a real sense of
8 duty, I know, a larger role than many stakeholders
9 expected. What is needed though is a much better working
10 relationship between FERC and NERC.

11 NERC has made and is continuing to make very
12 substantial progress in the transition from a utility-
13 dominated volunteer organization to an ERO that is
14 responsive to broader stakeholders' interests. But NERC
15 must also show more sensitivity to the fact that the Energy
16 Policy Act of 2005 requires FERC oversight of NERC. NERC
17 must respond explicitly to FERC orders and directives in a
18 timely manner.

19 FERC also can assure and make some specific
20 actions. At least to me, it is not in FERC's interest,
21 much less in the interest of NERC and its stakeholders, for
22 FERC to attempt to over-regulate. FERC should show a
23 greater understanding that reliability regulation is a work
24 in progress, and will take some time to adequately develop.

25 Former FERC Chairman Joe Kelliher stated that

1 FERC initially asserted a larger role than expected out of
2 a sense of duty. However, Mr. Kelliher then stated this
3 larger FERC role was intended as a temporary measure only.

4 The real question to me is that once NERC
5 actually demonstrates that it is a strong organization, in
6 Kelliher's terms, will FERC accept a reduced role and rely
7 more on NERC? Thank you for the opportunity to be before
8 you today, and I look forward to your questions.

9 MR. McCLELLAND: Thank you, John. Next we have
10 Mr. Mark Crisson, Chief Executive Officer of the American
11 Public Power Association. Mr. Crisson.

12 MR. CRISSON: Thank you, Joe. Good morning. I
13 am Mark Crisson with the American Public Power Association.
14 We represent the interests of over 2,000 publicly owned
15 power systems in 49 states. I'd like to add my thanks to
16 those of the panelists for the Chairman and members of the
17 Commission to convene what I think is very timely
18 conference today.

19 Development of and compliance with mandatory
20 reliability standards are a high priority for APPA and its
21 members. We supported them in 2005 because public power,
22 indeed the entire electric utility industry, is committed
23 to a strong, reliable bulk power system.

24 We felt voluntary standards and peer pressure
25 alone were no longer sufficient. Since the passage of

1 Section 215, APPA and its members have expended very
2 substantial time and resources on the development of
3 reliability standards and on compliance with those
4 standards.

5 There are currently over 330 APPA members now in
6 the NERC compliance registry. Public power system
7 employees have dedicated many hours to working on NERC
8 standards drafting teams, submitting comments to NERC on
9 proposed standards, and participating in ballot pools.
10 They actively participate on NERC technical committees and
11 corresponding regional committees and task forces.

12 Within our organization at APPA, we've also made
13 reliability standards and compliance a high priority as
14 evidenced by Mr. Allen Mosher of our staff, serving as the
15 current chair of NERC Standards Committee.

16 We're now three years into compliance with
17 mandatory standards, even within this relatively short time
18 frame, we're seeing reliability improvements. But our
19 members have four primary concerns with the current state
20 of standards development and enforcement.

21 First, as many speakers have mentioned, we feel
22 there's a need for a better working relationship, not just
23 among the Commission and NERC, but also regional entities
24 and industry representatives. Over the last few years, the
25 relationship gradually seems to have become less

1 collaborative and more adversarial.

2 Perhaps we missed some signals, but the series of
3 reliability-related orders that the Commission issued in
4 March caught us largely by surprise. Taken together, these
5 orders seems to signal deep dissatisfaction on the
6 Commission's part with NERC's and industry's performance in
7 a number of areas.

8 These areas have caused the industry in terms to
9 circle the wagons, filing pleadings in numerous dockets to
10 protect our interests. This does not strike me as the
11 optimal way to ensure the reliability of the bulk power
12 system.

13 The area model is a good model, but it's a
14 challenge to make it work. It requires good communication,
15 common goals and a shared commitment to get the right
16 result. That is, improve reliability. It requires that
17 the roles of each group, as defined in 215, be understood
18 and respected.

19 We applaud the Commission's initiative in
20 convening this technical conference as a way to get us back
21 on track. The APPA is on board. We believe that
22 collaboration and discussion are key to improving the
23 working relationship, much preferred to filing for
24 rehearing of Commission orders and pursuing court appeals.

25 Second concern. Both the industry and the

1 Commission should take full advantage of the opportunities
2 that NERC's change in leadership brings. I have personally
3 been very impressed with Mr. Cauley's words and deeds in
4 the month since he has become the new CEO at NERC.

5 I know my members feel the same way. Gerry has
6 reached out to public power, taking the time to come to
7 many of our meetings to discuss his plans and priorities.
8 I think he has a clear vision of how NERC can become a
9 stronger organization, one that better promotes increased
10 electric industry reliability, and he has a road map to get
11 us there. I urge the Commission to support his vision and
12 to work with Gerry and his team, to help achieve it.

13 Third, we all need to step back and assess
14 whether we're getting the most reliability bang for our
15 compliance buck. My members are expending very substantial
16 financial and human resources on reliability compliance
17 standards. They don't think this paper work exercise has a
18 clear, demonstrable positive effect on reliability.

19 While we understand that proper documentation is
20 necessary, in many cases to demonstrate compliance with
21 reliability standards, let's keep in mind that compliance
22 is the means to an end, the end being enhanced system
23 reliability. All of us need to consider how we can better
24 tame the associated paper work beast.

25 Fourth and finally, as many other speakers have

1 addressed, we feel we need to have a better understanding
2 on the ultimate purpose of the mandatory reliability
3 standards regime. When Section 215 was passed with broad
4 industry support, we thought the purpose was to improve the
5 reliable operation of the bulk power system by avoiding
6 instability, uncontrolled separation or cascading failures.

7 But we're now becoming quite concerned that the
8 Commission has a different concept, under which any outage
9 resulting in more than what I'll call a de minimis loss of
10 load is unacceptable, and may result in the levying of very
11 substantial monetary penalties if a violation of a
12 reliability standard is somehow involved.

13 The amount of monetary and human resources that
14 would be required for the industry to meet such a concept
15 of reliability is staggering. If this is in fact the
16 Commission's concept, we need to discuss this difference
17 and do it soon. Again, thank you for the invitation to
18 speak, and I look forward to the panel discussion.

19 MR. McCLELLAND: Thank you, Mark. Next we have
20 Stephen Wright, who's the Administrator and Chief Executive
21 Officer of the Bonneville Power Administration.

22 Steve, the floor is yours.

23 MR. WRIGHT: Thank you. I want to thank the
24 Chairman and the Commission for having the vision to call
25 this conference, which comes at a critical crossroads for

1 reliability management. Bonneville Power Administration is
2 a federal agency serving about 75 percent of the high
3 voltage transmission in the Northwest.

4 From our experience, we would conclude that since
5 passage of the Energy Policy Act in 2005, reliability in
6 this country has improved. We are confident that's true on
7 our system, and I think it's important to underscore. This
8 is not just about whether standards get put in place; it's
9 whether reliability is actually enhanced.

10 This improvement is due to the increased focus on
11 reliability through the process of establishing mandatory
12 standards and enforcement. These substantial efforts
13 quickly put in place reliability standards Version 1, with
14 subsequent versions continuously being developed. All
15 those who have contributed to this effort deserve our
16 applause.

17 Our view is that Section 215 of the Federal Power
18 Act is a carefully crafted piece of legislation that was
19 necessary. We supported it then and now. Section 215 is
20 also a very unusual piece of legislation in that it shares
21 responsibility between a governmental and a nongovernmental
22 entity.

23 We believe that it's wholly appropriate, given
24 the circumstances. No small group of people can adequately
25 develop the knowledge base to address reliability. It's

1 too big, too complex a challenge. Instead, we must develop
2 a system that relies and is frequently refreshed with
3 knowledge from expertise spread across the country.

4 The best way this can work is through effective
5 collaboration and a degree of trust between the entities
6 given responsibility in the legislation. The legislation
7 is workable, and it is up to us in leadership positions to
8 make it work, such that it does not need to be revisited by
9 the Congress, nor defined in the courts.

10 In my experience, the only way collaboration can
11 be effective is if the leadership of the engaged
12 organizations make a commitment to establishing a shared
13 vision in an ongoing day-by-day commitment to communication
14 focused on resolution of differences. I hope this
15 conference is the beginning of just such a commitment.

16 Finally are four suggestions to enhance effective
17 implementation of the legislation. First, while respecting
18 any due process requirements for federal rulemaking
19 mechanism, excuse me, for federal rulemaking, mechanisms
20 should be implemented to increased the communication and
21 collaboration between what I will call the reliability
22 infrastructure leadership, defined as regulators, the ERO,
23 ROs and bulk electric system participants.

24 Over the last few months, there has been
25 increasing tension within this reliability infrastructure

1 leadership, reflecting what appears to be a lack of trust.
2 A symptom is, as an example, what appears to be
3 inefficiency being built into the system between FERC, NERC
4 and the ROOs, creating costly duplication of efforts in
5 areas such as audits, standard-setting and enforcement.

6 Another symptom is the increasing discussion of
7 statutory intent, which in my experience frequently is the
8 prelude to litigation. Our goal should be for all of us
9 within this reliability infrastructure leadership to own
10 this problem and to solve it. We believe it would be
11 prudent at this time to define a forum for the reliability
12 infrastructure leadership to engage on a regular basis.

13 Given that FERC has the governmental powers, it
14 would send a powerful signal of a commitment to
15 collaboration if FERC chose to participate in just such a
16 group. We can discuss later the charter for such a group.

17

18 Beyond the leadership forum, we would add that in
19 our experience, where there are important shared
20 responsibilities between organizations, value can be added
21 by having someone responsible simply for relationship
22 management.

23 Second, we need a national conversation about how
24 much reliability is the right amount and at what cost. It
25 is not possible to guarantee 100 percent reliability, nor

1 should we expect that there is an unlimited credit card to
2 attempt to achieve 100 percent reliability.

3 The conversation we are suggesting is not about
4 what are the right relay practices or how low should
5 vegetation be cut. It's a more conceptual discussion about
6 what does the cost curve look like for maintaining
7 reliability, and as a country, approximately where do we
8 want to be on that cost curve.

9 Third, bulk electric system participants should
10 be collaboratively leading the way, in terms of defining
11 and tracking the appropriate metrics, and deploying and
12 sharing best practices. We have a helpful role model for
13 such behavior in the Institute for Nuclear Power
14 Operations. Simply put, we should be encouraging a race to
15 the top approach to the adoption of best practices in
16 reliability.

17 FERC can greatly accelerate the development of an
18 INPO-like organization for transmission if it were, for
19 example, to provide leniency for infractions committed by
20 BES participants that have actively engaged and supported
21 the norms of such an organization.

22 This type of regulation may be best suited to
23 prevention of human errors, while strong penalties may be
24 better suited to willful disregard of rules or standards.

25 Fourth, led by the new leadership at NERC,

1 there's been a great deal of conversation about focusing
2 standards more on performance and risk-assessment, and less
3 on documentation. This concept is extremely appealing and
4 deserves our support as leaders.

5 In conclusion, we believe the mechanisms to
6 govern reliability established by the Congress will work
7 best if they are implemented in a collaborative manner,
8 utilizing the core competencies of the various actors
9 engaged in these discussions, through using commonly
10 developed and understood expectations for reliability and
11 cost, and encouraging a race to the top approach to the
12 adoption of best practices.

13 It should be our policy to work collaboratively
14 to make the reliability legislation work, until that
15 approach is proven to be unworkable. Thank for initiating
16 this dialogue.

17 MR. McCLELLAND: Thank you, Steve and all the
18 panelists for your thoughtful and informative
19 presentations. At this time, I'll turn to the Chairman and
20 Commissioners, and ask if anyone has any questions for the
21 panelists. Mr. Chairman.

22 CHAIRMAN WELLINGHOFF: Thank you, Joe. I've got
23 a few comments first. I do appreciate all of your comments
24 and I'm hearing you. You're all saying we need to
25 collaborate more, we need to open a dialogue, we need to

1 move forward to better understanding of our respective
2 positions and ways that we can work together, and I hear
3 that and we're going to do that. I commit to that.

4 Steve, I'm very interested in your idea, you
5 first idea on a forum that would, a leadership forum, FERC,
6 NERC, the ROOs, bulk power, electric system participants.
7 Could you flesh that out a little bit more for me?

8 MR. WRIGHT: I would, and I had to cut my
9 statement down to get under the five minutes, so I had
10 things in the written statement that didn't make it into
11 the oral statement.

12 CHAIRMAN WELLINGHOFF: Okay.

13 MR. WRIGHT: A couple of thoughts. First of all,
14 I think the purpose for such a forum or the charter for
15 that group is important to identify right up front. We're
16 creating institutional structures and relationships that
17 are going to have a long life here.

18 We need to find a way to be able to air
19 differences, under perspectives, help set priorities and
20 track implementation. That means you have to have the
21 right people around that table who can actually make that
22 happen.

23 So that probably means candidly participation at
24 the commissioner from the FERC. It means participation at
25 the CEO level from the industry, and certainly at the CEO

1 level from NERC and possibly Board membership from NERC as
2 well.

3 I think the forum can help better understand the
4 pace of standard development and the opportunities for
5 improvement. They're there. They have certainly been part
6 of the fundamental problem that we seem to be addressing.

7 It can create greater clarity about the roles,
8 based on appropriate use of core competencies within
9 different organizations. If people are sitting around the
10 table, they can talk about well, how do we get best value
11 out of the existing organizations that are here?

12 It can define priorities based on a simple public
13 interest test, and I don't mean the FERC legal
14 determination of public interest. I mean the broad public
15 interest test, of what creates the greatest good at the
16 least cost in the quickest way possible?

17 We believe that if you can create a group like
18 this, and we've done this in the Northwest with things like
19 development of our long-term contracts, that you can cut
20 through a lot of the problems and hopefully result in a lot
21 less litigation.

22 CHAIRMAN WELLINGHOFF: So you see this as an
23 ongoing forum that was in essence created by the Commission
24 and the parties to come together on a periodic basis to
25 discuss issues and work out differences?

1 MR. WRIGHT: I would, although I would put the
2 emphasis on created by the Commission and the parties
3 jointly.

4 CHAIRMAN WELLINGHOFF: Right.

5 MR. WRIGHT: Because first of all, we've got some
6 folks from other countries that need to be involved as
7 well.

8 CHAIRMAN WELLINGHOFF: Right, oh absolutely.

9 MR. WRIGHT: But it's going to take high level
10 participation to make this work, because these are
11 significant priority-setting exercises.

12 CHAIRMAN WELLINGHOFF: And would you see that
13 forum to be the place work on your second point, and that
14 is start a national conversation about the mutual
15 liabilities at the right amount, because I think we do need
16 to have that conversation. I think there seems to be some
17 misunderstandings and differences about what that should
18 be. So how would that conversation start?

19 MR. WRIGHT: I think that that would be a good
20 place for it to start. There's a huge amount of technical
21 work that would have to go into this. Creating a cost
22 curve for reliability is something that there has been some
23 work done on around the country, but it is still in the
24 nascent stage.

25 I think that that probably is going to take a

1 fair amount of staff work, and it probably would need to be
2 led by FERC and NERC candidly. That's where a lot of the
3 expertise will come from in order to be able to put that
4 together.

5 Having said that, it's going to need some
6 guidance. It's going to need policy guidance, and that
7 executive policy guidance can come from a forum like the
8 one described earlier.

9 CHAIRMAN WELLINGHOFF: Does anybody else on the
10 panel have any comments on Steve's ideas here? John.

11 MR. JOHN Q. ANDERSON: Mr. Chairman, we have
12 mulled over this same idea at the NERC Board and CEO level,
13 and our view is, I think, similar to Steve's, that a forum
14 where there can be kind of peremptory discussion and
15 raising of issues possibly. I could imagine a quarterly
16 forum that's got Commissioners, maybe certainly the CEO and
17 a couple of senior staff members from NERC, possibly
18 somebody from the reliability organizations in Canada,
19 participating and users, owners, operators playing a role
20 in that also.

21 But the objective would be to have very specific
22 issues that we all understand need to get out on the table.
23 Some of them are going to be the elephant in the room type
24 of issue that gets danced around when there's legal
25 proceedings and kind of formal orders and so forth.

1 But to get those out, and to have an informed
2 discussion. If there's staff working it in advance, I
3 could imagine NERC and FERC staff collaborating in advance
4 to prepare the agenda.

5 But that it becomes a real kind of multi-hour
6 type of conference discussion, as I said, possibly once a
7 quarter, where the three or four big issues that have been
8 raised recently or that you all believe need to be resolved
9 one way or the other.

10 But before we get to that formal trigger, formal
11 order, for example, some kind of a directive, there's a
12 discussion. This is what we really want and we may be able
13 to say gee, without an order, here's what we can use.

14 Assuming you have some confidence coming out of
15 that, then NERC would have the charge "Okay, that sounds
16 like a good way to get it done. Let's see how it goes.
17 We'll be back here in another quarter and see if it works."
18 So we thought about it and we would be very supportive of
19 that.

20 MR. JOHN A. ANDERSON: Mr. Chairman, thank you.
21 I will choose my double negatives carefully and say that I
22 do not disagree with this proposal. I want to hear a lot
23 more about it. But I would like to point out that creating
24 yet another layer or another forum or another whatever
25 else, for consumers to be able to adequately respond, and I

1 mean small as well as large, it is very, very burdensome.

2 It's one thing for many in the industry to put
3 another person on it or to have somebody that's already
4 spending 100 percent of their time on this. But I'd just
5 ask you to think very carefully about whether you're going
6 to be able to get -- the consumers are the ones that pay
7 the bills. They're going to pay all the bills on this, and
8 I think you have to have the consumer input, and it's
9 difficult when you create yet another forum.

10 CHAIRMAN WELLINGHOFF: Oh, I know. It's one more
11 meeting that consumers have to go to and somehow figure out
12 how to pay for to get there and pay the bills to establish
13 it. Mark, I think you're next, then Louise.

14 MR. CRISSON: Thank you, Mr. Chairman. We
15 discussed this issue as well. It think there's a lot of
16 merit to it. I would echo some of John's concerns to my
17 right here, with ELCON.

18 My attorney, who's always looking for an issue,
19 pointed out that there are considerations under the Federal
20 Advisory Committees Act, I guess, some constraints a group
21 like this might face, depending on how it's constituted.
22 Maybe Steve has some ideas for how those might be
23 addressed. The idea of another layer or a set of meetings
24 for one or more commissioners to attend is somewhat
25 problematic, perhaps.

1 But on the other hand, I think it's imperative,
2 as I pointed out in my statement, for the relationship to
3 improve. The advantage of meeting in fashion, however you
4 might choose to do so, to improve personal relationships, I
5 think, is important, because I think part of the problem
6 here is others have identified as building a level of trust
7 and agreement and confidence in each other that perhaps
8 doesn't exist today, and I don't know there's any
9 substitute for that other than face-to-face meetings and
10 taking the time and investing the effort to do that.

11 So whether it's this particular approach or some
12 other one, something along those lines, I think, is really
13 important.

14 CHAIRMAN WELLINGHOFF: And John, I do understand
15 your concerns, but ideally the concept is if we have these
16 periodic meetings, it will reduce that we're involved in
17 contentious litigation and filings and other costs for
18 consumers.

19 So hopefully it would balance out that these
20 meetings would help reduce the amount of meetings and time
21 and effort that consumers would have to put in on the other
22 side. That's the concept, and hopefully that concept could
23 be translated into reality. Louise?

24 MS. McCARREN: Thank you. Just the comment that
25 I think everyone here would make as well, which is the

1 engagement needs to come from the top of the house, because
2 I think, as I mentioned in my remarks, the ability for the
3 FERC to communicate effectively with the regions and the
4 industry about what their expectations are, goes a huge,
5 long way to making this all work.

6 CHAIRMAN WELLINGHOFF: Yes, thank you. Greg?

7 MR. ABEL: Thank you, Chairman. We would be
8 supportive of Steve's comment. We thought it was an
9 excellent idea. It's something that we sort of highlighted
10 in our comments from the industry. I think it does, is a
11 first step in starting to build trust. We need to get
12 around the table more often, start discussing these issues.

13 So it's absolutely critical. You'd have the
14 commitment of our leaders in our sector to be extremely
15 committed to it. I think it would also help set the
16 priorities. I know we've got an excellent plan within NERC
17 that's continuing to evolve and being taken very seriously.

18 But there's the FERC directives. There's certain
19 issues we have in the industry where we feel things are
20 ambiguous and need more definition. I think that's the
21 type of group that can help clarify, help set the
22 priorities and provide some direction to all of us. So
23 we'd be extremely supportive of it.

24 CHAIRMAN WELLINGHOFF: And I guess I would just
25 ask Mary Anne from the Canadian perspective, and then I'll

1 step back and let my fellow commissioners step in.

2 MS. ALDRED: I think whatever form, whatever set-
3 up is used to enable the OEB to understand in advance if
4 there's an issue on the horizon in advance, if there's
5 perhaps a remand or a direction coming, would be very
6 helpful.

7 Just in our, the only, the comment I would make
8 on behalf of the Board is I don't know whether it would be
9 senior staff who would participate or Board members.
10 Ultimately, they're going to be adjudicating as well, so
11 we'd have to think about that. But more information is
12 always better.

13 CHAIRMAN WELLINGHOFF: Right, thank you, and
14 thank you for the suggestion, Steve. Joe. I'm done, thank
15 you.

16 MR. McCLELLAND: I'd like to turn it over to your
17 colleagues, beginning with Commissioner Spitzer. Do you
18 have any questions for the panel?

19 COMMISSIONER SPITZER: Thank you. I was
20 intrigued that you came up with the INPO analogy, really
21 sort of independently from a couple of sources. There's
22 some dilemmas in that model. One certainly you talk about
23 coming from the top. My understanding of INPO is that it's
24 very much engaged by CEOs and driven, and the transmission
25 owner and operator forum that I understand has been recast

1 and renamed, doesn't have that same level.

2 Secondly, with the statutory matrix for openness
3 and inclusion and due process that was alluded to in your
4 papers is somewhat different, and then the degree of
5 confidentiality of the process is somewhat different. So
6 it's pluses and minuses. Is it possible that there's a
7 role for INPO to supplement the standard-setting process,
8 rather than substitute for it, and how -- what are your
9 views on how that might work in the real world?

10 MR. WRIGHT: I'll take a shot, and then I think
11 Greg could make some more comments too, so maybe we can
12 both do this. First of all, it was never my concept that
13 it would be a substitute for the standard-setting process,
14 just to be clear. It is a way to drive performance,
15 though.

16 What we should be wanting from the industry is an
17 industry that is pushing each other to try to adopt best
18 practices, and that's what happens with INPO. That's the
19 appealing part. The problem with any analogy, there's a
20 part that's apt and a part that's not apt. So that's the
21 part I would say is clearly apt.

22 If you've participated at all with the INPO
23 organization, what you find is this absolute commitment to
24 collaboration, that the industry has to do well, that if
25 one does poorly it will reflect poorly on the rest and

1 potentially the downfall for the whole industry.

2 Some would argue that's not necessarily true in
3 transmission, but I think that there is actually a great
4 commonality there, in that if there is a problem on one
5 system, it goes back to the Congress or it comes to the
6 FERC, and we end with the challenges associated with that.

7
8 So it is in our interest to work together, to try
9 to adopt best practices and to try to continue to enhance
10 reliability. That's the piece that I think really works.

11 When you work with INPO and you have a nuclear
12 power plant, as we are associated with, what you find is a
13 willingness to understand what happens at somebody else's
14 plant, and if something goes wrong, to go over and help, a
15 willingness to go over and help. That would be a wonderful
16 thing to have in the transmission sector. Greg.

17 MR. ABEL: Mr. Chairman, Commissioner Spitzer. I
18 think you're absolutely right. We would view it as one
19 supplementing the existing process, not to replace any
20 processes that are in place. I think the second point you
21 had is absolutely critical. It is going to require again
22 leadership, CEO involvement. That has not existed to date.

23 At the transmission forum, there are a certain
24 number of CEOs involved, but it would require much more
25 active participation. We did discuss this at our last

1 industry meeting in June, recognizing that we needed to
2 take a more active role on the reliability standard-setting
3 process, or at least find another forum to provide input
4 and help set priorities. The CEOs were very committed to
5 using that forum for that purpose.

6 I think another important point regarding the
7 INPO-type model is we really view it as a self-assessment.
8 It's not about self-regulation, but as Steve highlighted,
9 how do we get better? We want to share more information
10 across the specific companies and across our industry.

11 We've had some difficulty to date. There will be
12 some challenges that still exist regarding confidential
13 information. But we want to start creating a forum where
14 we can share more information, understand issues and
15 lessons learned from it. I think that's absolutely
16 critical.

17 So I think you'll find out we're extremely
18 committed to it. We've got it on our agenda again at the
19 next set of industry meetings, to continue to enhance that
20 organization and find a way for it to participate in a more
21 active way.

22 MR. McCLELLAND: John.

23 MR. JOHN Q. ANDERSON: We, as many of you know,
24 NERC was the initial kind of home for the transmission
25 forum. So we're very supportive of the concept. We make

1 required reading for each trustee of NERC, the books
2 "Hostages of Ourselves," which basically the history of
3 INPO, to learn about that model more.

4 As again, as most of you probably know, it took
5 20 years for that organization to come to fruition to the
6 high standard it currently has. It's a lot of hard work;
7 it's CEO leadership involvement. So at NERC, we're very
8 supportive of the idea. The forum is an organization that
9 we believe started with a good set of objectives and
10 matured, and is now separated.

11 So if they can work independently and have the
12 ability to work in a way they want to, separate from NERC
13 and our various rules. So we are very supportive of that.
14 I think related to that also is what Greg and Steve have
15 mentioned especially, is that you do need very high level
16 perspective and support and sometimes pushes to come from
17 organization, whether they be public power, rural
18 cooperatives, IOUs.

19 So at NERC we're beginning to think about at the
20 board level how to do we reintroduce that CEO level
21 commitment, whether it to be to the forum in an INPO-like
22 model, but also into helping NERC from the industry
23 perspective get a higher level input. As you know, NERC
24 was started by CEOs. It was essentially managed and run by
25 CEOs at the board level for decades.

1 Since we've had the independent board, we've lost
2 some of that. So we're already starting to work on
3 explicit programs to bring that involvement back to NERC
4 itself. But we'd be very supportive of some organization
5 like the forum.

6 COMMISSIONER SPITZER: One other point, and I
7 don't want to be contrarian, and I'm absolutely in
8 agreement that we like the concept of collaborative
9 determinations. However, you know, we are a nation of law.
10 I happen to be a lawyer, for good or for ill, and there are
11 times when legal adjudications actually serve a purpose in
12 terms of stability, predictability and most importantly,
13 finality.

14 There are on occasion, hopefully rare occasion,
15 issues where the legal process can give rise to a good
16 result, where people may not be in 100 percent agreement
17 with the outcome, but we have an outcome and it's set
18 forth, particularly in an area, in one of those small
19 number of areas where there's some disagreement.

20 Let me sort of lay the foundation for this.
21 There's discussion of loss of load and cost, and Steve, you
22 talked about the national conversation. If something bad
23 happens, we're in a 24-7 news cycle, in some cases where
24 there's an unfortunate event and we've had unfortunate
25 events in other realms, that's when this conversation

1 starts. It's not always an esoteric, academic
2 conversation. It's a political conversation, frankly.

3 And there ultimately will be accountability,
4 maybe pleasant, maybe unpleasant. The idea of an ex post
5 facto inquest into the standard-setting process, where
6 someone said well, we're going to save a few pennies here
7 on reliability.

8 We can all visualize hearings, where maybe not
9 the best, most pleasant circumstances ensue, and it's not -
10 - I don't think by any means the national conversation that
11 you are envisioning.

12 The idea that if there is a legal determination,
13 then we have some resolution that insulates, properly so,
14 the decision-makers from this ex post facto inquest,
15 second-guessing circumstance. Again, I don't disagree that
16 collaboration is the best, but I guess I'm suggesting that
17 in the narrow set of circumstances, where there is a good
18 faith disagreement, based upon where we're coming from or
19 where industry's coming from, a legal adjudication may not
20 be a bad thing. Do you have any reaction to this?

21 MR. WRIGHT: So yes. First of all, I think
22 that's right. But I think it can be added to with another
23 piece. So clearly, having -- we have to get to resolution
24 of differences, and either we do it through collaboration
25 or at the end of the collaboration, the Commission will

1 make a decision and then we get that.

2 So but the key point that I'm trying to make is
3 we're an agency that has one foot in the industry world and
4 one foot in the government world, and we do both basically.

5 COMMISSIONER SPITZER: Right.

6 MR. WRIGHT: And my experience has been that it's
7 really important to establish the appropriate expectations
8 with the Congress up front. What is feasible, what is not
9 feasible? When you don't have that kind of clarity about
10 expectations up front, and it needs to -- it's not just a
11 matter of going up and having a conversation with a staff
12 person.

13 This is about a conversation that involves all
14 the people sitting here at this table, because they'll all
15 be participants in that debate in the Congress, about how
16 much reliability do we want? How much are we willing to
17 pay for as a country?

18 There is a limit to ultimately, I think, to how
19 much we're willing to pay for it, and if you have that kind
20 of conversation and come to, bring it to some kind of
21 conclusion, and then a very public process, and it's
22 understood by the Congress up front that that's where
23 you're going and what you're doing, I think when that event
24 occurs, you're in a much better position to be able to
25 explain what happened and why.

1 If the event occurred because someone did
2 willfully disregard the rules that had been put in place,
3 then they will be held accountable. If it occurs because
4 it was something that was understood up front, that this
5 was very costly and it was something that was beyond what
6 we as country are willing to pay for, then I think it's a
7 much easier conversation for the industry and the
8 regulators with both the Congress and the public.

9 COMMISSIONER SPITZER: We don't have any Smiths
10 on the panel, so there's no Mr. Smith goes to Washington.
11 It's Mr. Wright.

12 (Laughter.)

13 COMMISSIONER SPITZER: John, you want to --

14 MR. JOHN A. ANDERSON: Commissioner, I think you
15 have very well laid out the situation. Let me say that it
16 is my members, I think, that are right on the edge of that.
17 They clearly would love to have 100 percent reliability
18 when, and as I mentioned, very, very briefly, the
19 manufacturing processes are becoming much more technical
20 and much more computer-driven and even when there's a
21 hiccup where the lights don't seem to blink, it can cause
22 major problems within a manufacturing facility.

23 But at the same time, they're in worldwide
24 competition that's really very vicious. So costs, even a
25 mil here and a mil there, it really is a big deal. So this

1 is a very, very major issue. I guess my concern, one, I
2 think there will be some legal challenges, not matter what
3 anybody does anywhere, and hopefully we'll minimize them.

4 I think my concern about, and that I raised
5 earlier, about creating yet another forum, is I don't know
6 that we've given enough time to what has already taken
7 place. I think it was very constructive that we had the
8 March 18th orders. I think it was a big wake-up call.
9 That's what I called it, and I mean that very sincerely
10 that it was.

11 I think NERC though has responded already in
12 many, many different ways to that, and I want to underscore
13 with Mark Crisson said about Gerry Cauley being the new
14 leader. I'm extremely impressed with his vision and this
15 sort of thing.

16 So what I hope is that we can see if what has
17 happened already is enough to get the dialogue going. I
18 want a much better dialogue. I want a much better
19 relationship. I want to minimize the legal kinds of things
20 that you're talking about, but I also wanted to make
21 everybody much more satisfied with it.

22 So I hope that what we'll do is say let's say
23 what we're doing right now, this kind of a forum right here
24 is giving a dialogue that I think is incredibly valuable,
25 and I'm hoping that we can learn from that and maybe not go

1 much beyond that.

2 COMMISSIONER SPITZER: Louise?

3 MS. McCARREN: I just wanted to state the
4 obvious. As you know, WECC does the reliability
5 coordination function, and in that function, there are
6 times when directives have to be given and the result of
7 those directives is the shedding of load in order to save
8 the system.

9 I know that's stating the obvious, but I think
10 making sure that the folks who are in those, who are in the
11 control rooms do not hesitate to take those decisions, I
12 think, is really important.

13 And then the other comment I would make, just to
14 reiterate what John said, with Gerry Cauley's leadership,
15 the relationship between NERC and the regions has improved
16 vastly and enormously, and you will see that continue. So
17 I just wanted to put that on the table before I --

18 CHAIRMAN WELLINGHOFF: I hate to interrupt the
19 time, but I think we'll need to move to the next set.
20 Thank you panelists. I'd just reiterate, Louise's last
21 point is Recommendation No. 8, blackout report. Should
22 operators who initiate load-shedding pursuant to approved
23 guidelines from liability or retaliation.

24 Next, I would like to turn it over to
25 Commissioner Moeller.

1 COMMISSIONER MOELLER: Thank you, Joe. I
2 appreciate all the comments, the common themes that were
3 amongst them and particularly the discussion of Steve's
4 suggestion of a forum and how that happens, when it
5 happens, and if we go down that route or whether we do
6 something like this more often, I think it's important that
7 we get to Toronto and to Des Moines and Salt Lake, so that
8 we hear from regional perspectives on this importance.

9 I was thinking back. It was ten years ago this
10 month I was working for Senator Gordon, and he put together
11 the first reliability bill. It was essentially the
12 precursor to Section 215. I was working with Dave Cook
13 from NERC very closely. Passed the Senate unanimously and
14 went to die in the House.

15 So ten years ago, it took a major blackout and
16 then five years later, before the law became the law, it's
17 kind of amazing we went on for decades with this as a
18 voluntary system. It worked in an older era, where there
19 was vertical integration, but largely after 888 it was
20 unworkable.

21 But it still took a long time even to get it into
22 law. My point is we've come a long way in five years.
23 I've got a lot of hard work from our staff involved, but we
24 do have a long way to go.

25 A couple of questions. Louise, you mentioned

1 that you're putting together, toward the end of your
2 comments, essentially a list, a project to analyze the data
3 from, I guess, all violations. Can you elaborate on that a
4 little more?

5 MS. McCARREN: Sure. This is a WECC project that
6 we're doing, and we call it the "Vulnerabilities Project."
7 What we've done is we've looked across event analyses in
8 the west; we've looked at most frequently violated
9 standards. We asked and answered from our own perspective
10 what are the most critical standards, and then we ask our
11 RCs what do they, what keeps them up at night.

12 As part of that, we looked at all of the
13 violations, and as you know, when an auditor has discovered
14 a violation, the next thing the auditor does is to make a
15 determination as to whether, what effect or impact that
16 violation has on reliability, and those can range from
17 minimal to moderate to severe.

18 So we segmented all of the violations by those,
19 to see -- because we wanted to see what was really
20 happening on the system. What we discovered was a very
21 significant number of most frequently violated violations,
22 such as protection systems. In fact, the auditors had
23 determined that they had minimal effect.

24 So now we're going to go and dig down even
25 further, and try and understand what does that mean. Then

1 I think that that information can inform standard-setting
2 enormously, because it should be able to allow us to go
3 through requirements and say, you know, here's what the
4 auditors are finding in the field, and what do they really
5 think is most critical.

6 These are folks with a lot of years of
7 experience. So we're doing that, and the information is
8 really interesting. We have not gone all the way down to,
9 you know, to looking at every violation yet on that,
10 because we're trying to segment by the ones that are most
11 important.

12 But again, we're trying to look across event
13 analysis, violations from the auditors, and what our
14 experts tell us are the most important standards. The most
15 important standards are not the most frequently violated
16 standards, and I know that NERC has a similar analysis
17 going on.

18 But again, we're seeing a lot of minimal, and we
19 need to understand what that means.

20 COMMISSIONER MOELLER: Okay, and you'll provide
21 that presumably to us when --

22 MS. McCARREN: Absolutely.

23 COMMISSIONER MOELLER: Your time line on that is?

24 MS. McCARREN: We've got some preliminary data
25 and information that we've provided to some folks in the

1 west, and we are going to do a report, oh my God, this week
2 to another group, and we'll absolutely share that with you.
3 It's really interesting. It's really interesting. Now we
4 have to inform it more, so it can be used in the standard-
5 setting process.

6 COMMISSIONER MOELLER: Now you mentioned NERC is
7 doing that as well, but are the other regional entities
8 doing that? Do you know?

9 MS. MCCARREN: I just -- that I don't know.

10 COMMISSIONER MOELLER: Okay, all right. Maybe
11 your answer ties into what I wanted to ask Greg, because
12 there's a lot of discussion about risk-based standards.
13 But defining that seems a little more difficult. If you
14 can elaborate on that, that would be helpful.

15 MR. ABEL: Thank you, Commissioner Moeller. I
16 think when we look at risk-based standards, it goes back to
17 the fundamental question that we started to discuss with
18 Commissioner Spitzer, as to obviously there's a certain
19 amount of political pressure on the Commission. We
20 recognize that as an industry.

21 But at the same time, when we're back home
22 dealing with our customers, our state regulators, there is
23 a great sensitivity to cost, and how far should we take
24 reliability, and John highlighted it. When we're dealing
25 with our industrial customers, one mil matters to them. We

1 hear can they remain competitive or not?

2 So we've got this delicate balance as we look at
3 reliability standards, and when we talk about risk-based,
4 it's making sure we're doing the best we can to identify,
5 here's the incremental reliability, and what are the
6 associated benefits with it? And can we quantify it and is
7 it the right decision ultimately for our customers?

8 That's really the challenge. I would also add
9 that reliability isn't the only cost challenge we're faced
10 with as we regulate at the state level or deal with our
11 customers on the day-to-day basis. We've got reliability,
12 we've got renewable energy standards, state by state.
13 We're focused on energy efficiency.

14 There's many issues we're tackling, potentially
15 carbon issues on behalf of our customers, and these all
16 start adding up in a pretty significant fashion. It's
17 finding that proper balance. So just encouraging us to
18 step back and make sure we're looking at other incremental
19 benefits for the dollars incurred, recognizing we may, as
20 Steve highlighted, really have to take this to Capitol
21 Hill, so that we can have a good discussion about the risks
22 that we're taking on, based upon the current expenditure
23 level.

24 COMMISSIONER MOELLER: Thank you. We have
25 focused the last few years on putting these standards in

1 place, a new regime, and there's been a lot of work that
2 everyone's been doing on it. One of the things I'd like to
3 do is ask people to think about where do we want to be as
4 an industry, as a nation in ten years on reliability,
5 because we've been so focused on the now that it's been
6 difficult to think out.

7 So I invite all of you to comment on that now or
8 in writing; certainly people who are submitting comments to
9 the docket. That's a pretty wide-ranging question. Do we
10 want a spare transformer bank? Do we want to better
11 quantify the risk analysis of where do we want to be with
12 definitions of the bulk power system, which is obviously
13 something we're dealing with in another way?

14 I think Steve mentioned in his comments the fact
15 that intermittent resources now, this is a -- this is going
16 to be a big issue that's going to be on us before we know
17 it. In fact, some of you are dealing with it regularly.
18 But I see the trend as something that can perhaps swamp us.
19 Again, it's something we need to be looking out forward to.

20 You know my common theme is more transmission
21 usually solves these problems. But with that, I open it up
22 to any thoughts on where we can go with a little longer-
23 range vision on the general topic of reliability. Mark.

24 MR. CRISSON: Well, hopefully we'll find the need
25 for these kind of conferences to be less frequent ten years

1 from now. But that said, the fact is that I don't know
2 that the job is ever done of dealing with reliability.

3 I mean when you look at the standards development
4 process, for example, when you talk about the concept we've
5 been discussing here about an INPO-like effort to try to
6 reach a level of excellence or increasing level of
7 excellence, that's an ongoing challenge. You can always do
8 better.

9 COMMISSIONER MOELLER: Yes, and I didn't mean to
10 imply otherwise. But if we think about ten years out, we
11 can start doing --

12 MR. CRISSON: I think you've done a good job of
13 identifying the issues. Certainly one of integration of
14 variable or intermittent resources, renewable resources is
15 one that's a concern. We're starting to see that as an
16 issue already in the Northwest. Steve indicated in the
17 Midwest it's a problem. We need to find a way to meet the
18 state and possibly federal goals in that area, and still
19 maintain a reliable system.

20 So that's going to be, I think, something that's
21 going to occupy a lot of time and attention in the next few
22 years, and whether we'll have solved it ten years out or
23 not, I don't know. But it certainly would be a priority.

24 And then just the working relationship that we've
25 talked about today, perhaps utilizing existing processes.

1 John expressed concern about creating yet another set of
2 meetings. I think that whatever or however you decide to
3 deal with this, whether it's technical conferences or some
4 kind of a forum, that really needs to be done.

5 But let's not overlook the opportunity as well to
6 perhaps make better and more effective use of some of the
7 things that are already being done. There's a
8 prioritization of the standards Development process that
9 occurs. There may be an opportunity for more interaction
10 at that level as well.

11 So whatever happens at the top, part of the
12 leadership challenge is to make sure that that filters down
13 through all the organizations affected. That's going to
14 take more than just a few weeks or months. I mean I think
15 that's going to be a challenge that may occupy a
16 significant amount of resources over the next few years.

17 COMMISSIONER MOELLER: Thank you. John?

18 MR. JOHN A. ANDERSON: Just make a quick comment.
19 I think that you're right on with the integrating variable
20 generation. It's a very, very big issue.

21 I know that FERC has looked at that. I know Joe,
22 you've really been looking at it and this sort of thing. I
23 know that NERC has too though. I mean they've had an
24 entire task force under the planning and operating
25 committees on integrating variable generation and this sort

1 of thing.

2 I happen to agree with you completely, that you
3 could solve that problem, more than likely, with a lot more
4 transmission. But I also think that it's absolutely
5 ridiculous to say that we're going to get it. I mean I
6 think we need to be much more realistic about whether the
7 transmission that's being proposed or whatever is actually
8 going to be built.

9 Nobody wants transmission built in their back
10 yard. Everybody wants renewables, but they don't want
11 transmission. They don't want new standard market design
12 put before them either, you know, for larger balancing
13 areas and this kind of thing. These issues scare us to
14 death, that we're moving down a path. Somebody has to
15 stand up and say here are the realistic things.

16 I think NERC has been doing that. I think FERC
17 has been doing it, and I think a better -- this again is a
18 sign to me that we're coming together, we're coming
19 together, we're talking, and I think that's important.

20 But we have to have the nerve and stand up and
21 say we're all for these things, but if you don't do these,
22 you're not -- if you don't build transmission, if you don't
23 have larger balancing areas, you don't have these kind of
24 things, we're going to have reliability problems.

25 We have to get to there. Then the next step says

1 "and we don't think it's going to happen," because that's
2 what our concern is. We hear what's out there; we don't
3 disagree, choosing double negatives again. It's just that
4 we don't think that the real results are going to happen.

5 So this is where I'm concerned for the future,
6 and I think, I'm cautiously optimistic that we're getting
7 there, but it takes some real nerve to go there, to finish
8 the job.

9 MR. McCLELLAND: If I might interject at this
10 point too, I neglected to mention that the initial set-up -
11 - we'll reconvene at 12:30 and the Chairman and
12 Commissioners, I'm certain, will have additional questions.

13

14 But I did want to be certain that everyone had a
15 chance to ask some questions, at least in this initial
16 round. So with that, with your permission Mr. Moeller, I'd
17 like to move along to Commissioner Norris.

18 And again, when we reconvene at 12:30, I'll ask
19 the panelists to come back and I expect there will be lots
20 further questions and dialogue with the Chairman and
21 Commissioners. So Commissioner Norris.

22 COMMISSIONER NORRIS: Thanks, Joe. I thought I
23 was going to be brave enough to come up with some more
24 zingers. But I guess I'll use a few up now.

25 Let me just probe a little bit deeper on the

1 notion of something you raised about FERC requiring 100
2 percent reliability or no outages. What are some examples
3 of things we've done that create that perception?

4 MR. JOHN A. ANDERSON: I would begin by saying
5 the penalty guidelines, which is something that's a very,
6 very sensitive subject, I understand. But it came across
7 as though that any outage was going to result in tremendous
8 penalties. Now there should be penalties for outages if
9 you're violating standards, you know. But have you gone
10 further than you should have gone, and that's one thing
11 that we are --

12 And again, I want to make sure. My members want
13 a reliable supply of electricity. But the penalty
14 guidelines really sent a signal, to me at least, that I
15 think they went a little bit further than they should have,
16 maybe a lot further than they should have.

17 COMMISSIONER NORRIS: Mark?

18 MR. CRISSON: Just to elaborate on that a little
19 bit, and perhaps put it in some context. The penalty
20 guidelines came out not too long after the Commission
21 decided it was going to review the penalty that was
22 assessed against one of our members, Turlock Irrigation
23 District.

24 I think that heightened the concern. When you
25 combine that with the specific example that was cited, as I

1 recall, in the penalty guidelines, it created a lot of
2 concern. That particular example, as I recall, talked
3 about an outage of 20,000 customers.

4 Now that's the typical public power system size,
5 okay, and, using those guidelines, the penalty in this
6 particular example would have been \$15 million. That's
7 pretty close to the annual budget of a system with 20,000
8 customers.

9 So part of the perception we had in public power
10 was that those guidelines and the whole approach to
11 reliability didn't take into account either the utility's
12 business model or its size, which is a real specific
13 problem, I think, for the coops as well. So that's a
14 little more elaboration on John's point.

15 MR. McCLELLAND: We should avoid further
16 discussion of the Turlock proceeding, if possible, due to
17 ex parte reasons.

18 COMMISSIONER NORRIS: Greg.

19 MR. ABEL: That's okay, I won't discuss it. One
20 example, Commissioner, might be the TPL-002 standard I
21 highlighted in my comments and in our testimony. Clearly,
22 the industry has a view that was supported as it went
23 through NERC, as to how you interpret that standard.

24 We view the protection equipment to be operating,
25 and a failure of that is not included in our base case. We

1 assume it's there in part of our n-1N contingency planning.
2 But we don't assume a failure and then plan beyond that.
3 When you start taking that type of approach, rough
4 estimates in our industry, that might be a \$24 billion bill
5 for our customers.

6 That's a very significant cost, and it's a very
7 significant step, if we reclassify how we handle our
8 protection equipment. So there's a simple example that has
9 a lot of ramifications. None of our systems are designed
10 that way. That's why the industry came up with its
11 approach.

12 It doesn't mean parts of it may have to change,
13 but we're not in a position to move quickly on that, in
14 that it would take significant modifications to the
15 underlying systems, and at substantial cost.

16 It really is sort of that approach that you're
17 trying to create redundancy, where we probably don't feel
18 it's necessary.

19 COMMISSIONER NORRIS: How feasible is it to
20 technically distinguish between an outage and a
21 disturbance?

22 MS. McCARREN: You can have disturbances on a
23 system that don't create outages, for sure. I mean and they
24 can be a number of things and they don't have what we had.
25 In the west, we had a disturbance where the power burning

1 units all tripped off line at once. It was 4,300 megawatts
2 of load, of generation was lost.

3 But the system stabilized and there was no loss
4 of load. Well, that was still clearly a very serious
5 disturbance on the system, but there was no loss of load.
6 So that's just one example. Disturbances, frankly they
7 happen every day, you know. Something is going to happen
8 almost every day, particularly on days like today, and that
9 doesn't mean that load's going to be lost.

10 COMMISSIONER NORRIS: Go ahead, Greg.

11 MR. ABEL: I would just add that at some point,
12 and we discussed this often with our state regulators, less
13 a load may be the best way to manage that underlying risk.
14 We don't want to put in equipment to deal with that one in
15 five or ten year event, and to get, incur those costs.

16 It may be that we're better to plan that if we
17 enter into a certain type of condition, or have an event on
18 our system, the best way is to shed certain amount of load.
19 We have load-shedding programs that are very defined, who's
20 responsible for it, how we're going to shed it to avoid any
21 further disturbances on the system.

22 And again, it's a little bit of that risk
23 approach, risk-based approach. But it's the best decision
24 for our customers and for the region as we're managing
25 through it.

1 COMMISSIONER NORRIS: Go ahead, Steve.

2 MR. WRIGHT: If I could put words in your mouth,
3 I think the question is where is the line drawn between
4 outages and cascading outages, and that's the conversation
5 we need to have. So what we're finding at least is
6 customers across the region are increasingly asking for a
7 variety of different things.

8 We have the Silicon Forest, and Silicon Forest is
9 very interested in extremely high reliability, and willing
10 to pay more for reliability than some of more historical
11 industries, manufacturing industries that are really more
12 focused on cost. The challenge here is trying to figure
13 out how you manage for different needs of different
14 customers.

15 There is a point out there at which you move from
16 an outage to a cascading outage, and you say boy, that cost
17 is just too high. I'm willing to pay quite a bit to avoid
18 that. Take out the Western interconnection and obviously
19 that's too high a cost. So we spent a lot of money to
20 avoid that.

21 The difficulty that we have right now is we just
22 haven't had that conversation, and the legislation doesn't
23 speak to that. It doesn't tell you where is that point.
24 We need to have that conversation and decide where we want
25 to be, and candidly, there will not be a single voice from

1 the customer community on this.

2 COMMISSIONER NORRIS: Will not be a single what?

3 MR. WRIGHT: There will not be a single voice
4 from the customer community on this. Folks are going to be
5 in different places, and that's where we get the job of
6 trying to figure out what are the values and where do we
7 want to draw that line.

8 COMMISSIONER NORRIS: Is it as complicated as the
9 cost curve you're talking about, or is it something that's
10 more a gut sense of what will make sense or not?

11 MR. WRIGHT: My view is it's as complicated as
12 the cost curve.

13 MR. McCLELLAND: With that, I have the clock as
14 time for dismissal. Let's reconvene Panel 1 at 12:30. So
15 thank you, folks.

16 (Luncheon recess.)

17

18

19 A F T E R N O O N S E S S I O N

20 12:30 p.m.

21 MR. McCLELLAND: All right. I have on the
22 schedule, I have that we're to reconvene at 12:30, so we're
23 a little late with that, and we'll continue the discussion
24 right where we left off. I'd like to turn it back over to
25 the Chairman and his colleagues.

1 We'll continue on until about 1:30 with
2 additional dialogue. I think we had some great
3 presentations this morning. I think there's been very good
4 dialogue, and I'd like to pick that right back where we
5 left off. So without further ado, Mr. Chairman, if you
6 have further questions.

7 CHAIRMAN WELLINGHOFF: Actually, I was going to -
8 - John, if you wanted to continue on, why don't you go
9 ahead?

10 COMMISSIONER NORRIS: Well, two things. I want
11 to open it up to anybody that didn't get a chance to
12 respond to my question, and secondly, I mean, I hope you
13 ask questions of us too. I mean if you want some clarity,
14 want some ideas of where our heads are at, I want this to
15 be a two-way conversation. So anybody follow up? Mary is
16 ready, and then we'll go to you Greg.

17 MS ALDRED: Thank you very much. I just wanted
18 to follow up on your question about where reliability
19 should be in ten years. I'm not going to speak
20 technically, but I did want to -- I was thinking over lunch
21 and I wanted to revisit the idea of a committee, a forum of
22 commissioners and perhaps CEOs, and I just wanted to remind
23 the committee that the Ontario legislative framework is
24 predicated on NERC participation and the bilateral
25 principles, and we have the trilateral meetings that happen

1 from time to time, and which are very, very helpful.

2 I know it's incipient right now and it's not
3 clear how this committee would be set up or operate, or
4 what if any participation the Board would have as an
5 adjudicative body. But I just wanted to remind the
6 Commission that however this form is set up, if it's set
7 up, that I would ask you to be mindful of the fact that
8 Ontario is actually plugged into the NERC process and the
9 NERC standards, and the way those are currently configured
10 and made, and ask you to just keep that in mind.

11 COMMISSIONER NORRIS: Greg.

12 MR. ABEL: Sure. If I could just maybe expand on
13 one of the last comments made at the end by Stephen. I
14 appreciate him sort of highlighting some of the concerns
15 around how far do we go on reliability to avoid cascading
16 events, and is it properly defined.

17 Our view from the industry and from MidAmerican
18 would be that we view Section 215 as having a very clear
19 definition. We understand what our responsibilities and
20 obligations are there associated with that, with what we
21 have to achieve and deliver.

22 I would say there are some concerns that we have
23 as we -- as we've interpreted, as we interpret existing
24 standards. There's still the concern that can be ambiguous
25 and therefore that introduces some challenges when we're

1 looking at what our ultimate obligation is under 215.
2 Obviously, the standards help us achieve that, and when we
3 don't view they're clear, that raises one concern.

4 Then I'd say the other concern we have is
5 associated with the March orders, where it potentially went
6 beyond what we thought was required to achieve what's
7 required under 215, and I think that's where the natural
8 tension is at this point in time.

9 I think there's a way to achieve it. I mean the
10 definitions around 215 or how we achieve it will continue
11 to evolve, and we have to have that dialogue and it's
12 absolutely critical the forms we've been discussing. But
13 that fundamental obligation, I think we understand and know
14 what we have to deliver on, as far as avoiding the
15 cascading events, maintaining the proper protection systems
16 in place, ensuring our systems aren't isolated.

17 I think that's laid out pretty well. So I think
18 it sort of goes back to the ambiguous Standards that exist
19 that need further clarity and prioritizing, which ones need
20 to be addressed, and then making sure the existing
21 standards or new standards we're discussing or interpreting
22 don't go beyond what 215 requires.

23 COMMISSIONER NORRIS: Is that -- are you in
24 agreement? Do people think that the definition of roles
25 and responsibilities is pretty clear or laid out, and we

1 need to get more down into the standards, or is there still
2 debate about definitions of roles and responsibilities for
3 NERC and FERC and the industry? John's thinking there.
4 Was that John? I'll let you think for a second. John
5 Anderson's ready and then we'll go to Mark.

6 MR. JOHN Q. ANDERSON: I think it's a situation,
7 from the NERC Board's point of view, where as in many
8 situations like this, most of the roles are clear most of
9 the time, and I think that intuitively there's, you know,
10 thousands if not hundreds of thousands of person years'
11 experience with reliability over the ages, you might say.

12 So I think that in general, entities, whether
13 they're generators, transmission owners or operators, large
14 users and so forth, have a very good sense of their role
15 and reliability. I think since the new Act was passed, I
16 think we all have a fairly good sense of what our roles are
17 between FERC and NERC and the industry.

18 It's when we get to new territory or areas of
19 disagreement that those questions flare up. So I think
20 there are some of those out there in difficult standard-
21 setting processes that we have right now, where standards
22 are difficult and contentious. I think Joe's seen that,
23 where the rules or the parties can get in question because
24 there are disagreements.

25 So I would agree that the roles are clear.

1 Everyone knows in general what they need to do for
2 reliability. People have a lot of experience. The
3 standards are relatively consistent with standards that
4 have been in place for a long time. So I don't know what
5 the percentage is, but 80 or 90 percent of the time, I
6 think parties are familiar with their roles, understand
7 them, respect each other.

8 It's when we go into this new ground that we need
9 the continual clarification of rules, definitions of the
10 standards themselves and so forth. That is -- to link it
11 back, that's how we're going to get better ten years from
12 now, is focusing in where are the differences, what the
13 priorities for new standards, what are the priorities for
14 improving existing standards that have high impact and high
15 risk, and that's where we should focus our energy, I think,
16 on now where to come to agreement.

17 MR. CRISSON: I think John said it very well.
18 The only thing I'd add to that is that we talk about moving
19 forward with continuing this dialogue in some fashion,
20 whether it's in a forum or however you choose to proceed.

21 I think this would be something that would be
22 near the top of the list of discussions, to make sure that
23 the parties involved understand and agree on what those
24 respective roles are. I think that will facilitate making
25 progress in the other areas, as long as there's a common

1 understanding of what those are.

2 MR. JOHN Q. ANDERSON: And not to duplicate what
3 my colleagues have said, I again agree with all of that.
4 But I'd like to add a couple of things. One, this is an
5 evolving process. It's a new process. I think
6 Commissioner Moeller, you really put it into perspective
7 very well when you said it's only been five years, and
8 we're still learning, and we're going to continue to learn.

9 So to me, as long as we are learning and making
10 progress, I think that's something we ought to really
11 reinforce. I still have concerns about creating yet
12 another organization. It seems to me we ought to work real
13 hard on trying to make the one that we have work better.

14 We have a member representative committee on
15 that, and if that isn't doing the job that needs to be
16 done, then let's work on that first before we do something
17 else. Mr. Chairman, you came to the meeting in Baltimore
18 last time. I think that is extremely important and I thank
19 you for doing that.

20 You know, to me if, I know that if three of you
21 come, you ran into real problems. But if two of you come
22 to a member representative -- I mean legal problems. I
23 don't mean any other kind of problems.

24 (Laughter.)

25 MR. JOHN Q. ANDERSON: Please, my friend.

1 MS. McCARREN: Well, which one are you going to
2 supervise?

3 MR. JOHN Q. ANDERSON: I can't supervise any of
4 them. Anyway, I think that's very helpful, and I hope that
5 you will continue to do that. Maybe one other thing. NERC
6 has made several filings. There's been standards, I forget
7 the names of all of these things, standards, development of
8 reports. I think three of them have been filed and a
9 three-year plan has been filed.

10 There's been no official response back from FERC
11 on it. My reading of those documents, and I sort of helped
12 put them together, is that NERC was saying hey, we think
13 we're doing a real good job. And you get nothing back,
14 it's kind of strange.

15 It would be helpful, I would think, that when
16 something like that is put forth, to get something. That's
17 another way of getting a dialogue within the existing
18 process. So I think if we can just realize we're learning
19 and we're going to continue to learn, I think it's really
20 quite important.

21 MR. WRIGHT: I'd like to make three comments,
22 responding to things that both Commissioner Moeller and
23 Commissioner Norris said. First, in terms of ten years,
24 where are we going in the next ten years, reliability is
25 going to be an increasingly difficult issue. We're

1 getting, I can tell you at least on our system, we're
2 getting increasing requests for improved reliability, which
3 costs money, and we're also getting increasing requests for
4 controlling costs, because you've got industries that are
5 in globally competitive environments and don't want
6 increased costs. Then on top of that you've got the
7 challenge of variable energy resources.

8 I think that what Phil lived through in terms of
9 the Congress and its inability or unwillingness to address
10 the reliability issue for ten years, I'm not sure that will
11 be true ten years from now, because I think reliability is
12 going to be increasingly on people's mind and is going to
13 be a bigger and bigger political issue, and we're going to
14 have to figure out a way to deal with that.

15 The second point is with respect to the cost
16 curve and your question at the end about isn't it difficult
17 to put that cost curve together. Yes, it is, but it's
18 actually not the cost curve that gives you the answer. The
19 answer comes from a decision that's made by bodies like
20 this, because you have to develop a criteria.

21 We talk about cost effectiveness for reliability,
22 but what we don't really have clarity about is how much
23 reliability do we want. What is the standard that we're
24 seeking to achieve and how much are we going to spend on
25 that. That's where I think the dialogue the conversation

1 was really important, about how much reliability. The cost
2 curve is just a tool. It's not the decision-making.

3 COMMISSIONER NORRIS: Good. That's where that
4 can be confused, I mean concern Steve, as you don't want to
5 rely on the cost curve. It's got to be a judgment call.

6 MR. WRIGHT: It's a judgment call. At th end of
7 the day, it just helps you to make that. What's happening
8 today is we're making those judgments without the cost
9 curve. So we're making decisions without really
10 understanding the cost-benefit analysis that's associated
11 with it, and also it makes it more difficult to establish
12 priorities.

13 Finally, with respect to the concern about
14 whether it's a new form or not, let me just be clear that
15 the thought that I'm offering is really just that there
16 needs to be a dialogue. Whether that's an existing form
17 that's expanded in some way or a new form, I don't think, I
18 don't have strong feelings about.

19 I will say at the behest of a former Bonneville
20 administrator, I participated in some of the MRC meetings
21 four or five years ago, and it just was not at the level
22 that I felt like I could add value. I know Gerry Cauley in
23 his comments and his testimony has urged the CEOs to become
24 more involved, and I think there is a need for us to become
25 more involved.

1 We're going to need to find a way to be able to
2 either enhance the MRC or have it address the kinds of
3 issues that commissioners and CEOs could participate in, or
4 create a new forum. Whatever that answer is, I'm not sure.
5 It's just we need to find a way, ways to level up the
6 discussion and the dialogue so that participants around
7 this table would be able to effectively participate.

8 MS. McCARREN: You asked about what it should it
9 look like in ten years, and I would offer some optimistic,
10 but I think very achievable ideas. One is that the
11 standards are clear and focused, and there are probably
12 going to be fewer of them, as we begin to hone down and
13 really read out what's in there now that is not necessary.
14 In fact, it's layering on unnecessary work.

15 And the violations will be rare. I mean I think
16 we can get there. In the west, we're already seeing a
17 significant trending down in the 693 violations. Not in
18 CIPs, but we're seeing a very significant trending downward
19 of violations.

20 Finally, I would hold out what I think is a
21 really a possibility that the data and information we have
22 about the system, and I would point to the west, which is
23 it's OS-wide system model, is used in ways that allow us to
24 have diagnostics on the system, so that we proactively
25 understand where there are weaknesses, and the industry can

1 deal with them.

2 I think those are things that I would hold out as
3 really achievable items within ten years. I'll give you my
4 own absolute Louise two cents' worth. I think the biggest
5 challenge we're all going to have is cost on the retail
6 side, as a lot of intermittents come in and more
7 transmission is built.

8 I think that is something that we need to be very
9 aware of, because history tells us that unless the retail
10 price remains affordable and reasonable, there will be a
11 political accountability for that, and I think John agrees
12 with me.

13 MR. JOHN Q. ANDERSON: I do.

14 CHAIRMAN WELLINGHOFF: All right, thanks. Joe,
15 I'll turn it back to you. But it's already in the record,
16 but just for the record, that was Phil's question about ten
17 years from now. So since it drew so many great responses,
18 I want to make that clear.

19 (Laughter.)

20 COMMISSIONER NORRIS: You're a gracious guy, Jon.
21 I think we had a chance -- I think everybody had a chance
22 to answer that question, but if not, feel free. Greg, I
23 want to build on something, and I've warned you about this.
24 But you had mentioned TPL-002 and how the cost could swamp
25 the industry.

1 But I think that as maybe something if we're
2 thinking about ten years out, maybe there are incremental
3 things. I'm not trying to give Joe a heart attack here,
4 but you know, if we take an approach like that and
5 incrementally we add the cost as new equipment is brought
6 on or as new challenges are faced, then perhaps if we have
7 a longer-range vision, it might be as much of a shock. I'd
8 just like your reaction.

9 MR. ABEL: I think when we look at TPL-002, and
10 the portion I'm discussing, which is the protection system,
11 can it be considered as protection system and do we have to
12 consider it as potentially failing in our planning, and
13 does it still allow us to achieve what's required under
14 Section 215.

15 It's the industry's view that we're currently
16 achieving it. So I start from the premise that I
17 highlighted the 24 billion just to highlight the magnitude
18 of it, but we actually agree that it doesn't need to be
19 incurred, that we are creating a reliable system that will
20 not cascade or create that type of risk.

21 There may be certain parts of the system that we
22 have to revisit and that continued dialogue and doing it
23 over some period of time, because the reality of
24 implementing that type of standard, if it were ever to be
25 enacted sort of over our opposition, it's going to take a

1 long time to enact. We don't have anywhere basically in
2 the U.S. a system design to meet that criteria.

3 COMMISSIONER NORRIS: May I have one other
4 question?

5 CHAIRMAN WELLINGHOFF: Sure.

6 COMMISSIONER NORRIS: You all have had three
7 questions, sets of questions to address. But since you're
8 here and we have quite a bit of expertise amongst you, I
9 wonder if any of you had any thoughts on the questions for
10 Panel 2 that are posed. I think you'll have them on your
11 agenda.

12 But if there are any strong feelings you have on
13 answering those questions, as long as you're up here, I'd
14 read them off, but it would take about five minutes. It
15 goes to the standard development process, and I would argue
16 maybe the larger governance issues of that process. Greg?

17 MR. ABEL: Sure. Maybe I'll just kick off with
18 one thought, and it ties to John's, Commissioner Norris'
19 comments too. On questions we would like to ask, and often
20 it's in the middle of evaluating standards or being in the
21 development process. I think sometimes stepping back and
22 saying why needs to be asked, because as John highlighted,
23 there's a wealth of experience in FERC, NERC and the
24 industry.

25 Sometimes we're stepping back saying we're not

1 sure why we've been debating the standard or where the gray
2 is in it, and we struggle when we say why should we go this
3 next interpretation of it or why does this standard have to
4 be developed?

5 We don't get a lot of good feedback, and that's
6 an important part of the process. Maybe if there's a
7 better dialogue there, we can engage in a more proactive
8 way. But often it's left as sort of well, we can't give
9 you that type of feedback. We can't answer the why part of
10 it, and then there's that frustration that builds and
11 probably a lack of trust between the two, or all the
12 organizations.

13 So I think that's an important part that often
14 doesn't get addressed.

15 COMMISSIONER NORRIS: Any other thoughts?

16 COMMISSIONER MOELLER: That's often difficult to
17 know without a reason in your rule process.

18 CHAIRMAN WELLINGHOFF: Thanks, Joe.

19 MR. McCLELLAND: Yes. Let me go back and just
20 I'll iterate, because I didn't iterate the first time. So
21 it's not a reiteration. It's an iteration. It's a ground
22 rule for the second panel. We'll start in reverse order.
23 So Commissioner Norris, you can have some additional time
24 if you need it. Also to you, Commissioner Moeller, or you
25 can finish up the panel and then just before we turn it

1 over to staff for some questions. So we can give you one
2 last shot at it. So if you need some additional time,
3 either two commissioners.

4 COMMISSIONER MOELLER: I'll do just one more. We
5 kind of touched this in several different ways. Maybe I
6 need to ask it differently to get the full answer. We
7 talked a lot about establishing priorities. I think that
8 it's critical and it seems to be universal in agreement.
9 But anybody have any suggestions on the best way to do
10 that? Is it through the current process and we talked
11 about this other potential meeting process? Do you and
12 NERC, have you agreed on a top ten list of priorities, and
13 any suggestions?

14 MR. JOHN A. ANDERSON: Well, I think we have a
15 number of already-existing and in general formal processes
16 for that that I think a good starting point and probably
17 should be the meat of priority-setting. When we do our
18 annual planning and our three-year planning, we have in
19 there priorities.

20 Very explicitly, they are vetted through the
21 industry. It has the expertise of the industry with it,
22 and those are then filed with FERC, and you get a chance to
23 look at them to see if they fit.

24 There's room for discussion when we go through
25 that. There's also room for input from FERC and from FERC

1 staff before, because as you know, FERC is one of the many
2 parties that have the chance to participate, and it's no
3 violation of your kind of regulatory role, I think, to be
4 able to participate in that.

5 So that's a very robust process that gets right
6 to priorities, because that's where we're going to spend
7 the money. We're going to hire the staff and we're going
8 to continue to grow the capability. So that's one.

9 We do believe that at a more policy level, that
10 the form we're talking about, however that might evolve,
11 we'd be a place where we could have direct senior NERC
12 staff to commissioner, as well as some of the industry
13 participants, talking at a higher level about the
14 priorities for the coming year or for the next three or
15 four years.

16 We think that probably is missing right now. We
17 don't get a sense of the priorities from FERC, and then to
18 be honest with you, we haven't really asked or found a good
19 way to ask. So we would encourage that a new forum, if you
20 will, kind of top to top discussion, have as one of its
21 central discussion topics regularly priorities, priorities
22 for standards development, priorities for improvements to
23 our process where you can look in and see that the NERC
24 process needs improvement, and recommendations on
25 priorities for joint efforts to improve, as I say,

1 compliance auditing or whatever you see as problem areas.

2 So we have existing processes. They work well
3 and for the most part have a set of priorities. We think
4 there's one more input that we need, and that's from the
5 very senior level, from the commissioner level, on setting
6 those priorities.

7 MR. McCLELLAND: Thanks. John?

8 MR. JOHN A. ANDERSON: Every time the discussion
9 comes up about this forum, I get more concerned, and I
10 would only say that if you do decide to create this high
11 level forum, and I'm all for communication. I'm all for it
12 at the highest level. I just think it needs to be fair,
13 balanced, open and inclusive.

14 If you talk about a CEO level thing, you're not
15 going to have one that's fair, balanced, open and
16 inclusive, almost by definition I think. So this causes me
17 real concern. I agree with my colleague, John Anderson,
18 that the process within NERC, I think, is very good on
19 identifying priorities, and I think they've put them down
20 in black and white and filed them with you all, and I guess
21 that's why I was somewhat concerned that we didn't get a
22 response back that said we like your priorities. We don't
23 like your priorities, whatever.

24 Again, this dialogue can start right there, and
25 we can find out if that -- if that works. It needs to be a

1 two-way dialogue, and I think, at least, as a member of the
2 Standards Committee and as one that has participated in the
3 prioritization processes there, I feel pretty good about
4 the way that it goes.

5 I guarantee you that if we got feedback from you
6 all, that you disagreed with those priorities, there would
7 be a redo of them. I know there would be. It's not a
8 matter that we're saying here are our priorities; take
9 them. It's a matter of us saying "here they are. We
10 struggled with them, we've come up with them." Silence is
11 not a good response back, but I'd like to work within the
12 process for a while at least first. But thank you for your
13 question, Commissioner. I think it's a very good one.

14 CHAIRMAN WELLINGHOFF: If I could follow up on
15 that. I'm going to try this one more time with John, see
16 if we can work on you a little bit here, because I want to
17 make you believe here. I really like what John Anderson
18 said, but what I'm missing here is the process that John Q.
19 Anderson said he had, is one that NERC develops the
20 priorities and they submit them to us for approval.

21 I see that as much different from what we're
22 talking about is a senior level policy discussion that gets
23 outside of, you know, here's what you've got as priorities
24 and it comes down to us for approval. It's here's the
25 whole universe of what we want to talk about as priorities

1 at a senior level.

2 I don't think that exists now, and I think it
3 really needs to exist. I really do, and if you don't,
4 explain to me why you don't think that needs to happen.

5 MR. JOHN Q. ANDERSON: I'm all for the highest
6 level of communication that there possibly is. I'm also
7 rather cynical. I've been at this job for 30 years, and
8 I've seen an awful lot of stuff happening. What happens
9 something outside comes up with its ideas, that is not
10 coming from all the range of stakeholders and all the
11 people, and it won't. It will come from a narrower group
12 of them.

13 It has a lot of momentum behind it though, and
14 it's much much harder to have your input. I thought we as
15 an organization fought very hard when the legislation went
16 through, to come up with a fair, balanced, open and
17 inclusive process. It's one that the smaller organizations
18 have much more difficulty in doing. I can't say it any --

19 CHAIRMAN WELLINGHOFF: Well, here's the problem
20 I'm having, John. The process you're talking about doesn't
21 include FERC. You in essence -- NERC in essence comes up
22 with these priorities and submits them to us. That doesn't
23 include us. I'm saying we should have a discussion before
24 that about general broad policies at a high level, and I'm
25 not understanding why that --

1 MR. JOHN A. ANDERSON: Well, and I would like to
2 have that, and --

3 CHAIRMAN WELLINGHOFF: But you're saying it
4 should be inclusive, but you're trying to exclude. So I
5 don't --

6 MR. JOHN A. ANDERSON: With all due respect, Mr.
7 Chairman, not at all. I mean I want FERC participation at
8 every level of NERC, where you can get your inputs in
9 there. Once they're filed with you, that doesn't make them
10 final. You finalized them. If you don't like them, you
11 come back.

12 CHAIRMAN WELLINGHOFF: But that doesn't work for
13 me, in the sense that again, if we can talk about general
14 priorities at a high level, then it never gets to the point
15 where you file it with us and we don't like it. We want to
16 avoid that, right, John?

17 MR. JOHN A. ANDERSON: I agree.

18 CHAIRMAN WELLINGHOFF: Yes, we want -- that's
19 what we're trying to do with this whole forum here is avoid
20 that John, is not get to there, and the process you're
21 talking about gets us there, and we don't like something --

22

23 MR. JOHN A. ANDERSON: I respectfully disagree.
24 I think if your comments come in as it's being done, your
25 comments will be more than listened to.

1 CHAIRMAN WELLINGHOFF: Well, I think that's where
2 we are right here, right now, that you know, in our March
3 orders, we had to come out with these orders in a way that,
4 you know, surprised everybody, okay. We got to here
5 because we don't have in place the forums that we need to
6 have in place to make the system work. That's what I'm
7 trying to do, is establish that.

8 MR. JOHN Q. ANDERSON: I thank you for your
9 thoughts.

10 MR. McCLELLAND: Commissioner Moeller, do you
11 have any additional questions, comments, or Commissioner
12 Norris?

13 COMMISSIONER MOELLER: Louise still had a follow-
14 up to that.

15 MR. McCLELLAND: Oh, I'm sorry.

16 MS. McCARREN: I'm going to observe, if you want
17 to know what standards are the most critical, or what areas
18 from a standards perspective, you should concentrate on --
19 with all due respect, I would suggest that we talk to the
20 operators of the system. We had the luxury of doing that
21 when we were negotiating with CFE, our Mexican partners,
22 and they said to us well, tell us the most important
23 standards you want us to investigate and adopt.

24 So we had a conversation with our reliability
25 coordinators and others, and gave them a list. These are

1 the folks that actually have to operate the system. So
2 that might be an interesting conversation to have, because
3 as all of you know, the way the standards were brought up
4 and developed, over time, on a voluntary basis, that was
5 not the way they were viewed, as like one of the top,
6 really key critical issues.

7 So I think having a conversation with the people
8 who really have to operate the system might be very useful.

9 COMMISSIONER NORRIS: A question for Ms. Aldred.
10 I have great respect for our Canadian partners, partly
11 because I always forget I grew up pretty close to Canada.
12 So you know, it's kind of natural for me. But unlike, you
13 know, the challenge is you know better than we do, the
14 provinces all have their own essentially separate, usually
15 Canadian corporation utilities, that they go north to south
16 and not east to west.

17 So being inclusive and mindful of the fact that
18 issues in Quebec can differ from Ontario and British
19 Columbia, do you have any other larger recommendations as
20 to how we can strike the balance of listening to your
21 concerns, in a way that doesn't add a whole other job to
22 what we're already doing?

23 MS. ALDRED: Well, Ontario does participate
24 through, mostly through the IESO, not through the Board in
25 the NERC process, and so, I believe, do the other

1 jurisdictions in Canada. So there is coordination already,
2 and many of the jurisdictions do have MOUs with NERC.

3 So There are already frameworks in place which
4 provide for information-sharing and coordination. So while
5 the provinces all perhaps have slightly different
6 regulatory schemes, I do think that there is a commonness
7 of communication and cooperation between the provinces and
8 NERC. So you know, it may be less homogeneous, but I think
9 it does exist.

10 COMMISSIONER MOELLER: Okay. Well, as you have
11 recommendations, let us know.

12 MS. ALDRED: Thank you.

13 MR. McCLELLAND: Thank you, Commissioner.
14 Commissioner Spitzer?

15 COMMISSIONER SPITZER: Thank you. Two areas I'd
16 like to follow up on. One, it was raised a little bit in
17 some of the discussion among the Andersons and the
18 Commissioners, that you've got competing interests. The
19 NERC process is very open and inclusive. As a consequence,
20 it is sometimes difficult to reach decisions.

21 In some of the other concepts, the INPO, the CEO
22 level, quicker, less transparent, arguably less inclusive,
23 and these are balances and on the one hand, we saw in the
24 March 18th orders some issues regarding timeliness and we
25 saw in the responses concern that we're stanching debate.

1 We've got the gamut of cases of matters before
2 us. Is there -- are there ideas for trying to promote more
3 timely disposition of cases? Because I hear from everyone
4 these things take too long, particularly the regulatory
5 community. How do we do that without sacrificing the right
6 to be heard?

7 MR. JOHN Q. ANDERSON: I really almost hate to
8 jump in after what we just had, Mr. Chairman. But I would
9 say that the Standards Committee, from my standpoint, has
10 heard very, very well the concern, and the very real
11 concern of FERC, that it's been too slow, and is making
12 steps, and I think major steps, that's just me, in
13 addressing that.

14 It's not going to happen immediately, but some of
15 the steps are happening immediately, but I believe at least
16 that progress is being made and additional progress will be
17 made. I just err on the side of saying that the process
18 that's there is a very good one, and that are moving much
19 faster than in the past.

20 I have said in my written comments, and I didn't
21 say it here, that it is totally unacceptable to have 300
22 FERC directives unresponded to for three years. I mean I
23 understand that. But I think everybody in NERC understands
24 that, and we're making, I think, at least major efforts. I
25 would hate to see us lose the interchange between the

1 various stakeholders, to try to speed it up even more than
2 what it's doing right now.

3 I think that the question maybe can be divided
4 into two or three areas, if you will. In general, I think
5 that you've heard a very strong feeling on our part from
6 NERC, and I think pretty much all of our constituents, that
7 the ANSI process, the deliberative process, the open,
8 inclusive, balanced process is very valuable. It has a lot
9 of value to us.

10 And so we'd like to maintain that, stay with it
11 and we'll defend that fairly vigorously by trying to show
12 how it can work. So I think overall, we're going to keep
13 proposing that we live with a process that's inherently
14 deliberative, to use a kind word. You could say slow or
15 cumbersome. But I think we would say that's well worth the
16 effort.

17 A second area though that I think is somewhat
18 separate is our responsiveness to, for example, FERC
19 directives that have come. Regardless of whether we agree
20 with them or whether we would hope in the future there were
21 fewer directives, because we might be communicating in
22 advance more, there might be fewer directives that come
23 out, I think we at NERC would say, and the Board certainly
24 would say and Gerry Cauley, you'll hear him say also, that
25 we just haven't been responsive to what has happened in the

1 past.

2 That leaves a pretty bad taste. Either it looks
3 like defiance or it looks like sloppiness, or it looks like
4 inability to get our work done. Hopefully none of those
5 are the case, that it's simply been a matter of internal
6 priorities and not having discussion in advance. We are
7 working on that. We're all over it. The Board of NRC will
8 become more involved and take a direct role in helping set
9 the priorities internally.

10 So I think we would strongly recommend keeping
11 the deliberative process, you can call it the ANSI sanction
12 process if you will. But I do think we're -- we have very
13 heightened sense of where FERC is coming from in terms of
14 priorities, and it has spurred us to try to propose actions
15 as we've talked about here that are, I would call them
16 preemptive.

17 So that's the direction that we think is most
18 productive going forward. I don't know if that -- does
19 that answer the question about timeliness?

20 COMMISSIONER SPITZER: Yes, yes.

21 MR. McCLELLAND: Just to follow up on some
22 comments that John from ELCON made here. My understanding
23 is that the Standards Committee has taken those orders to
24 heart, and I think you'll hear more about this from the
25 second panel this afternoon.

1 My understanding is there was recently a
2 reliability standards process manual filed with the
3 Commission, that I think helps try to address and balance
4 some of the concerns involved here in terms of timeliness
5 of standard development, and still having an open process
6 that's balanced and produces a good workable and
7 sustainable standard.

8 I understand the committee's also looked at
9 developing a new charter for the committee, to help its
10 inner workings. So you may hear more about that from the
11 panelists this afternoon. But I think it gets to your
12 concern.

13 MR. WRIGHT: Let me say first of all when I
14 showed up this morning, I wasn't sure that the thought that
15 was in my testimony about we ought to find a way to talk
16 more together would become quite as controversial as it
17 appears to have become.

18 (Laughter.)

19 MR. WRIGHT: A few thoughts in general. First of
20 all, the assessment and priority-setting that NERC is doing
21 we think is excellent. I think it's really good. We think
22 Gerry Cauley is doing an excellent job early and the vision
23 he's laid out we are very supportive of.

24 The thought here was just we need to find a way
25 to be able to communicate more between FERC and NERC and

1 the industry than is going on today. Again, the forum for
2 that can take a lot of different vehicles to get there.

3 In terms of how it would work, it absolutely has
4 to be an open process, and consumers have to be engaged in
5 that process. It will not work without it. I mean this is
6 a conversation about ultimately impact on consumers. So to
7 John's concern, I'll make sure I'm being clear, at least,
8 that I couldn't see this possibly working without active
9 engagement of consumer organizations.

10 Hopefully the conversations is impacted. I don't
11 see any way that the conversation will be one in which it
12 substitutes for existing decision-making processes. Those
13 are set out in a variety of different forums, including
14 legislation. So it's a way of getting together and trying
15 to resolve differences, hopefully through priority-setting,
16 that then will flow through the decision-making processes
17 and be implemented.

18 The FACA concerns, Federal Advisory Committee Act
19 concerns that Mark briefly mentioned, my experience in
20 government those are valid concerns. We have to work those
21 through in terms of how this would actually work, because
22 there are challenges there. They are resolvable problems.
23 In our experience, we've been able to work with FACA and be
24 able to make it work. But it is something that has to be
25 worked through.

1 Finally, you mentioned INPO-2, and I'd like to
2 make sure that the INPO thought is a separate thought. The
3 INPO thought is just one of which essentially if you have a
4 system that's built only on sticks, and not on carrots of
5 some kind, it tends to cause people to close themselves
6 off, and not be open to sharing, and ultimately we want a
7 system in which there's a lot of sharing.

8 My one thought on this is just if you haven't
9 been to one of the INPO annual meetings, I'd urge you to go
10 some time. There's a dinner that they do, and at that
11 dinner they give out awards for the nuclear plants that
12 have done the best in the course of the last year.

13 The pride that the folks have when they get that
14 award is really inspiring. It causes folks throughout that
15 industry to want to achieve that level. The award is quite
16 meaningful. That's what we should be striving for here as
17 well, not just a system of well, you've got to do it right
18 or else you're going to get hit with a stick, but also how
19 do you get people to want to do a great thing? How do you
20 create those incentives for them to want to do it?

21 It doesn't always take money, by the way. So
22 that's what INPO, I think, has proven.

23 COMMISSIONER SPITZER: One more observation, and
24 then I'll yield. You know, I alluded to the role for the
25 legal system, where there is a legitimate dispute, to

1 resolve it, give it finality, and it has the benefit of, in
2 a hypothetical case where an elected official says "Why did
3 you black out my town or my district?"

4 The answer is here is a standard that was
5 resolved by the court, of a statute enacted by Congress,
6 and that doesn't make anybody feel happier, but it does
7 give some degree of insulation, and also produces finality.

8 At the same time, and that's a legal aspect.
9 Then you have the technological aspect, and the fact that
10 circumstances change. Commissioner Norris alluded to it in
11 the opening that rural America has different expectations
12 in terms of electric reliability, that might have existed
13 40 years ago.

14 It's not just somebody decides to put a server
15 farm in the middle of a rural area. It's an attitudinal
16 difference over time that suggests that this process is
17 going to be ongoing. It suggests on the technology side,
18 an absence of finality. SIP. Who paid attention to that
19 ten years ago? And ten years from now, what is, you know,
20 the question Phil posed, what issues are we going to be
21 looking at?

22 You know, in Gerry Cauley's testimony, he had the
23 question. Is load-shedding an acceptable operational
24 procedure following a single contingency in a rural fringe
25 area of the system, where the rest of the interconnection

1 is not affected and customers have chosen not to build
2 reinforcements?

3 The answer might be very different ten years ago
4 than it would be ten years from now. So the policy
5 determinations are dependent upon technological changes,
6 attitudinal changes, the whole variety. It's hard enough
7 in a static world, with a record. We have proceedings with
8 a fixed record, for parties to agree.

9 It sounds quite a daunting undertaking, where
10 circumstances change over time. Have you all, you know, to
11 the extent you've got associations, you're operating
12 systems, where you know you're going to be imposed upon
13 stresses going forward that are difficult to contemplate.
14 How do you adapt your reliability protocols to those
15 potential changes over time, the temporal aspect that John
16 alluded to? Or can we?

17 MS. McCARREN: Well, I'll repeat something I said
18 and I hope it's at least partially responsive to your
19 question, and that is that I am very optimistic, that as
20 the information about our systems with more synchro-
21 phasers, etcetera, becomes richer and richer, we will be
22 able to use that data and information for diagnostics,
23 which will allow us to tell where the system's in fact weak
24 and why it is weak.

25 I am only speaking for the Western

1 interconnection now, and right now, I would say that we are
2 -- we're in our infancy on that. But that would go a long
3 way. I think I'm trying to answer part of your question.
4 So we'd have a much better appreciation for where the
5 system potentially is going to have problems.

6 COMMISSIONER SPITZER: So the technology gives us
7 more knowledge?

8 MS. McCARREN: I absolutely --

9 COMMISSIONER SPITZER: And it reduces the area
10 for potential dispute?

11 MS. McCARREN: Well, if you think that the
12 synchro-phaser issue and WECC has a daily grant to improve
13 synchro-phasers and that data comes into real time to the
14 reliability coordinators, that gives them ever more data
15 and information that allows them to see the system.

16 If you couple that with our new data system, and
17 I don't mean this to be an ad for WECC in any way, it
18 allows us to use that very rich data now to go forward-
19 looking and be a diagnostic. I mean that's kind of the
20 vision that we have for the future. That may not be
21 completely responsive to your question, but I think that
22 would, right now, everyone does the best job they can. But
23 I think there's technology there that could improve it.

24 COMMISSIONER SPITZER: John.

25 MR. JOHN A. ANDERSON: Louise spoke about from an

1 operator and a supply side, which is completely accurate
2 and all of that. From a consumer side, just from the large
3 industrial side, my membership ranges from electric arc
4 furnace steel companies that would just absolutely love to
5 be able to have demand response, to be able to take care of
6 things, to Intel, on the other end, that has an entire room
7 in the back full of batteries, that will just tide it over
8 enough until its auxiliary generators get up, and that's
9 when they have two high voltage feeds coming in from two
10 different transmission lines.

11 So there is no uniformity within that. But I --
12 and everything changes. I mean the automobile companies
13 years ago were much less technical than they are now, but
14 now, I mean just let your mind wonder what would happen
15 with an outage in a spray booth that's all done by robots?
16 I mean it's a mess that's going to put them out for a long
17 time.

18 This just highlights to me the idea that you've
19 got to have the full gamut of folks getting together. It's
20 time-consuming, it's difficult, you know, and all of that.
21 But the technology changes over time, both on the supply
22 side, as Louise is talking about, and on the demand side.

23 That's one of things I -- it's very, very
24 difficult, I understand. But we have to have the dialogue
25 including everybody.

1 MR. JOHN Q. ANDERSON: Commissioner Spitzer and
2 Commissioner Norris, when you guys touched on, it is an
3 evolving world, and clearly things continue to change. One
4 thing we do see with our customers, and John, you may see
5 this a lot with yours, there's an active dialogue,
6 especially when it comes to load-shedding. Who should we
7 be dealing with?

8 When I said we have load-shedding plans, we do
9 have plans in place that deal with very specific customers
10 that can absorb it, and we compensate them for it, and we
11 know those that can't, and at all costs we attempt to keep
12 them on line. So there is a good dialogue going on, and
13 that doesn't stop.

14 Next year, there will be another dialogue based
15 on the technology introduced and who can we protected, and
16 again who wants to potentially be receiving a standby feed
17 for having to shed their load at some point in time. So
18 they get compensated both when they're on standby and then
19 ultimately when we shed them.

20 So there's a lot of thought that goes into this
21 process. It's obviously driven by technology, but also
22 with a strong dialogue with our customers.

23 COMMISSIONER SPITZER: I think to the question of
24 the complexity and the changes and how do you anticipate,
25 and ten years from now reliability will be different, I

1 think with complexity, we've learned in the electric
2 industry, one of the fortunate things about complexity is
3 it gives you so many more options.

4 Because it's complicated, you have more ways that
5 you can affect it, and that can be good and bad. The good
6 side of that is that I think new entrants, innovators,
7 people that are changing the way they use electricity are
8 going to be the ones that make the first advances.

9 I don't think that it's probably a likely, maybe
10 not good, that you innovate with reliability and
11 reliability standards, because it's very expensive to
12 create changes in the reliability requirements and
13 standards, and to try and guess at what the future might be
14 and force changes across a system to take care of that
15 before it happens can be very expensive, and you can guess
16 wrong, in many cases would guess wrong.

17 I think what's happened in the past and what our
18 system will almost always produce, because there's so much
19 input, is that the innovators, the entrepreneurs, the
20 investors, will take the current system and the current
21 reliability framework as a given, realize that at least for
22 some period of time they'll have to live with that, and
23 make their investment such that they can live with that,
24 build in their own reliability, their own redundancy and so
25 forth.

1 Then the pressure will come onto the system, if
2 that's well-accepted, the system being NERC for example, to
3 catch up and have standards that make the norm be a level
4 of reliability that satisfies that. Then five years later,
5 other innovators, investors, entrepreneurs are coming in,
6 taking that new system as the standard, and investing in a
7 way that they can live with it. Then the system will come
8 up.

9 So I think that's more the way that our NERC-ANSI
10 standards process works, as opposed to a farseeing
11 entrepreneurial standard-setting group, trying to set
12 standards and force reliability to a level that anticipates
13 ten years out, making everybody go there and maybe guessing
14 wrong.

15 MR. McCLELLAND: Thank you, Commissioner. Mr.
16 Chairman, any further thoughts or comments?

17 CHAIRMAN WELLINGHOFF: Well, I can see by the
18 time that we have about five minutes left. So I would
19 propose that we dismiss Panel 1 at this point, unless staff
20 has some burning question that they absolutely should ask.
21 I see no's. I would say we should dismiss Panel 1. That
22 will give us time to reconvene Panel 2 by 1:30.

23 But thank you panelists. I appreciate your
24 presentations and the great responses to this problem.
25 Thank you so much. I'm sorry, Commissioner?

1 MR. McCLELLAND: Staff had some burning questions
2 for these guys. I mean if we go 15 minutes over, I don't
3 know what -- is there any staff with questions?

4 CHAIRMAN WELLINGHOFF: I suppose we could. Any
5 questions? Are you sure. Okay. I can withhold until
6 Panel 2. Thank you, Panel 1.

7 MR. McCLELLAND: Great, thank you. Thank you
8 all.

9 (Recess)

10 CHAIRMAN WELLINGHOFF: The next panel maintains a
11 Canadian presence. Mr. Nicholas Ingman is here today
12 representing the Canadian Electricity Association. As with
13 the first panel, we'll begin with brief introductions.

14 Would you please begin your presentation by
15 stating your name, title and the organization that you
16 represent? I'd like to begin with Gerry Cauley, who is
17 representing the ERO.

18 Each of you will have five minutes for your
19 presentation, and again, Mr. Carlson will warn you when you
20 have one minute remaining. Mr. Cauley, welcome. The floor
21 is yours.

22 MR. CAULEY: Thank you, Joe, Chairman Wellinghoff
23 and Commissioners. Pleased to be here today obviously.
24 I've also heard that my name was mentioned so many times in
25 the first panel, and I'm sure you know many past hands on

1 them and the process.

2 We have a lot of questions before us today about
3 the process for developing the reliability standards, and
4 the quality of those standards. I view our process as
5 simply a tool. In the right hands for the right purposes,
6 it works well. The tool can be improved, but ultimately to
7 succeed as leaders, we must work together to set strategic
8 goals and priorities necessary to ensure reliable operation
9 of the North American bulk power system.

10 One aspect of the process was the creation of ten
11 diverse segments, of which four, carrying 40 percent of the
12 weight vote, represents small and large end use customers,
13 government regulators and regional reliability
14 organizations. The process brings to bear not only the
15 formidable expertise of industry owners and operators, but
16 also the balanced interests of end use customers and others
17 who depend on reliable bulk power system.

18 Even with a high threshold for consensus, our
19 process successfully produced important standards.

20 Overall, there are 102 Commission-approved mandatory
21 standards in place and being enforced. A new standard on
22 vegetation management, the issue triggering the 2003
23 blackout, has reduced vegetation outages and eliminated
24 growing contacts over the last three quarters.

25 We have a new standard on transmission line relay

1 loadability, the predominant cause of the widespread
2 cascade in August 2003. We have new standards for the
3 protection of critical cyber assets, and we've developed a
4 standard, a set of standards on determining total and
5 available transfer capability, which was a priority of the
6 Commission. I also know we have much more work to do,
7 particularly with regard to timely delivery of results.

8 On June 10th of this year, NERC filed proposed
9 process changes to allow initial comment periods that do
10 not require specific written responses to each comment, to
11 increase technical writing support and training of drafting
12 teams, and to introduce controls to ensure certain quality
13 attributes and regulatory directives are met.

14 NERC has also introduced the concept of results-
15 based standards. This concept enhances our ability to
16 communicate with drafting teams and the industry regarding
17 the structure of a well-written standard. We're developing
18 a strong portfolio of standards that address reliability
19 performance, risk containment and competency.

20 We are applying a defense in-depth strategy that
21 has effectively reduced risks in the nuclear industry, in
22 aerospace and in other critical sectors. I am fully
23 confident that this approach will work well for the bulk
24 power system.

25 My observation is that the standards process can

1 work and is working. As president of NERC, I am committed
2 to guiding further substantial improvements. My further
3 observation, however, is that when there are differing
4 expectations regarding what is needed for reliability, such
5 policy decisions cannot be simply thrust upon the technical
6 experts to resolve in the standards process.

7 A few of the complex questions needing policy-
8 level resolution include are we moving from a definition of
9 bulk power system reliability as avoiding instability,
10 uncontrolled separation or cascading failures, to one that
11 includes avoidance of load loss? What is the proper
12 balance between reliability and cost to customers? Both
13 issues we heard earlier on the first panel.

14 But also what are our strategic objectives and
15 design basis threats with regard to protecting the physical
16 and cyber security of our critical infrastructure? How
17 should we address the integration of renewables, demand-
18 side management and SmartGrid devices? What are our most
19 significant unresolved risks to the grid today, and how
20 should these be addressed?

21 Such policy decisions and the setting of goals
22 and priorities should be realized through periodic
23 consultation amongst senior leaders at the Commission,
24 Canadian authorities, NERC and the industry. The
25 relationship between the Commission and the ERO, in many

1 aspects, imitates other regulatory relationships held by
2 the commission. However, the ERO framework is unique. The
3 ERO is both regulated by the Commission and supports the
4 Commission in carrying out delegated responsibilities.

5 The current approach of directing new or revised
6 standards in an order, with 30 days to file for rehearing,
7 is insufficient to address the policy issues and priorities
8 that may arise. NERC has received more than 700 directives
9 related to standards, of which we have addressed
10 approximately one-third.

11 To our credit, initial efforts were focused on
12 those believed to be most important to reliability.
13 However, it is clear to me that in the future, we must be
14 more diligent about reporting our progress on these
15 directives. I make that commitment to you, and have
16 recently undertaken initiatives to accelerate work on
17 remaining outstanding directives.

18 If I can leave you with one message today, it is
19 the importance of consultation among senior government,
20 NERC and industry leaders, regarding the setting of
21 strategic priorities and direction for our standards. We
22 are beginning to see visible results with regards to
23 standards quality and timeliness, and I am committed to
24 ensuring those trends continue.

25 Our overall purpose remains constant; the

1 reliability of the bulk power system. Thank you.

2 MR. McCLELLAND: Thank you, Gerry. Next we have
3 Mr. Allen Mosher of the American Public Power Association.

4 MR. MOSHER: Thank you, Joe. Chairman
5 Wellinghoff and Commissioners, I want to thank you all for
6 the opportunity to be here. I am Allen Mosher, Senior
7 Director of Policy Analysis for the American Public Power
8 Association.

9 But I'm really appearing today because I am chair
10 of the NERC Standards Committee, which is a volunteer
11 position and I was elected by my peers on the committee.
12 But I want to preface this to say that my remarks have not
13 been reviewed by other committee members or by NERC staff
14 or others.

15 Thank you all for having this conference today.
16 We've made immense progress already by, I think, what we
17 had is a basic consensus that we need to have more high
18 level discussion. What I'm bringing to the equation is a
19 bit more down in the weeds, talking about what the
20 Standards Committee actually does and the burdens that we
21 face, the need for us to set priorities. I think that's
22 what's most important.

23 Again, NERC's standards process is ANSI-
24 accredited. It's based upon openness, transparency, a
25 demonstration of stakeholder consensus, fair balance of

1 interest among stakeholders, provides for reasonable
2 opportunity for comment by the public. The most important
3 part of this is that it gets to technical consensus.

4 Don't ever underestimate the importance of
5 getting the essential technical work done first. If we
6 don't have a sound technical foundation for what we're
7 doing, it's not going to end well. Sometimes, and that
8 underlies many of the problems that we face.

9 The Standards Committee oversees this process
10 through the members of the Committee. There are a total of
11 ten segments on the Standards Committee, and mirrors what's
12 in the registered ballot body. Those members are elected
13 by each segment of the ballot body, and then they come
14 together and work on behalf of the entire industry to again
15 manage the standards development process.

16 Our meetings are open to the public, and the
17 Commission staff in fact participates in those meetings.
18 We also have a series of ongoing meetings of drafting teams
19 with the Commission staff. Again, it's all part of this
20 lower level communication that needs to be supplemented by
21 the high level communication we were talking about today.

22 Again, the Board of Trustees gave the Standards
23 Committee a new charter as of last November, and we've been
24 working diligently to try to implement it. It coincides
25 with Gerry Cauley becoming NERC CEO and setting out his

1 strategic vision for the industry. We tried to integrate
2 that into the work of the Standards Committee by actively
3 setting goals for what we think is most important to
4 accomplish.

5 Back in February I called a special meeting of
6 the Standards Committee to set such goals, and we arrived
7 at, I think, six top priorities. Number one was the
8 results-based standards program. Number two was approval
9 of a new standards processes manual, which as Gerry said
10 has been filed with the Commission, and I do urge the
11 Commission's prompt approval of it.

12 It is essential that we get that new manual
13 approved, because we need to again speed up the development
14 process by removing some of the procedural barriers we
15 have, we face today with the existing approach.

16 The Standards Committee has a new, again a new
17 charter that gives us greater responsibility for the
18 quality and timeliness of the standards. We're developing
19 mechanisms to ensure that standards have the quality
20 attributes that are needed before they go out to the
21 registered ballot body for review and approval, and also in
22 that process that we address FERC directives.

23 That is, it doesn't do any good to put something
24 out for industry ballot which we know is going to be a
25 nonstarter with the Commission. We need to address your

1 directives and have a clear understanding of how we're
2 responding to them.

3 Something that's also been alluded to, informal
4 interpretations. The formal interpretation process we have
5 today is very time-consuming for the industry. It's
6 burdensome for the Commission because it doesn't really
7 change the underlying of the standard.

8 Rather, it's just an interpretation of what we
9 may have, what originally is a flawed standard from the
10 beginning. So we're working on an informal process to
11 improve the ability of registered entities to understand
12 what is required for compliance and to interpret what's
13 there today. We'll be bringing something to you in the
14 future.

15 Next, feedback loop. We need to have a process
16 where we take all the information that Gerry and others
17 have talked about, that's gathered -- and Louise McCarren
18 in particular from earlier, talk about industry
19 performance, where do we have compliance investigations,
20 where do we have trends in nonperformance, where do we have
21 event analyses to indicate underlying problems.

22 We need to loop that back and feed back to the
23 standards development process. It's an inherently hard
24 thing to do, but that's a high priority for the Standards
25 Committee and for me to make sure that we get that feedback

1 to get higher quality standards in the future.

2 And finally communication. Again, that's the
3 purpose of today's meetings, and I thank you all for the
4 opportunity to speak today.

5 MR. McCLELLAND: Thank you, Allen. Next we have
6 Ms. Nancy Saracino from the California ISO.

7 MS. SARACINO: Thank you very much. I am
8 technically savvy after all. Nancy Saracino. I'm the
9 general counsel and chief compliance officer of the
10 California Independent System Operator. The folks that I
11 work with think it's funny to just run when they see me
12 coming down the hall, or alternatively spread for me to
13 frisk them.

14 So my role in this organization is one that I'm
15 going to speak from, because the perspective is from the
16 lens of somebody who's underground implementing this, and
17 working with the operators who many of you have already
18 mentioned. We're counting on 24 hours a day to do this job
19 for us.

20 So I think at the back of our minds at all times
21 as we engage in this discussion of improvement, what we're
22 trying to achieve and where we're trying to go with this is
23 are we incenting the right kind of behavior in the
24 development of these standards? Are we providing the level
25 of clarity, and are we providing the kind of leadership and

1 direction that's really needed to give these folks what
2 they need?

3 My initial observation is that in the three years
4 that we have all developed, I'm certain most people in this
5 room have actually developed bureaucracies around these
6 standards, how to comply with them, how to document that we
7 are complying with them, how to respond to audits and
8 investigations?

9 As part of this, I worked in government before
10 and you know that every bureaucracy becomes entrenched at a
11 certain point and very hard to move. So in some ways, what
12 the Commission is doing right now is extremely important
13 and extremely timely. Now is the time to start examining.
14 Is it working? Are we on the right track?

15 I think you're hearing a lot of comments that are
16 indicating it really does need to shift. I'd like to
17 address a couple of things that came up in the earlier
18 panel. One is are the rules clear between FERC and the
19 rest of the industry, and I think that while we know what
20 we need to do to operate the system reliability, I think
21 that the tension that exists right now is a clear
22 indication the rules aren't crystal clear.

23 I like the idea of some better communication at
24 high levels, so that the policy can be worked out, and some
25 of these higher level notions of how does it get done so

1 it's workable?

2 But at the next level, the technical input for
3 the standards development process also needs to be clear
4 very early on. There's a tremendous amount of work and a
5 tremendous amount of time that goes into these processes
6 before they get placed on your doorstep, and if there is a
7 better mechanism for letter that process have already
8 incorporated the type of feedback and things that come out
9 in some of your orders, I think that would help improve
10 things.

11 At the end of the day, we do need to prioritize.
12 But what does that really mean. That means, I think,
13 focusing on the things that are the most important to
14 reliability, and letting some of the rest of it get set
15 into a second tier. That includes the repercussions for
16 violations.

17 Louise McCarren mentioned that they're doing this
18 important work of evaluating what's really been happening
19 for the last three years. I think it's really important
20 that we do that on all fronts. Let's look at how the
21 audits have been going, let's look at how investigations
22 are being run. What are we getting out of it and what are
23 we seeing in terms of the implications?

24 If the data starts showing that the focus has
25 been on behavior that results in minimal impact to the

1 system, then why are we devoting all this time and effort
2 in our bureaucracies and resources on fixing those things
3 if they aren't significant?

4 I really think a change in emphasis and a change
5 in focus is really critical, and leadership at the top is
6 the only way to make that happen.

7 There are a number of things at the next level,
8 in terms of removing ambiguities. We have to keep in mind
9 again the operator. That person operating on the floor has
10 binders and binders and binders of rules and
11 responsibilities and requirements, and we must incent
12 behavior to actually manage the grid and make the right
13 decisions to keep the lights on, and think carefully about
14 consequences that actually are contrary to incenting that
15 behavior.

16 To that extent, having multiple interpretations
17 and different layers of what this standard means is
18 actually very harmful. Clarity in the standards themselves
19 is the most important thing, I think, with respect to
20 ensuring that at least in that realm, we get what we expect
21 out of these rules.

22 I'm happy to answer any questions, but those are
23 my statements for the opening. Thank you.

24 MR. McCLELLAND: Thank you, Nancy. Next we have
25 Dave Mohre from the National Rural Electric Cooperative

1 Association.

2 MR. MOHRE: Commissioner Wellinghoff,
3 Commissioners, Joe, thank you for the opportunity to
4 contribute to this, I think, very important discussion. My
5 name is David Mohre. I'm Executive Director of the Energy
6 and Power Division of NRECA. As I think you're well aware,
7 cooperatives provide electricity in parts or all of 83
8 percent of the counties in the United States in 47 states.

9 As consumer-owned organizations, reliability and
10 affordability are our most important product. That's why
11 coops originally, back about 15 years ago now, along with
12 other sectors of the industry, pushed to find a way to have
13 mandatory reliability standards, and a process for
14 mandatory reliability standards. We pushed very hard, and
15 this was well before the 2003 blackout and the Energy
16 Policy Act of 2005.

17 I mention this simply to say we're different than
18 BP. Actually, we did come to the government and say we
19 need mandatory reliability standards. Having said that, as
20 someone actively involved in the legislative give and take
21 leading up to the Energy Policy Act of 2005, and it was
22 quite a lead-up act, as some of you are aware, I believe
23 the Congress made a very good decision, a very good
24 decision implementing a balanced, hybrid structure for
25 basically developing, approving and enforcing mandatory

1 reliability standards.

2 I have to quote Senator Thomas. The expertise is
3 in the industry. We believe that. I also will quote
4 Senator Thomas. This is an international undertaking. We
5 think both things are very, very important. We believe
6 we're here today because I'd like to say the hybrid process
7 has gotten well out of balance. But perhaps a better
8 analogy was used earlier this morning. We've got some
9 wheels off the track, gentlemen, and we need to find a way
10 to put those wheels back on the track.

11 I wasn't really aware of how badly until the
12 March 18th orders. I think those orders, along with the
13 strong industry response to those orders, suggest that what
14 we have here is a failure to communicate at high levels.
15 It really doesn't matter how we got off the track; what's
16 important is getting back on the track and that's what we
17 have some suggestions for.

18 I have written statements, a fairly long written
19 statement. I mention the things that others have already
20 mentioned. Cooperation and communication between FERC,
21 NERC and the industry; a greater focus on prioritization
22 and materiality is certainly needed, and our members are
23 strongly behind that.

24 An appropriate balance between reliability and
25 affordability that John A. Anderson is very insistent upon,

1 and we certainly agree as consumer-owned organizations. In
2 the few short minutes I have left, I'd like to suggest some
3 specific actions and suggestions that I believe will go far
4 to getting us back on track quickly, because I think that
5 is needed.

6 First and foremost, the liability objective
7 function needs to be agreed upon by all parties. That's an
8 engineering term for what are we trying to accomplish here.
9 Is it in fact no outages ever, or is it in fact preventing
10 cascading failures? Until we get that agreed upon, we
11 can't go anywhere.

12 Second, there should be never, ever any major
13 surprises between NERC, FERC and the industry as occurred
14 on March 18th, in my humble estimation. We all want to
15 improve reliability. We all don't want to become a full
16 employment act for lawyers, and my wife's a lawyer. But we
17 need the better communications that are needed to prevent
18 that, and we can do that simply.

19 Third, and related to above, assuming FERC cannot
20 extend the statutory 30-day deadline for appeal of
21 reliability orders, and my understanding of how difficult
22 that is from our legal team, we ask that it should consider
23 renaming directives regulatory proposals, and setting a 60
24 to 90 day window for comment, particularly if those
25 directives are a surprise. Hopefully, we'll stop the

1 surprises. If we can't, then perhaps go in this direction.

2 Fourth, FERC should make it clear that it is not
3 directly or indirectly trying to supplant the industry in
4 drafting standards. I have heard those comments, and I --
5 from FERC and I certainly agree with them. But I think we
6 need to go a little bit further, perhaps getting together
7 and looking at the NERC roles and responsibilities for
8 drafting teams document that appropriately, we think,
9 governs the process.

10 And finally fifth, assuming priorities are agreed
11 to by all parties, both FERC and NERC need to be more
12 timely in their responses to each other. Let me give you a
13 couple of examples, the ones that have been used, NERC on
14 many outstanding directives. That is not acceptable. We
15 need to do better on that side.

16 But also something that was mentioned here today
17 and I'll mention it again. FERC, when responding to things
18 that are filed, that deal with these higher level issues
19 like the three-year assessment. It's been a year and
20 nothing's come out. We think both actions need
21 improvement.

22 So with that, thank you again. I'll be happy to
23 answer any questions about the specific suggestions we have
24 on the standards development. Thank you.

25 MR. McCLELLAND: Thank you, David. Next is Tim

1 Gallagher from the regional entity, ReliabilityFirst.

2 Welcome.

3 MR. GALLAGHER: Mr. Chairman, I want to thank you
4 for allowing us to take off our coats and ties. The room
5 is indeed warm, but I assure you since you've placed me in
6 the chair that John Anderson just vacated, this seat is
7 downright hot.

8 (Laughter.)

9 MR. GALLAGHER: I want to thank the Commission
10 and staff for this opportunity to appear before you to
11 discuss something that I've dedicated the last 20 years of
12 my career to, and that is developing and maintaining the
13 most reliable bulk electric system in the world.

14 My name is Tim Gallagher, and I'm the President
15 and CEO of ReliabilityFirst Corporation, one of the eight
16 FERC-approved regional entities that support NERC in its
17 role as the ERO. While I acknowledge and I understand that
18 the Commission may be concerned with the ERO's ability to
19 completely fulfill directives related to certain
20 reliability standards, this appears to have led the
21 Commission, in its recent orders, to question the
22 appropriateness of the process used to develop those
23 standards.

24 In considering the situation though, it's useful
25 to ask if the Commission is a voice in determining whether

1 a reliability issue exists, or rather if the Commission is
2 the voice in that determination.

3 The standards development process, as you have
4 heard numerous times today, that's employed by the ERO for
5 creating and modifying reliability standards, is open,
6 transparent and inclusive. It strives to tap into the
7 collective wisdom of experts across North America, and it
8 specifically prevents any single industry sector from
9 determining its outcome.

10 Therefore by design, a single voice or a single
11 opinion, even if it is the Commission's voice or opinion,
12 will always be defeated if it's not the consensus of the
13 users, owners and operators of the bulk electric system.

14 The touchstone here though is that the
15 Commission, its ERO, its regional entities and the industry
16 and users, all share the same goal, and that is a reliable
17 bulk electric system. To better meet this objective
18 through standards development, I believe more collaboration
19 will be beneficial, again as you heard earlier on the
20 earlier panel.

21 I would respectfully suggest to the Commission
22 that it add its voice to the debate, but not seek to
23 control the debate. Rather than order the ERO to modify an
24 existing standard in a specific way in a given time frame,
25 perhaps the Commission could consider ordering the ERO to

1 use the processes available to it to determine if a
2 reliability gap identified by FERC truly exists, and then
3 if it does, to address it via the standard.

4 The ERO would then be required to use its open
5 process to fully address the concerns raised by the
6 Commission, and if the reliability gap is real, to close
7 it. The action could be to follow the suggestion offered
8 by the Commission in the order, or to propose an
9 alternative solution. But it cannot be to simply say no
10 because that is what the process said. If the reliability
11 gap does not exist, this must be explained to the
12 Commission's satisfaction.

13 I have heard the concerns of the industry that
14 the reliability standards are too focused on documentation,
15 and not enough upon reliability. As I previously stated, I
16 believe all of us have the same goal. We all want the same
17 thing, and that's a reliable bulk electric system.

18 So reliability is our goal, but every goal needs
19 a benchmark. In our case, the benchmark to reliability is
20 operational excellence. If you're not achieving
21 operational excellence, you will not maintain a reliable
22 bulk electric system for long. Rather, you will have a lot
23 of near-misses, and you may continually subject the bulk
24 power system to unnecessary risk, or worse, to unnecessary
25 outages.

1 In some way we need assurance that operational
2 excellence is being achieved though, and that is where
3 compliance comes in. Compliance is not about paper work,
4 at least it shouldn't be. It's about assurance. It's not
5 enough to say you're operationally excellent. You have to
6 demonstrate that you are operationally excellent through
7 proper assurance.

8 In my opinion, it's that this demonstration or
9 the providing of this evidence is what's being perceived by
10 some as too documentation-focused. But I cannot guess or
11 assume in my job when it comes to reliability compliance.
12 I must see proof. So a world in which documented evidence
13 is no longer required to provide assurance is not something
14 that I see in the future, and it's not something that I
15 think is appropriate.

16 My former comments notwithstanding, I do believe
17 the documentation efforts required of the industry
18 stakeholders to date is reflective of the start-up nature
19 of the mandatory reliability standards. Now that the
20 majority of these stakeholders have been through at least
21 one compliance audit, or one compliance monitoring cycle,
22 they do more fully understand the expectations, and their
23 documentation has been developed and prepared.

24 So the next time they're monitored, the
25 documentation efforts should be substantially less, and the

1 Commission may find that the industry in the future does
2 not hold this concern as strongly as it does now.

3 I do know that today's focus is not upon
4 compliance monitoring, but I also believe on the NERC and
5 regional side, that the deployment of more efficient
6 techniques in auditing and sampling can also reduce the
7 perceived burden in documentation and evidence.

8 I consider the reliability standard as living
9 documents, and this was recognized by NERC when they
10 developed their standards process. Every standard must be
11 reviewed every five years. The standards develop upon
12 feedback loops that come from field application of the
13 standards, new reliability gaps that have been identified
14 during system analyses and investigations, and input from
15 the Commission, the ERO, its regions and the industry
16 stakeholders.

17 As the standards mature, I'm confident they will
18 improve as these feedback loops are deployed, and I believe
19 that as the ERO can demonstrate that on its own it can
20 identify the need for, and encourage the development of new
21 standards or modification to existing standards to improve
22 reliability, the Commission's confidence in NERC as an ERO
23 will grow, and the need for Commission directives related
24 to the standards will decrease.

25 So I thank you for this opportunity to present my

1 views, and I look forward to your questions.

2 MR. McCLELLAND: Thank you, Tim. Next we have
3 Mr. Billy Ball from Southern. I want to say "Billy," I
4 guess I should say Mr. Ball, the floor is yours.

5 MR. BALL: Billy's just fine, Joe. Every good
6 southerner has a nickname. Good afternoon. My name is
7 Billy Ball, and I serve as Chief Transmission Officer for
8 The Southern Company. I'm a former member and chairman of
9 the NERC Members Representative Committee. I also helped
10 establish the North American Transmission Forum back in
11 2006.

12 I'm appearing here today on behalf of EEI, of
13 which Southern Company is a member. EEI members agree that
14 there is room for improvement in the standards, and in the
15 process for developing them. With this in mind, the EEI
16 believes that there are a few practical areas of
17 improvement that will address many of the concerns with the
18 standards process.

19 First, we believe that the standards development
20 activities need to be better prioritized. We've heard that
21 word a lot today, based on their relative impact on
22 reliability. This prioritization could be accomplished
23 using NERC's reliability standards development plan that is
24 filed annually with the Commission.

25 The development plan sets forth the priorities

1 and sequence for projects over a covered period.
2 Importantly, NERC and the industry commit resources
3 according to the development plan. The Commission's March
4 18th orders made it clear that more prioritization is
5 needed to ensure that Commission directives are being
6 properly addressed.

7 The Commission, NERC and the industry should work
8 together to better focus these activities, and ensure that
9 standards development resources, which are limited, are
10 being used effectively.

11 If NERC prioritizes projects in a manner that the
12 Commission has concerns with, then the Commission should
13 identify those issues early on. The NERC development plan
14 seems to be the best way, in my opinion, for the Commission
15 to do this. The Commission could convene an annual meeting
16 or a workshop where it reviews the plan.

17 I would hope that this process would allow us to
18 ultimately see better standards being developed, with fewer
19 rounds of revisions and balance. The second area for
20 improvement is Communications. We need to consider ways to
21 improve communication in the early stages of standards
22 development.

23 To this end, the EEI believes that the Commission
24 should consider adopting new avenues for communicating its
25 technical concerns and questions about a draft standard

1 before there's a NOPR. There are several ways that I think
2 you could do this.

3 The Commission or its staff could convene a
4 technical conference or a workshop on a draft standard, to
5 review Commission concerns. Pre-filing of proposed
6 standards may be a way to facilitate this. The Commission
7 could issue a preliminary staff report on a proposed
8 standard, as you did prior to the issuance of Order 693. I
9 think that process worked very well in getting some ideas
10 and issues on the table, before the NOPR was issued.

11 In many cases, the Commission staff does
12 participate on or with the drafting teams. Of course,
13 every team is different and some industry team members
14 really aren't sure how they should respond to inform staff
15 guidance. When there's confusion, the Commission could
16 consider allowing the staff to share feedback through some
17 nonbinding written comments, so that their guidance can be
18 more effectively discussed and considered by the team or
19 the industry.

20 In some situations, additional meetings between
21 the FERC staff, the NERC Standards Committee and the
22 drafting team might be helpful.

23 The third general area for improvement is to more
24 actively incorporate personnel with a legal or a regulatory
25 background in the standards-drafting process, to help in

1 identifying potential ambiguities in proposed requirements.
2 Members of the drafting teams are often engineers and
3 technical experts, who may not see the ambiguities in the
4 standards that they write.

5 NERC already has an effort along these lines
6 underway, and EEI supports it. Ultimately, if these
7 efforts are successful, it should help reduce the concerns
8 that standards include ambiguous requirements, and also
9 reduce the need for interpretations.

10 Finally, on June 10th, NERC filed proposed
11 revisions to its standard development procedures, as has
12 been mentioned today, which we believe will improve the
13 speed and efficiency of the process. Also NERC is studying
14 the way in which standards are drafted and structured, as
15 part of an effort to focus more on risk, results and
16 competencies.

17 I expect that by approaching standards in this
18 way, requirements will be more clearly understood and more
19 effectively enforced. We support NERC's goals in this
20 effort. On behalf of EEI, we appreciate the Commission
21 convening this technical conference. I think it's a great
22 start, and I appreciate you providing us with an
23 opportunity to participate. Thank you.

24 MR. McCLELLAND: Thank you, Billy. Lastly, we
25 have a Canadian. We started the day with the Canadians and

1 we end the day with the Canadians, as far as our panelists.
2 Mr. Nicholas Ingman, here today to represent the Canadian
3 Electricity Association, but from the Ontario IESO.
4 Welcome.

5 MR. INGMAN: Thank you, Joe. I'm going to
6 confuse you by not having a Canadian accent, so I do
7 apologize. I am a passport Canadian, so firstly, I'd like
8 to, as everybody else has, thank Joe and the Commission for
9 inviting us today, and an opportunity to speak to the
10 development and enforcement of reliability standards.

11 It's actually quite appropriate that I follow Tim
12 Gallagher and his comments around operation excellence.
13 You'll notice my title is Manager of Operational
14 Excellence, so hopefully we've started already, Tim.

15 My remarks obviously provide a Canadian
16 perspective, and I do appreciate being invited to speak to
17 those, on the reliability standards development process,
18 and obviously addressing the questions raised by the
19 Commission in their Notice of Technical Conference.

20 As I said, I'm appearing today on behalf of the
21 Canadian Electricity Association. It is the national forum
22 and voice of the evolving electricity business in Canada,
23 with members accounting for most of Canada's installed
24 generating capacity and high voltage transmission.

25 U.S. and Canadian utilities are interconnected to

1 one another, and as a significant part of the North
2 American grid, Canadian utilities are critical to the
3 energy security and electric reliability of North America.

4 The CEA is very supportive of the standard-
5 setting model included in Section 215 of the Federal Power
6 Act. This model allows for an effective participation by
7 all North American stakeholders in the development of
8 reliability standards.

9 This standards-development process is respectful
10 of jurisdictional sovereignty by one, allowing for the
11 approval of the resulting standards in all relevant
12 jurisdictions, and two, by the incorporation of the remand
13 provision, a concept in the U.S. and a number of Canadian
14 provinces.

15 This standards-development process assures that
16 no one governmental authority has the ability to
17 unilaterally modify standards that would apply to the whole
18 system, and that any variances are accommodated through a
19 collective process.

20 At the same time, it gives the public authorities
21 the confidence that the system has a government backstop,
22 which we think is important, to provide governmental
23 authorities on both sides of the border with the confidence
24 that the standards developed through the process reflect
25 their concerns.

1 As a member of the Bilateral Electric Reliability
2 Oversight Group, otherwise known as the Bilateral Group,
3 FERC has expressed its commitment to approaches that ensure
4 that NERC can work effectively on an international basis.
5 The terms of reference signed by all members of the
6 Bilateral Group recognize the importance of coordination
7 and cooperation of the relevant governmental authorities,
8 in exercising their respective responsibilities, and ensure
9 the reliability of the international grid. You'll hear a
10 theme in my comments.

11 The Canadian governmental authorities are working
12 with NERC and the U.S. entities to ensure that in Canadian
13 provinces, the reliability standards are approved in a form
14 applicable to the jurisdiction, and are mandatory and
15 enforceable in that form. However, all Canadian
16 governmental authorities have engaged with NERC, based on
17 an understanding that the NERC standard-setting process
18 will be respectful of the jurisdictional sovereignty of
19 each of the Canadian provinces.

20 NERC is our certified ERO or Electric Reliability
21 Organization. A NERC process is endorsed by Canadian
22 entities and governmental authorities during the formation
23 of the ERO, a fundamental for developing and applying a
24 consistent set of reliability standards on a continent-wide
25 basis.

1 For there to be an effective international ERO,
2 it is necessary that the relevant governmental authorities
3 trust the ERO standard-setting process for both developing
4 and modifying reliability standards. NERC is in the best
5 position to balance the differing needs and concerns in the
6 U.S. and Canada.

7 CEA is concerned that FERC's recent actions
8 through the March 18th orders, which have been spoken about
9 at length today, may hamper the effective functioning of
10 NERC as an international standard-setting body, and
11 undermine the industry-based standard-setting process.

12 The CEA believes that this could have unwelcome
13 consequences for the ERO in respect to its relationships
14 with Canada, and could certainly lead to an unfortunate
15 adoption of different standards north and south of the
16 border. This would be in direct conflict, we believe, with
17 the goal of the consistent set of reliability standards in
18 force across all of North America that support reliability.

19 In terms of specific issues identified in the
20 agenda, Canadians believe that the current NERC processes
21 for developing standards based on ANSI guidelines are
22 generally working well. These processes ensure a
23 collaborative approach and one that does not lead to the
24 lowest common denominator standards.

25 The need for improved timeliness and additional

1 flexibility has also been recognized by NERC, and has been
2 addressed in the recently-revised reliability standards
3 development process, and other ongoing initiatives, such as
4 the informal guideline process, which has also been
5 mentioned earlier today, and through enhanced project
6 management.

7 We would urge the Commission to allow the
8 industry the time to demonstrate that the improved
9 efficiencies that the new standards development processes
10 will bring. We do not support what would appear to be
11 arbitrary deadlines for compliance with directives, but
12 would encourage the Commission to consider working with
13 NERC on the timing of compliance filings.

14 It would also be practical for the Commission to
15 reflect the significance to reliability of a particular
16 directive when it was issued, and also to provide
17 flexibility and deadlines to recognize that priorities do
18 change over time.

19 The CEA is supportive of NERC's move towards the
20 results of performance-based standards, and also risk-based
21 compliance, which is designed to focus on the core
22 requirements that are critical to maintaining and improving
23 reliability, as opposed to those requirements that have a
24 lesser impact on reliability, such as those of an
25 administrative nature.

1 Lessons learned from the analysis of major events
2 should also be a key consideration for identifying
3 standards that need revision on a high priority basis. For
4 new standards, a prioritization exercise using the project
5 filter that NERC has recently developed, should also be
6 conducted during annual standards development planning
7 process. We believe that the identification of priorities
8 should be a collaborative effort between regulators, NERC
9 and industry.

10 It is important that the Commission recognize and
11 rely upon the technical expertise of NERC and industry when
12 developing these priorities, and also consideration of NERC
13 and industry resource constraints. Technical conferences
14 such as this, if held more frequently, could provide a
15 forum for industry to inject technical inputs to notices of
16 proposed rulemakings and orders in an open forum before
17 they are issued.

18 Lastly, so hopefully that buys me another minute,
19 a comment on communication and cooperation between the
20 Commission, NERC and industry. While the Commission's
21 directives apply only to U.S. entities and to the U.S.
22 grid, many of these directives have consequences in Canada,
23 due to the interconnected and international nature of the
24 grid.

25 For this reason, a number of Canadian entities

1 regularly make submissions on matters before the
2 Commission, and the Commission has always given
3 consideration to the Canadian submissions and is certainly
4 commended for doing so.

5 The Commission should continue to engage industry
6 and NERC through more informal discussions and technical
7 conferences. The CEA would also suggest that NERC,
8 industry and the Commission need to be more flexible in
9 developing and approving standards, that it should be
10 focused on accepting standards that are judged to represent
11 a significant improvement in reliability, rather than
12 withholding approval under a standard is judged to be
13 perfect.

14 The achievement of the perfect standard should be
15 viewed as a long-term objective, and not one that is
16 necessarily achievable in a single step process. Such an
17 approach would expedite the implementation of standards
18 that are a clear improvement over existing ones, by
19 reducing the lengthy time required to develop and approve a
20 standard within NERC, and avoiding rework directed by the
21 Commission on NERC-approved standards.

22 I'd like to thank the Commission for their
23 attention, and would be happy to answer any questions that
24 you may have. Thank you.

25 MR. McCLELLAND: Thank you, Nicholas. This

1 concludes the panelists' presentations, and Mr. Chairman,
2 do you have any questions or comments for the panelists?

3 CHAIRMAN WELLINGHOFF: Thank you, Joe. I've got
4 a couple. Again, I want to thank all the panelists for
5 their great testimony here, and I read all the testimony
6 and learned a great deal from it. I appreciate it very,
7 very much.

8 A couple of comments. Gerry, I thank you very
9 much for your testimony, and especially the suggestions of
10 the policy level questions that you thought need to be
11 answered. These are the exact types of things that I think
12 we have to have a dialogue about, dialogue hopefully in
13 some type of a forum, whether it be the type of thing that
14 Steve Wright talked about or some other forum that we can
15 develop or some other mechanism.

16 I think we do need that mechanism, and you know,
17 I think you've got a great beginning of a list of
18 questions. One additional one I thought of is, for
19 example, what are the reliability impacts of other federal
20 and state policies in things like emission reductions? I
21 know over the next five to seven years, we're going to have
22 perhaps 40 coal plants that are going to be shut down
23 because of EPA regulations, and what are the reliability
24 implications and impacts of that. I mean we really need to
25 consider these things.

1 I just saw just the other day in the news that
2 China now has average level of efficiency in their coal
3 plants higher than the United States. So Chinese coal
4 plants are more efficient than the coal plants in the
5 United States.

6 So obviously, you know, we need to move to more
7 efficient resource system in this country, but doing that's
8 going to have reliability impacts. So we need to figure
9 out what those reliability impacts are, and what are the
10 consequences and costs and how we're going to meet those
11 reliability impacts in a cost-effective way.

12 I mean those are kind of high level policy
13 discussions that we need to really have, and I don't see a
14 forum right now to do that. So I'd really very much like
15 to see if we can create something like. Billy, Mr. Ball, I
16 appreciate very much your testimony, and specifically your
17 three recommendations on the issue of us developing a
18 process, perhaps prior to our issuance of a NOPR or an
19 order, on either directing a standard or a clarification of
20 standard, of how we can provide NERC and the industry more
21 time to respond to that.

22 I think that's a very good suggestion. However,
23 I want to say that from my perspective at least, I'd need
24 to make sure that on the back end, we can see that if we
25 did that, that somehow the development of the actual

1 standard would take less time. So I need to have some
2 assurances there, as well, to feel comfortable to increase
3 the time on the front end, to knowing that the back end's
4 going to get shorter.

5 With that, maybe I'll go to Allen on your
6 testimony, which again I appreciated. It was very
7 informative to me on the new manual that you've got. I
8 noticed it was Version 7. Have we approved Versions 1
9 through 6, or is this the first time that we get to see
10 this manual?

11 MR. MOSHER: I think actually Version 7 is in
12 place today. This is a new replacement for Version 7.

13 CHAIRMAN WELLINGHOFF: Oh, this replaces it?
14 Okay, that's good, because I had Version 7.

15 MR. MOSHER: Yes.

16 CHAIRMAN WELLINGHOFF: Okay. So I don't have a
17 date. Version 7 I have. I don't think it has a date on
18 it. So there's one that now beyond Version 7, I guess.

19 MR. MOSHER: It's the new standards processes
20 manual, and I've actually got a copy here that I'd be glad
21 to leave with you.

22 CHAIRMAN WELLINGHOFF: Okay, no. That would be
23 great. So does it revise in any substantial way the
24 process diagram I've that I've got on my page 27 of Version
25 7, or is that too specific?

1 MR. MOSHER: I've got that page in front of me,
2 absolutely. We really are trying to cut out a lot of the
3 steps in the standard process manual, because basically we
4 didn't trust each other within the regulated community. It
5 was not trust of transmission-dependent utilities, of
6 transmission owners, the generators of transmission.

7 So we built in a lot of protections. Remember
8 the context in which we developed these standards dates
9 back to the period of Enron, and there was not a good
10 foundation for trust across the industry back then. What
11 we had, we've learned a lot in the process of the
12 industry's transformation to a more competitive industry,
13 to redevelop some of the rules of the road and
14 communication pathways that we had in the good old days, so
15 to speak, where peer pressure is an effective mechanism to
16 control the behavior of competing companies.

17 We found, I think, that there are limits to that
18 peer pressure, but nonetheless what we have learned is that
19 we're all in this together in reliability, and we need to
20 clearly spell out the roles and responsibilities of all
21 entities. Otherwise, we aren't going to get good industry
22 performance.

23 So we've vastly improved in our ability of how we
24 write standards, but then again additional improvements are
25 needed. What we've done in the processes manual is take

1 out some of the steps that were really sort of procedural
2 overkill, to allow more informal comment periods up front.

3 That, I think, goes to, if I could second what
4 Billy had said earlier, I think we've really encouraged you
5 to enable to the staff to participate in written form early
6 in the standard development process, both on the overall
7 prioritization of which standards are most important, and
8 then on the problems that the Commission staff sees with
9 the standards.

10 They do communicate. Staff does communicate
11 actively with us and let us know when they're troubled by
12 the technical direction that the drafting teams are going.
13 But again, it's an informal process and that message isn't
14 necessarily getting out clearly to the industry. So we can
15 modify our process to accommodate the regulatory needs that
16 you have for public due process.

17 But again, you need to get that up-front so it
18 gets into the early technical development of the standard,
19 and not at the back end, for us to meet our expectations or
20 yours for more timely development of standards.

21 CHAIRMAN WELLINGHOFF: And so is there -- I
22 noticed in your testimony you indicated that on average it
23 takes 21.7 months to develop a standard. Is there any idea
24 of this new standards process of how much you might be able
25 to compress that time or --

1 MR. MOSHER: I don't really have an estimate.
2 There are -- the problem is that that's an average number,
3 and it reflects very complex standards like reload
4 loadability, which took years of technical research and a
5 lot of effort, and then some standards that are much more
6 simple to modify. Those average aren't as meaningful, but
7 you will get process improvements and shorter development
8 periods.

9 CHAIRMAN WELLINGHOFF: Let me ask you a question
10 of an area that I have a lot of concern about, is that
11 you're aware, I'm sure, that NIST is developing SmartGrid
12 processes and procedures that will ultimately come to us to
13 be put in the rules for standards. If at some point in
14 time, FERC decides that some of those may be things that
15 NERC should look at as standards, it should be incorporated
16 into the reliability standards.

17 Is there any thought to that process, of how that
18 may take place? Because right now as I understand under
19 NIST, as that process is going on, that is a consensus
20 process. It's an ANSI process that they're using. So if
21 they develop something, they give it over to us. We look
22 at it and say maybe we should give it over to NERC to look
23 at, incorporate it into a reliability standard.

24 Is there any way we can see that process, you
25 know, shortening the overall time, because NIST has already

1 taken over a year and a half or so just to get to where
2 they are now, and they're supposed to be turning something
3 over to us fairly soon. I would want not another 21 months
4 to elapse if we decided some of those things may be
5 considered to be reliability standards.

6 MR. MOSHER: The NIST process is proceeding
7 separately from NERC standards development process. NERC
8 had actually some very good comments recently that pointed
9 out the NIST scope is much broader than the scope of, the
10 substantive scope of, I think, reliability standards.
11 We're only concerned with a subset of that, and again,
12 concerned with the bulk electric system, that we would want
13 to have NIST standards basically set to ensure the
14 interoperability and communication capabilities that
15 manufacturers want, yet the cyber security built into to
16 ensure that it doesn't create a back door vulnerability to
17 the BES.

18 CHAIRMAN WELLINGHOFF: Right.

19 MR. MOSHER: So again, and then there are
20 elements of NIST's work on SmartGrid that directly affect
21 the bulk electric system, that can, as Louise alluded to
22 earlier on phaser measurement units, that could improve our
23 ability to monitor the real time capabilities of the grid.

24 That's only again a small subset of the total.
25 So we'll do our best to try to get ahead of the curve on

1 that, and we appreciate you bringing that up.

2 CHAIRMAN WELLINGHOFF: Gerry, did you have
3 something to add?

4 MR. CAULEY: Yes, Mr. Chairman. On one level,
5 we're already working on that. We took the message from
6 Order 706 of a preference to a NIST-like controls for the
7 bulk power system, and the drafting team has been working
8 on the newest version and adopting those. I think the time
9 frame is that they're working under is shorter than the
10 average that you've quoted.

11 It doesn't obviously adopt all the NIST
12 requirements, but those that are suitable for the bulk
13 power system, we have really a larger issue looming on the
14 horizon, is greater adoption of SmartGrid technology within
15 the system, and how we cope with those. But in terms of
16 taking what's there from NIST now and integrating it into
17 our existing cyber security standards, that work is already
18 underway.

19 CHAIRMAN WELLINGHOFF: Allen, I had another
20 question for you, as the chair of the Standards Committee.
21 So you have two representatives from each of the ten
22 industry segments?

23 MR. MOSHER: Correct.

24 CHAIRMAN WELLINGHOFF: So who are your
25 representatives from the small users group?

1 MR. MOSHER: I've forgotten their names offhand.
2 Let's see, who's -- we do have representatives.

3 CHAIRMAN WELLINGHOFF: Who do they represent or
4 what are their affiliations?

5 MR. MOSHER: I think one of the smaller user
6 representatives actually really represents renewable energy
7 generators. There was an open seat, so a man's there on
8 behalf of really small generators.

9 MR. CAULEY: Typical, Mr. Chairman, the small
10 users are the public advocates at the state level.

11 CHAIRMAN WELLINGHOFF: I was wondering if there
12 was any public advocates or consumer advocates representing
13 that group?

14 MR. MOSHER: Yes, there is.

15 CHAIRMAN WELLINGHOFF: In the government
16 representatives group, you've got a group -- one of your
17 ten segments is government representatives. Who are your
18 two?

19 MR. MOSHER: Two state commission, utility
20 commission representatives.

21 CHAIRMAN WELLINGHOFF: Which commissions? Do you
22 know?

23 MR. MOSHER: Let's see. Diane Barney, right,
24 from New York, and --

25 MR. CAULEY: Ohio.

1 MR. MOSHER: Ohio. That was a recent change too.
2 It was from Arkansas and now it's Ohio.

3 CHAIRMAN WELLINGHOFF: Okay, and I assume not all
4 state commissions are in your ballot poll?

5 MR. MOSHER: No, no. The participation of the
6 state commissions is less than we would like. We're making
7 efforts to try to encourage them to participate actively,
8 and particularly as the Commission heads closer to some of
9 the emerging policy issues that we're talking about, I
10 think their participation will increase, at least I hope
11 so.

12 CHAIRMAN WELLINGHOFF: All right. I don't think
13 I have anything further. Thank you, Joe.

14 MR. McCLELLAND: Thank you, Mr. Chairman.
15 Commissioner Spitzer.

16 COMMISSIONER SPITZER: Thank you. I've made an
17 observation about the standards where you've got ambiguity,
18 and those where you have disagreement in one or two cases,
19 a small handful of cases. But because there's a stalemate,
20 they become notable, and I'd like to make an observation
21 and see if you disagree or agree, and then in terms of
22 resolving the issue, the old saying is forewarned is
23 forearmed.

24 There was a lot of discussion about had we done -
25 - had it to do over, both sides would have had a different

1 result from March 18. Knowing in advance what the
2 circumstances are does prepare you, prepare everyone, all
3 the stakeholders, and reach a better work product, more
4 collaboration and ultimately better results for the
5 customers.

6 Technical issues, engineering issues that are
7 complex, like the relay matter. Those oftentimes, because
8 of their nature, give rise to ambiguities, an ambiguous
9 standard. Then ultimately it's disputes over policy
10 issues, where are you on the cost curve, some of the policy
11 questions Gerry you raised in your paper.

12 They give rise to a circumstance where there
13 might be a dispute between FERC and/or potentially, or
14 among stakeholders in the balloting process. Do you think
15 that observation, the dichotomy between the ambiguity
16 arising from technical disputes or disagreements, honest,
17 legitimate disagreements over very arcane and complex
18 matters, and then the stalemate, the butting of the heads,
19 comes from a policy dispute that, you know, might be over
20 the pay grade of us in this room.

21 Is that, do you think there's merit to that
22 observation, and then secondly, what -- knowing that that
23 has been the circumstance in the past, going forward, you
24 know, we hit a new point --, but going forward, what can we
25 do to remedy those situations and deal with the ambiguities

1 and the potential for stalemate? Billy?

2 MR. BALL: I think in response to the last part
3 of your question, what can we do, really I think if you
4 take what you spent a good deal of time talking about this
5 morning, which is a very high level group of meetings or a
6 meeting where you talk about just the things you were
7 speaking about, the high level policy issues.

8 I think that's a piece of the answer. But as you
9 pointed out, we also get down into some really detailed
10 discussion, and we have to. So I think you can -- in my
11 comments, that's why I was pointing out some pretty
12 detailed and basic maybe ways we can also increase
13 communication kind of through the whole food chain of the
14 NERC process, because I think it's more than just getting
15 the policy right.

16 That's a fundamental step, because it has ripple
17 effects all the way through the process, down to the most
18 detailed thing. Once you get that, we also have to
19 increase communication all the way through the food chain.
20 So we've got to get, you know, Joe's staff and like the
21 folks on my staff, talking more often, maybe in different
22 ways.

23 You know, I am an engineer. I suffer from that
24 disease, and we can be very hardheaded, right. And so you
25 know, sometimes like we say, we have to have other people

1 step in and help us really see that we've probably kind of
2 hunkered down on a really nit of an issue, and holding the
3 whole process up.

4 The other thing, like I said, sometimes our
5 engineers and our real detail-oriented folks, who we
6 definitely have to have, the way we write and the way we
7 think don't always translate, actually probably rarely
8 translate well into, you know, definable, auditable, you
9 know, for Tim's needs, regulations.

10 So that's why we're saying we in the industry,
11 and I'm going to put more of our staff to reviewing
12 standards from a perspective of either a legal perspective
13 or a regulatory perspective, it might make a lot of sense
14 to an engineer.

15 But is it something that Tim can go out and
16 audit, without having to take it down to such a minute
17 level of documentation that it really doesn't do us any
18 good.

19 So I really, in response to your question, I
20 really think we're talking about communication all
21 throughout the food chain, at an enhanced level. I really,
22 I think that's going to take us a long way, and really this
23 meeting today is just the beginning.

24 COMMISSIONER SPITZER: Gerry.

25 MR. CAULEY: Commissioner, this gets a really

1 good observation that there's layers to this. I think
2 fundamentally we have your model is there and it works. I
3 think the standard-setting process is fundamentally sound.
4 What we're muddling through is the communications, and I
5 mean at all levels.

6 I think at the senior level, we're missing what's
7 the big picture of what we're trying to accomplish here,
8 and I would put the cyber security or physical security on
9 that. What is it really the public expects, and how much
10 is going to be enough and how far do we have to go? I
11 think at the end of the day, we can put the policy
12 decisions on two or three sheets of paper, just very high
13 level guidance and direction.

14 But at the same time, there are really tough
15 technical issues that wouldn't be appropriate around this
16 table. An example I would call out is the frequency
17 response. What is enough primary governor-type frequency
18 response? It's a very complex debate that should take
19 place among our staffs.

20 I'm an engineer. I've been doing this for 30
21 years. I know one percent of peak load is the wrong
22 answer. So what I want to do is sit down with some people
23 who can debate that with me, and figure out what is the
24 right answer to arrest frequency decline on each individual
25 frequency, on each individual interconnection, and see if

1 we can come up with an answer that's going to meet the
2 public interest, do that, but also be feasible and cost-
3 effective.

4 So I think it's at least at those two levels, and
5 I don't think it's just communicate more and better. I
6 think we need to set up the structures to do that. I think
7 we need the high level senior member, Commissioner level,
8 CEO level dialogue on the priorities and the direction, and
9 I think on the case by case, the really hard issues that
10 We're stuck on. It's a technical conference and a really
11 deep dive dialogue among our staffs.

12 But to see it the first time in an order or then
13 we're stuck with reacting to an order, it's difficult to
14 manage from that point.

15 COMMISSIONER SPITZER: Allen.

16 MR. MOSHER: I'll second what Gerry said, that
17 there's also three time lines for this communication, both
18 you know, at the senior -- at the high level policy and the
19 mid-technical issues, and then really the nuts and bolts.
20 Well, there's also three time lines. We have immediate
21 workload burdens within the standards community, including
22 both NERC and the participants, in the standard development
23 process.

24 We're trying to figure out what our priorities
25 are. I mean I listed 17 projects that are on our list. We

1 started out the year identifying ten top -- a top ten list
2 of projects. Now we're up to 17. Well, the Commission
3 doesn't run 17 rulemakings simultaneously. But in effect,
4 that's what we're being asked to do.

5 Now we've got a public service responsibility to
6 accomplish these goals, but we would really like your
7 feedback on what is most important, and if something has to
8 slip, we want to know the things that you absolutely,
9 positively don't want to have delayed.

10 We'll do our best to bring in new resources,
11 technical writers, attorneys to help improve the quality of
12 how it's written. But we have to get the technical ideas
13 down and a strong foundation, and get that lined up first.

14
15 Okay. Three levels of time lines. One is the
16 ten-year time line. Second is our crisis period, right
17 now. What do we do in the next few months? Then there's a
18 midterm frame, you know, two, three years out. Where do we
19 want to be? If we don't accomplish certain things, are we
20 going to be kicking ourselves two or three years later if
21 we don't get them underway.

22 I think renewable integration issues probably
23 falls within that category, certainly SmartGrid, because
24 it's coming at us quickly. So we need to get, again, that
25 technical work done by the standing technical committees

1 and reach out to IEEE if we haven't done enough already, to
2 get that technical work underway now, so that we have the
3 foundation, the technical foundation to feed back to
4 policymakers such as yourself, to say what should our
5 priorities be and how far do we want to go on things such
6 as renewable integration.

7 To go to John Anderson's statement this morning
8 of ELCON, if we don't get the transmission, for example,
9 what's our Plan B here? That needs to be built into NERC's
10 strategic thinking of the direction on reliability we go as
11 an enterprise.

12 MS. SARACINO: I think your question really goes
13 to the core of the confrontation, and that is when there is
14 disagreement, and really we're talking about at the
15 technical level. So when the Commission staff and the
16 process that this consensus-driven approach has come up
17 with. Let's look into something simple and basic like the
18 time error correction.

19 There's like this really profound difference in
20 how to view that, and that raises the really important
21 question the Commission needs to confront is, when there is
22 a difference of opinion, what do you do? And in my
23 opinion, at that point, I think that this whole paradigm is
24 set up to allow the technical standard driven by the ANSI
25 process under NERC, to prevail.

1 But the question is what does the Commission do
2 to give itself comfort, that it isn't abdicating its
3 regulatory responsibilities? So maybe some sort of
4 checklist, where you put it through review. All right.
5 Does it in any way undermine reliability? Is it not just
6 and reasonable? Is it the lowest common denominator?

7 Maybe there's some principles you test it with.
8 But at the end of the day, if the technical, we have to
9 decide who's technical judgment are we going to defer to
10 when there's a conflict.

11 MR. CAULEY: If I could, I think in a lot of
12 cases, the technical debate. It's not that the standard's
13 ambiguous, because folks voted to approve it. The
14 Commission approved it. You wouldn't approve one that was
15 that wide open. I think what happens is there are a lot of
16 unique circumstances out there, especially the more
17 technical you get.

18 It's just about impossible to write a standard
19 that's going to address every one of those situations. So
20 in the field, when we apply the standards, when we started
21 to have these debates about what does the standard mean and
22 how does it fit my set of circumstances.

23 The only way we're really going to get beyond
24 that is to let things mature a bit, and get some precedent
25 out there, and making the notices of penalty public are

1 very instructive, I think, for the registered entities.
2 They can see what happened and how that standard was
3 applied, and maybe they go home and they look at their
4 situation and they can learn from that.

5 I encourage forums such as we have in our
6 footprint. I know that NERC has one and other regions do
7 as well, where users can get together and discuss among
8 themselves, without my staff listening in, what their
9 configurations are and how they're considering whether or
10 not it applies to the standard.

11 But again, I don't think it's always the
12 standard's fault. I don't think you could ever write a
13 perfect standard that's going to address every situation.
14 I don't think we'd want to do that. But if there is a big
15 gap, then that should be fed back into the process and be
16 corrected.

17 MR. MOSHER: Gerry, you've got a -- Nancy brought
18 a hard case.

19 (Simultaneous discussion.)

20 MR. MOSHER: So she used the word "confrontation"
21 Commissioner, and earlier you used the word "dispute," and
22 I heard the word "conflict." So I'm an optimist. So I
23 believe that we all really want the right thing. At the
24 end of the day, it's reliability. I think the symptoms
25 we're seeing, that cause words like conflict and dispute

1 and confrontation, is the style of how we're directing and
2 rolling out these standards. They lead to that conflict
3 and confrontation.

4 I believe firmly that if we have honest dialogue
5 on some of these harder issues before the fact, that 90
6 percent of them or more are going to work out themselves.
7 Then if we have this CEO level discussion of what's really
8 important and what do we really have to do to move the
9 industry forward, I think another 99 percent or better is
10 going to be resolved, because we're going to have that sort
11 of direction. We must move here; we must accomplish these
12 things.

13 So I think the idea of true confrontation and
14 conflict is really going to be minimized by the
15 communications process here, and I would be the first to
16 admit that the Commission should always have that fallback
17 to direct something, and to adjudicate in court and prevail
18 in the public interest.

19 But I think 99, maybe 99.9 percent of that can
20 and should be avoided through proper structure of
21 communications, working things out beforehand, and not make
22 it confrontational from the point, from the start point
23 where the initial order is issued.

24 COMMISSIONER SPITZER: So I think you're
25 suggesting that the change in the time line in which these

1 matters are discussed, and you know, we've heard earlier
2 that conflict and dispute is not necessarily a bad thing if
3 you front end it, so policy discussions take place.

4 MR. CAULEY: Yes sir.

5 COMMISSIONER SPITZER: Well early on, you may
6 have disputes. But they tend to get resolved a little bit
7 easier once -- if the dispute were at the end, it is a
8 little too late.

9 MR. CAULEY: Yes sir. What we've done today is
10 we've said well FERC staff, if you'd like to join in the
11 comment as just one other among thousands of commenters,
12 you're welcome to do that. We have staff meetings
13 periodically with the FERC staff to have discussion.

14 But the actual dialogue to resolve things, I
15 think, is limited compared to where it really should be to
16 fix these things. I think it could be resolved up front.
17 We want to be responsive to the Commission. We want to do
18 the right thing, so we just need to figure out what that
19 is.

20 MR. MOSHER: I just want to reinforce something
21 Gerry said. The fact of the matter is that there should
22 never be surprises in balanced or this hybrid organization
23 where we're all working toward the same goal, and we've got
24 to prevent those surprises from happening.

25 When you see an order that has directives that

1 you never thought or heard about before, and you've got 30
2 days, okay, that's the kind of surprise, like what is going
3 on here? And this is an evolving thing, and we've got to
4 find a way to get over that surprise, because I think a lot
5 of the strength of what the response was, was based on that
6 surprise. There's no place for that in this reliability
7 structure.

8 MR. INGMAN: I'm sorry. Can I just add another
9 perspective? We've talked about ambiguities and obviously
10 that can really exist at this sort of policy level, but
11 also on the standard level. I think if we can better
12 understand the intent of the standard and more clearly
13 articulate that through the process, so we understand what
14 it is we're trying to achieve, it sort of goes back to some
15 of the comments in Panel 1, I believe it is. Sometimes we
16 forget what it is we're trying to achieve, or maybe you
17 can't answer why we have a particular standard.

18 That may be perhaps an assistance in reducing
19 ambiguity. As Tim spoke to briefly, getting consistency of
20 audit findings and sharing those. So this is how we
21 interpret that standard to be, in sharing that amongst
22 regional entities and other compliance organizations would
23 be very helpful as well.

24 I think one of the things I know we've debated in
25 the past, not today, is whether we're following the intent

1 of the standard or the letter of the standard has been a
2 problem with very prescriptive standards up to this point.
3 I think the results-based standards and performance-based
4 standards will move us away from the letter of the standard
5 particularly, and maybe more to are we doing the right
6 things; are we trying to achieve what the standard is there
7 to do.

8 COMMISSIONER SPITZER: Thank you.

9 MR. McCLELLAND: Thank you. Commissioner
10 Moeller.

11 COMMISSIONER MOELLER: Thank you, Joe.
12 Consistently great testimony from all of you, both verbally
13 and also in the written comments. Thank you, and there are
14 common themes there, I appreciate it, including the
15 feedback that we need to hear, about how we can do a better
16 job. We probably don't get enough of it in this job.
17 People are afraid to tell us when we're wrong, except in
18 writing. So thank you for that.

19 (Laughter.)

20 COMMISSIONER MOELLER: We all have difficult
21 jobs, but I think Allen Mosher's might be the most
22 difficult in America, because not only do you have a
23 regular job; we now gave you a second full-time job. I'd
24 just like to hear you describe, in a little more detail,
25 how you do it. Again, in your written testimony you go

1 through the ten plus the seven added priorities, and can
2 you walk us through a little bit? Are there any
3 improvements other than the ones you've already talked
4 about kind of going on, that you have as a personal
5 observation?

6 I know Mark Crisson is not here. I'm sure he'll
7 hear my words. But --

8 MR. MOSHER: Further improvements to the
9 standards process?

10 COMMISSIONER MOELLER: Correct.

11 MR. MOSHER: I don't have a list of improvements
12 to present to you today, beyond what's in the new processes
13 manual. Much of the work really is within the committee
14 itself, to develop our metrics for what is a quality
15 standard to review it. I mean I'm working with staff. The
16 whole committee's working with NERC staff to try to develop
17 our metrics for assessing the quality of standards.

18 We went through an exercise last fall, before
19 Gerry became CEO of NERC, and he participated in the
20 results-based standards project, to try to rank our
21 existing standards in terms of how many violations are
22 associated with them, were they associated, I believe, with
23 the blackout report; what are the trends in violations;
24 what are the complaints about entities, about the quality
25 of the standard.

1 I mean we go through efforts like that to try to
2 rank standards on various quality scales. But it's an
3 intrinsically hard thing to do, given that that doesn't
4 match up necessarily with the importance of a particular
5 standard for reliability purposes. I mean what are the
6 ones that are most critical to keeping the lights on?

7 So the process we went through in February to
8 take our top ten list was in fact subjective. We had to
9 start somewhere, but you know, you've got to start making
10 some choices. I want the industry, I'm speaking to
11 everybody here, I want the industry and I want you all to
12 tell me that I'm wrong.

13 I want you to help us figure out what's most
14 important for reliability, because we have no monopoly on
15 wisdom. We're just 20 elected members, you know,
16 representing the industry, to try to set priorities and
17 allocate resources. So we have more work than we can get
18 done. We just need to figure out what's most important.
19 Results-based standards is going to help immensely, because
20 we're going to write better quality requirements.

21 Part of the results-based process is when you
22 have the first meeting, you sit down with the drafting team
23 and figure out what are you trying to accomplish, and force
24 them to go through that process, because it's so easy to
25 just start writing. Okay, we know what we want to

1 accomplish, and you get further down the way and you
2 realize that you actually didn't have a common set of
3 objectives to write to.

4 Very often in the litigative process, you know
5 that people try to put their words into various documents
6 to get their spin, that has some meaning to them downstream
7 that they're going to point to. Well, that's not
8 acceptable when you're writing a reliability standard of
9 1,800 different entities that aren't in the room, have to
10 comply with it.

11 We need to be clear on what those
12 responsibilities are, and as others have said, we need to
13 have probably non-engineers writing them, because when I
14 first came to APPA, I started attending NERC operating
15 committee meetings, and I went running from the room
16 screaming at one point, saying "Can't you get an English
17 major into the room here?" Because they were writing
18 things that told nobody what they had to do. They were
19 completely ambiguous.

20 We've improved immensely over the last ten to
21 twelve years, but we still have a ways to go on the quality
22 and clarity to meet your expectations in the industry. So
23 we're doing work through the Standards Committee for our
24 new charter, again from quality of the standards.

25 We're implementing results-based standards.

1 We're going to try to take pressure off standards
2 development through an informal interpretation process.
3 But again, we've got a prioritization that I need your
4 input to help us say what goes first.

5 COMMISSIONER MOELLER: And to what extent is this
6 kind of a dynamic process on an issue like frequency
7 response, which I could be wrong, but I see it as an
8 increasing problem or an increasing challenge over the next
9 few years, that's going to, as I said earlier, be on us.
10 It's almost on us now, you know.

11 We've got tax policy basically driving renewable
12 development. So we can't control that, and yet every part
13 of the country except one is dealing with more intermittent
14 generation and frequency response is tied right into that,
15 and what might be a good standard now might need to be
16 revisited in 18 months. To what extent --

17 MR. MOSHER: I think I should point this to
18 Gerry, but let me do something really quickly. I mean
19 there's two levels of this. There's -- the Commission's
20 March 18th order on frequency response had a real
21 unfortunate ready fire aim dynamics, as thought and seen by
22 the industry.

23 Yes, it's a very important problem. We need to
24 address it quickly. But the problem is we're not clear on
25 the underlying technical problems there, because there's

1 sort of three time lines on frequency response. There's
2 the initial sort of inertial response from generators;
3 there's the governor response that follows that, then an
4 active response, you know, further down.

5 Well that entails, that affects a lot of the
6 different incentives that independent generators have, that
7 we didn't have to confront during the old days of vertical
8 integration, where if the transmission side wasn't getting
9 the right frequency response, they went down the hall and
10 yelled at the guy, "Dammit, change your operation here.
11 What do you mean you have your governors turned off?" and
12 they would track it.

13 So we had different dynamics today and as you
14 pointed out, bringing in renewables that aren't
15 dispatchable in the same way could seriously exacerbate
16 that problem. But first we need to understand the source
17 is the problem, what's really going on. Bob Cummings from
18 NERC staff says that ain't simple, you know.

19 We really need to study it and figure out what
20 we're doing before we start writing standards. But we may
21 need an interim fix that tries to arrest the decline,
22 particularly in the Eastern interconnection.

23 PANEL: That's sort of a microcosm on frequency
24 response and some of the concerns. I was at EPRI at a
25 previous life, and in 1993, I coauthored a report on

1 declining frequency response and the various
2 interconnections, and it was a problem then. It was an old
3 problem then, and I think it's one that the industry and
4 NERC, we've not really wrestled to the ground, and I think
5 we -- I share your concern that it's a priority to do that
6 now.

7 So from that perspective, I appreciate Joe's
8 staff and the effort that they're doing to push that as a
9 priority issue, because I agree. It is a high priority.
10 It's a very complex issue, because once we had really open
11 access in sort of a different business model, where you put
12 that frequency response is on every generator that shows up
13 and wants to connect to the system. It's not like you
14 point to the RTO or the ISO or to the balancing authority
15 and say "fix this." It really is everybody's problem.

16 So it's very complex, in terms of how you do it,
17 who you do it and how you pay for it and all those kinds of
18 things. So we do need to move that forward quickly. I
19 think one big change that you asked me on, about sort of
20 what changes have we made in the process and what more do
21 we need?

22 I think we've made the changes recently that are
23 just now having an opportunity to kick in. Prior to this,
24 essentially in the ANSI-accredited process it was taken, in
25 its purest sense, to be democratically standards are

1 bubbled up from the bottom and they come up to -- when
2 they're done, they come forward to the Standards Committee
3 and then they go to the Board.

4 Just in the last few months, and I think with
5 some of the changes we proposed in this change to the
6 procedure, it's getting a little more oversight,
7 substantial oversight from the Standards Committee and from
8 the Board, in terms of these are the priorities. We have
9 to get these things done. There has to be accountability.

10 So I think really those changes are starting to
11 take place. Our chairman, John Anderson this morning
12 mentioned the Board is really taking a hard look at its
13 roles, and making sure that under frequency load-shedding,
14 frequency response and some of the really key big things
15 that we need to get done soon, are moved up and become and
16 are finished in a timely fashion.

17 COMMISSIONER MOELLER: Thank you. That's all I
18 have for you.

19 MR. McCLELLAND: Thank you, Commissioner Moeller.
20 Commissioner Norris.

21 COMMISSIONER NORRIS: If you don't mind, I'll ask
22 staff to ask follow-up questions.

23 MR. McCLELLAND: Okay, great. So now I'll turn
24 it over to my colleagues. I suppose if I started asking
25 questions, I could go until midnight, and we don't want

1 that to happen. So I'll turn it to my colleagues, to see
2 if they have any questions at this time. Colleagues?

3 (No response.)

4 MR. McCLELLAND: The first question I have then,
5 since we're going to go to midnight, the first question I
6 have, and this will be --

7 VOICE: Don't go late, Joe.

8 MR. McCLELLAND: Maybe I can keep the panelists
9 here. This would be pursuant to the outage versus
10 cascading outage. I've heard several panelists, I think
11 every panelist in Panel 1 and now several folks in Panel 2,
12 talk about the distinction between the two. Could the
13 panelists please define for me what their perspective is?
14 What's the difference between an outage and a cascading
15 outage?

16 MR. CAULEY: I would take that a little bit, Joe,
17 because I've also been doing the NERC thing since the early
18 90's, and my understanding is everything that we had tried
19 to do prior to this point was, no matter what situation you
20 get yourself into, preserve your equipment so that it can
21 be brought back.

22 So you operate within stability limits, physical
23 limits, thermal limits, voltage limits, so you can bring
24 your equipment back, and you avoid the domino effect
25 cascade into other systems. The third piece is the

1 stability. You never walk so close to the edge that one
2 little push is going to cause an event that's over so
3 quickly that it's over in an instant, the operators don't
4 have anything to do with it.

5 The idea, I think we always had the principle of
6 ultimately we're here to provide reliable, lights-on
7 service to customers. But I think in the NERC world, over
8 several decades, that was something between the franchise
9 agreement between the regulator, the local regulator, the
10 local or regional regulator, and the integrated utility, in
11 terms of what meant and how reliable that was.

12 Really that was not an integral part of the
13 purview of NERC. Now many hours of the year is it
14 acceptable to have the lights out for an individual
15 customer, in different situations. So I think the issue is
16 that it's new. I don't think it's an issue of whether it's
17 right or wrong.

18 More than anyone else, I believe we're here to
19 have lights on reliability. But the question is it's new
20 to NERC, it's new to our infrastructure, it's new to our
21 standard-setting process, and I think that's one of the
22 policy debates we have to have, is how much of that is
23 driven by national and North American standards, in terms
24 of outage expectations, versus is it still a local
25 franchise issue, because that debate has not taken place.

1 MR. McCLELLAND: Go ahead, yeah, and I have some
2 -- I mean I can provide some additional context to coax
3 some additional answers out from the panelists. So I have
4 one more comment. Go ahead, please. Thanks, Gerry.

5 MR. BALL: Joe, I think it is an interesting
6 topic. I mean to me, just like Gerry explained, from a
7 high level operations perspective, I mean I wear the
8 responsibility day-in day-out, about keeping the lights on,
9 both at the most micro level, individual customers, to a
10 very real responsibility not to let anything happen in our
11 balancing authority area, that's going to escape our
12 ability to control it.

13 I think that's fundamentally at the heart of what
14 our rules are about. My operators know that they have the
15 full authority to -- if they need to, to turn the lights
16 out on our own customers. If that's the tool, if that's
17 the only tool left in the box, for them to stop something
18 from getting beyond our ability to control it. That's our
19 contribution to the greater good.

20 Now on the individual customer basis, it's highly
21 debated and discussed, you know, as this warm seat before
22 said, from an individual customer basis, we know our
23 individual customers, their tolerance for outages, their
24 desires, their desire to pay more in some cases, like John
25 mentioned with some of his constituents.

1 Even in our own organization, you know, one of
2 the goals that The Southern Company board holds me to is
3 about reliability, the frequency of outages, duration of
4 outages based on their case and other things, and we dive
5 deep into that. Then also we've learned over the years, in
6 our customer satisfaction measurements, reliability is "are
7 the lights on," is a key driver in customer satisfaction.

8 So we're keenly aware of that. But I think
9 that's a different discussion with different drivers, very
10 important, from -- but it is different from the discussion
11 about my responsibility to the greater North American grid,
12 not to let things get out of my control, because that's
13 when it really get difficult.

14 So I really do see a difference, and I think we
15 do have to be careful, because we want to be careful in our
16 language, and that my operators or anybody's operators
17 don't begin to think that while that tool may be in the
18 box, my hand is going to get slapped if I reach for it and
19 I hesitate.

20 That's a real concern, because they do hang onto
21 the words of everyone in this room. I mean the whole
22 industry, I mean everyone is listening to what the
23 Commission is saying and staff is saying, and really NERC
24 is saying. So I think we do have to be careful how we talk
25 about these things.

1 MR. McCLELLAND: Thanks, Billy. Allen, did you
2 want to say something about this?

3 MR. MOSHER: Yes. If you'll go back in the
4 Commission's records to the 1977 New York City outage, I
5 believe there were tape recordings of neighboring systems
6 pleading with the ConEd dispatcher to shed load, and him
7 saying "No, I can hold on, I can hold on." Because he did
8 not shed load, the entire area of New York City was blacked
9 out.

10 That in essence is the source of reliability
11 standards, was that I may mess up on my own system, but I'd
12 better not affect my neighbors, and it's my responsibility
13 to address this locally.

14 The issue, Joe, that you're raising here about
15 load-shedding, though, I mean I finally think it really is
16 a local service issue to be addressed by local regulators
17 at the state level and for publicly-owned utilities by
18 their governing boards, by cooperatives, by their
19 perspective governing boards. I mean that's really where
20 those decisions need to be made.

21 But nonetheless I understand the sensitivity of
22 the issues that you're raising, because you want to know
23 where the trade off is between the bulk power system and
24 the local level. Clearly, we need to make good policy
25 choices about where we allocate our resources to improve

1 the system here.

2 I personally have spent, had six days in my
3 house, that I have been out of my house in the last ten
4 years, because of local distribution outages. I mean PEPCO
5 system, and those are all related to storm-related issues.

6
7 But that is a very real cost that I feel as a
8 consumer. Certainly I would like PEPCO to improve service
9 quality within its service territory. But I think that's
10 an issue for the Maryland Public Service Commission rather
11 than the FERC, and to the extent it goes interstate, then
12 I'm with you.

13 MR. McCLELLAND: Well, and I wasn't even going to
14 drive there. I guess what I wanted to do is sort of lay
15 the premise out, what is a cascading outage, because what
16 I've heard the panelists say is that the standards really
17 should be geared towards cascading outages.

18 So what's a cascading outage? Is a cascading
19 outage, as Gerry alluded to, is it from region to region?
20 So we'd have to have a whole region out and then it affects
21 a next region before it becomes a cascading outage? Or is
22 it pursuant more to PRC-004.

23 When I was a relays and controls engineer, and
24 before I eventually ever saw the relays and controls
25 engineering function and audited that function, anything

1 that cascaded outside the primary zone of protection was in
2 our mind a cascading outage, you know. It went beyond the
3 primary zone of protection. PRC-004 requires that
4 misoperation of relays and controls be recorded.

5 So what exactly is a cascading outage? You know,
6 where are the standards tooled, or what are the standards
7 geared towards preventing? Gerry, you wanted to say
8 something about that.

9 MR. CAULEY: Well, I appreciate your question a
10 little better, and in our interest in the division that I
11 have laid out, I believe that the really big events that
12 happen on the system have precursors. The relay
13 misoperated and instead of one line going out two went out
14 or four went out.

15 I think what we have to do is study those more
16 vigorously. I think historically, companies have studied
17 those internally on their own, done their own internal
18 analysis. My view is in the interest of preventing the
19 large, wide-scale blackouts and cascades that we've seen, I
20 think we own it, as the ERO, to know did we understand why
21 that happened and what we can do to fix that?

22 I think there may be opportunities to improve the
23 standards on relay maintenance and things like that. I
24 don't necessarily call a two line event or a four line
25 event a cascade. It was an operation that did not operate

1 as designed. I don't have a ready definition of a cascade.

2

3 But it's an uncontrolled failure to stop of its
4 own volition somewhere in a pretty large event. But it's
5 not necessarily two lines out, but it's -- I agree it's an
6 issue and a problem that we as the ERO need to be learning
7 from and helping the industry learn. I don't think there's
8 any big event that ever happened that wasn't really a
9 compilation of a whole bunch of things.

10 MR. McCLELLAND: Well, and then I don't disagree,
11 and I guess that question was really to set the stage for
12 the next question. The next question that I've heard is,
13 you know, once we deciding what a cascading outage is, and
14 it sounds like we have some work to make that decision.
15 But once we decide what a cascading outage is, how would
16 the standards change to just address cascading outages?

17 I don't want to sandbag anybody here, but when I
18 look at the blackout report, for instance, the very first
19 recommendation -- there were 46 recommendations in the
20 blackout report, and Gerry, you've alluded to some of the
21 prior blackouts and some of the panelists have.

22 The 2003 blackout and the seven prior blackouts,
23 the very first recommendation of the 46, and this was
24 entitled "Recommendations to Prevent or Minimize the Scope
25 of Future Blackouts." So it sounds to me like they were

1 going after -- maybe they were saying it a little
2 differently, but they're going after the cascading outages.

3 The very first recommendation was to make the
4 NERC standards mandatory and enforceable, because in and of
5 itself, if it's FAC-003 and it's just a vegetation
6 management standard, one might argue that the violation of
7 that particular standard wouldn't have caused a cascading
8 event. It would have taken out a single line had the
9 relays and controls been protected.

10 So the question to the panel is what's different
11 about -- what would be different about the current NERC
12 standards, or the application or interpretation of those
13 standards, so that they would just address cascading
14 outages, where they would focus on cascading outages?

15 MR. MOSHER: Yes. I don't think, Joe, we ever
16 want to go there, where there's a pass-fail standard that
17 says you won't have a cascading outage and if you do, well
18 then you violated the standard, you know. I think it's all
19 about risk, and I think the current state of the NERC
20 standard and the future state of the NERC should focus on
21 identifying that risk.

22 The same with disturbances. When we analyze
23 those things, often the ones that are of most concern to me
24 are the ones that there was as no cascading. Maybe there
25 was no load loss, but there was a near-miss there.

1 When you unwind, what happened, you see how close
2 you were to something going wrong. So that's what we need
3 to get. We need to get the standard to focus on preventing
4 those things from happening. You can't always look at what
5 just happened; you've got to look at what might have
6 happened. I think that's where the focus of the standards
7 is going.

8 MR. McCLELLAND: And is that a determination or
9 violation risk factor? The higher the violation risk
10 factor, the more probable or the more, by definition, the
11 more risk it poses to the --

12 MR. CAULEY: Not always, not always.

13 MR. MOSHER: Joe, we do have a definition of
14 cascading in the NERC glossary? I just can't recall what
15 it says offhand.

16 But I think I would support Tim's response, which
17 is I'm trying to understand where you're going with the
18 questioning. But so the standards are not only in place
19 now to draw a line, to prevent a cascade or not prevent a
20 cascade. Many elements of the standards are preventive.
21 You know, just an example is know where you're operating at
22 all times.

23 You know, know what your limitations are and if
24 something happens next. So that's a little further back
25 than preventative, you know. If I don't know that, will I

1 have a cascade? Well maybe not. But it's preventive and
2 it's a risk management measure. Maintaining a relay is
3 also risk management.

4 MR. McCLELLAND: I guess the question was and
5 from the panelists, what would change about the application
6 or the number of standards or the requirements in the
7 standards? If it was you, and I mean what I thought I
8 heard earlier was the Commission has gone, had been perhaps
9 too broad in the interpretation of outages, and it should
10 focus more on cascading outages. Define what cascading is,
11 and then what would change in either the interpretation,
12 the application or the standards themselves to zero in on
13 that cascading aspect?

14 MR. MOSHER: I think the distinction, Joe, is not
15 cascading versus not cascading. It's that we have a lot of
16 standards to prevent uncontrolled operations or undesigned
17 operations and events. The distinction that I think we're
18 drawing on is prevention of load dropping, part of that or
19 not. I think that's the debate that we're struggling with
20 more, because it's not really been part of the NERC
21 standards.

22 We've always had, and if you told me tomorrow,
23 well the only objective of the NERC standards is to avoid
24 cascading failures, guess what? We'd still have the same
25 standards, and we'd add more, because it's all about the

1 risks, the minuscule little things that might happen and
2 build up, and could lead to a cascading. So we would still
3 have this preventive set of standards.

4 It's not the cascade or not. We get that part.
5 It's the -- it is what's the consequence of load loss as
6 part of that, and historically NERC has not had that within
7 their jurisdiction essentially.

8 MR. McCLELLAND: Well then hold on one second,
9 because now it moves to a separate set, and forgive me, but
10 I warned everyone, right? But the separate set is, and we
11 touched on it in your testimony, and I've heard it actually
12 three separate -- there's three separate distinctions here
13 with load loss, right?

14 I think Greg Abel said he was referring to TPL-2,
15 R1-310, which is the performance requirement for the backup
16 or redundant relay that may be put into place. That's one.
17 The second would be TPL Part 2, which is the M minus 1
18 criteria, and you touched on it from the standpoint of an
19 exemption in your testimony, Gerry.

20 You said that if it's a smaller system on the
21 fringe, yes, would that entity have to incur that cost to
22 provide that N-1 criteria, to satisfy that N-1 criteria,
23 when that may fall under the exemption. Then there's a
24 third aspect, which you know, I think most of you have
25 touched on, and that's the TOP standards.

1 If an operator is in trouble, if the system's in
2 trouble and the operator's isn't just encouraged; they're
3 required to shed load, and there's nothing wrong with that.
4 That's not a reliability violation.

5 So the question would be if we center on, let's
6 lay aside the TPL Standard R1-310; let's lay aside TOP
7 standards, because no one's suggesting the operator should
8 shed load. In fact, that would be a perverse outcome,
9 because again a recommendation number eight from that
10 report is that want to shield the operators from liability,
11 because they need to make these snap decisions.

12 It's a high pressure environment. It's a hard
13 enough job as it is. If they shed load to preserve the
14 system, that should be required. But it is the TPL
15 Standard, TPL R-2. So any comments on the M minus 1
16 criteria from the TPL standard then?

17 MR. MOHRE: I just think it's an interesting
18 topic for debate. I mean I think that's why we put it in
19 our comments. Historically, if you had a small load pocket
20 in a rural area, you know, the question is who pays for
21 that and are they okay with the 30 minute outage or 10
22 minute outage while they switch to a new resource?

23 That's just always been there. If there's a new
24 requirement, a new expectation that they have that
25 continuity of service --

1 MR. McCLELLAND: --or for an area that could
2 qualify for that. You're saying if an exemption was
3 removed where they couldn't qualify for an area, then that
4 would be a new requirement for the operator.

5 MR. MOHRE: It would be a new requirement --

6 MR. McCLELLAND: Right.

7 MR. MOHRE: Under the interpretation of the
8 existing standard. So I think it's -- I'm not saying it's
9 right or wrong. I think it's just a debate we need to
10 have. Is it in the best interest of those customers.

11 MR. McCLELLAND: But the base criteria as far the
12 M minus 1 expectation, I mean that is more -- that's not
13 sort of a extraneous rural area that perhaps, you know,
14 that's the level of service that has been established for
15 that area forever. It's more of how much margin is left in
16 the system.

17 You know, I drive into work and gosh, there's six
18 lanes, you know, in each direction, right? And folks are
19 traveling 65, 70, 75, sometimes 80 miles an hour. Not me
20 obviously.

21 But if someone doesn't leave safe following
22 distance, there's no margin for error. The first
23 contingency is going to cause not just them to wreck, but
24 it's going to affect every subsequent lane of traffic. The
25 folks like me that were maintaining the safe following

1 distance.

2 Is the M minus 1 criteria, is it sort of that
3 concept? Is it that folks are maintaining safe following
4 distance to preserve that system margin, so that we don't
5 have an unintended consequence? Billy, it looks like you
6 want to say something about that.

7 MR. BALL: Well, I was actually angling on
8 something else. But I could answer that simply, Joe. It's
9 not a safe distance driving. It's to give the operator
10 time to respond to the next thing and prepare. So it's a
11 timing gap maybe if anything. It's that happened and now
12 what can I do to restore the system to a secure state.

13 Yes, and these -- you know, your questions are
14 good questions. Actually, the thing I was going to say and
15 I will get back to M minus 1, is that you know, it's
16 interesting. Today's conversations go from very high level
17 policy issues, even here, to very detailed issues.

18 You know, I think it just reiterates the
19 importance of lots of conversation, because you know, a lot
20 of the items you brought up may have been in formal
21 documents, you know, and I think you had interesting
22 questions about a cascade versus just maybe a more
23 localized outage.

24 That may have been -- the way you described it
25 may have been a new revelation or added understanding of

1 what the real question was that you were trying to get at.
2 All I could think of was oh my gosh, I don't want my
3 operators thinking they can't drop load if they have to.
4 That really doesn't sound like where you were headed
5 anyway.

6 So I think it just shows the need for lots of
7 communication throughout the process, you know, all the
8 way, and I'm going to do a little bit of a go-back. I
9 think it was the Chairman that asked, you know, if I'm
10 asking for maybe some communication before there's a NOPR,
11 where am I going to get it? Am I just going to drag it out
12 even more, drag out the process?

13 Actually, I would hope that some of these -- the
14 things that Allen was talking about, with prioritizing
15 standards that we want to work on, and I mentioned the
16 reliability standards development plan. Once they go --
17 once the whole community goes through the process of
18 outlining these things. That's why I said I think that's a
19 great opportunity for the Commission and the staff to kind
20 of put your thoughts into those priorities I agree to.

21 That would allow me to focus my resources. You
22 know, we're a big company. We have a lot of employees. We
23 have the ability to have a lot of technical people on
24 staff. But even at our size, we're taxed by the things
25 that are being worked on at one time.

1 I can't imagine, Dave, what some of your members
2 might go through, just the frustration of all the balance
3 and everything. I think the more prioritization that we
4 can do, and we can all agree on, will actually allow the
5 process to move quicker and better answer some more of the
6 very detailed questions.

7 So that's kind of how I see getting more room in
8 there, Mr. Chairman, is by quite honestly maybe reducing
9 some of the things we're working on.

10 Now I promised to get back to M minus 1, Joe,
11 well because I think too, that can be confusing from how I
12 plan to build assets, versus how I operate. Because the M
13 minus 1 concept gets into both. I can build my system to
14 withstand an outage of any one thing, or maybe in some
15 cases two things, and where my operator is still good to
16 go.

17 The operator, though, always has to create margin
18 when he loses it. So I mean it's a -- it is a very
19 detailed and complicated question.

20 MR. MOHRE: Joe, could I bring up, rural folks
21 have been mentioned quite frequently recently, and I think
22 I'm our current expert here on rural folks. I'll make a
23 couple of observations. One is that if you think
24 conceptually of our service territory, you know. We
25 average six consumers per line, mile of distribution line.

1 So a typical coop may have a 50-mile 100 kV line going out
2 in the middle of nowhere, where there's a small town of
3 less than 20,000 people, and you may have six, eight, ten
4 thousand consumers served off a line.

5 Let's see, can I do that division? Six divided -
6 - oh, 1,000 miles of distribution system, all right? We
7 have all said that circumstance, that 100 kV, that is not
8 part of the bulk electric system, okay. We're a customer,
9 all right?

10 The cost of connecting that group of customers,
11 that small group of customers out in rural areas to the
12 bulk electric system through a loop feed, okay, in some
13 cases that is paid for, okay, when you have certain kinds
14 of customers out in the rural areas. Mostly it's not,
15 because there is an affordability versus reliability issue
16 that comes into play.

17 So cutting through it all, affordability and
18 reliability are always there, always present, you know, in
19 this calculus. But it is also true, okay, that the, like I
20 say, the cost of making part of the bulk power system,
21 looping through at say a higher voltage, and way out in the
22 country for the benefit of 10, 15, 20 thousand consumers,
23 has just never been anything that any of them wanted to pay
24 for.

25 So from that standpoint, I agree. But that

1 doesn't mean reliability is not important, because the RUS,
2 the Rural Utility Service, we have to report, every coop in
3 the country has to report on the frequency and duration and
4 cumulative duration of outages that occur, whether they're
5 transmission or distribution.

6 So it's constantly monitored, constantly looked
7 at by the federal agency that we kind of are regulated by.
8 But the idea of the cost of making it part of the bulk
9 power system would be enormous. It would be a very big
10 expense, very little benefit for the kind of customers that
11 are there.

12 To the earlier point of putting a server farm out
13 in rural areas, we've got plenty of areas that, for
14 instance, Hyundai came in and built plants. Well what
15 happens? What that happens, you sit down, you negotiate.
16 There's another feed brought in. There are other choices
17 that are made.

18 So that's how that's dealt with very effectively.
19 But just some comments. Affordability and reliability are
20 always intertwined.

21 CHAIRMAN WELLINGHOFF: Colleagues, any other
22 questions?

23 COMMISSIONER SPITZER: One more question.

24 CHAIRMAN WELLINGHOFF: Sure.

25 COMMISSIONER SPITZER: We've heard a little bit

1 today from both panels about ambiguous standards, okay.
2 NERC right now has eight interpretations underway. Over
3 the discussion over the last six months with EEI, they've
4 indicated there's seven or eight that are ambiguous. But I
5 can't tell which ones they are, okay?

6 Other people have said there's a handful. If in
7 your comments you could just list the handful of standards
8 you think are ambiguous, because until you identify the
9 problem, you can't identify the solution. Maybe it's just
10 me and I'm, you know, point me in the right direction. I'd
11 appreciate it.

12 CHAIRMAN WELLINGHOFF: Well, if there are no
13 further comments or questions, we can dismiss early. So
14 thank you Panel 2 for your presentations, and your insight
15 and great discussion. This conference is dismissed.

16 (Whereupon, at 3:18 p.m., the technical
17 conference concluded.)

18
19
20
21
22
23
24