UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION	**)** **)**	**Docket No. RR06-1-000**

QUARTERLY REPORT OF THE NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION REGARDING ANALYSIS OF RELIABILITY STANDARDS VOTING RESULTS APRIL – JUNE 2009

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I. INTRODUCTION

The North American Electric Reliability Corporation ("NERC")[1] submits its second quarter 2009 report on the analysis of voting results for Reliability Standards. This filing is submitted in response to the Federal Energy Regulatory Commission's ("FERC" or the "Commission") January 18, 2007 Order[2] that requires NERC to closely monitor and report to the Commission the voting results for NERC Reliability Standards each quarter for three years. This second quarter 2009 report covers balloting results during April 1, 2009 – June 30, 2009 and includes NERC's analysis of the voting results, including trends and patterns of stakeholder approval of NERC Reliability Standards.

II. NOTICES AND COMMUNICATIONS

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[1] NERC has been certified by the Commission as the electric reliability organization ("ERO") authorized by Section 215 of the Federal Power Act. The Commission certified NERC as the ERO in its order issued July 20, 2006 in Docket No. RR06-1-000. *Order Certifying North American Electric Reliability Corporation as the Electric Reliability Organization and Ordering Compliance Filing*, 116 FERC ¶ 61,062 (2006).

[2] *Order on Compliance Filing*, 118 FERC ¶ 61,030 at P 18 (2007).

III. BACKGROUND

NERC develops Reliability Standards in accordance with Section 300 of its Rules of Procedure and the NERC *Reliability Standards Development Procedure*, which is Appendix 3A to the Rules of Procedure.[3] In order for an entity or individual to vote on a proposed Reliability Standard or interpretation ("standard action"), the individual or entity must join the registered ballot body, which includes all entities or individuals that qualify for one of ten stakeholder segments and have registered with NERC as potential voting participants. Each member of the registered ballot body is eligible to participate in the voting process and ballot pool for each standard action. The ten stakeholder segments are:

- Transmission Owners
- Regional Transmission Organizations ("RTOs") and Independent System Operators ("ISOs")
- Load-Serving Entities ("LSEs")
- Transmission Dependent Utilities ("TDUs")
- Electric Generators
- Electricity Brokers, Aggregators, and Marketers
- Large Electricity End Users
- Small Electricity Users
- Federal, State, and Provincial Regulatory or other Government Entities
- Regional Reliability Organizations and Regional Entities

Each standard action has its own ballot pool, populated by interested members of the registered ballot body. The individuals who join a ballot pool respond to a pre-ballot e-mail announcement associated with each Reliability Standard ballot action. The ballot pool votes to approve or reject each standard action. Specifically, the ballot pool votes determine: first, the need for and technical merits of a proposed standard action; and second, that appropriate consideration of views and objections received during the development process was undertaken.

[3] Version 6.1 of the *Reliability Standards Development Procedure*, effective June 7, 2007, is the latest Commission-approved version.

The *Reliability Standards Development Procedure* process includes three types of ballots: an initial ballot, a recirculation ballot and a re-ballot. If an initial ballot achieves a quorum, but includes any negative ballots submitted with comments on the proposed standard action, then a recirculation ballot must be conducted. If an initial ballot does not achieve a quorum, then a re-ballot is conducted using the same ballot pool, but with an extended ballot window.

Approval of a standard action requires both:

- A quorum, which is established by at least 75% of the members of the ballot pool for the standard action submitting a response with an affirmative vote, a negative vote, or an abstention; and
- A two-thirds majority of the weighted segment votes cast must be affirmative. The number of votes cast is the sum of affirmative and negative votes, excluding abstentions and non-responses.

The following process is used to determine if there are sufficient affirmative votes:

- The number of affirmative votes cast in each segment is divided by the sum of affirmative and negative votes cast to determine the fractional affirmative vote for each segment. Abstentions and non-responses are not counted for the purposes of determining the fractional affirmative vote for a segment.
- If there are less than ten entities that vote in a segment, the vote weight of that segment is proportionally reduced. Each voter within that segment voting affirmative or negative receives a weight of 10% of the segment vote. For segments with ten or more voters, the regular voting procedures are followed.
- The sum of the fractional affirmative votes from all segments divided by the number of segments voting[4] is used to determine if a two-thirds majority affirmative vote has been achieved. (A segment is considered as "voting" if any member of the segment in the ballot pool casts either an affirmative or a negative vote.)
- A standard is approved if the sum of fractional affirmative votes from all segments divided by the number of voting segments is greater than two-thirds.

IV. SUMMARY OF BALLOTS DISCUSSED IN THIS REPORT

NERC conducted twelve ballots from April 1, 2009 – June 30, 2009, each undertaken using the NERC *Reliability Standards Development Procedure*. These twelve ballots can be grouped into nine distinct groups of ballot events as follows:

- Revisions to Critical Infrastructure Protection ("CIP") Standards CIP-002-1 through CIP-009-1 – One (1) Initial Ballot and One (1) Recirculation Ballot

[4] When less than ten entities vote in a segment, the total weight for that segment is determined as one tenth per entity voting.

- Interpretation of PRC-005-1 Requirement R1 for the Compliance Monitoring Processes Working Group – One (1) Initial Ballot
- System Restoration and Blackstart Standards: EOP-001-2, EOP-005-2 and EOP-006-2 – One (1) Initial Ballot and One (1) Recirculation Ballot
- Interpretation of TOP-005-1 and IRO-005-1 for Manitoba Hydro – One (1) Recirculation Ballot
- Interpretation of IRO-010-1 Requirements R1.2 and R3 for the Western Electricity Coordinating Council ("WECC") Reliability Coordination Subcommittee – One (1) Initial Ballot and One (1) Recirculation Ballot
- Interpretation of MOD-001-1 Requirements R2 and R8 and MOD-029-1 Requirement R5 and R6 for the New York Independent System Operator – One (1) Initial Ballot
- Interpretation of TPL-002-0[5] Requirement R1.3.10 for PacifiCorp – One (1) Initial Ballot
- Revisions to NUC-001-1 — Nuclear Plant Interface Coordination – One (1) Initial Ballot
- Violation Severity Levels ("VSLs") for CIP Standards CIP-002-1 through CIP-009-1 – One (1) Initial Ballot

All of the ballot events achieved a quorum, and each of the initial ballots received at least one negative ballot with comments, initiating the need for a recirculation ballot. The recirculation ballots for five of the eight initial ballots were not completed during the second quarter 2009; the drafting team is reviewing and developing responses to ballot comments before determining the next appropriate action. All four recirculation ballots that were conducted received enough votes to achieve the two-thirds weighted segment industry consensus required for approval.

No instance occurred where a proposed Reliability Standard or interpretation was disapproved by the ballot pool and thereafter a less stringent version was approved in a subsequent ballot. The discussion of the detailed ballot results for each ballot event in the second quarter 2009 is contained in **Exhibit A** to this filing.

[5] On October 24, 2008, NERC submitted a petition for approval Interpretations of requirements of TPL-002-0 and TPL-003-0, which are designated as TPL-002-0a and TPL-003-0a, that is pending at FERC.

Respectfully submitted,

<u>/s/ Rebecca J. Michael</u>

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EXHIBIT A:

Analysis of 2nd Quarter 2009 Reliability Standards Balloting Results

Introduction

On January 18, 2007, the Federal Energy Regulatory Commission ("Commission" or "FERC") issued its *Order on Compliance Filing* ("January 18 Order"),[6] acting on a compliance filing by the North American Electric Reliability Corporation ("NERC") in response to the Commission's Order certifying NERC as the nation's Electric Reliability Organization ("ERO") under Section 215 of the Federal Power Act.[7] The January 18 Order requires NERC to closely monitor the voting results for reliability standards and to report to the Commission quarterly for three years NERC's analysis of the voting results, including trends and patterns that may signal a need for improvement in the voting process. In its compliance filing in response to the January 18 Order, NERC stated it would file its initial quarterly report with the Commission for the first quarter of 2007 and would submit subsequent quarterly filings for the next three years. This is the second quarterly report for 2009 on the analysis of voting results for reliability standards.

Background

The NERC *Reliability Standards Development Procedure* process is administered by action of the NERC Standards Committee. The Standards Committee officially approves the scope and purpose of standards authorization requests, appoints standard drafting teams to develop standards, authorizes field tests of proposed standards when necessary, and approves the proposed standards for ballot. The goal of the *Reliability Standards Development Procedure* process is to gain industry consensus on the need for, and technical sufficiency of, proposed standards. Consensus is primarily established through various formal industry comment periods designed to obtain stakeholder input on the proposed standards. However, interpretations to NERC Reliability Standards proceed directly to the ballot phase as described in the *Reliability Standards Development Procedure* without the opportunity for an industry comment period.

The members of the registered ballot body, comprising entities or individuals registered in one of ten stakeholder segments, must specifically request to be included in the ballot pool for a standard or interpretation ballot event. Any entity or interested individual may become a member of the registered ballot body, but only the ballot pool members are allowed to vote on the proposed standard or interpretation once the balloting begins. If the ballot pool approves a proposed standard or interpretation as described below, the standard or interpretation is presented to the NERC Board of Trustees for its approval and subsequent filing with the Commission and applicable governmental authorities in Canada.

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[6] *Order on Compliance Filing*, 118 FERC ¶ 61,030 (2007).
[7] *North American Electric Reliability Council and North American Electric Reliability Corporation*, "Compliance Filing of the North American Electric Reliability Council and the North American Electric Reliability Corporation Addressing Non-Governance Issues," *Docket No. RR06-1-000* (October 18, 2006).

The NERC *Reliability Standards Development Procedure* provides for three different types of ballots — an initial ballot, a recirculation ballot and a re-ballot. To "pass," a ballot must achieve a quorum (at least 75% of the members of the ballot pool must return a ballot) **and** must receive an affirmative vote that is at least two-thirds of the weighted segment average of all ballots returned with a vote.

- If a ballot achieves a quorum but includes any negative ballots submitted with comments, then a recirculation ballot must be conducted.
- If a ballot does not achieve a quorum, then a re-ballot is conducted using the same ballot pool, but with an extended ballot window.

There were twelve ballots conducted during the second quarter of 2009, as shown in the table below; eight were initial ballots, and four were recirculation ballots. The ballots are discussed below as nine distinct groups of "ballot events."

Ballot Event #	Ballot Name	Initial Ballot Dates	Recirculation Ballot Dates	Ballot Pool Size	Total # of Votes	Quorum	Weighted Segment Approval
1	Revisions to Critical Infrastructure Protection (CIP) Standards CIP-002-1 through CIP-009-1	4/1/2009 - 4/10/2009		284	261	91.90	84.06
			4/17/2009 - 4/27/2009	284	268	94.37	88.32
2	Interpretation of PRC-005-1 Requirement R1 for the Compliance Monitoring Processes Working Group	4/8/2009 - 4/17/2009		274	254	92.70	92.71
3	System Restoration and Blackstart Standards: EOP-001-2, EOP-005-2, and EOP-006-2	4/14/2009 - 4/23/2009		265	238	89.81	76.63
			5/6/2009 - 5/18/2009	265	244	92.08	75.39
4	Interpretation of TOP-005-1 and IRO-005-1 for Manitoba Hydro		4/17/2009 - 4/27/2009	225	215	95.56	92.81
5	Interpretation of IRO-010-1 Requirements R1.2 and R3 for the WECC Reliability Coordination Subcommittee	4/22/2009 - 5/1/2009		220	195	88.64	84.77
			5/26/2009 - 6/5/2009	220	199	90.45	85.76
6	Interpretation of MOD-001-1 and MOD-029-1 for the New York Independent System Operator	5/25/2009 - 6/4/2009		195	166	85.13	82.10
7	Interpretation of TPL-002-0 Requirement R1.3.10 for PacifiCorp	6/01/2009-6/11/2009		217	189	87.10	95.71
8	Revisions to NUC-001-1 — Nuclear Plant Interface Coordination	6/12/2009-6/22/2009		186	152	81.72	94.09

Ballot Event #	Ballot Name	Initial Ballot Dates	Recirculation Ballot Dates	Ballot Pool Size	Total # of Votes	Quorum	Weighted Segment Approval
9	VSLs for CIP Standards CIP-002-1 through CIP-009-1	6/15/2009-6/24/2009		235	205	87.23	83.94

Discussion of Second Quarter 2009 Ballot Events

The first ballot event in the 2nd quarter of 2009 consisted of an initial and recirculation ballot of revisions to CIP standards CIP-002-1 through CIP-009-1.

The Cyber Security Standard Drafting Team was assigned the responsibility of revising the cyber security standards as follows:

- ensure the standards conform to the latest version of the ERO Rules of Procedure, including the *Reliability Standards Development Procedure*;
- address the directed modifications identified in FERC Order No. 706; and
- consider other cyber-related standards, guidelines, and activities.

The drafting team subdivided its work into multiple phases, with "Phase I" (the items contained in this ballot event) primarily focused on addressing near-term time-driven directives in FERC Order No. 706. The most significant of these revisions addresses the directive to remove references to "reasonable business judgment" before compliance audits began in July 2009. Remaining issues anticipated to stimulate significant industry deliberation were deferred to later phases of the project.

The initial ballot for the Phase 1 changes was conducted from April 1, 2009 – April 10, 2009 and achieved a quorum of 91.90% with a weighted affirmative approval of 84.06%. There were 39 negative ballots submitted for the initial ballot, and 24 of those ballots included a comment, which initiated the need for a recirculation ballot. The recirculation ballot was conducted from April 17, 2009 – April 27, 2009 and achieved a quorum of 94.37% with a weighted affirmative approval of 88.32%. There were 28 negative ballots submitted for the recirculation ballot, and 15 of those ballots included a comment.

The reasons cited for the negative ballots included the following:

- One balloter indicated that entities will be unable to sufficiently document compliance for CIP-005-2 Requirement R1.6 as written; the requirement deals with documentation of the Electronic Security Perimeter ("ESP"), all cyber assets within the ESP, and all ESP access points.
- One balloter indicated CIP-006-2 Requirement R3, requiring cyber assets used for ESP access control and monitoring reside in an identified physical access security perimeter, is problematic in situations where a third party is used to monitor and administer portions of the program or where personnel are required to provide remote support to components of the ESP under emergency conditions.
- Two balloters indicated that, after reviewing the proposed Technical Feasibility Exception ("TFE") procedure, CIP-002-2 through CIP-009-2 do not account for other possible exceptions to the standards.
- Two balloters indicated there are some language inconsistencies, such as "technically feasible" v. "technical limitation."
- Two balloters indicated the statement "Duly authorized exceptions will not result in non-compliance" should be reinstated in CIP-003-2 through CIP-009-2.
- Two balloters indicated the effective date language in all CIP standards is confusing and made a number of recommendations.

- One balloter indicated individual ballots would have better than having one ballot (where revisions to all standards must be accepted or rejected as a group).
- Four balloters indicated concerns about CIP-003-2 Requirement 2 regarding the assignment of "a single senior manager with overall responsibility and authority for leading and managing the entity's implementation of, and adherence to, Standards CIP-002-2 through CIP-009-2."
  - Two balloters did not support having the senior manager alone handle all annual approvals.
  - Two balloters indicated the standards should not include requirements for how an entity should be structured.
  - Two balloters indicated the drafting team should have provided more rationale for its proposal of the requirement, beyond a reference to FERC Order No. 706.
  - Two balloters indicated the requirement should be "contained within, and harmonized with," CIP-002-2.
- Four balloters indicated the requirement of a "continuous" escort for those not authorized for unescorted access in CIP-006-2 Requirement R1.6 is not measurable.
- One balloter indicated that Saskatchewan will not adopt these standards as written, citing concerns about the process and stating that changes are being mandated by FERC not by Saskatchewan or other Canadian jurisdictions.
- One balloter indicated that the prescriptive nature of the CIP standards compared to other standards may be out of balance; the balloter questioned why the CIP standards mention a senior manager being held responsible to ensure a clear line of authority when other standards lack this type of language.
- Two balloters indicated that various CIP standards require TFEs in the standards themselves or TFEs approved in another process.
- Two balloters indicated concerns about the language replacement of "reasonable business judgment" with "technically feasible." One balloter cited a lack of guidance regarding what has to be done when it is not "technically feasible" to remain compliant and indicated support for the flexibility of reasonable business judgment in the previous standard versions. The other balloter stated it is important that the standards focus limited resources on addressing exposures by including risk levels and impacts into the decision making process.
- One balloter indicated the measures for these standards require the entities to make products of each requirement conceivably available to any requestor and believes this poses a security risk.
- One balloter did not fully agree with the drafting team's responses to comments relating to input about CIP-006-2 Requirement R1.7, CIP-008-2 Requirement R1.4, and CIP-004-2 Requirement R3.
- One balloter indicated a number of concerns about the implementation plan, especially regarding the reclassification of an asset from Cyber Asset to Critical Cyber Asset and the 12 month requirement to come into compliance with the requirements of CIP-005-2 through CIP-007-2, suggesting that a minimum of 24 months be allowed.

- One balloter indicated that applicability references provide exemption to facilities regulated under the US Nuclear Regulatory Commission but needs to be updated to reflect a "recent FERC ruling."[8]
- One balloter suggested removing some of the cross references within CIP-005-2 and CIP-006-2 to other standards and was concerned about confusion and misinterpretation.
- One balloter indicated the standards need more clarity regarding what is considered an "audit record" and how long records need to be retained.
- Two balloters did not support reducing the number of days from 90 to 30 for documenting changes in requirements such as CIP-006 Requirement R1.7 - update the physical security plan within 30 days; CIP-007 Requirement R9 - document changes to systems or controls within 30 days; CIP-008 Requirement R1.4 - update the Cyber Security Incident Response Plan within 30 calendar days of any changes.

The second ballot event in the 2nd quarter of 2009 consisted of an initial ballot of an interpretation of PRC-005-1 — Transmission and Generation Protection System Maintenance and Testing Requirement R1 for the Compliance Monitoring Processes Working Group.

The Compliance Monitoring Processes Working Group is seeking clarification on aspects of the maintenance and testing program required for Protection Systems in Requirement R1. The request includes questions about battery chargers, relays, sensing devices, circuitry, and associated communication systems. The drafting team offered the following clarifications:

- PRC-005-1 does not currently require maintenance and testing of battery chargers.
- The existing definition of "Protection System" does not include auxiliary relays; therefore, maintenance and testing of such devices is not explicitly required. Maintenance and testing of such devices is addressed to the degree that an entity's maintenance and testing program for DC control circuits involves maintenance and testing of imbedded auxiliary relays.
- "Protective Relays" refer to devices that detect and take action for abnormal conditions. Automatic restoration of transmission lines is not a "protective" function.
- PRC-005-1 requires that entities 1) address DC control circuitry within their program, 2) have a basis for the way they address this item, and 3) execute the program. PRC-005-1 does not establish specific additional requirements relative to the scope and/or methods included within the program.
- Associated communication systems refer to communication systems used to convey essential Protection System tripping logic, sometimes referred to as pilot relaying or teleprotection. (Examples were included in the interpretation.)

The initial ballot was conducted from April 8, 2009 – April 17, 2009 and achieved a quorum of 92.70% with a weighted affirmative approval of 92.71%. There were 10 negative ballots submitted for the initial ballot, and 8 of those ballots included a comment, which initiated the

[8] This reference is presumed to be to Order No.706- B, which clarified that the facilities within a nuclear generation plant in the United States that are not regulated by the U.S. Nuclear Regulatory Commission are subject to compliance with the eight mandatory "CIP" Reliability Standards approved in Commission Order No. 706. *Mandatory Reliability Standards for Critical Infrastructure Protection*, 126 FERC ¶ 61,229 (2009).

need for a recirculation ballot. Some balloters listed more than one reason for their negative ballot.

The reasons cited for the negative ballots included the following:

- One balloter disagreed with the response to Question 5, specifically relating to digital communications systems, stating that the continuously monitored digital communications systems are not maintained and tested because the functions are embedded within the relays.
- Three balloters indicated the answers given to the question on examples of "associated communications systems" were not sufficient.
- Three balloters indicated support for including station batteries chargers under PRC-005-1, stating that battery charger failure could lead to other problems.
- One balloter indicated the drafting team did not provide sufficient clarification regarding DC control circuitry in Question 4.
- One balloter disagreed with the last portion of the response to Question 2: "devices that respond to quantities other electrical quantities (for example, sudden pressure relays) are not included in R1." The balloter stated that "some protective relays/devices, even they do not respond to electric quantities, such as sudden pressure relays in a major transformer, pressure sensing relay in a GIS substation, *etc*., should be considered as part of the protection system because they can be crucial in ensuring…reliability."
- Four balloters indicated the team interpreted the language of the standard too strictly and should have considered the intent of the original standard. One balloter stated the proper approach would be to assume the "but not limited to" language was never removed from the definition when the Version 0 standards were developed. Two balloters stated the strict interpretation runs counter to the purpose of the standards, *i.e.*, ensuring reliability.

The third ballot event in the 2nd quarter of 2009 consisted of an initial and recirculation ballot of System Restoration and Blackstart standards:

- EOP-001-2 — Emergency Operations Plan
- EOP-005-2 — System Restoration from Blackstart Resources
- EOP-006-2 —System Restoration Coordination

The proposed revisions update and move requirements from four standards into two standards, result in a change to EOP-001-1, and result in two changes to the NERC Glossary of Terms:

Existing Approved Standards & Definitions	Proposed Revised Standards & Definitions
EOP-001-1 — Emergency Operations Plan	EOP-001-2 — Emergency Operations Plan (Retire Requirement R2.4 of EOP-001-1)
EOP-005-1 — System Restoration Plans	EOP-005-2 — System Restoration from Blackstart Resources
EOP-006-1 — Reliability Coordination — System Restoration	EOP-006-2 — System Restoration Coordination
EOP-007-0 — Establish, Maintain, and	(merged into EOP-005-2 and EOP-006-2)

Document a Regional Blackstart Capability Plan	
EOP-009-0 — Documentation of Blackstart Generating Unit Test Results	(merged into EOP-005-2 and EOP-006-2)
Blackstart Capability Plan	Retire definition
	Blackstart Resource (new definition)

This project involved upgrading the overall quality of the standards, eliminating gaps in the requirements, eliminating ambiguity, eliminating “fill-in-the-blank” components, and addressing FERC Order No. 693 directives. The proposed standards include many significant changes, including re-assignment of requirements that had been assigned to the Regional Reliability Organization, identification of the specific elements that must be contained in a system restoration plan, and the introduction of a new term — “Blackstart Resource” — along with a recommendation to retire the term “Blackstart Capability Plan.”

The initial ballot was conducted from April 14, 2009 – April 23, 2009 and achieved a quorum of 89.81% with a weighted affirmative approval of 76.63%. There were 63 negative ballots submitted for the initial ballot, and 44 of those ballots included a comment, which initiated the need for a recirculation ballot. The recirculation ballot was conducted from May 6, 2009 – May 18, 2009 and achieved a quorum of 92.08% with a weighted affirmative approval of 75.39%. There were 69 negative ballots submitted for the recirculation ballot, and 50 of those ballots included a comment.

The reasons cited for the negative ballots included the following:

- Twenty three balloters had concerns about the Reliability Coordinator approval of the restoration plan:
    - Three balloters indicated the requirement causes entities to be dependent on the actions of another entity in order to be compliant.
    - Two balloters stated the Transmission Operator has better information about what is needed to restore local systems, as the Reliability Coordinator does not have the intricate system knowledge to adequately review and approve the Transmission Operator restoration plan.
    - Four balloters suggested the Transmission Operator’s restoration plan be coordinated with the Reliability Coordinator.
    - Three balloters indicated the requirement provides the Reliability Coordinator with too much authority regarding the approval of Transmission Operator plans.
    - One balloter indicated the scope of the Reliability Coordinator’s approval is not clearly defined.
    - Two balloters indicated that duplication of efforts will exist among the Reliability Coordinator and Transmission Operator.
    - Four balloters indicated there are no provisions in the standards for the scenario where the Reliability Coordinator fails to approve a Transmission Operator plan.
    - Four balloters indicated the standards need additional work to reconcile dependencies of the Transmission Operator with the Reliability Coordinator with Transmission Operator blackstart plan approval.

    - One balloter indicated that EOP-006 does not cover all scenarios for dependent restoration.

- Seven balloters indicated the requirement to simulate the entire restoration plan is overly burdensome.

- One balloter disagrees with including training requirements in an "EOP" standard category, pointing out that NERC Project 2006-01 (PER-005-1 – System Personnel Training) is presently addressing training, including system restoration.

- Seven balloters suggested changing the applicability of the training plan to include all entities included in the restoration plan.

- One balloter indicated the proposed changes will increase costs, which will flow to customers, but cannot identify commensurate customer benefits and "cannot assure our customers that these changes will not increase their average restoration."

- Four balloters indicated the data retention requirements for new requirements could be interpreted as being retroactive, quoting text in Requirement R15 of EOP-005-2 regarding evidence for "the last three calendar years."

- Four balloters indicated conducting two drills per year, as required in EOP-006-2 Requirements R10 and R10.1, is excessive and cost prohibitive and should be changed to one per year.

- Ten balloters indicated numerous clarifications provided by the standard drafting team during its response to comments were not incorporated into the standards, which could cause unnecessary interpretation requests or be erroneously interpreted by auditors in the future, possibly losing the true intent of the standards as written by the standard drafting team experts.

- Eleven balloters indicated concerns specific to EOP-001-2:

    - Three balloters indicated concerns with the wording related to remote and adjacent Balancing Authorities.

    - Two balloters indicated for EOP-001-2 Requirement R4, requiring Transmission Operators and Balancing Authorities to include applicable elements when developing an emergency plan, it is not clear what the term "complied with" means in the VSLs, which measure the percentage of elements included.

    - Two balloters indicated further clarification is needed for what is meant by "dynamic capability" in EOP-005-2 Requirement R6.1: "The capability of Blackstart Resources to meet the Real and Reactive Power requirements of the Cranking Paths and the dynamic capability to supply initial Loads."

    - Four balloters indicated the proposed effective date language of "Twenty-four months after the first day of the first calendar quarter following applicable regulatory approval. In those jurisdictions where no regulatory approval is required, all requirements go into effect twenty-four months after Board of Trustees adoption" leaves Transmission Operators open to potential compliance violations since completion of the Transmission Operator restoration plan is dependent on the restoration plan of the Reliability Coordinator and then dependent on approval by the Reliability Coordinator.

- Forty one balloters indicated concerns specific to EOP-005-2:

- Four balloters indicated EOP-005-2 Requirement 1.5, requiring the identification of Cranking Paths and initial switching requirements between the Blackstart Resource and the unit(s) to be started, should be a procedure for surveying the facilities that are available to establish a Cranking Path at the time the path is needed, which would provide agility in responding to system changes to update plans in a timely and appropriate manner.
- Two balloters indicated a lack of clarity in Requirement R5 as to whether the reference was to the Transmission Operator's or Reliability Coordinator's plan.
- Two balloters indicated Transmission Operators do not necessarily own or operate Blackstart resources and therefore should not unilaterally set "Blackstart Resource testing requirements."
- Four balloters suggested that Requirement R4, which deals with Transmission Operator restoration plan updates for unplanned permanent System modifications and planned BES modifications, be split into two requirements covering both planned and unplanned changes to increase clarity.
- Two balloters indicated that Requirement R9.3, which mandates that each procedure must specify the minimum duration of the test, should be reviewed to develop continent-wide testing procedures for each type of blackstart unit.
- One balloter indicated requiring an agreement between two parties who might disagree should not be part of a standard (Requirement R13 requires Transmission Operators and Generator Operators with a Blackstart Resource to have written Blackstart Resource Agreements or mutually agreed upon procedures or protocols).
- Twenty six balloters had concerns about Requirement R11, which requires entities to "…provide a minimum of two hours of System restoration training every two calendar years to their field switching personnel identified as performing unique tasks associated with the Transmission Operator's restoration plan..."
    - Ten balloters indicated the phrase "unique tasks" is not clear enough and leaves too much room for interpretation.
    - Sixteen balloters had concerns with the two-hour training requirement; the reasons included the arbitrary nature of the time, the contraction to the Systematic Approach to Training (which is not based on time), and the burden of training every potential employee that may be involved in field switching during a restoration event.

The fourth ballot event in the 2nd quarter of 2009 consisted of a recirculation ballot of interpretation of TOP-005-1 — Operational Reliability Information Requirement R3 and IRO-005-1 — Reliability Coordination — Current Day Operations Requirement R12 for Manitoba Hydro.

Manitoba Hydro requested an interpretation of the meaning of the term "degraded/degradation" as used in NERC standards TOP-005-1 and IRO-005-1 and specifically, whether a Special Protection System ("SPS") that is operating with only one communication channel in service would be considered "degraded" for the purposes of these standards. The interpretation provides the following clarifications:

- TOP-005-1 does not provide, nor does it require, a definition for the term "degraded."
- The IRO-005-1 (R12) standard implies that degraded is a condition that will result in a failure of an SPS to operate as designed, thus if the loss of a communication channel results in the failure of an SPS to operate as designed, then the Transmission Operator is required to report that information. On the other hand, if the loss of a communication channel will not result in the failure of the SPS to operate as designed, then such a condition can be, but is not mandated to be, reported.

The recirculation ballot was conducted from April 17, 2009 – April 27, 2009 and achieved a quorum of 95.56% with a weighted affirmative approval of 92.81%. There were 14 negative ballots submitted for the initial ballot, and 9 of those ballots included a comment. Some balloters listed more than one reason for their negative ballot.

The reasons cited for the negative ballots included the following:

- Two balloters disagreed with the drafting team's description of degradation. The balloters view degradation as an indication of the existence of a problem but not the state of failure; the balloters interpreted the drafting team's description of degradation as the state of failure.
- Three balloters indicated a need for a definition of degraded so an entity can be evaluated on a known measurable basis. The balloters stated that since SPSs are designed so that no one component failure will prevent the SPS to operate as designed, there would be no requirement for the SPS unit to be reported for a single failure. The balloters state, however, that when an SPS alone is not operating as designed (*i.e.*, degraded), the SPS is not functional and should be removed from the bulk electric system.
- One balloter indicated the interpretation extends to requirements associated but not included in the request, resulting in too broad an application of the interpretation process.
- One balloter agreed with the conclusion for IRO-005-1 but disagreed that a definition for degraded is not needed for TOP-005-1. The balloter suggested the Transmission Operator and Balancing Authority are obligated to provide information on new or degraded special protections systems to the Reliability Coordinator upon request, and a definition of degraded is necessary for specifying systems that would need to be reported.
- Two balloters indicated any off-nominal SPS operating states should be appropriately reported, regardless of how degradation is defined.

The fifth ballot event in the 2nd quarter of 2009 consisted of an initial and recirculation ballot of an interpretation of IRO-010-1 — Reliability Coordinator Data Specification and Collection for the WECC Reliability Coordination Subcommittee.

The WECC Reliability Coordination Subcommittee requested clarification on 1) the type of data to be supplied to the Reliability Coordinator, 2) which entities are ultimately responsible for ensuring data are provided, and 3) what actions are expected of the Reliability Coordinator regarding a "mutually acceptable format."

The interpretation provided the following clarifications:

- The data to be supplied in Requirement R3 applies to the documented specification for data and information referenced in Requirement R1.

- The intent of Requirement R3 is for each responsible entity to ensure that its data and information (as stated in the documented specification in Requirement R1) are provided to the Reliability Coordinator. Another entity may provide that data or information to the Reliability Coordinator on behalf of the responsible entity, but the responsibility remains with the responsible entity. There is neither intent nor obligation for any entity to compile information from other entities and provide it to the Reliability Coordinator.

- Requirement R1.2 mandates that the parties will reach a mutual agreement with respect to the format of the data and information. If the parties cannot mutually agree on the format, it is expected that they will negotiate to reach agreement or enter into dispute resolution to resolve the disagreement.

The initial ballot was conducted from April 22, 2009 – May 1, 2009 and achieved a quorum of 88.64% with a weighted affirmative approval of 84.77%. There were 24 negative ballots submitted for the initial ballot, and 16 of those ballots included a comment, which initiated the need for a recirculation ballot. The recirculation ballot was conducted from May 26, 2009 – June 5, 2009 and achieved a quorum of 90.45% with a weighted affirmative approval of 85.76%. There were 22 negative ballots submitted for the recirculation ballot, and 14 of those ballots included a comment.

The reasons cited for the negative ballots included the following:

- All balloters who voted negative listed an increased workload as a concern.
- Four balloters indicated that Question 2, though it provides clarity, may result in an increased number of entities that perceive an obligation to provide data directly to Reliability Coordinators. The balloters cited duplicative reporting and increased burden on the WECC Reliability Coordinator department as concerns.
- Eleven balloters indicated the language of the interpretation could be read to mean there could be as many different negotiated methods as there are entities providing data to the Reliability Coordinator, or it could be read as requiring one agreement describing what constitutes a “mutually agreeable” format with all parties in the region.
- Six balloters did not support the “dispute resolution” suggestion, indicating these processes are time consuming and do not support reliability objectives of NERC standards.
- Two balloters indicated the WECC Reliability Coordinator staff believes the current formats are reasonable and work with the current processes and tools; the balloters suggested one agreement with entities under its jurisdiction.
- One balloter indicated that WECC staff has valid concerns about the interpretation.
- One balloter indicated the interpretation fails to answer Question 1 regarding the issue of “any” data.
- One balloter indicated that adding the term “information” regarding “mutually agreeable” format creates ambiguity, as it is not clear if the respondents would need to include “content as well as structure in the consensus agreement.”

The sixth ballot event in the 2nd quarter of 2009 consisted of an initial ballot for an interpretation of MOD-001-01 — Available Transmission System Capability, Requirements R2 and R8, and MOD-029-01 — Rated System Path Methodology, Requirements R5 and R6, for the New York Independent System Operator (NYISO).

The request asks the following questions:

- Is the "advisory [Available Transfer Capability] ATC" used under the NYISO tariff subject to the ATC calculation and recalculation requirements in MOD-001-1 Requirements R2 and R8? If not, is it necessary to document the frequency of "advisory" calculations in the responsible entity's Available Transfer Capability Implementation Document?
- Could OS_F [other services] in MOD-029-1 Requirement R5 and OS_{NF} in MOD-029-1 Requirement R6 be calculated using Transmission Flow Utilization in the determination of ATC?

The interpretation provided the following clarifications (summarized):

- ATC seems to be defined in the NYISO tariff in the same manner in which NERC defines it, making it difficult to conclude that NYISO's "advisory ATC" is not the same as ATC. In addition, it appears that pre-scheduling is permitted on certain external paths, making the calculation of ATC prior to day ahead necessary on those paths. Because the second part of NYISO's question is only applicable if the first part was answered in the negative, the team did not address it.

- Provided that "Transmission Flow Utilization" does not include Native Load, Point-to-Point Transmission Service, Network Integration Transmission Service, or any of the other components explicitly defined in Requirements R5 and R6, it is appropriate to be included within the "Other Services" term. However, if "Transmission Flow Utilization" does incorporate those components, then simply including "Transmission Flow Utilization" in "Other Service" would be inappropriate.

The initial ballot was conducted from May 25, 2009 – June 4, 2009 and achieved a quorum of 85.13% with a weighted affirmative approval of 82.10%. There were 22 negative ballots submitted for the initial ballot, and 11 of those ballots included a comment, which initiated the need for a recirculation ballot. Some balloters listed more than one reason for their negative ballot.

The reasons cited for the negative ballots included the following:

- All eleven balloters who submitted a negative vote indicated this interpretation was an inappropriate use of the standards process.
    - Five balloters indicated having no opposition to the content of the interpretation but did not believe it was appropriate to append the interpretation to a continent-wide standard, since it is narrowly applied to a specific region.

- o Four balloters stated the interpretation process is being used to verify if a responsible entity process is compliant, not to clarify or correct issues with a standard.
- o Seven balloters stated it would be more appropriate to deal with this type of request through a regional variance or a waiver.

The seventh ballot event in the 2nd quarter of 2009 consisted of initial ballot for an interpretation of TPL-002-0 — System Performance Following Loss of a Single Bulk Electric System Element (Category B) Requirement R1.3.10 for PacifiCorp.

PacifiCorp requested clarification for the following items:

- Does TPL-002-0 R1.3.10 require that all elements that are expected to be removed from service through normal operation of the protection systems be removed in simulations?
- Is a Category B disturbance limited to faults with normal clearing where the protection system operates as designed in the time expected with proper functioning of the protection system(s) or do Category B disturbances extend to protection system misoperations and failures?
- Does TPL-002-0 R1.3.10 require that planning for Category B contingencies assume a contingency that results in something other than a normal clearing event even though the TPL-002-0 Table I — Category B matrix uses the phrase "SLG or 3-Phase Fault, with Normal Clearing"?

The interpretation provided the following clarifications:

- TPL-002-0 requires that System studies or simulations be made to assess the impact of single Contingency operation with Normal Clearing. TPL-002-0a R1.3.10 does require that all elements expected to be removed from service through normal operations of the Protection Systems be removed in simulations.
- This standard does not require an assessment of the Transmission System performance due to a Protection System failure or Protection System misoperation. Protection System failure or Protection System misoperation is addressed in TPL-003-0 — System Performance following Loss of Two or More Bulk Electric System Elements (Category C) and TPL-004-0 — System Performance Following Extreme Events Resulting in the Loss of Two or More Bulk Electric System Elements (Category D).
- TPL-002-0a R1.3.10 does not require simulating anything other than Normal Clearing when assessing the impact of a Single Line Ground (SLG) or 3-Phase (3Ø) Fault on the performance of the Transmission System

The initial ballot was conducted from June 1, 2009 – June 11, 2009 and achieved a quorum of 87.10% with a weighted affirmative approval of 95.71%. There were 10 negative ballots submitted for the initial ballot, and 6 of those ballots included a comment, which initiated the need for a recirculation ballot. Some balloters listed more than one reason for their negative ballot.

The reasons cited for the negative ballots included the following (all six balloters who cast negative ballots stated they agreed with the interpretation):

- One balloter indicated the interpretation correctly states what TPL-002-0 Requirement R1.3.10 does not require but does not provide guidance about what it does require.
- Three balloters indicated concern that if the response of "TPL-002-0 R1.3.10 does require that all elements expected to be removed from service through normal operations of the Protection Systems be removed in simulations" is read literally and in isolation, any simulations that did not remove all elements as would be removed by a Protection System may be declared invalid.
- Two balloters who voted negative, along with a number of balloters who voted affirmative, referenced support for the comments of Duke Energy, which offered suggestions for further guidance related to "Normal Clearing."

The eighth ballot event in the 2nd quarter of 2009 consisted of an initial ballot for revisions to standard NUC-001-1 — Nuclear Plant Interface Coordination.

The Nuclear Plant Interface Coordination standard requires coordination between Nuclear Plant Generator Operators and transmission entities for the purpose of ensuring safe nuclear plant operation and shutdown. The proposed revisions address two directives in Federal Energy Regulatory Commission (FERC) Order No. 716 aimed at addressing stakeholder concerns for improved clarity. Additional revisions were made to change the term "Planning Authority" to "Planning Coordinator" (to match the terminology in the latest version of the Functional Model) and to bring the compliance elements of the standard into conformance with the latest version of the ERO Rules of Procedure.

The initial ballot was conducted from June 12, 2009 – June 22, 2009 and achieved a quorum of 81.72% with a weighted affirmative approval of 94.09%. There were 8 negative ballots submitted for the initial ballot, and 7 of those ballots included a comment, which initiated the need for a recirculation ballot. Some balloters listed more than one reason for their negative ballot.

The reasons cited for the negative ballots included the following:

- One balloter indicated nuclear safety is not within the scope of NERC's responsibilities, stating the Nuclear Regulatory Commission has the statutory responsibility for assuring the safety of commercial nuclear power plants.
- Two balloters indicated the word "requirements" in Requirement 9.3.5 needs to be more specific to clarify what should and should not be included.
- One balloter indicated Requirement 9.3.5 is duplicative of Requirement 11.4 in EOP-005-1 and should be deleted; the balloter indicated that both requirements state that a transmission operator has to give priority to nuclear generators following the loss of off-site AC power.
- One balloter indicated the phrase "restoration process" is unclear regarding whose restoration process has to be considered: the Transmission Entity or Nuclear Plant.
- One balloter indicated it will be difficult for entities to demonstrate compliance on how they "consider" the nuclear plant's needs and urgency; the balloter suggested using the term "include," indicating that term lends itself to easier demonstration of compliance and implies more specifically that some coordination of this subject need be "included"

not only in the restoration plan but also in the interface agreement to satisfy Requirement R2.

- One balloter does not agree with the proposed change from Planning Authority to Planning Coordinator. The balloter stated the term Planning Coordinator does not exist in NERC's Rule of Procedure, and NERC has not registered a single entity as a Planning Coordinator, leaving it unclear who will be responsible for the standard.
- One balloter does not support the proposed modifications of R9.3.5 due to the lack of the phrase "coping time." The balloter states that coping time is part of a nuclear unit's licensing arrangement, and licensees are expected to have baseline assumptions, analyses, and related information used in their coping evaluations available for Nuclear Regulatory Commission (NRC) review. The balloter indicated his company is obligated to have a specific coping time.
- Four balloters indicated Requirement R9.3.5 does not provide enough clarity for the Nuclear Plant Generator Operator and Transmission Entities to develop appropriate language for the agreements required by this standard.

The ninth ballot event in the 2nd quarter of 2009 consisted of an initial ballot of VSLs for standards CIP-002-1 through CIP-009-1.

Standards CIP-002-1 through CIP-009-1 were originally filed with "Levels of Non-Compliance" instead of "Violation Severity Levels." FERC, in Order No. 706, approved these Version 1 CIP reliability standards and directed NERC to develop modifications to the reliability standards CIP-002-1 through CIP-009-1 to address specific concerns. Included in Order No. 706 was a directive for NERC to file VSLs for reliability standards CIP-002-1 through CIP-009-1 before compliance audits begin on July 1, 2009.

The initial ballot was conducted from June 15, 2009 – June 24, 2009 and achieved a quorum of 87.23% with a weighted affirmative approval of 83.94%. There were 36 negative ballots submitted for the initial ballot, and 24 of those ballots included a comment, which initiated the need for a recirculation ballot. Some balloters listed more than one reason for their negative ballot.

The reasons cited for the negative ballots included the following:

- Seventeen balloters suggested more time be allotted to developing an overall approach to VSLs, as the current approach has led to inconsistent application from one requirement to the next.
- Twelve balloters indicated the severity levels are unreasonably high compared to the violations, especially for minor documentation issues. The overall concern is too great an emphasis on documents and record keeping will distract from improving the real security of Critical Cyber Assets and critical infrastructure.
- Eleven balloters recommended that the drafting team evaluate and assign security levels at the requirement level instead of the sub-requirement to avoid confusion regarding the compliance issues of violating only a sub-requirement and prevent double jeopardy for non-compliance.
- Two balloters indicated that many CIP requirements are lacking regarding what should or should not be done in order to avoid penalty, especially because many CIP requirements

incorporate other standard requirements, which creates the potential for multiple violations.

- One balloter indicated the any VSL changes should be placed on CIP-002-2 through CIP-009-2 instead of CIP-002-1 through CIP-009-1.

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document upon all parties listed on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 31st day of July 2009.

/s/ *Rebecca J. Michael*
Rebecca J. Michael

Attorney for North American Electric Reliability Corporation