

**UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

**Reliability Technical Conference
North American Electric Reliability Corporation**

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Prepared Statement of Thomas C. Burgess

Good afternoon Mr. Chairman and commissioners, I am Tom Burgess, Executive Director of Integrated System Planning and Development, FirstEnergy Corporation headquartered in Akron, Ohio. I am currently serving on the Members Representatives Committee advising the NERC Board of Trustees and recently completed a two year term as Chair of the NERC Planning Committee. I am pleased to be here today representing the Edison Electric Institute. My written statement aims at responding to the Commission's questions regarding lessons learned and is directed at three fundamental areas as they relate to NERC and its role as a learning organization. These are the NERC Events Analysis program, the NERC 'toolbox' of communications activities, and NERC engagement of subject matter expertise to refine learning tools. For the past three years, EEI spotlighted the Events Analysis program, based on the strong belief that the most valuable form of learning that most directly leads to enhancements in overall reliability can be derived from insights gathered following unusual system anomalies or experiences. The learning to be gained by these events can involve interactions of various types of equipment and their effects on real-time reliability, applications of new technologies, or unique equipment configurations that under certain conditions cause operational or certain challenges. These incidents may or may not involve loss of load, however, the Commission's and NERC's attention is

often most drawn to loss of load or blackouts because of the public effects on everyday life. It is, however, careful attention to the lessons learned coming from evaluation of these incidents – both loss of load and near misses - that can offer the most direct opportunity to enhance reliability.

Prior to implementation of Section 215, events were much more openly reported and learnings discussed and disseminated. Now, there is a significant and growing tension between the learning that can be gained from distributing learning from such incidents events, and their enforcement aspects. When an event takes place, we understand that the balance significantly shifts to enforcement aspects as both NERC and companies put some strong clamps on information disclosure to efficiently manage enforcement activities as these activities run their course, often extending over several years. As a result, the important lessons learned that might be shared are either not distributed, delayed considerably, or delivered at such a general level as to be almost valueless to the industry's technical experts.

If an event does include compliance violations, full evaluation and resolution of these matters could take years. Accordingly, during this phase the rights and responsibilities of the involved parties need to be protected. Depending on the extent and nature of the event, NERC and the involved region undertake to complete thorough forensic analysis often focused on enforcements aspects, to reach conclusions about the facts, sequence of events, mitigating factors, and root cause analyses. Furthermore, to the extent that event analysis reports are considered for release, parties often seek protections through CEII or business sensitivity claims, thus either preventing the reports from disclosure or reducing the reports to such information as to make them virtually useless for subject

matter experts. Thus the opportunity to disseminate valuable lessons and insights from the incident are delayed over time periods that have often extended for months and years, and thereby miss important opportunities for entities to engage in self-help that enhances reliability and avoids repeat instances. The basic consequence is that NERC has issued very few Events Analysis reports in the past five years.

We have a situation that needs to be addressed directly and forthrightly, recognizing the constraints and requirements that influence the current setting and circumstances, as well as the competing tensions. EEI offers its observations and general recommendations today for resolving this situation and realizing the potential reliability benefits. In addition, we do challenge NERC and companies throughout the industry today to make commitments to squarely recognize and resolve these problems and to seek proactive solutions. Without a constructive approach to resolving these matters, the benefits of learning from Event Analyses while avoiding repeats throughout the industry and more directly improving reliability are relegated to the lowest priority and focus. As a result, the technical capabilities of companies and their subject matter experts to learn from these events, enhance reliability, and avoid repeats are being lost. Initial review of the proposed changes to the Rules of Procedure that describe the Events Analysis processes do not suggest to us that the solution is at hand, rather an embedded bias toward compliance enforcement aspects is being constructed. EEI believes that with such a constructive approach, Lessons Learned can realize the greatest value in heightening reliability awareness, and provide a pragmatic path forward to enhance reliability.

The **second** theme that EEI calls attention to this afternoon is the NERC 'toolbox' for communicating information throughout the industry. The Commission recently approved in the NERC Rules of Procedure various alerting mechanisms, and NERC independently has created and expanded various communications tools aimed at reporting various types of reliability-related information. Sources vary, some come out of the compliance program area, some from Events Analysis, while others appear to be of a general informational nature. From an overview perspective, these are often beneficial and serve to disseminate various types of information coupled with action/response expectations.

EEI is a strong supporter of these tools, and NERC's efforts to provide processes that aid in enhancing reliability matters not directly addressed by reliability standards. Companies understand that reliability performance and behavior in this industry cannot be addressed solely through mandatory standards. Considerable learning can take place from both compliance audits and enforcement actions, as well as through learnings emerging from analyses/evaluation of events, and provide a critically important feedback loop for field personnel, company managements, and standards development activities. What we are beginning to observe, however, is that the use of various tools may need both stronger discipline, decision-making, and technical subject matter stakeholder involvement, so that the potential can be realized to enhance reliability and provide insights for registered entities, regions, and NERC.

Following Kevin Burke's general call for greater coordination between NERC and NATF, we envision the application of such coordination as being critically important in helping

to provide a strong and practical foundation for implementing these communications in advance of their release.

We understand, for example, that the NERC Alert tool can be applied effectively for a broad range of learning purposes. We also understand that decisions, ranging from whether to issue, and if so, what the content should include, are discussed by NERC staff and Commission staff. We strongly believe that subject matter experts should be involved in these processes to improve the deployment and practical implementation aspects. Last year's Facilities Ratings Alert is a strong example of this need.

Companies were surprised by the nature and scope of the initial Alert, and the reliability driver was not readily evident or articulated. However, we appreciate that NERC modified its initial Alert with the benefit of stakeholder technical experts, who provided practical insights that resulted in some constructive changes, and companies are continuing to implement the work as recommended. We look forward to working with NERC on process changes that will explicitly allow stakeholder subject matter experts, recognizing the potential imperative or urgency of the matter, to work with NERC in developing Alerts and thereby make the implementation effective, efficient, and more readily realize reliability enhancements. As an additional opportunity to bring technical expertise to refine these, NATF and NERC could more directly coordinate and quickly engage on issues such as this, gauging their respective importance to reliability, and bringing forward a targeted communication.

As a practical matter, we also are increasingly concerned that NERC's application of these tools not effectively alter existing Commission-approved standards. NERC's Compliance Application Notices, or CANs as they are called, have strayed across the

boundaries by adding or extending reliability requirements of standards. The CAN process in its short life also seems to have quickly become a top-down process that only loosely considers stakeholder input. While we encourage the development of consistent application of standards requirements, we firmly believe this practice is well outside the standards development processes and need assurances from NERC that either changes will be made or the CAN process will be suspended. The CANs have caused considerable confusion and consternation among the registered entities seeking confidence about demonstrating compliance with the Commission approved standards.

The **third** theme EEI brings to this discussion goes more to bringing awareness to the Commission on how companies broadly internalize the various NERC learning tools. We believe that for registered entities any communications that are delivered by NERC are taken very seriously. Company personnel have offered views informally that Alerts are taken as seriously as mandatory requirements. I can attest that NERC Alerts are the subject of extensive internal discussion, debate, and decision making within EEI companies, that the Facilities Ratings Alert involved significant discussions across respective business units, and up and down the chains of command.

My point is that NERC communications cast very broad shadows, and seemingly innocuous communications which contain potentially wide-spread implementation consequences, some anticipated while other aspects are not, can touch off serious and widespread discussions within companies. We offer this afternoon a recommendation reflective of NERC Board of Trustees Chair John Q. Anderson's comments at a Commission technical conference last year. We believe that the totality of the industry's subject matter expertise on the broad range of specialized technical issues should be

brought to bear in considering Alerts and other communications tools, rather than relying solely on the technical staffs of NERC and the Commission. For example, a pool of 50 or more subject matter experts on facilities ratings could be made available for the consideration of the issue, rather than being limited to the much smaller number of technical experts on NERC staff or the Commission staff. We therefore recommend that the Commission and NERC recognize that industry expertise should be at the table when NERC learning tools are being considered for an application to address an issue or perceived need. It is the companies that are ultimately accountable for maintaining reliability, and we believe that we both deserve and require a direct line of involvement, and thereby bring company operational expertise and sensitivity to the entire range of consequences associated with the decisions being made.

Thank you and I look forward to the discussion.