

# Comments on the Future Role of Regional Councils

Submitted by the Electricity Consumers Resource Council (ELCON)

Dated July 30, 2004

The Electricity Consumers Resource Council (ELCON) submits these comments to the Regional Managers Committee (RMC) in response to RMC Chairman Ed Schwerdt's Letter to NERC stakeholders dated July 2, 2004. ELCON represents Customers on the NERC Market and Operating Committees and an ELCON member serves in the same capacity on the Planning Committee.

## Introduction

Recent trends in the North American electric industry make a compelling case for reconsidering the need for and role and responsibilities of the ten Regional Councils.

For example, the *NERC Reliability Functional Model (Version 2)* document identified the following industry changes that impact functions traditionally performed by Control Areas:

1. *Some utilities were separating their transmission from their Merchant Functions (functional unbundling), and even selling off their generation,*
2. *Some states and provinces were instituting "customer choice" options for selecting energy providers, and*
3. *The developing power markets were requiring wide-area transmission reliability assessment and dispatch solutions, which were beyond the capability of many Control Areas to perform.*<sup>1</sup>

These and other changes created a need to shift functional or operational control of the transmission system from its traditional owners to new independent, regional entities called (in the U.S.) Regional Transmission Organizations or RTOs. RTOs have been established or are forming in most parts of the U.S. and Canada, but the boundaries of these organizations do not always align with the boundaries of the local Regional Council(s). In fact, in the Eastern Interconnection, these boundaries are continually shifting as FERC policies change, Transmission Owners reconsider their strategic position in new regional markets, and as industry consolidation proceeds.

In addition, a recent spate of blackouts since 1996 has created strong public pressure for enforceable national or multinational Reliability Standards. It is generally recognized that reliability legislation in the U.S. is inevitable and that such legislation will require federal certification of a new Electric Reliability Organization

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<sup>1</sup> NERC Reliability Functional Model – Function Definitions and Responsible Entities, Version 2, November 11-13, 2003, page 5.

(ERO) with enforcement authority. The ERO will also have a new, independent funding mechanism that will supplant NERC's current dependency for funding on the Regional Councils.

### **ELCON Recommendations**

ELCON recommends that as RTOs continue to be formed and become operational in North America—and assuming that NERC is ultimately certified as the ERO and thereby acquires the statutory basis to enforce compliance with its Reliability Standards and to sanction violators—that the ten Regional Councils be phased out and replaced with three Interconnection-wide Regional Councils or IRCs. However, all the reliability assurance functions currently exercised by one or more Regional Councils should not be shifted to the IRCs. Instead, some reliability assurance functions should be retained solely by NERC with others allocated to the RTOs.

### **Fundamental Principles That Should Apply to the Performance of Reliability Assurance Functions**

ELCON's objectives with this proposal (and for the assignment of reliability assurance functions among NERC, IRCs and RTOs, as described below) are to:

- Minimize duplication or redundancies (*i.e.*, costs that are ultimately recovered from end-use consumers) in the operations and responsibilities of multiple regional and national entities;
- Minimize the number of regional entities, avoid “footprint chasing,” and rationalize market and reliability operations within each synchronized interconnection;
- Clarify, simplify and codify the “chain of command” for reliability operations;
- Preserve the benefits of standardization by internalizing at the national level legitimate needs for regional variances in any reliability assurance functions;
- Prevent conflicts of interest within a region between competing market interests, and between the needs of the markets and the need for reliability in a given region;
- Strengthen institutional framework for reliability management (a recommendation of the US-Canada Final Report on the 2003 Blackout); and
- Promote accountability and world-class operation and planning of the North American grid.

### **Delegation of Reliability Assurance Functions to NERC, IRCs, and RTOs**

**To NERC:** NERC should be the plenary authority for Compliance Monitoring and Enforcement including recommending sanctions for violations, conducting readiness audits, and for maintaining the registration and certification procedures for Responsible Entities.<sup>2</sup> This is necessary to ensure against any actual or perceived

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<sup>2</sup> NERC would become the Compliance Monitor for each interconnection.

conflict of interest between the auditors and the audited within an interconnection. RTOs may assume a limited “monitoring” function to the extent that violations are first observed and documented at the operational level. Where working RTOs do not exist, the IRC may fulfill that limited role. In any event, alleged violations must be reported to and addressed by NERC as soon as possible, and not fall victim to multiple layers to processing.

The determination of need for any region-specific reliability criteria may be assigned to each IRC. However, it is ELCON’s position that the question of such variances should be accommodated and addressed within the NERC SAR process and that any legitimate need for a variance subsequent to the promulgation of a Standard is an indication that the Standard was not adequately drafted and vetted.

**To RTOs:** RTOs should have the responsibilities currently exercised by Regional Councils for coordination of planning and operations – except the Reliability Authority function. Where RTOs do not exist, the IRC should establish an independent shadow planning and operations (P&O) committee for performing these reliability assurance functions with the intent that such activities would ultimately be transferred to an RTO. The Shadow P&O Committee must be structured to minimize the ability of any Transmission Owner (or its affiliates) to compromise reliability assurance because of a conflict of interest between that entity’s market position(s) and system reliability.

**To IRCs:** IRCs should be the Reliability Authority for each interconnection and this may require a two tiered-structure with the top tier having a broader, interconnection-wide focus and a lower tier assigned to each RTO or other Transmission Operators that operate outside a working RTO. The Reliability Authority—which has a policing or “traffic cop” role—should be independent of Balancing Authorities, Interchange Authorities and Transmission Service Providers because the Reliability Authority’s ultimate role is to second-guess the actions of those entities.

IRC’s should retain the reliability assessment function (*e.g.*, forecasts and reporting of planned generation and transmission resource adequacy), and other services such as generation and transmission protection audits, dispute resolution, education and training, and emergency-related functions. IRCs may be authorized to make any determination of need for a regional variance of a NERC Reliability Standard for vetting in the NERC SAR process.

### **Additional Issues for RMC Consideration**

The concerns that led to this inquiry by the RMC suggest that NERC and the Regional Councils should consider on a going-forward basis that they agree to “do no harm” in terms of taking new actions that might exacerbate the situation fostered by overlapping responsibilities for reliability management. ELCON urges the RMC to consider such a policy for recommendation to the NERC Board.

An additional issue that the Regional Managers Committee should address is a more careful analysis of the respective future roles of IRCs and RTOs, and whether or not it would be in the industry’s best long-term interest to shift greater operational

control of the grid to IRCs and for RTOs to be exclusive purveyors of market operations. In our list of objectives above we mentioned the need to “[p]revent conflicts of interest within a region between competing market interests, and between the needs of the markets and the need for reliability in a given region.” Therefore, we urge the RMC to carefully scrutinize the relationship between the Reliability Authority and operators such as the RTOs and whether or not a potential conflict of interest exists because RTOs also operate markets. The “independence” of the RTO board may not be sufficiently adequate for reliability assurance (no more than the “independence” of an RTO obviates the need for independent Market Monitoring Units). An RTO that is also a Reliability Authority would be self-policing—which, we repeat, risks being a conflict of interest.

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## ELCON Recommendations

