

## Roles and Responsibilities: Standards Drafting Team Activities

(Approved by Standards Committee ~~March~~ July, 2009-2011)

Standards are developed by industry stakeholders, facilitated by NERC staff, following the process (hereafter referred to as the “standard development process”) outlined in the Reliability Standards Development Procedure Processes Manual (“RSDPSPM”) that is managed by the NERC Standards Committee. This standard development process is accredited by the American National Standards Institute (ANSI) as fair, balanced, open, inclusive, and conducted with due process. The standard development process requires consensus of industry stakeholders first on the need for a proposed standard and then on the standard itself. The RSDPSPM is approved by stakeholders and adopted by the NERC Board of Trustees, and is incorporated in Section 300 of the ERO Rules of Procedure by reference as Appendix 3A.

This document supplements the RSDPSPM and provides additional clarity with respect to roles and responsibilities of drafting teams, team leaders, NERC staff, and the Standards Committee with the expectation that all participants in NERC’s standard development process will adhere to the principles embodied herein. The document also provides guidance to the drafting teams regarding involvement from regulatory authority staff<sup>1</sup> in the standards development process<sup>2</sup>.

### Roles and Responsibilities of the Standards Committee

The Standards Committee manages the NERC standard development process for North American continent-wide reliability standards. The Standards Committee members are volunteers elected by stakeholders to protect the integrity and credibility of the standard development process. The Standards Committee meets at least monthly, and reports directly to the NERC Board of Trustees.

The ~~Standards Committee Charter~~ Standards Committee Charter directs the Standards Committee to:

- a. manage standards development;
- b. manage the standards development process;
- c. review the effectiveness of the balloting process;
- d. coordinate with the compliance program;
- e. coordinate with the North American Energy Standards Board (NAESB); and
- f. coordinate with the NERC Board of Trustees, regulators, industry groups, and stakeholders.

<sup>1</sup> Please note that the references to regulatory authorities and their staffs are limited to those authorities that have direct oversight over NERC standards development activities.

<sup>2</sup> Appendix 1 contains an expanded discussion of FERC’s Role as articulated in the Energy Policy Act and Commission Order No. 693.

Additionally, it is the responsibility of the Standards Committee and the standards drafting teams to assist NERC in implementing pending regulatory authority directives by including provisions that address those directives in the proposed standards that are processed through the industry ballot process.

### **Roles and Responsibilities of Standard Drafting Team Members**

Standard drafting teams, following NERC’s standard development process, have responsibility for developing new reliability standards and making revisions to existing reliability standards. The mission of each drafting team is to develop excellent, technically correct standards that provide for an adequate level of bulk power system reliability.

Some drafting teams work to modify already approved standards, with modifications aimed to varying degrees at addressing specific regulatory authority directives or to address reliability issues not directed by regulatory authorities. Other drafting teams work to develop new standards that are not associated with any regulatory directives. In all cases, team members are selected from industry volunteers to provide the standard drafting team with sufficient technical expertise from diverse industry perspectives to ensure development of reliability standards that, when approved, demonstrate broad industry consensus. Standard drafting teams are selected by, and report to the Standards Committee.

In developing reliability standards that achieve the objectives delineated in the Standards Authorization Request (“SAR”), each standard drafting team, working on behalf of all stakeholders, has primary responsibility to:

- a. draft new or revised standards that provide for an adequate level of reliability<sup>3</sup>;
- b. propose reliability standards that address the full scope contained in the SAR;
- c. revise approved standards to address applicable regulatory authority directives;
- d. provide an initial set of violation risk factors and violation severity levels for new or modified reliability standards;
- e. ensure the proposed standards meet statutory and regulatory authority criteria for approval in each relevant jurisdiction<sup>4</sup>;
- f. meet with regulatory authority staff, as requested, to present and discuss the standard drafting team’s approach to meet a regulatory authority directive, including any alternate approaches;
- g. document the technical justification associated with each proposal for a new or modified requirement and for each proposal to retire a requirement;**
- g.h.** respect the integrity of the standard development process as outlined in NERC’s Rules of Procedure, including:

<sup>3</sup> NERC filed its definition for “adequate level of reliability” with the Commission on May 5, 2008. Refer to [http://www.nerc.com/files/Adequate\\_Level\\_of\\_Reliability\\_Definition\\_05052008.pdf](http://www.nerc.com/files/Adequate_Level_of_Reliability_Definition_05052008.pdf)

<sup>4</sup> In the U.S., FERC established its criteria for approving proposed reliability standards in Order No. 672 beginning at P320: [http://www.nerc.com/files/final\\_rule\\_reliability\\_Order\\_672.pdf](http://www.nerc.com/files/final_rule_reliability_Order_672.pdf)

- i. developing requirements that are clear and unambiguous from a compliance and implementation perspective;
  - ii. considering and responding to all posted comments;
  - iii. developing an implementation plan to support the proposed standards;
  - iv. identifying the need for field testing proposed technical requirements and, where a field test is needed, ~~administering field test implementation~~, review~~ing~~, and analyzing~~is of of the associated~~ data.
- ~~h.i.~~ recommend to the Standards Committee when a proposed standard is ready for balloting;
- ~~h.j.~~ respond to observations from a quality review of a proposed standard and associated implementation plan
- ~~i.k.~~ engage stakeholders during standards development to help build industry consensus;
- ~~j.l.~~ identify and consider ~~regional~~ variances to proposed standards;
- ~~k.m.~~ report progress to the Standards Committee;
- ~~l.n.~~ develop or support development of supporting documents to supplement reliability standards; and,
- ~~n.o.~~ provide technical input to NERC staff during preparation of regulatory documents, including:
- i. filing(s);
  - ii. submitting the proposed standard(s) for approval;
  - iii. responding to questions raised in a notice of proposed rule-making;
  - iv. preparation of a request for clarification or rehearing following the issuance of the rule or order addressing a proposed standard filed for approval;
  - v. preparing requests for extensions of time when a regulatory imposed deadline for standards development cannot be achieved.<sup>5</sup>

The standard drafting team chair and vice-chair have additional responsibilities to:

- a. facilitate SDT discussions such that the team reaches consensus on proposed standard(s) that will achieve the SAR objectives and SDT responsibilities described above;
- b. represent the drafting team before the Standards Committee in reporting on team progress in implementing the scope of the SAR and in addressing regulatory directives;
- c. represent the drafting team in discussions with regulatory authority staff on how the proposed standards address the applicable regulatory directives;
- d. lead the drafting team in the effective dispatch of its standards development obligations; and
- e. assist the NERC standards staff coordinator to provide technical input into:
  - i. draft regulatory filings for approval of the proposed standard(s);

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<sup>5</sup> It is ultimately the decision of the NERC Board of Trustees to approve specific filings.

- ii. responses to questions raised in a notice of proposed rule-making;
- iii. preparation of a request for clarification or rehearing following the issuance of the rule or order addressing the proposed standard filed for approval; and,
- iv. responses to regulatory directives that are determined to be detrimental to reliability.

### **Addressing Regulatory Directives**

In its role as the electric reliability organization (ERO), NERC must address each directive issued from regulatory authorities that recognize NERC as the ERO. The Standards Committee and the standard drafting teams are responsible for implementing regulatory authority directives that require new or modified requirements using the standard development process. Ultimately, all proposed reliability standards require NERC board adoption.

Regulatory authority directives vary in the level of detail provided – most directives identify a reliability objective that the directive should achieve and then identify a proposed method of achieving that objective. When a regulatory authority issues a directive that requires new or modified standard requirements, the optimal course of action is for NERC and stakeholders to participate in the proceeding, especially if concerns exist with the directive. In the United States, for example, the FERC has generally processed directives first through a notice of proposed rulemaking (“NOPR”) and then via a final rule that carries the force of law. Interested parties may submit views on the proposed directives through submission of NOPR comments. If a concern exists on a particular directive when a final rule is issued, NERC and stakeholders should seek rehearing or clarification of the final rule containing the problematic directive within the available 30-day window. Requests for clarification (but not rehearing) can be submitted beyond the 30-day window but an untimely request would not serve as a basis for seeking court review of the Commission’s rule. Additionally, the circumstances generally must be compelling for the Commission to favorably respond to an untimely request for clarification.

After the 30-day window for seeking rehearing and clarification has passed, if no entity has sought clarification or rehearing, NERC, through its Standards Committee and standard drafting team, has the responsibility to address the regulatory authority directive before the associated standard is presented for ballot. When addressing a regulatory authority directive, a standard drafting team has the following courses of action available based on its consideration of the directive and the reliability objective associated with the directive:

#### *Standard Drafting Team Agrees with the Reliability Objective and Directive as Presented*

- The standard drafting team agrees with the reliability objective that is defined by the regulatory authority directive
- The standard drafting team implements the directive, as presented by the Commission, by incorporating the appropriate language in the proposed standard
- The standard drafting team should describe precisely how it addressed the directive when posting the standard for stakeholder comment. This information will then be included in the filing of the standard, if industry-approved and adopted by the NERC board

#### *Standard Drafting Team Agrees with the Reliability Objective but Elects to Employ an Equivalent Alternative Approach to Implement the Directive*

- The standard drafting team agrees with the reliability objective that is defined by the regulatory authority directive
- The standard drafting team does not agree with implementing the directive as presented<sup>6</sup> in the regulatory order
- The standard drafting team incorporates language in the proposed standard that addresses the reliability objective or proposes achieving the reliability objective through another mechanism
- The standard drafting team develops a written explanation that discusses how the team's approach is equally efficient and effective in meeting the reliability objective of the regulatory authority directive. The standard drafting team posts this explanation when posting the standard for stakeholder comment. This information will then be included in the filing of the standard, if industry-approved and adopted by the NERC board.
- If requested or as needed, the standard drafting team, or representatives thereof as determined by the team, shall discuss its approach with applicable regulatory authorities, the Standards Committee, and NERC staff.

*Standard Drafting Team Agrees with the Reliability Objective but Believes the Directive as Presented is Detrimental to Reliability*

- The standard drafting team agrees with the reliability objective but does not agree with the regulatory authority directive because it is detrimental to reliability.
- The standard drafting team includes the reliability objective and regulatory authority directive in materials issued for an industry comment period to obtain stakeholder input on the impact of implementing the directive as presented.
- The standard drafting team develops an approach that achieves the reliability objective desired by the directive but in a manner not detrimental to reliability
- The standard drafting team develops a written explanation that describes how the directive, if implemented as directed, would cause adverse reliability impacts. The standard drafting team articulates its alternate approach that better achieves the desired reliability objective.
- The written explanation is provided to the NERC staff coordinator, and ultimately, the NERC Vice President and Director of Standards, as well as the Standards Committee.
- The NERC Vice President and Director of Standards will lead the effort in coordination with the chair of the Standard Drafting Team, the chair of the Standards Committee, and others as appropriate to determine an appropriate course of action regarding the directive.
- If requested or as needed, the standard drafting team, or representatives thereof as determined by the standard drafting team, shall discuss its concerns and proposed alternate approach with the applicable regulatory authority, the Standards Committee, and NERC staff .

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<sup>6</sup> In the United States, the FERC permits an equivalent alternative approach provided the alternative addresses the FERC's underlying concern or goal as efficiently and effectively as the FERC proposal.

*Standard Drafting Team Disagrees With the Reliability Objective and Believes the Directive, as Presented, Lacks a Clear Reliability Benefit*

- The standard drafting team does not agree with the reliability objective associated with a regulatory authority directive because it is unsupported by a reliability need.
- The standard drafting team develops a written explanation that describes how the objective, if implemented as directed, does not support a reliability need.
- The standard drafting team implements the directive as presented by incorporating appropriate language in the proposed standard and posts this for stakeholder comment. At the same time, the standard drafting team posts its concerns regarding the perceived lack of reliability benefit of the directive and the reliability objective it is attempting to achieve. If stakeholder comments support the standard drafting team’s position, the standard drafting team provides its concerns and stakeholder comments to the NERC staff coordinator, and ultimately, the NERC **Vice President and** Director of Standards, as well as the Standards Committee.
- The NERC **Vice President and** Director of Standards will lead the effort in coordination with the chair of the Standard Drafting Team, the chair of the Standards Committee, and others as appropriate to determine an appropriate course of action regarding the directive, that may include submission of a request for clarification to the applicable regulatory authority or a request to process the proposed standard and associated directive language through the ballot process so there is full evidence of consensus, or lack thereof.
- If requested or as needed, the standard drafting team, or representatives thereof as determined by the standard drafting team, shall discuss its concerns with the applicable regulatory authority, the Standards Committee, and NERC staff.

Where a regulatory authority directs NERC to “consider” a proposal, issue, or other matter, the drafting team may implement the proposal, offer an alternative proposal, or explain why the proposal should not be adopted. The drafting team must seek stakeholder input on its consideration of these directives using the standard development process and must document its conclusions. NERC will submit this documentation with its request for standard approval to regulatory authorities.

**Roles and Responsibilities of NERC Staff, Working with Drafting Teams**

Each standard drafting team works closely with NERC staff in support of the team’s activities. A NERC standards coordinator is assigned to directly support and facilitate standard drafting team activities and is an impartial, non-voting member of the team. The NERC standards coordinator has the following primary responsibilities in support of and collaboration with the drafting team:

- a. ensures the drafting teams adhere to the integrity of the standard development process as defined in NERC’s Rules of Procedure;
- b. ensures the quality of the team documents submitted for posting, balloting, and adoption;
- c. develops and posts the record of proceedings for the meetings;
- d. facilitates the logistics for meetings, telephone and online conference calls, and WebEx discussions;

- e. coordinates the scheduling of meetings of the standard drafting team, with NERC staff and the appropriate regulatory authority staff to discuss proposed standards, including the approach taken by the team to address regulatory authority directives;
- f. monitors the participation of regulatory staff members, industry stakeholders, and other observers in drafting team activities to ensure proper business meeting decorum is maintained;
- g. documents and includes in the standards development record the informal advice and feedback provided by regulatory authority staff participants concerning regulatory authority directives that are offered in a non-public meeting with drafting team members;
- h. coordinates the drafting team's technical input into:
  - i. draft regulatory filings for approval of the proposed standard(s);
  - ii. responses to questions raised in a notice of proposed rule-making;
  - iii. requests for clarification or rehearing following the issuance of the rule or order addressing the proposed standard filed for approval; or,
  - iv. responses to regulatory directives that are determined to be detrimental to reliability or lack a clear reliability benefit;
- i. reports to the drafting team chair, other NERC standards staff, and upon request, the Standards Committee as to the team's progress.

The NERC standards coordinator is responsible for facilitating the work of the standard drafting team in completing its obligations as outlined in this document and the standard development process. In this regard, the NERC standards coordinator *may* support the drafting teams with respect to the following:

- a. ensuring that regulatory directives and the entirety of the rule or order relating to the standard(s) under development are available and understood.
- b. proposing language for the drafting team to consider to:
  - i. capture the essence of the team discussions of proposed standards;
  - ii. ensure consistency of style and format of proposed standards with other approved standards;
  - iii. ensure compliance obligations are clear in the proposed standard;
  - iv. assist in developing supporting documents to support industry understanding and implementation of proposed standards;
  - v. assist in developing written technical justification ~~describing the drafting team's for each proposed new or revised requirement and for each proposal to retire a requirement;~~
  - ~~vi.~~ assist in developing written technical justification describing the drafting team's approach to addressing regulatory authority directives where a drafting team determines that an alternative approach should be pursued; and
  - ~~vii.~~ help demonstrate that the proposed standards meet statutory and regulatory authority criteria for approval in each relevant jurisdiction.
- c. assisting the drafting team regarding the degree to which the team:

- i. sufficiently addresses the full scope of the approved SAR;
  - ii. proposes revised standards that provide for an adequate level of reliability; ~~and~~
  - iii. completely addresses each regulatory directive applicable to the standards under development; ~~and-~~
- iii.iv. address each observation made during the quality review of the team's proposed standard and associated implementation plan.

NERC staff, working with the Standards Committee, also prepares the materials submitted to the NERC Board of Trustees regarding adoption of a proposed reliability standard that achieved the requisite industry consensus for approval. In providing this recommendation, the NERC staff includes a discussion on the development of the standard through the balloting process, adherence to the reliability standard development procedure, key issues and an overview of stakeholder comments, how the team addressed the comments and issues, identification of any significant unresolved minority views, and, where applicable, how the proposed standard addresses associated regulatory directives. The NERC Board of Trustees must approve the filing of a proposed standard with the regulatory authorities.

#### **Responsibility of NERC Staff with Technical Views on Standards**

NERC staff has the right to submit comments on proposed standards in the same manner as other interested stakeholders. If NERC staff has comments on a proposed standard, they must participate in the standards process by submitting comments during public comment periods in the same manner as any other stakeholder group. Drafting teams shall treat these comments in the same manner as comments from any other stakeholder group.<sup>7</sup>

#### **Response to Regulatory Authority Staff Involvement in Standard Drafting Team Activities**

Because the standard development process is an open process, NERC cannot preclude regulatory authority staff from involvement in its standard development activities. To that end, the NERC board provided the following policy guidance, approved at its October 29, 2008 meeting, to guide standard drafting teams' responses to regulatory authority staff involvement in standard drafting activities:

- a. The standard drafting team has sole responsibility for drafting and approving the language in the proposed standards that are presented to the Standards Committee for ballot.
- b. NERC and its Standards Committee support the involvement of regulatory authority staff in all standards drafting team activities, where permitted by law.
- c. NERC recognizes that regulatory authority staff does not speak for the regulatory authority itself and, as such, the input they provide is considered advice.

<sup>7</sup> During its November 2009 meeting the NERC Board of Trustees directed the Standards Committee to ensure that the comments of NERC staff and other stakeholders are considered and reported to the board. While this direction was developed in response to differences of opinions on an interpretation, the same approach is applicable to proposed standards.

- d. In the event regulatory authority staff does choose to participate in drafting team activities, they should be treated as any non-voting observer or participant.<sup>8</sup>
- d.e. Standard drafting team members should seek out the opinion of regulatory authority staff, consider the regulatory staff input on its technical merits,<sup>9</sup> and respond to written comments offered during a public posting period as it would seek opinions from, consider the technical merits of, and respond to comments offered by other industry stakeholders.
- e.f. To the extent that regulatory authority staff advice is offered to the drafting team (or members thereof) in a forum that is not public and open to all industry participants, the standard drafting team should consider the input as advice.
- f.g. If the team chooses to act on regulatory authority staff advice offered in a non public forum, the standard drafting team chair should either:

  - iv.v. request the regulatory authority staff to provide the advice during an open meeting or conference call of the drafting team; or,
  - v.vi. document his/her understanding of the issues or advice presented, and include the information in an open industry comment period with the accompanying changes to the proposed standards.

By doing so, the ANSI essential requirement for openness and the tenets in the NERC ERO Rules of Procedure are satisfied.

In the U.S., federal law prohibits FERC from authoring language for reliability standard requirements; rather, they can identify specific issues to be addressed by drafting teams.

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<sup>8</sup> Standard drafting team members are responsible for performing the roles and responsibilities as outlined in this document and held accountable for developing standards that achieve the objectives in the approved standards authorization request. Observers and non-voting participants to the standard development process may opine on the issues at the discretion of the drafting team chair during team meetings but they have no official voice in the final determination of the proposed standard language, except through participation in public comment periods, the Registered Ballot Body, and the balloting process associated with the proposed standard.

<sup>9</sup> The standard drafting team may elect to seek regulatory authority staff opinion on a proposed standard's ability to meet a regulatory authority directive or order, to clarify the regulatory authority staff's interpretation of a directive, or may discuss a technical opinion not necessarily associated with a regulatory authority directive or order.

## Appendix 1

### Additional Discussion on FERC's Role

The Energy Policy Act of 2005 gave FERC certain jurisdiction over the development, approval, and enforcement of electric reliability standards applicable to users, owners, and operators of the bulk power system in the United States. It authorizes FERC to approve reliability standards, to remand reliability standards that do not meet its criteria for approval as outlined in Order No. 672, and to direct modifications to address specific issues. Through various orders and rules, FERC has approved a set of reliability standards developed by the industry through the NERC Reliability Standards Development Procedure that establish the baseline for ensuring reliable operation of the bulk power system in North America. Only FERC-approved reliability standards are mandatory and enforceable within the United States.

The following excerpts from the Energy Policy Act of 2005 outline the scope of FERC's authority:

*The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.*

*The Commission may approve, by rule or order, a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.*

*The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.*

NERC has been certified by FERC to be the U.S. electric reliability organization (ERO). Currently, Reliability Standards are mandatory and enforceable in the U.S. and the Canadian provinces of British Columbia, Ontario, and New Brunswick. The Canadian province of Alberta has adopted some of the Reliability Standards and is in the process of reviewing others. The legislative framework to make standards mandatory and enforceable exists in Manitoba, Nova Scotia, and Quebec. In addition, Reliability Standards become mandatory upon NERC Board of Trustees' action in Saskatchewan. The National Energy Board of Canada is in the process of making Reliability Standards mandatory and enforceable for international power lines. NERC is working to gain similar recognition in the various jurisdictions in Canada. (As of July 1,

~~2008, NERC has memoranda of understanding or agreements in place with Ontario, Nova Scotia, Québec, Alberta, Manitoba, Saskatchewan, and the Canadian National Energy Board.) The legislative framework to make NERC Reliability Standards mandatory and enforceable is in place currently in Alberta, Ontario, New Brunswick, Quebec, and with the National Energy Board, while the membership in the Regional Entity organization establishes the obligation to comply with the NERC standards in the remaining jurisdictions.~~

NERC, in one of its key roles as the ERO, develops reliability standards through its ANSI accredited standard development process. NERC-approved standards are then submitted to regulatory authorities for approval or for informational purposes, as required within each jurisdiction. NERC’s ANSI-accredited process provides reasonable notice and opportunity for public comment, due process, openness, and balance among the various interests in support of developing quality standards.

FERC is not permitted by law to explicitly write standard requirements. FERC may, however, direct the ERO to submit a proposed new or revised standard that “addresses a specific matter.” As stated earlier, FERC must give due weight to the technical expertise of the ERO with respect to the specific content of a proposed reliability standard. This technical expertise is embodied in the standards drafting teams and other stakeholders participating in the standard development process. This technical expertise manifests itself in the comments received from industry stakeholders during the SAR and standard development process and by the Registered Ballot Body participants who elect to vote on a proposed standard as part of the ballot pool.

NERC has an obligation to comply with Section 215 of the Federal Power Act and to respond to regulatory directives issued regarding reliability standards. Through its Standards Committee, NERC charges its drafting teams to fully address each directive.

NERC cannot ignore regulatory directives on the basis that it does not agree with the directive. NERC and the industry have procedural avenues available to request clarification of the directives, or to file motions for rehearing on the directives in the event NERC, or members of the industry, believe the directives do not provide for an adequate level of reliability. Apart from those mechanisms, standard drafting teams must address FERC’s directives in the course of the standard development process.

NERC staff coordinators serve an important role in assessing to what degree the standard drafting team has addressed each applicable directive and informing the Standards Committee when it appears that further work may be required to fully address a directive.

In Order No. 693, FERC provided guidance as to how NERC and the standard drafting teams should view the FERC directives:

“185. With regard to the many commenters that raise concerns about the prescriptive nature of the Commission’s proposed modifications, the Commission agrees that a direction for modification should not be so overly prescriptive as to preclude the consideration of viable alternatives in the ERO’s Reliability Standards development process. However, in identifying a specific matter to be addressed in a modification to a Reliability Standard, it is important that the Commission provide sufficient guidance so that the ERO has an understanding of the Commission’s concerns and an appropriate, but not necessarily exclusive, outcome to address

those concerns. Without such direction and guidance, a Commission proposal to modify a Reliability Standard might be so vague that the ERO would not know how to adequately respond.”

“186. Thus, in some instances, while we provide specific details regarding the Commission’s expectations, we intend by doing so to provide useful guidance to assist in the Reliability Standards development process, not to impede it.”<sup>90</sup> We find that this is consistent with statutory language that authorizes the Commission to order the ERO to submit a modification “that addresses a specific matter” if the Commission considers it appropriate to carry out section 215 of the FPA. In the Final Rule, we have considered commenters’ concerns and, where a directive for modification appears to be determinative of the outcome, the Commission provides flexibility by directing the ERO to address the underlying issue through the Reliability Standards development process without mandating a specific change to the Reliability Standard. Further, the Commission clarifies that, where the Final Rule identifies a concern and offers a specific approach to address the concern, we will consider an equivalent alternative approach provided that the ERO demonstrates that the alternative will address the Commission’s underlying concern or goal as efficiently and effectively as the Commission’s proposal.”

“187. Consistent with section 215 of the FPA and our regulations, any modification to a Reliability Standard, including a modification that addresses a Commission directive, must be developed and fully vetted through NERC’s Reliability Standard development process. The Commission’s directives are not intended to usurp or supplant the Reliability Standard development procedure. Further, this allows the ERO to take into consideration the international nature of Reliability Standards and incorporate any modifications requested by our counterparts in Canada and Mexico. Until the Commission approves NERC’s proposed modification to a Reliability Standard, the preexisting Reliability Standard will remain in effect.”

“188. We agree with NERC’s suggestion that the Commission should direct NERC to address NOPR comments suggesting specific new improvements to the Reliability Standards, and we do so here. We believe that this approach will allow for a full vetting of new suggestions raised by commenters for the first time in the comments on the NOPR and will encourage interested entities to participate in the ERO Reliability Standards development process and not wait to express their views until a proposed new or modified Reliability Standard is filed with the Commission. As noted throughout the standard-by-standard analysis that follows, various commenters provide specific suggestions to improve or otherwise modify a Reliability Standard that address issues not raised in the NOPR. In such circumstances, the Commission directs the ERO to consider such comments as it modifies the Reliability Standards during the three-year review cycle contemplated by NERC’s Work Plan through the ERO Reliability Standards development process. The Commission, however, does not direct any outcome other than that the comments receive consideration.”

In the course of the standard drafting process, standard drafting teams should follow these guidelines when considering FERC's directives:

- The overarching goal is to develop high-quality, enforceable reliability standards that provide for an adequate level of reliability.
- Standards should ensure bulk power system reliability in a manner that respects the balance between reliability benefit versus cost of implementation, as determined through the standard development process.
- Consensus building must not equate with a least common denominator standard.
- Consider the underlying reliability objective addressed by the FERC directive.
- If the underlying reliability objective is not clear to the drafting team, request clarification from FERC staff.
- When warranted, identify alternate approaches to those offered by FERC that address the underlying reliability objective in a more effective manner by achieving an adequate level of reliability at a comparable cost or providing a comparable reliability benefit through a lower cost. Cost considerations include the costs to responsible entities to implement the new or revised standard as well as the administrative costs to responsible entities, NERC, and regulatory authorities to assure compliance.
- In all cases, develop written technical justification to identify how the drafting team considered the regulatory directives. If the drafting team identifies an alternate approach to achieve a reliability objective, the team will develop a written document that explains why the alternate approach is equally effective and efficient. This justification will be discussed with regulatory authority staff in advance of filing for approval and formally when the proposed standard is submitted for approval.
- If the drafting team disagrees with the technical approaches contained in a FERC directive, or otherwise determines the approach is inconsistent with reliable bulk power system operations, compliance and enforcement, the team will work with the NERC staff coordinator to develop a written technical description that supports this determination.
- These technical documents will provide a basis for informal discussion with FERC staff.