

ENTERGY COMMENTS
PROPOSED AMENDMENTS TO NERC RULES OF PROCEDURE
SECTION 300
Add New Rule 321
Special Rule to Address Certain Regulatory Directives

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Due June 4, 2010

An overall comment is that when this Rule 321 is in its final form it, and the NERC Rules of Procedure, should be should be submitted to ANSI to ensure the revised Rules comport with the ANSI process and the NERC standard development process, with this new Rule, will be an approved process by ANSI.

We agree with the changes to Rule 309 which are the conditions for invoking Rule 321.

The following comments are in response to NERC's request for comment on Section 300, Rule 321.

SECTION 2

We disagree with the use of the qualifier "substantive comments in Section 2.2. We believe the qualifier to the comments submitted with a negative ballot is not in keeping with the ANSI Essential Requirements. We understand the document "2010 ANSI Essential Requirements", "2.7 Evidence of consensus and consensus body vote", page 8, contains the statements:

"3. ASDs are not required to consider negative votes accompanied by comments not related to the proposal under consideration, or negative votes without comments.

...

If clear instruction is provided on the ballot, and a negative vote unaccompanied by comments related to the proposal is received notwithstanding, the vote may be counted as a "negative without comment" for the purposes of establishing a quorum and reporting to ANSI. However, such votes (i.e., negative vote without comment or negative vote accompanied by comments not related to the proposal) shall not be factored into the numerical requirements for consensus, unless the ASD's procedures state otherwise. The ASD is not required to solicit any comments from the negative voter. The ASD is not required to conduct a recirculation ballot of the negative vote."

The ANSI Essential Requirements qualify a vote as a “negative vote accompanied by comments not related to the proposal” has been changed in the draft NERC Rule 321 to “negative votes with substantive comments”. The two qualifiers to negative ballots are very different and could result in the same comment being accepted for consensus counting in the ANSI process by would not be counted in the draft NERC Rule 321.

Under the ANSI Essential Requirements, entities can submit comments with a negative vote that are related to the proposal and would be acceptable for consensus and included in the ballot count.

However, the draft Rule 321 changes that qualifier to “substantive comments”. With this qualifier a negative vote with a comment that is related to the proposal could be judged a not “substantive comment” by some unspecified person. Being declared a negative vote without a substantive comment will change the status of this vote from - applying to the total count for consensus - to - not counting at all in the total count for consensus, thus improving the percentage for approval. Therefore, this unspecified person has the ability to bias the balloting outcome toward approval. We believe this draft Rule 321 is not consistent with the ANSI Essential Requirements.

Therefore, we recommend the replacement of “negative votes with substantive comments” with “negative vote accompanied by comments related to the proposal” in all locations, and this concept be incorporated in all other locations in the Rule 321.