

June 4, 2010

To: [rdacomment@nerc.net](mailto:rdacomment@nerc.net)

Re: Proposed Amendments to NERC Rules of Procedure Sec. 300 - FirstEnergy Comments

FirstEnergy Corp. appreciates the opportunity to review the proposed amendments to Sec. 300 of the NERC Rules of Procedure.

### General Comments

With the proposed Sec. 321, it is clear that NERC has made a concerted effort to address FERC's directive to modify its Rules of Procedure (Rules) to ensure that it is able to comply with a Commission directive. As part of Sec. 321, the Board of Trustees (Board) is given the authority to approve a standard that has achieved 60% approval during a re-ballot. We understand the reasons for this proposal but are concerned that it may not alleviate the precarious position of the Board when deciding heavily controversial standards, requirements, or directives. If the Board decides to approve the standard at the lower approval percentage, it faces possible criticism from industry; if it does not approve the standard, then it may face repercussions from FERC.

Furthermore, if the standard ultimately fails to receive even the 60% approval rating during the re-ballot, then NERC is placed in the position of filing the matter with FERC who may inevitably file another Order to comply with the directive that was "voted down". One possible improvement to Sec. 321 would be to include additional provisions for NERC when a standard has failed consensus even at the lower 60% threshold (*see item 1 below under "Specific Comments and Suggestions"*).

With that said, and from our review of the specifics as presented in NERC's proposal, the proposal appears to meet the language of the essential ANSI requirements, especially the requirements for Openness (by providing for re-ballot and filing of memorandums regarding FERC directives), and Consensus Vote. It also appears to address FERC's Order that these Rules must be revised to incorporate provisions for addressing FERC directives. What remains to be seen is how this proposal will be perceived by the entities that have ultimate authority for approving the standards and providing continued accreditation of the standards development process, FERC and ANSI, respectively.

### Specific Comments and Suggestions

1. In Sec. 321 Part 4.4, if the re-balloted standard that contains a FERC directive fails to achieve 60% approval, the only option for NERC is to file a report with FERC regarding the circumstances of the matter. NERC should consider adding language to this section that enables filing a report demonstrating their efforts to address the directive in question. As stated in Order 693, and reaffirmed in this latest Order, NERC has the flexibility to

develop “an equivalent approach” as long as NERC demonstrates that this alternative addresses FERC’s underlying concern or goal. Therefore, we suggest that NERC add language to Part 4.4 to permit the filing of the circumstances for the failed consensus, coupled with the development or description of an alternate effective approach to address FERC’s reliability objective. Similar language should also be added to Part 4.3.2 for situations where the Board concludes it will not approve a standard that receives between 60 – 66.67% approval during a re-ballot.

2. In Sec. 321 Parts 2 and 3, we believe the term "substantive" is vague and should be clarified to indicate material comments related to an aspect of the standard being balloted except for errata. Furthermore, there must be a checks and balances to determine who makes these decisions on whether or not a comment is substantive. We believe that the appropriate parties involved in this checks and balances should be the SDT and NERC staff under the direction of the Standards Committee.
3. In Sec. 309 Parts 2 and 3, we believe that the proposed text “If the standards process fails to produce a standard that addresses a specific matter that is contained in a directive issued by an applicable ERO governmental authority, then Rule 321 of these Rules of Procedure shall apply” could be improved. We suggest replacing “fails to produce” with “does not result in”.

Thank you for reviewing our comments, and please contact Sam Ciccone or Doug Hohlbaugh if you have questions.

Sincerely,

Sam Ciccone  
Compliance Specialist  
FirstEnergy Corp.  
76 S. Main St.  
Akron, Ohio 44308  
Ph: 330-252-6383

Doug Hohlbaugh  
Standards Development Lead  
FirstEnergy Corp.  
76 S. Main St.  
Akron, Ohio 44308  
Ph: 330-384-4698