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To: North American Electric Reliability Corporation (NERC)
From: PJM Interconnection
Subject: Comments on Proposed Amendments to NERC's Rules of Procedure
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Introduction

NERC has requested Industry input regarding NERC's proposed changes to Section 300 – Reliability Standards of the NERC Rules of Procedures. PJM submits the following comments on the newly added subsection 321 - Special Rule to Address Certain Regulatory Directives. The PJM comments focus on both the technical directives and on the impacts of the changes on NERC's Reliability Standards Development Procedure ANSI Accreditation.

PJM supports NERC's principle of developing standards that are "technically excellent (and) reasonable" (§ 301), and points to two proposals in subsection 321 that need to be addressed to meet that principle.

PJM believes several of the proposed additions could create a potential conflict with NERC's ability to maintain ANSI accreditation of the Reliability Standards Development Procedure.

Regarding ANSI accreditation, NERC's Reliability Standards Development Procedure¹ includes the following:

Standards Process Accreditation (pg 35)

NERC shall seek continuing ANSI accreditation of the standards process defined by this procedure. The standards process manager shall be responsible for administering the accreditation application and maintenance process. NERC staff shall submit revisions to

¹ http://www.nerc.com/files/FERC_Approved_RSDP-V7_2010Feb5.pdf

the Reliability Standards Development Procedure to ANSI as needed to maintain NERC's status as an ANSI-accredited standards developer.

Furthermore, the current Rules of Procedure include:

Accreditation (Subsection 316)

NERC shall seek continuing accreditation of the NERC reliability standards development process by the American National Standards Institute and the Standards Council of Canada.

Discussion

The proposed Subsection 321 (2) states:

“Upon a written finding by the Board of Trustees that a ballot pool has failed to approve a proposed reliability standard that contains a provision to address a specific matter as directed by an ERO governmental authority. The Board of Trustees shall remand the proposed standard...”

The above statement appears to assume that the reason the proposed standard failed ballot was the inclusion of a particular element that addresses a FERC Directive. This is not necessarily the case; the standard could have failed ballot because of issues other than those addressing the Directive.

Recommendation:

The NERC BoT should first use the negative comments submitted with the ballots to determine why the Standard failed ballot. If it is determined that the Standard failed because of the inclusion of the elements addressing a FERC Directive, then the BoT should invoke Section 321.

If the standard failed ballot for other reasons, then the Standard should be remanded to the Standards Drafting Team for further work, as outlined in the current Reliability Standards Development Procedure.

Subsection 321 (2.2) states:

“In any such re-ballot, negative votes without **substantive** comments shall be counted for purposes of establishing a quorum, but only affirmative votes and negative votes with **substantive** comments shall be counted for purposes of determining the number of votes cast and whether the proposed standard passes.”

PJM would point out that the term ‘substantive’ is not defined, and that this lack of definition could lead to confusion and debate over which comments comport with this term.

Related to the lack of definition, PJM notes that no entity is assigned the responsibility for making the decision about which comments are substantive.

The ANSI Essential Requirements² states that “ASDs shall record and consider all negative votes accompanied by any comments that are related to the proposal under consideration.” There is no requirement that the comments be ‘substantive’ in nature, only that they be related to the standard being balloted.

The ANSI Essential Requirements further states, “The ASD shall indicate conspicuously on the letter ballot that negative votes must be accompanied by comments related to the proposal and that votes unaccompanied by such comments will be recorded as “negative without comments” without further notice to the voter.”, and, “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.”

Paragraph 2.2 of section 321 does not appear to have clear alignment with the ANSI requirements.

Recommendation:

Paragraph 2.2 should be redrafted to provide clear guidance and alignment with the language contained in the ANSI Requirements. PJM recommends replacing ‘substantive’ with ‘comments that are related to the proposal under consideration.’ Changes must also be effected to the NERC Reliability Standards Development Procedure to require a prior complementary statement be included in the announcement of a standard ballot that clearly states that negative ballots without comments that are related to the proposal under consideration will not be counted.

Further, PJM recommends that the Standard Drafting Team, under the direction of the Standards Committee, be assigned the responsibility for making the decision on whether or not the comments are appropriate.

The proposed Subsection 321 (4) states:

² ANSI Essential Requirements: Due process requirements for American National Standards, January 2009

“If the re-balloted proposed reliability standard fails to achieve at least an affirmative two-thirds majority vote of the weighted segment votes cast, but does achieve at least a sixty percent affirmative majority of the weighted segment votes cast, with a quorum established, then the Board of Trustees may consider the proposed reliability standard for approval under the following procedures:”

The ANSI Essential Requirements state, “Evidence of consensus in accordance with these procedures and the accredited procedures of the standards developer shall be documented. Consensus is demonstrated, in part, by a vote of the consensus body. The developer's procedures shall state specifically how consensus will be determined.

An example of the criteria for consensus includes a requirement that a majority of the consensus body cast a vote (counting abstentions) and at least two-thirds of those voting approve (not counting abstentions). The developer may submit for approval an alternative methodology for determining consensus.”

The proposed process appears to meet the ANSI Requirements, but the 60% rule change should be submitted to ANSI for approval.

Recommendation: As part of the Implementation process, the proposed rule change should be submitted to ANSI for approval, as directed in the ANSI Requirements, prior to implementation.

PJM would like to thank NERC for the opportunity to comment on these proposed changes to the Rules of Procedure. If you have any questions regarding these comments, please feel free to contact me using the information above.

Sincerely,

Patrick A. Brown