



## NORTH AMERICAN ELECTRIC RELIABILITY COUNCIL

Princeton Forrestal Village, 116-390 Village Boulevard, Princeton, New Jersey 08540-5731

October 17, 2002

Mr. James T. Thompson  
Program Manager, Procedures and Standards Administration  
American National Standards Institute  
25 West 43rd Street, 4th Floor  
New York, New York 10036

Dear Jim:

### **Response to Comments from ANSI Subcommittee on Accreditation**

NERC is pleased to submit this response to the comments offered by two members of the Subcommittee on Accreditation of the ANSI Executive Standards Council. NERC hopes that this response, which expands on and clarifies the material already submitted in our application, is sufficient to answer the questions raised by the two commenters.

#### **Commenter #1**

I'm objecting to the following statement in their description of the Selecting Ballot Pool:  
"Vendors, consultants, prime contractors of generation or transmission facilities, academics, and others may participate actively as standards are developed, but will not be permitted to be voting members of any segment."

This seems to effectively exclude them from participation by voting. This violates 1.2.1.

#### **NERC Response**

NERC standards apply to entities that own, operate, or use the North American bulk electric system. As such, the Registered Ballot Body from which Standard Ballot Pools come is made up of those entities that are "directly and materially affected" by the standards that NERC develops. NERC standards on the planning and operation of bulk electric systems apply only to the defined industry segments and do not apply to vendors, consultants, facilities contractors, academics or others the way standards of some other standards developers do. While NERC does not provide a specific segment for vendors, consultants, facilities contractors and others, these individuals could all qualify as small electricity users and may join and vote in that segment.

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All NERC meetings are open, and all proposed NERC standards are posted for public comment, which gives any interested vendor, consultant, facilities contractor, academic, or other interested party an opportunity to participate in the development of the standards.

#### **Commenter #1**

In addition, NERC's qualification process appears to be cumbersome and might tend to discourage participation. It also states that a segment must have at least five members in order to have voting status, which also seems exclusionary.

#### **NERC Response**

Any entity in one of the defined stakeholder segments may register electronically on-line in less than five minutes and receives approval of the registration usually within one business day. Since May, over 300 entities have registered in the NERC Registered Ballot Body and are qualified to vote for approval of standards. Given the fact that this registration process is fairly new, we are quite pleased with the number of registrations, and expect that number to grow even more when the first new reliability standards are ready for voting.

The electric power industry is complex with many different types of organizations and ownership classes. The nine industry segments in our process provide a balance among the various stakeholder groups. The requirement that a segment must have at least five registered entities before being considered a valid segment assures that there is sufficient interest within a segment to participate in the NERC standards process. Since each segment's vote is weighted equally, this criteria assures that a segment comprised of just one or two entities cannot unduly influence the approval of standards. This is consistent with ANSI procedure 1.2.2 describing the need to assure the process is not dominated by a single organization. Finally, NERC's independent Board of Trustees is charged with reviewing at each Board meeting the effectiveness of the NERC standards process, including the defined segments. Given the positive response of the industry to-date in populating the segments, the Board sees no reason at this time to revise the segments.

#### **Commenter #1**

Regarding the compliance and enforcement issue, that is a description of how they operate but it is not germane to approval of the text of the standard that is being approved as an ANSI document. By including this material in their ANSI Accredited Procedures, NERC can claim that ANSI has approved their compliance program and that users of the standard are bound by it. As a general principle, certification should be separated from standards issues in the ANSI context. Is NERC the only body that can certify compliance? It starts to get murky once you start addressing compliance issues in an ANS document.

## **NERC Response**

NERC is more than a standards developer. It also is responsible for monitoring compliance with its standards and, upon enactment of pending Federal legislation, will have enforcement authority as a self-regulatory reliability organization, backstopped by the Federal Energy Regulatory Commission.

However, NERC does not intend that ANSI endorse the NERC Compliance Program or any of the compliance measures developed along with our reliability standards. We include the compliance measures as part of our standards development process because that is the most relevant and effective time to develop these measures. In this way, industry participants help shape how the standards will be applied and measured.

If necessary, we can file with ANSI a statement to this effect as an addendum to our application or in the Preface of the Manual. As an alternative, ANSI could condition its approval of our standards development process as applying only to the reliability standards themselves and not to any of the compliance-related elements that may be developed along with the standards.

## **Commenter #2**

I didn't really see anything in the procedures that specifies what additional steps are required to go from a NERC standard to an ANS, e.g., submittal for public review announcement in Standards Action, submittal to BSR for approval.

## **NERC Response**

NERC will comply with all ANSI procedures for each standard that it submits for approval. If necessary, NERC could submit to ANSI a statement to this effect as an addendum to its application.

## **Commenter #2**

Page 6 (under Elements of an Organization Standard) and Page 7 (under Compliance Administration Elements) refer to "penalties" and "penalties or sanctions associated with non-compliance" as parts of the standard. I don't believe it is appropriate for an ANS to address consequences of non-compliance with the standard.

## **NERC Response**

As noted in our response to a previous comment, NERC does not intend to submit to ANSI for approval as an ANS any of the compliance elements that are developed as part of a standard. We can include a statement to this effect as an addendum to our application. In addition, if ANSI finds it necessary, NERC can add a statement in the beginning of its Organization Standards Process Manual acknowledging that ANSI has accredited the NERC process ONLY for the

development of reliability standards and not for any of the compliance elements. Further, this statement could indicate that when NERC files with ANSI any reliability standards for approval as American National Standards, that only the standards themselves will be submitted, excluding all of the related compliance elements.

#### **Commenter #2**

Page 13, Step 3 — It appears as if anybody in the Registered Ballot Body can request to be included in a Ballot Pool for a specific standard, and that there could be additions and deletions to the Ballot Pool until the time the draft is posted for ballot. Since anybody can choose to participate (or not) for any standard, how is the required balance assured? Page 11 (Overview) requires the process to have a balance of interests although no specific criteria is provided.

#### **NERC Response**

Balance is assured through the weighted segment voting process. Each of the entities joining a ballot pool is in one of nine defined segments. Each segment has 1/9 of the total vote. Within a segment, the vote is equally divided among the entities electing to participate in that standards action.

#### **Commenter #2**

Page 16, Step 9 — I would suggest that they not encourage submittal of negative votes without reasons. (Recording Secretary's note: NERC's voting processes should be in compliance with clause 1.3 of the *ANSI Procedures for the Development and Coordination of American National Standards*.)

#### **NERC Response**

NERC's process encourages comments throughout the development of a standard, beginning with the SAR, then the posting of draft standards, and finally when the proposed standard is posted for ballot. Further, NERC fully supports the principle, as expressed in ANSI procedures, of having anyone that submits a negative vote be encouraged to also provide reasons for that vote and, if possible, specific wording that would resolve their objection.

One thing that is unique about the NERC process, and which should be considered when judging the final voting procedures, is our Standards Authorization Request (SAR) process on the front end of our standards development process. The SAR process is designed to seek comment and establish consensus first on the need for the standard before actual standard drafting begins. This is where the need for and scope of the standards is determined. The NERC Manual in Step 9 encourages all participants to provide comments early, in the SAR portion of the process, rather than waiting and bringing up fundamental questions of need for the standard at the end of the process.

If someone votes “no,” NERC encourages the party to include reasons with that vote. Then, the standards drafting team, along with the requestor, attempt to address the voter’s concerns, and repost the standard for recirculation ballot, along with the reasons for the “no” vote, the drafting teams response, and whether the voter is satisfied with the response. However, the Manual does not expressly preclude negative votes without reasons, as we believe all voters have the right to cast any vote they wish, with or without reasons. Only “no” votes with reasons will result in a recirculation ballot.

#### **Commenter #2**

Page 16 — I don’t see how they can require members of the Ballot Pool to submit their comments during the public review period. Step 8 of the process indicates that public comments and responses are considered before determining whether to submit the draft for ballot. So, how are they to submit their ballots during public review when it hasn’t yet been determined that the draft will be submitted for ballot?

#### **NERC Response**

The NERC process has multiple steps. The SAR phase indicates a standard is proposed for development and seeks comments on the need for and scope of that standard. Several iterations will usually occur at this stage as the initial SAR is posted for comment, revised, and posted again. If industry comments indicate consensus on the need for the standard, and the Standards Authorization Committee approves, the standard itself is then drafted and posted for industry comment. The draft standard is revised based on the first round of industry comments, and reposted if there are significant changes. In most cases, we expect that there will be more than one posting of both the SAR and the proposed standard, prior to reaching the actual ballot stage. We depend upon the comments submitted by interested industry participants to provide direction on the need for changes to the SAR and draft standard. Once an entity identifies a desire to be included in the Ballot Pool, we expect that entity to provide written comments on each posting of the SAR and standard. At the ballot stage, all members of the Ballot Pool voting may submit comments with their ballot, per ANSI requirements. NERC has simply added additional steps leading to the ballot stage to help assure industry consensus first on the need and scope for the standard and then on the standard itself.

#### **Commenter #2**

Page 20 — Is NERC planning to submit any standards that they develop as Urgent Actions for approval as an ANS? It would appear their Urgent Actions are similar to the Provisional ANS’s being considered by ExSC, however, I don’t think it would be appropriate for these Urgent Actions to be considered for ANS approval.

#### **NERC Response**

NERC agrees with this comment. Standards developed as “Urgent Action” standards, as indicated in the Manual, have a specified termination date not to exceed one year. Should there

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be a need to make the standard permanent, then the standard would be required to go through the full standards development process, starting with a SAR. As such, standards approved under the “Urgent Action” provision of the manual would not be submitted for approval as ANSs.

## **Commenter #2**

Page 36, Example 1 — Please clarify how these calculations are derived. Specifically, when looking at the Affirmative votes, the values shown in the Fraction column do not seem to accurately represent the percentage of number of affirmative votes to the number of votes in the Ballot Pool in all cases. For example, 200/250 is not .833; 60/100 is not .632.

## **NERC Response**

The NERC vote is based on affirmative votes as a percent of affirmative plus negative votes. Since there were ten abstentions submitted in the first example referenced, the calculation of the vote is 200/240 (affirmative / affirmative + negative). The abstentions are not considered in the vote count. Similarly, there are five abstentions in the second example referenced. The affirmative vote is then 60/95.

## **Summary**

NERC appreciates that its process is unique in several ways:

- It includes a Standards Authorization Request stage on the front end to first determine need for and scope of a standard,
- It uses a weighted-segment voting scheme for the final vote on approval of standards, and
- It develops compliance elements along with each standard.

It is understandable, therefore, that members of your Subcommittee on Accreditation would have a number of questions and comments. We hope that the explanations provided above adequately address these comments. Please let me know if there is any further information or clarification that ANSI requires to continue its consideration of our process for accreditation. We would be pleased to meet in person with ANSI representatives if that would be helpful.

I look forward to hearing from you.

Sincerely,



David R. Nevius  
Vice President