

Incorporating Risk Concepts into the Implementation of Compliance and Enforcement

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Incorporating Risk Concepts into the Implementation of Compliance and Enforcement

I. Introduction and The Need for Change

The Energy Policy Act of 2005 (the Act) created a reliability framework that includes the Federal Energy Regulatory Commission (FERC or the Commission), the Electric Reliability Organization (ERO) (designated as the North American Reliability Corporation (NERC)), and eight Regional Entities (NERC and the Regional Entities, collectively referred to as the ERO Enterprise) with thousands of stakeholders and nearly 2000 entities subject to the ERO's rules. Three of the primary responsibilities outlined by the Act are developing standards, promoting and monitoring compliance with those standards and enforcing acts of non-compliance with the standards – all with the overarching objective of avoiding cascading events and the resulting major loss of load.

Compliance and enforcement of the standards was delegated to the eight Regional Entities, subject to oversight by NERC and FERC. This responsibility came with the requirement and expectation that every violation, regardless of risk, be prosecuted. Violations came with the prospect of significant monetary penalties for noncompliance. This “zero tolerance” application of compliance and monitoring without regard to the risk to the bulk electric system (BES) has unduly focused attention and resources on compliance risk and administrative processes as opposed to reliability risk.

Over the last five years' through experience with the compliance and enforcement processes and feedback from stakeholders, the ERO Enterprise¹ has envisioned an end state that is founded on a risk-based approach. This vision will be developed through maturing the ERO Enterprise processes over the next three to five years and be tested through a pilot project as we reach full implementation². It is not practical, effective or sustainable for the ERO Enterprise and Registered Entities to monitor and control all compliance to the same degree. Further, it is not practical, effective, nor sustainable for the ERO Enterprise and Registered Entities to treat all findings and discrepancies, as violations triggering the same degree of enforcement and evidentiary documentation. Where a violation does not pose a serious or higher risk to the reliability of the bulk power system, and the Registered Entity has a compliance program and internal controls that detect, assess, mitigates and self-reports the violation, the Regional Entity may decline to pursue and enforcement action.

¹ ERO Enterprise refers to NERC and the eight Regional Entities.

² The end-state envisioned will be developed over time, in part through pilot projects and the measured implementation of activities, tools and processes.

The risk-based approach the ERO Enterprise envisions will consider risk relative to the tools and processes applied to assure compliance as well as the disposition of instances of noncompliance incorporate risk concepts. To this end, the future risk-based approach of the CMEP will be a consistent (ERO Enterprise-wide) application of (A) compliance monitoring practices based on risk, (B) a “range of tools”³ to prioritize and treat violations based on risk, (C) enforcement practices with clear distinctions based on risk to reliability and (D) a strengthened feedback loop from compliance monitoring and enforcement to the standards development process to incorporate considerations of actual risk into the standards development process.⁴ This overall risk-informed end state will guide Registered Entities to be increasingly focused on reliability and toward self-critical corrective actions resulting in continuous contribution toward real reliability, rather than the current model. At the same time, the current enforcement and penalty model will be used for higher risk or serious violations.

This white paper discusses the end state envisioned as well as the benefits associated with incorporating risk management practices into the CMEP work and linking it to the standards development process through a feedback loop. Throughout the course of the whitepaper, the need and the basis for changing the compliance monitoring and enforcement work of the ERO Enterprise is established; the framework for changes to the compliance monitoring and enforcement work is presented; and the next steps to define the path forward and related activities are outlined. The changed state contemplated by this whitepaper is intended to be the basis for an informational filing by NERC with the Commission in March 2013.

II. The Proposed Changes Promote BES Reliability

The North American electric grid operating in real time is the world's most complex transmission system; in this regard, reliability risk is neither uniform across the grid nor constant over time, but is complex and interdependent. Assuring the reliability of this system requires understanding the risks that may impact its function and developing the controls to

³ See Malcolm K. Sparrow, *The Regulatory Craft*, 100 (2000). Sparrow advocates using a “range of tools for procuring compliance and eliminating risks” Our existing rules of procedure together with foundational documents referenced in the rules of procedure, such as the Yellow Book Government Audit Standards provide a range of tools which can be scoped and deployed based on risk. Those tools include audits, spot checks, data submittals and self-certifications. These tools, together with the ability of the Regional Entity to decline to enforce a violation, comprise a full “range of tools.”

⁴ These concepts will be implemented by (1) restyling the ERO’s overall compliance approach to conform to well-established audit principles as described herein including the right to decline to pursue violations across the ERO Enterprise; (2) establishing the requirements for Regional Entity’s records to facilitate NERC and FERC oversight; (3) establishing processes for information flow between compliance functions and enforcement functions as well as an open, transparent and clear approach as to which matters will be subject to enforcement procedures; and (4) redesigning the enforcement strategy to focus on serious or higher risks to the BES.

discover and mitigate those risks. Ultimately it is this proactive, risk-based approach that will allow the ERO Enterprise to provide reasonable assurance of current and future BES reliability.⁵

The end-state vision of a sound risk-based reliability approach will reflect principles that form the foundation for focus and prioritization, as well as recognition of the core elements that ensure reliability of the bulk electric system. In this end-state vision, the compliance, enforcement and standards elements form an integrated structure with focus on the priorities that most influence reliability. The alignment of processes, systems and resources will ensure the proper attention to those reliability matters. Lesser and more minor matters are considered and addressed in a far simpler fashion which encourages the documentation of internal self-corrective activities that diminish the potential for the accumulation of minor unaddressed matters.

The ERO must abandon “zero tolerance” compliance monitoring and enforcement because:

- The pursuit of all violations without regard to risk or administrative burden is neither effective nor sustainable.
- The focus has become documenting compliance, not reducing risk and improving reliability.
- Enforcement considers a historic state of reliability, not the current or future state of reliability.
- Improvements to processes, such as the administrative citation process or find, fix, track and report, reduce the ERO’s administrative burden, but do not have commensurate impact on improving reliability and reducing industry’s administrative burdens.

Therefore, to encourage and reward proactive self-assessment the ERO Enterprise should use a “full range of tools⁶” to shape compliance, monitoring and enforcement based on risk. The incorporation of risk management concepts into the ERO’s work, from standards development to compliance monitoring and enforcement, will encourage compliance and risk mitigation.

⁵ Former FERC Commissioner and Chairman Joseph T. Kelliher stated: “The Energy Policy Act of 2005 did not outlaw blackouts and the reliability provisions of section 215 do not promise perfect reliability at any price.” See, *Remarks of the Honorable Joseph T. Kelliher, Executive Vice President – Federal Regulatory Affairs, FPL Group, Inc., Reliability Primer for Lawyers and Energy Professionals, Energy Bar Association, 6,7* (April 28, 2010), <http://utilitysvcs.info/docs/Kelliher%20NERC%20speech.pdf>

⁶ A full “range of tools” includes the ability to decline to pursue a violation. See also note 2, *supra*.

III. Effective Regulation Uses Risk-Based Concepts

Moving from zero tolerance to a risk management approach requires a different way of assessing reliability concerns. Dr. Malcolm K. Sparrow advocates that regulators use a risk-based “problem solving” approach which he describes in his book, *The Regulatory Craft*⁷, as the:

systemic identification of important hazards, risks, or patterns of noncompliance; an emphasis on risk assessment and prioritization as a ... basis for resource allocation decisions ... capacity for designing and implementing effective, creative, tailor-made solutions for each identified problem; the use of a range of tools for procuring compliance and eliminating risks; and the recognition of the need to retain and enhance the agency’s enforcement ‘sting’ while using enforcement actions economically and with the context of coherent compliance strategies.⁸

The ERO Enterprise will adopt a “problem solving” approach that incorporates risk-based practices into its work, similar to other regulatory bodies with compliance and enforcement responsibilities. This approach will increase BES reliability and ERO Enterprise efficiency and effectiveness. The following describes how other U.S. Federal entities use a risk-based problem solving approach.

Many US federal agencies responsible for compliance and enforcement utilize risk management practices. The Securities and Exchange Commission (SEC)⁹, the Environmental Protection Agency (EPA)¹⁰, and the Occupational Safety and Health Administration (OSHA)¹¹ all have

⁷ See Sparrow, *supra* note 1.

⁸ *Id.*

⁹ In “Compliance Programs, Penalty Mitigation and the FERC” former FERC General Counsel and Chief of Staff John Moot cites an SEC action forgoing enforcement because “the company had quickly identified the violations, promptly reported them, remedied them internally through disciplinary actions, and taken prospective corrective action to avoid future violations.” See, John C. Moot, *Compliance Programs, Penalty Mitigation and the FERC*, 29 Energy Law Journal 547, 562-563 (2008).

¹⁰ The EPA’s policy on Incentives for Self-Policing, Discovery, Disclosure, Correction and Prevention of Violations provides: “The revised Policy ... is designed to encourage greater compliance with Federal laws and regulations that protect human health and the environment. It promotes a higher standard of self-policing by waiving gravity-based penalties for violations that are promptly disclosed and corrected, and which were discovered systematically—that is, through voluntary audits or compliance management systems.” See, *Environmental Protection Agency, Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations*, 65 Fed. Reg. 19,618 (2000), <http://www.epa.gov/oecaerth/resources/policies/incentives/auditing/auditpolicy51100.pdf> cited by Moot, *supra* note 8 at 564-65.

¹¹ OSHA’s “star” status program also seeks to improve safety and health outside of enforcement. Under the “star” program, OSHA can exempt employers from routine inspections and allow them to claim “star” status in exchange for maintaining exemplary safety records and satisfying other program certification requirements. The pursuit of “star” status improves employee safety and health, decreases regulatory costs and enhances an entity’s reputation. See Orly Lobel, *Interlocking Regulatory and Industrial Relations: The Governance of Workplace Safety*, 57 ADMIN. L. REV. 1071, 1105-08 (2005).

policies, programs and discretion to encourage compliance and allow the agency to decline to pursue a violation based on the particular set of circumstances and facts.¹² Companies subject to regulations are encouraged to be self-policing “because government resources are limited, universal compliance cannot be achieved without active efforts by the regulated community to police themselves.”¹³

FERC’s processes provide “great flexibility in fashioning the most appropriate and effective remedies and sanctions for each violation...” This includes the ability to decline to pursue an enforcement matter. In its Revised Policy Statement on Enforcement¹⁴ the Commission stated “between 2005 and 2007, Enforcement staff closed approximately 75% of its investigations without any sanctions being imposed, even though Enforcement staff found a violation in about half of those closed investigations.”¹⁵

Risk-based concepts are clearly contemplated in NERC’s Rules of Procedure Appendix 4C - Compliance Monitoring and Enforcement Program which provides: “Compliance Audit process conducted in the United States shall be based on professional auditing standards recognized in the U.S. including Generally Accepted Auditing Standards, Generally Accepted Government Auditing Standards, and standards sanctioned by the Institute of Internal Auditors.”¹⁶ These professional standards are well-established and well-accepted. They provide a principled basis for conducting the ERO’s compliance monitoring work in a consistent manner and they incorporate risk-based concepts. For example, the Generally Accepted Government Auditing Standards (GAGAS) “provide a framework for conducting high quality audits with competence, integrity, objectivity and independence.”¹⁷ “GAGAS contains requirements and guidance

¹² See, John C. Moot, *Compliance Programs, Penalty Mitigation and the FERC*, 29 Energy Law Journal 547(2008).

¹³ See, *Environmental Protection Agency, Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations*, 65 Fed. Reg. 19,618 (2000), <http://www.epa.gov/oecaerth/resources/policies/incentives/auditing/auditpolicy51100.pdf> cited by Moot, *supra* note 8 at 564-65.

¹⁴ See *Revised Policy Statement on Enforcement*, 123 FERC ¶ 61,156 (2008).

¹⁵ *Id.* at P 9. For examples of self-reports and investigations closed with no action, see 2011 Report on Enforcement Prepared by the Staff of the Office of Enforcement, Federal Energy Regulatory Commission (November 17, 2011), <http://www.ferc.gov/legal/staff-reports/11-17-11-enforcement.pdf>.

¹⁶ See *GAO Government Audit Standards (December 1, 2011)*, 6.05, 6.16-6.22, 5.44(b.), citing *Institute of Internal Auditors (IIA) International Standards for the Professional Practice of Internal Auditing*. Chapter 6 “Field Work Standard for Performance Audits” provides an existing guide. For example, “adequacy of the audited entity’s systems and processes to detect significant errors” is a factor affecting audit risk. The “nature, timing or extent” of the audit may be altered based on the auditor’s assessment of internal controls. Similarly, the Institute of Internal Auditors (IIA) International Professional Practices Framework Performance standard 2130 – Control requires that the internal audit function “evaluate the adequacy and effectiveness of controls...” These themes are also common in American Institute of Certified Public Accountants (AICPA) Generally Accepted Auditing Standards (GAAS) – Standards of Field Work.

¹⁷ See *GAO Government Audit Standards (December 1, 2011)*, 1.04.

dealing with ethics, independence, auditors' professional competence and judgment, quality control, the performance of field work and reporting."¹⁸

IV. The End State of the Compliance Monitoring and Enforcement Program

A. Transition to Compliance Monitoring Based on Risk

The ERO Enterprise is in the "assurance" business. There are three common risks – inherent risk¹⁹, control risk²⁰, and detection risk,²¹ that must be considered. The FERC approved reliability paradigm already addresses inherent risk to the BES in the functional model, tiers of standards, and degrees of violations. Accordingly, the Regional Entities' compliance staffs now seek to understand the inherent risk posed by Registered Entities to the BES by considering such factors as their registered functions and applicable standards, as well as their size, geography, technological capability, and past performance.

To move away from the existing compliance monitoring processes and incorporate a risk-based approach, the Regions will also need to understand the control risk posed by the Registered Entities, an effort that would require examining the procedures and controls²² those entities have in place to reduce risk and comply with the standards. An agreed-upon method or set of criteria used by the ERO Enterprise that adequately addresses control risk will be developed through the course of the pilot project.²³ While the assessment methodology will be based on consistent foundational audit principles, the consideration of risk and actual design of controls will vary, as no two entities are exactly alike in system design, configuration, programs, plans, and business plans or functions performed. This approach therefore takes into account the differences in Registered Entities and the risks posed to the BES. It also reflects the well-established assurance work practice to document an understanding of controls during the conduct of work as opposed to using a generic one size fits all approach that ignores or does

¹⁸ *Id.* at 1.05.

¹⁹ Inherent risk is the risk posed by the Registered Entity because of intrinsic factors such as its registered functions. For example, all other factors being equal a TOP (Transmission Operator) poses more inherent risk to BES reliability than a PSE (Purchasing-Selling Entity).

²⁰ Control Risk refers to the risk that a violation or risk to BES reliability could occur but may not be detected and corrected or prevented by the Registered Entity's compliance program and internal control mechanism.

²¹ Detection risk is the risk that the ERO Enterprise will not identify a serious or higher risk to BES reliability. Detection risk increases when inherent risk or control risk increases. Therefore, when control risk and/or inherent risk is high, audit scope and procedures must increase.

²² See *GAO Government Audit Standards (December 1, 2011)*, 6.16-6.22, 5.44(b.), citing *Institute of Internal Auditors (IIA) International Standards for the Professional Practice of Internal Auditing*.

²³ Criteria such as the five principles of "highly reliable organizations" may be used in the beginning and refined over time – those five principles being: preoccupation with failure, reluctance to simplify, sensitivity to operations, commitment to resilience, and deference to expertise. See generally Kathleen Sutcliffe and Karl Weick, *Managing the Unexpected, Resilient Performance in an Age of Uncertainty*, John Wiley & Sons (2d ed. 2007).

not take into account the company's internal controls or the risk posed by the Registered Entity.

Once the ERO Enterprise establishes the method for understanding Registered Entities' risk and controls, the Regional Entities would refer to these characteristics to assess, evaluate and document the strength of those controls as part of their audits and to plan other compliance work. During the course of the pilot project the ERO will develop the practices, procedures and training to ensure consistency across the eight Regional Entities. During full deployment the ERO will continue to provide oversight and work with the eight Regional Entities to develop best practices and ensure consistency (and where applicable uniformity). Understanding both the risk and the environment within which the risk is occurring as well the Registered Entities' internal controls, the Regional Entities would take existing controls into account to develop the scope, method, and frequency of their compliance work.²⁴ The Regional Entities would also recognize that Registered Entities may exhibit varying levels of maturity vis-à-vis other members of the industry and/or in regard to their own distribution of resources.

These changes can be implemented by using the existing compliance monitoring tools including audits, spot checks, self-certifications, and data submittals. These tools can also be tailored both in terms of scope, conduct, and frequency based on risk and the Registered Entities' internal controls. Registered Entities that demonstrate an acceptable level of controls would be benefited by more focused testing because the risk controls could be documented and generally relied upon by the compliance staff in the conduct of the work.

The long-reaching benefits to reliability and to the industry members will be significant. Registered Entities will be encouraged to self-assess their actual controls on an ongoing basis and self-report any instances of non-compliance. These self-reports, absent significant risk to the BES, will be recorded by the Regional Entity in a segregated database without additional regulatory filings or approvals. The Regional Entity's determinations documented by work papers will be final. The Regional Entity will be accountable for and subject to oversight and audit by NERC and by FERC for the conduct of its work. The work of the Regional Entities' compliance personnel and the efforts by Registered Entities to demonstrate compliance will have a more focused scope. Thus, as a result of Registered Entities' implementing acceptable risk controls and self-reporting any instances of non-compliance, the cost of compliance will be aligned with the management of reliability risks and ultimately the cost of compliance will be

²⁴ Evaluating risk controls along these lines is not novel, and has been used in other industries, for example with respect to Audit Standard-5 (AS-5). *Approved by the Securities Exchange Commission, AS-5* allows auditors to scale the scope of an audit based on the strength of controls developed by the company being audited. *See PCAOB Release No. 2007-005A* (June 12, 2007). This method is also consistent with the GAO standards relating to internal controls. *See GAO Government Audit Standards* (December 1, 2011), paragraphs 6.16 - 6.22.

lower. The investments in strong procedures around reliability and security will have a far greater payoff in terms of the reliability and resiliency of the BES. Robust compliance monitoring will not only improve BES reliability but will also provide value for both the ERO Enterprise and Registered Entities.²⁵

B. Transition to Prioritizing and Treating Violations in Accordance with their Risk

With an understanding of a Registered Entity's inherent and control risk, the Regional Entities' staff would then be able to consider whether and to what extent that entity's compliance with the standards poses a risk to BES reliability. The ERO Enterprise's²⁶ compliance monitoring and enforcement discretion will be guided by an understanding of the risk; the environment within which the risk is occurring; the Registered Entities' internal controls; any patterns of non-compliance; and the significance of the potential violation to BES reliability given the complexity, location, nature and size of the Registered Entity. Errors or potential violations that are detected through internal controls, corrected through a strong compliance culture, and self-reported generally should not be punished with administrative process, enforcement proceedings, or penalties absent a material risk to the BES.

If a Regional Entity declined to pursue a matter, it would be recorded in a database²⁷ that NERC and FERC could audit. This will enable the ERO Enterprise and the Registered Entities to expend their resources more efficiently and effectively, and shift focus beyond compliance risk to include meaningful self-assessments and an evaluation of risk to the BES, thereby improving the standards development process. Traditional enforcement will be reserved for matters that pose a serious or higher risk to the BES and penalties will be assessed to send clear signals to the industry about the most significant risks in order to create change.

This approach will introduce greater flexibility into the ERO Enterprise practices, which will allow it to focus on the higher risks to reliability while simultaneously providing clear signals to the Registered Entities about the ERO Enterprise's identified areas of concern and its risk prioritization. Moreover, this risk-based regulatory strategy will encourage strong internal controls and self-reporting such that self-reporting will be an objective measure of its success.

²⁵ See *Ernst & Young, Leveraging Value from Internal Controls, 5 (2006)* ("By not aligning risk management and internal controls investments with strategic initiatives, companies are jeopardizing operational and financial performance and, over the long run, will not optimize return to shareholders."). http://www.section404.org/UserFiles/File/research/Ernst/44_ernst_young_leveraging_value_from_internal_controls.pdf

²⁶ The ERO Enterprise refers to NERC and the eight Regional Entities.

²⁷ The database must be uniform across the eight Regional Entities and must be administratively easy for both Regional Entities and Registered Entities to use.

As the Commission has stated, “[a]chieving compliance, not assessing penalties is the central goal of our enforcement efforts.”²⁸

C. Transition to Utilizing Compliance Monitoring and Enforcement to Send Meaningful Signals Based on Risk

The ERO Enterprise will refine its use of the compliance monitoring and enforcement process to ensure that it provides more meaningful signals to the Registered Entities about the ERO Enterprise’s identified areas of concern and its risk prioritization.

Going forward, the Regional Entity may decline to pursue possible violations that are promptly identified and reported as the result of an effective internal compliance program or controls before the occurrence of any harm. These matters will be recorded in a data base. The matter is then final as to the Registered Entity; the Regional Entity’s decision and work papers are subject to audit by NERC and by FERC. This is important because it encourages the regulated community to adopt and enhance existing strong, effective controls which includes the correction of errors or instances of non-compliance that are detected. BES reliability depends on robust compliance programs and internal controls. The ERO Enterprise will retain the ability to impose penalties up to the statutory maximum and/or increased monitoring and broader audit scope, for those violations that pose a serious or higher risk and/or represent the failure to implement adequate controls.

Making a clear distinction between the ERO’s response to violations that are detected, assessed and mitigated pursuant to robust internal controls and compliance programs and those matters that are discovered by the ERO or pose a serious risk to the BES will provide unambiguous signals about the ERO Enterprise’s identified areas of concern and risk prioritization. More importantly, Registered Entities will strengthen their existing internal controls and compliance programs that promptly detect, assess, correct and self-report possible issues of noncompliance to the ERO Enterprise.

D. Transition to Reliability Standards Based on Risk

The ERO Enterprise will develop a feedback loop from compliance monitoring and enforcement to the standards development process that will assist in the identification and development of Reliability Standards that are intended to address the most significant risks to BES reliability. The ERO Enterprise will continue to leverage industry and ERO Enterprise subject matter experts in the standards development process and support those subject matter expert teams

²⁸ See *Policy Statement on Compliance*, 125 FERC ¶ 61,058 (2008) at P.1.

with legal and compliance staff expertise to help ensure that upon implementation the Reliability Standards address the intended risk to reliability and are clear, concise and narrowly drawn to avoid unintended consequences.

When a given Reliability Standard is found to be ineffective because it has only a minimal impact on reducing risk (or in fact increases risk), the ERO Enterprise will work to revise, replace or eliminate the Reliability Standard.

V. Next Steps: Implementing Risk-Based Concepts

NERC will address the key components of these changes in an informational filing made March 2013 to FERC. The key components include: (1) restyling the ERO's overall compliance approach to conform to well-established audit principles as described herein including the right to decline to pursue violations across the ERO Enterprise; (2) establishing the requirements for Regional Entity's records to facilitate NERC and FERC oversight; (3) establishing processes for information flow between compliance functions and enforcement functions as well as an open, transparent and clear approach as to which matters will be subject to enforcement procedures; and (4) redesigning the enforcement strategy to focus on serious or higher risks to the BES.

Presentations regarding these concepts and next steps will be made at the November NERC BOTCC, MRC and BOT meetings. In addition, there will be subsequent presentations at regularly scheduled meetings and supplemental webinars as needed to introduce and discuss the key change state elements and related activities. The ERO Enterprise anticipates that this model will mature and be fully deployed over the next three to five years.

The ERO Enterprise will also introduce these approaches through a pilot project²⁹ as the initial steps towards full implementation. FERC has previously recognized the value of pilot projects, pointing out that "[n]o matter how good the data suggesting that a regulatory change should be made, there is no substitute for reviewing the actual results of a regulatory action." Order No. 637, FERC Stats. & Regs. ¶ 31,091 (2000) at 31,279. The U.S. Court of Appeals for the D.C. Circuit agrees: "For at least 30 years this court has given special deference to agency development of such experiments, precisely because of the advantages of data developed in

²⁹The pilot project will be performed across and among the regions with ERO oversight in conjunction with selected registered entities, the results of which will be communicated as lessons learned in the overall development of the Compliance Enforcement Initiative.

the real world.”³⁰ The goal of each pilot project will be to further define the risk-based approach and develop effective tools, training, procedures, and policies to allow the ERO Enterprise to deploy these concepts in a consistent manner across all Regional Entities. The ERO Enterprise will keep FERC apprised of the progress of the pilot projects, and at the conclusion of each pilot project, the ERO Enterprise will make appropriate revisions to the pilot projects and any necessary filings to deploy the pilot projects throughout the ERO Enterprise.

Beginning in November 2012 through early February 2013, NERC will be issuing a series of concept papers addressing the four key components described, the pilot project and a draft filing.

VI. Conclusion

The ERO Enterprise believes that the following benefits will result from employing risk-based methods:

- Improved Bulk Electric System reliability due to Registered Entities’ enhancing their existing policies, processes and procedures; internal controls; and cultures of compliance that self-assess risk and compliance and promptly correct matters before they have a material impact on reliability.
- Improved standards development and retirement process because there is a compliance monitoring and enforcement feedback loop.
- Improved utilization of all participants’ resources due to focus on higher risks.
- Increased efficiency for the ERO Enterprise and Registered Entities resulting in lower administrative costs because not all potential violations are processed.
- Drive consistency with the eight Regional Entities in compliance and enforcement.
- Improved Bulk Electric System reliability due to the use of the compliance monitoring and enforcement process to provide more meaningful signals about the ERO Enterprise’s identified areas of concern and risk prioritization.

³⁰ See, *Interstate Natural Gas Association of America v. Federal Energy Regulatory Commission*, 285 F.3d 18, 24 (D.C. Cir. 2001)(<http://ftp.resource.org/courts.gov/c/F3/285/285.F3d.18.00-1395.00-1380.00-1367.00-1360.00-1410.html>)