

# Agenda

## Project Management and Oversight Subcommittee Meeting

June 26, 2019 | 8:00–10:00 a.m. Eastern

NERC  
3353 Peachtree Road NE, Suite 600 – North Tower  
Atlanta, GA 30326

Dial-in: 1-415-655-0002 | Access Code: 736 308 529 | Meeting Password: 062619  
Click here for: [WebEx Access](#)<sup>1</sup>

### Introduction and Chair's Remarks

**NERC Antitrust Compliance Guidelines and Public Announcement**  
**NERC Participant Policy**

### Agenda Items

1. **Consent Agenda – Approve** (C. Yeung)
  - a. May 15, 2019 Project Management and Oversight Subcommittee Meeting Minutes\*
2. **Prior Action Items – Review** (S. Barfield-McGinnis)
3. **Project Tracking Spreadsheet ([PTS](#)) – Review**
  - a. 2015-09 – Establish and Communicate System Operating Limits – **Update & Accept Baseline** (K. Lanehome)
  - b. 2016-02 – Modifications to CIP Standards (K. Lanehome, A. Mayfield, or K. Rosener)
    - i. (2016-02c) Transmission Owner Control Centers Performing Transmission Operator Obligations (CIP-002) – **Update**
      1. Ballot Pools re-opened
    - ii. (2016-02d) Version 5 TAG, Cyber Asset and BES CA (BCA) definitions, Network and Externally Accessible Devices (ESP, ERC, IRA), Virtualization, and CIP Exceptional Circumstances – **Update & Accept New Baseline**
    - iii. (2016-02e) CIP-003-8 Malicious Code – **Update**

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<sup>1</sup> When joining the web portion, start with the web link first. Once logged in, a dialog box will open with all numbers or an option for WebEx to call your number. More importantly, it will give you your ATTENDEE ID#. Please use that number, if calling in, when prompted to do so. It links your web session to the caller on the phone.

- c. 2017-01 – Modifications to BAL-003-1 (A. Casuscelli or L. Lynch)
    - i. 2017-01 (Phase 1) – **Update**
    - ii. 2017-01(b) (Phase 2) – **Update**
  - d. 2017-03 – Periodic Review of FAC-008-3 Standard – **On Hold** (M. Pratt)
  - e. 2017-04 – Periodic Review of Interchange Scheduling and Coordination Standards – **On Hold** (C. Yeung)
  - f. 2017-05 – Project 2017-05 NUC-001-3 Periodic Review – **On Hold** (C. Bellville or A. Casuscelli)
  - g. 2017-07 – Standards Alignment with Registration – **On Hold** (M. Brytowski)
  - h. 2018-03 – Standards Efficiency Review (SER) Phase I – **Update** (M. Brytowski or M. Pratt)
    - i. SER Phase II – **Update** (M. Brytowski or L. Lynch)
  - i. 2018-04 – PRC-024-2 and Inverter Based Resources – **Update** (L. Lynch)
  - j. 2019-01 – Modifications to TPL-007-3 – **Update** (M. Brytowski or S. Cavote)
  - k. 2019-02 – BES Cyber System Information Access Management (CIP-004 and CIP-011) – **Update**
- 4. Other**
- a. Projects on Hold – **Update** (S. Kim)
    - i. How to restart (i.e., Periodic Reviews or normal projects)
    - ii. Current status of “On Hold” projects in relation to SER initiatives and whether those teams remain intact
    - iii. Discuss what reviews are being done to ensure alignment between “On Hold” projects and SER outcomes
  - b. Standards Filed, not approved – **Update** (M. Hecht)
  - c. Complexity Factors – **Update** (S. Barfield-McGinnis)
  - d. Next meeting – Conference call on Wednesday, August 7 at 1:00-3:00 p.m. Eastern
  - e. Other
- 5. Adjournment**

\*Background materials included.

# Antitrust Compliance Guidelines

## I. General

It is NERC's policy and practice to obey the antitrust laws and to avoid all conduct that unreasonably restrains competition. This policy requires the avoidance of any conduct that violates, or that might appear to violate, the antitrust laws. Among other things, the antitrust laws forbid any agreement between or among competitors regarding prices, availability of service, product design, terms of sale, division of markets, allocation of customers or any other activity that unreasonably restrains competition.

It is the responsibility of every NERC participant and employee who may in any way affect NERC's compliance with the antitrust laws to carry out this commitment.

Antitrust laws are complex and subject to court interpretation that can vary over time and from one court to another. The purpose of these guidelines is to alert NERC participants and employees to potential antitrust problems and to set forth policies to be followed with respect to activities that may involve antitrust considerations. In some instances, the NERC policy contained in these guidelines is stricter than the applicable antitrust laws. Any NERC participant or employee who is uncertain about the legal ramifications of a particular course of conduct or who has doubts or concerns about whether NERC's antitrust compliance policy is implicated in any situation should consult NERC's General Counsel immediately.

## II. Prohibited Activities

Participants in NERC activities (including those of its committees and subgroups) should refrain from the following when acting in their capacity as participants in NERC activities (e.g., at NERC meetings, conference calls and in informal discussions):

- Discussions involving pricing information, especially margin (profit) and internal cost information and participants' expectations as to their future prices or internal costs.
- Discussions of a participant's marketing strategies.
- Discussions regarding how customers and geographical areas are to be divided among competitors.
- Discussions concerning the exclusion of competitors from markets.
- Discussions concerning boycotting or group refusals to deal with competitors, vendors or suppliers.

- Any other matters that do not clearly fall within these guidelines should be reviewed with NERC's General Counsel before being discussed.

### **III. Activities That Are Permitted**

From time to time decisions or actions of NERC (including those of its committees and subgroups) may have a negative impact on particular entities and thus in that sense adversely impact competition. Decisions and actions by NERC (including its committees and subgroups) should only be undertaken for the purpose of promoting and maintaining the reliability and adequacy of the bulk power system. If you do not have a legitimate purpose consistent with this objective for discussing a matter, please refrain from discussing the matter during NERC meetings and in other NERC-related communications.

You should also ensure that NERC procedures, including those set forth in NERC's Certificate of Incorporation, Bylaws, and Rules of Procedure are followed in conducting NERC business.

In addition, all discussions in NERC meetings and other NERC-related communications should be within the scope of the mandate for or assignment to the particular NERC committee or subgroup, as well as within the scope of the published agenda for the meeting.

No decisions should be made nor any actions taken in NERC activities for the purpose of giving an industry participant or group of participants a competitive advantage over other participants. In particular, decisions with respect to setting, revising, or assessing compliance with NERC reliability standards should not be influenced by anti-competitive motivations.

Subject to the foregoing restrictions, participants in NERC activities may discuss:

- Reliability matters relating to the bulk power system, including operation and planning matters such as establishing or revising reliability standards, special operating procedures, operating transfer capabilities, and plans for new facilities.
- Matters relating to the impact of reliability standards for the bulk power system on electricity markets, and the impact of electricity market operations on the reliability of the bulk power system.
- Proposed filings or other communications with state or federal regulatory authorities or other governmental entities.

Matters relating to the internal governance, management and operation of NERC, such as nominations for vacant committee positions, budgeting and assessments, and employment matters; and procedural matters such as planning and scheduling meetings.

## Public Announcements

REMINDER FOR USE AT BEGINNING OF MEETINGS AND CONFERENCE CALLS THAT HAVE BEEN PUBLICLY NOTICED AND ARE OPEN TO THE PUBLIC

**For face-to-face meeting, with dial-in capability:**

Participants are reminded that this meeting is public. Notice of the meeting was posted on the NERC website and widely distributed. The notice included the number for dial-in participation. Participants should keep in mind that the audience may include members of the press and representatives of various governmental authorities, in addition to the expected participation by industry stakeholders.

# NERC Participant Conduct Policy

## General

Consistent with its Rules of Procedure, Bylaws, and other governing documents, NERC regularly collaborates with its members and other stakeholders to help further its mission to assure the effective and efficient reduction of risks to the reliability and security of the grid. Many NERC members and other bulk power system experts provide time and expertise to NERC, and the general public, by participating in NERC committees, subcommittees, task forces, working groups, and standard drafting teams, among other things. To ensure that NERC activities are conducted in a responsible, timely, and efficient manner, it is essential to maintain a professional and constructive work environment for all participants, including NERC staff, members of NERC committees, subcommittees, task forces, working groups, and standard drafting teams, as well as any observers of these groups. To that end, NERC has adopted the following Participant Conduct Policy (this “Policy”) for all participants engaged in NERC activities. Nothing in this Policy is intended to limit the powers of the NERC Board of Trustees or NERC management as set forth in NERC’s organizational documents, the NERC Rules of Procedure, or under applicable law. This Policy does not apply to the NERC Board of Trustees or the Member Representatives Committee.

## Participant Conduct Policy

All participants in NERC activities must conduct themselves in a professional manner at all times. This Policy includes in-person conduct and any communication, electronic or otherwise, made as a participant in NERC activities. Examples of unprofessional conduct include, but are not limited to, verbal altercations, use of abusive language, personal attacks, or derogatory statements made against or directed at another participant, and frequent or patterned interruptions that disrupt the efficient conduct of a meeting or teleconference.

Additionally, participants shall not use NERC activities for commercial purposes or for their own private purposes, including, but not limited to, advertising or promoting a specific product or service, announcements of a personal nature, sharing of files or attachments not directly relevant to the purpose of the NERC activity, and communication of personal views or opinions, unless those views are directly related to the purpose of the NERC activity. Unless authorized by an appropriate NERC officer, individuals participating in NERC activities are not authorized to speak on behalf of NERC or to indicate their views represent the views of NERC, and should provide such a disclaimer if identifying themselves as a participant in a NERC activity to the press, at speaking engagements, or through other public communications.

Finally, participants shall not distribute work product developed during the course of NERC activities if that work product is deemed Confidential Information consistent with the NERC Rules of Procedure Section 1500. Participants also shall not distribute work product developed during the course of NERC activities if distribution is not permitted by NERC or the relevant committee chair or vice chair (e.g., an embargoed report), provided that NERC, or the committee chair or vice chair in consultation with NERC staff, may grant in writing a request by a participant to allow further distribution of the work product to one or more

specified entities within its industry sector if deemed to be appropriate. Any participant that distributes work product labeled “embargoed,” “do not release,” or “confidential” (or other similar labels) without written approval for such further distribution would be in violation of this Policy. Such participants would be subject to restrictions on participation, including permanent removal from participation on a NERC committee or other NERC activity.

## **Reasonable Restrictions on Participation**

If a participant does not comply with this Policy, certain reasonable restrictions on participation in NERC activities may be imposed, as described below.

If a NERC staff member, or committee chair or vice chair after consultation with NERC staff, determines, by his or her own observation or by complaint of another participant, that a participant’s behavior is disruptive to the orderly conduct of a meeting in progress or otherwise violates this Policy, the NERC staff member or committee chair or vice chair may remove the participant from a meeting. Removal by the NERC staff member or committee chair or vice chair is limited solely to the meeting in progress and does not extend to any future meeting. Before a participant may be asked to leave the meeting, the NERC staff member or committee chair or vice chair must first remind the participant of the obligation to conduct himself or herself in accordance with this Policy and provide an opportunity for the participant to comply. If a participant is requested to leave a meeting by a NERC staff member or committee chair or vice chair, the participant must cooperate fully with the request.

Similarly, if a NERC staff member, or committee chair or vice chair after consultation with NERC staff, determines, by his or her own observation or by complaint of another participant, that a participant’s behavior is disruptive to the orderly conduct of a teleconference in progress or otherwise violates this Policy, the NERC staff member or committee chair or vice chair may request the participant to leave the teleconference. Removal by the NERC staff member or committee chair or vice chair is limited solely to the teleconference in progress and does not extend to any future teleconference. Before a participant may be asked to leave the teleconference, the NERC staff member or committee chair or vice chair must first remind the participant of the obligation to conduct himself or herself in accordance with this Policy and provide an opportunity for the participant to comply. If a participant is requested to leave a teleconference by a NERC staff member or committee chair or vice chair, the participant must cooperate fully with the request. Alternatively, the NERC staff member or committee chair or vice chair may choose to terminate the teleconference.

At any time, a NERC officer, after consultation with NERC’s General Counsel, may impose a restriction on a participant from one or more future meetings or teleconferences, a restriction on the use of any NERC-administered listserv or other communication list, or such other restriction as may be reasonably necessary to maintain the orderly conduct of NERC activities. Before approving any such restriction, the NERC General Counsel must provide notice to the affected participant and an opportunity to submit a written objection to the proposed restriction no fewer than seven days from the date on which notice is provided. If approved, the restriction is binding on the participant, and NERC will notify the organization employing or contracting with the restricted participant. A restricted participant may request removal of the restriction by submitting

a request in writing to the NERC General Counsel. The restriction will be removed at the reasonable discretion of the NERC General Counsel or a designee.

Upon the authorization of the NERC General Counsel, NERC may require any participant in any NERC activity to execute a written acknowledgement of this Policy and its terms and agree that continued participation in any NERC activity is subject to compliance with this Policy.

**Guidelines for Use of NERC Email Lists**

NERC provides email lists, or “listservs,” to NERC stakeholder committees, groups, and teams to facilitate sharing information about NERC activities. It is the policy of NERC that all emails sent to NERC listservs be limited to topics that are directly relevant to the listserv group’s assigned scope of work. NERC reserves the right to apply administrative restrictions to any listserv or its participants, without advance notice, to ensure that the resource is used in accordance with this and other NERC policies.

Prohibited activities include using NERC-provided listservs for any price-fixing, division of markets, and/or other anti-competitive behavior. Recipients and participants on NERC listservs may not utilize NERC listservs for their own private purposes. This may include lobbying for or against pending balloted standards, announcements of a personal nature, sharing of files or attachments not directly relevant to the listserv group’s scope of responsibilities, or communication of personal views or opinions, unless those views are provided to advance the work of the listserv’s group. Any offensive, abusive, or obscene language or material shall not be sent across the NERC listservs.

Any participant who has concerns about this Policy may contact NERC’s General Counsel.

**Version History**

Version	Date	Change Tracking
1	February 6, 2019	
2	February 22, 2019	<ul style="list-style-type: none"> <li>• Clarified policy does not apply to Board or MRC</li> <li>• Addressed participants speaking on behalf of NERC</li> </ul>



# Meeting Minutes

## Project Management and Oversight Subcommittee (PMOS)

May 15, 2019 | 1:00 – 3:00 p.m. Eastern

### Introduction and Chair's Remarks

Chair C. Yeung called the meeting, a conference call, to order at 1:01 p.m. Eastern. The meeting was announced via the PMOS email distribution list on May 8, 2019 as well as being publicly posted on nerc.com. The chair provided the subcommittee with opening remarks and welcomed members<sup>1</sup> and guests. The secretary held roll call for members and attendees that were in attendance. Those in attendance included:

Members: Charles Yeung (PMOS chair), Michael Brytowski (PMOS vice chair), Colby Bellville, Sean Cavote, Ken Lanehome, Linda Lynch, and Kirk Rosener. A quorum of voting members (i.e., seven of nine) were present. Non-voting members Andrew Gallo and Amy Casuscelli were not on the call.

Observers: from industry: John Allen (City Utilities), , Karie Barczak (DTE Energies), Rachel Coyne (TRE), Kent Feliks, Rich Heidorn Jr. (RTO Insider), Quinn Morrison (Exelon) and Kim Zimmerman (Energysec); from NERC: Scott Barfield-McGinnis (secretary), Latrice Harkness, Marisa Hecht, Soo Jin Kim, Chris Larson, Jordan Mallory, Wendy Muller, and Lauren Perotti.

### NERC Antitrust Compliance Guidelines and Public Announcement

NERC Antitrust Compliance Guidelines and Public Announcement were presented and reviewed by the secretary. The secretary noted the full antitrust guidelines and public announcement were provided in the agenda package to each member via email and posted on the PMOS webpage. There were no questions.

### NERC Participant Policy

The secretary noted that the revised NERC Participant Policy was included in the meeting announcement and for attendees to make themselves aware of its content.

### Agenda Items

#### 1. Review of Agenda

C. Yeung reviewed the agenda with members and attendees.

#### 2. Consent Agenda

The March 20, 2019 Meeting Minutes were reviewed and not amended. C. Cavote motioned to approve the consent agenda, it was properly seconded, and the motion passed unanimously.

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<sup>1</sup> The PMOS is composed of industry stakeholders where the chair or vice chair must be a member of the Standards Committee (SC) and the SC leadership are non-voting members of the PMOS.

### 3. Review of Prior Action Items

S. Barfield-McGinnis reported on the following action items from the February 13, 2019 in-person meeting:

- a. Add FAC-011 as an affected standard to Project 2015-09. (Complete)
- b. Obtain a baseline schedule from the standard drafting team (SDT) for Phase 2 of Project 2017-01(b). (Complete)
- c. Add an agenda item for the May 15 conference call concerning the four projects (i.e., 2017-03, 2017-04, 2017-05, and 2017-07) that are currently on hold to address: (1) how to restart these and any other future projects that are on hold from a duration standpoint; (2) the current status of the held projects pending the Standards Efficiency Review (SER) Phase I & II work; and (3) the efforts being made to ensure the projects are reviewed and aligned with the SER outcomes. (Complete, but was deferred to the June in-person meeting agenda.)
- d. Remove the listing of Project 2018-01 from the PTS “home page.” (Complete)
- e. Archive Project 2018-02 (CIP-008) in the PTS, including the home and summary pages. (Complete)
- f. Add M. Brytowski as the liaison for Project 2019-01 – Modifications to TPL-007-3 (Complete)

### 4. Project Tracking Spreadsheet (PTS) and Project Review

- a. 2015-09 – Establish and Communicate System Operating Limits (SOL) – K. Lanehome reported:
  - i. The SDT is working on proposed language for FAC-011 Requirement R7, TOP-001 (Transmission Operations) and IRO-008 (Reliability Coordinator Operational Analyses and Real-time Assessments) Requirements and Measures. The team has received feedback on the logging/reporting time concept from FERC staff and NERC Standards NERC staff and is working on finalizing a path forward.
  - ii. It has been decided that Interconnection Reliability Operating Limit (IROL) modifications will not be made to CIP-002 (Cyber Security — Bulk Electric System (BES) Cyber System Categorization) at this time. The Critical Infrastructure Protection (CIP) SDT will finish their work and post with no changes to the IROL language. CIP-002 will be re-opened during phase 2 of this project to address the IROL language.
  - iii. A Sub-group has been formed to determine a path forward for FAC-015. Options include making clarifying revisions to FAC-015 (new) based on comments, transfer Requirements to other Facility (FAC) Reliability Standards, or moving to TPL-001 (Transmission Planning).
- b. 2016-02 – Modifications to Critical Infrastructure Protection (CIP) Standards – K. Lanehome reported the following:
  - i. (2016-02c) CIP-002-5.1a: Working with the SOL SDT to address criterion regarding IROLs. Upcoming, the SOL and CIP SDTs have agreed that CIP should finish its work without the IROL modifications. That language will be left alone and addressed by the SOL SDT in phase 2 of their project. There are matters that need to be worked out with the implementation

timeline and commissioning upon phrase. The schedule is dependent on the implementation timeline matters, but it could be ready to post for additional ballot by late June.

- ii. (2016-02d) Version 5 TAG, Cyber Asset and BES Cyber Asset (BCA) definitions, Network and Externally Accessible Devices (ESP, ERC, IRA), Virtualization, and CIP Exceptional Circumstances: The team has been focusing on industry outreach to explain the issues and why updating the standards are necessary. SDT members have been presenting their plan at regional workshops and most of the focus in recent meetings has been making edits to CIP-005 (Cyber Security — Electronic Security Perimeter(s)), Requirement R1, as well as related definitions.

Upcoming, the SDT has drafted a case for change white paper and has released it to industry. An industry webinar was done on April 24, but the liaisons have not been informed of feedback. The next SDT is meeting in Taylor, TX May 21-23 to continue working on standards drafting and definitions of terms. The new schedule is forthcoming and anticipated for the PMOS June in-person meeting.

- iii. (2016-02e) – CIP-003-8 Malicious Code (FERC Order #843 Malicious Code Example Directive): This project passed Final Ballot passed on April 29, 2019 at 91.44% and was adopted by the NERC Board of Trustees (Board) at their May 8-9, 2019 meeting. The project documents are expected to be filed with regulatory authorities in June 2019.

- c. 2017-01 – Project 2017-01 Modifications to BAL-003-1.1 – S. Kim reported the following:

**Phase I:** NERC staff expected to conclude Interconnection Frequency Response Obligation (IFRO) studies by mid-June to ensure there will not be reliability issues created by any SDT proposed changes. Phase I expected to proceed to final ballot in early July 2019, and go to the Board for approval in August.

**Phase II:**

The SDT met on April 30 through May 2 to address the survey responses and decide on a path forward. The SDT is meeting the week of June 17 at LG&E and Kentucky Utilities' offices in Louisville, KY. The baseline for phase II was presented to the PMOS members. L. Lynch motioned to accept the baseline, the motion was properly seconded, and the motion passed unanimously.

- d. 2017-03 – Periodic Review of FAC-008-3 Standard – No report as the project is on hold pending the outcome of the SER project.
- e. 2017-04 – Periodic Review of Interchange Scheduling and Coordination Standards – No report as the project is on hold pending the outcome of the SER project.
- f. 2017-05 – Project 2017-05 NUC-001-3 Periodic Review – No report as the project is on hold pending the outcome of the SER project.
- g. 2017-07 – Standards Alignment with Registration – No report as the project is on hold pending the outcome of the SER project.

- h. 2018-03 – Standards Efficiency Review (SER) Phase I – M. Brytowski reported the following:  
All proposed retirements (balloted individually by Standard) passed with greater than 88% approval (most in the mid-90% approval range). SER Phase I SDT met April 17-18, 2019 in Atlanta to review industry comments and results of industry ballot that concluded on April 12.
- i. 2018-04 – Modifications to PRC-024-2 – L. Lynch reported that the initial comment period ends on May 31 along with a 10-day initial ballot. The team is planning for an additional comment period, if needed, at the end of June. Team conference calls are scheduled for June 5, 7, 11, 12 and 14, 2019 to begin addressing industry comments. The next in-person meeting is scheduled for June 18-20, 2019 at Hydro-Quebec in Montreal, Quebec Canada.
- j. 2019-01 – Modifications to TPL-007-3 – The baseline for the project was presented to the PMOS members. M. Brytowski motioned to accept the baseline, the motion was properly seconded, and the motion passed unanimously.
- k. 2019-02 – BES Cyber System Information Access Management (Assign Liaison). Colby Bellville and Kirk Rosener were appointed as liaisons to the project. L. Harkness gave a report that the slate of nominees to serve as the Standard Authorization Request (SAR) drafting team is scheduled to be presented to the Standards Committee on May 22 for appointment. A potential baseline for the project may be available by the June 26 in-person meeting.

## 5. Other

### a. PTS project Complexity Factors

S. Barfield-McGinnis gave a summary of an analysis he conducted on the PTS and showed graphically in a chart the total number of days it took to complete a project from the SAR start date as the beginning to the Final Ballot end date as the ending point. The chart clearly revealed that the typical time to complete a project is converging on 18 months and less.

A part of the analysis was to evaluate the time to complete a project based upon “complexity factors” that affect a project’s duration. S. Barfield-McGinnis explained that the analysis used four complexity factors, which are: (1) the number of affected standards, (2) the priority of the project as assigned by the SC, (3) the number of regulatory directives, and (4) the number of guidance(s) (i.e., “soft directives”). He explained that there was not any statistical significance of the four complexity factors due to the small number of projects available. However, there was a positive correlation when using a single weighting factor comprised of all four complexity factors.

S. Barfield-McGinnis explained the goal is to consider using “complexity factors” to inform the initial baseline scheduling of a project as well as logging factors as they emerge over the course of a project. By correlating the factors throughout the life cycle of a project, PMOS Liaisons will have clear line of sight as to whether a shift in project’s duration is reasonable based on the complexity factors. He will be developing a list for members to discuss at the June 2019 in-person meeting.

- b. Next meeting – In-person on June 26, 2019 at 8:00-10:00 a.m. Eastern at the NERC main office in Atlanta, Georgia.

## **6. Action Items**

The secretary took the following action items to be addressed prior to the next meeting:

- a. Obtain a new baseline schedule for acceptance at the June 2019 meeting.
- b. Obtain an update or new baseline for 2016-02d contingent on whether the project goes to final ballot or not.
- c. Consider 2018-03 for archiving on the June 2019 agenda.
- d. For 2019-02 assign liaisons to distribution lists and update PTS. Obtain baseline schedule once team is assembled.
- e. Develop initial complexity factors for review at the June 2019 in-person meeting.
- f. Have S. Kim provide an update on how “on hold” projects will be restarted following SER.

## **7. Adjournment**

- C. Yeung adjourned the meeting at 2:06 p.m. Eastern by consent.