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Mr. David N. Cook
Vice President and General Counsel
North American Electric Reliability Corporation
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Dear David:

I am writing on behalf of the IESO in response to the request for comments with respect to the proposed new rule, Section 1600. According to NERC, this new rule sets forth a process for NERC or a regional entity to issue requests for data or information which is necessary for either organization to fulfill its obligations.

In the request for comments, NERC explains that the legal basis in the United States for this amendment is Section 39.2(d) of the Federal Energy Regulatory Commission ("Commission") regulations and section 215 of the Federal Power Act. NERC explains further that the legal basis is evidenced in the first sentence of the proposed section 1601, which provides that, "[w]ithin the United States, NERC and Regional Entities may request data or information that is necessary to implement Section 215 of the Federal Power Act, as authorized by Section 39.2(d) of the Commission's regulations."

In the second sentence of proposed section 1601, NERC is proposing to address data requests in jurisdictions outside the U.S.: "In other jurisdictions NERC and Regional Entities may request comparable data or information, using such authority as may exist pursuant to these rules and in those other jurisdictions."

In Ontario, these requests for data or information from Ontario-based entities fall under the scope of the MOU signed in 2006 by the OEB and NERC, and the MOU signed in 2006 by the IESO, NERC, NPCC CBRE and NPCC Inc. ("Ontario MOUs"). The latter MOU states: "It is acknowledged that the NERC Rules of Procedure have effect in Ontario subject to compatibility with the established reliability and compliance framework within Ontario."

The IESO is generally supportive of the content of the proposed rule. We note, however, the concern of entities in other provinces that the proposed wording could be interpreted in a manner which fails to respect provincial jurisdiction. Accordingly, the IESO supports the revised wording proposed by the CEA:

Section 1601: In any other jurisdiction, NERC and Regional Entities may request comparable data or information where the authority to request such data or information is provided by the respective jurisdiction.

Section 1602 (new subsection): 6. The procedures under this section shall apply to users, owners, or operators of the bulk-power system in jurisdictions other than the United States where the relevant authority is provided under Section 1601.

Section 1603: All users, owners and operators of the bulk power system shall comply with authorized requests for data and information under Section 1602.

Additionally, the IESO believes that information respecting critical energy infrastructure warrants explicit reference, either in the rule or elsewhere. Our view is that critical energy infrastructure information should not normally be requested by NERC or Regional Entities. Our concern could be addressed by the following wording: "NERC and Regional Entities will not require or request data or information labelled as "critical energy infrastructure information". On an exception basis, should such critical energy infrastructure data and information be necessary for NERC and Regional Entities to fulfill their obligations, NERC and Regional Entities will establish a program to identify, classify and protect such data and information from disclosure."

As noted, the applicability of the proposed rule is subject to compatibility with the established reliability and compliance framework within Ontario. This limitation would apply to data or information responding to a requirement of a governmental authority, such as FERC or the DOE. In such a case, the IESO would expect to be notified by NERC as to the basis for the request and the entities to whom the data or information will be provided. The IESO would then determine whether to provide the requested data or information on behalf of Ontario. Similarly, the IESO would expect such notification by NERC in the event of any change in the use of requested data and information, and would determine the appropriateness of its provision in the context of the MOU.

In closing, I want to stress that while it is important to clarify the specifics of how the proposed rule change relates to the MOUs and the established reliability and compliance framework in Ontario, these specifics are offered within the broad context of the IESO's continuing support for an effective ERO. In this regard the IESO intends to continue supplying the data and information that are core to NERC's effectiveness as an ERO, namely that related to reliability standards, disturbance events and reliability assessments.

Respectfully submitted,

Kim Warren
Manager, Regulatory Affairs
Independent Electricity System Operator of Ontario