

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**Reliability Standards Development and
NERC and Regional Entity Enforcement**

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Docket No. AD10-14-000

**SUPPLEMENTAL COMMENTS OF
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
REGARDING COMMISSIONER-LED TECHNICAL CONFERENCE ON
RELIABILITY STANDARDS DEVELOPMENT AND
NERC AND REGIONAL ENTITY ENFORCEMENT**

The California Independent System Operator Corporation (California ISO) respectfully submits these supplemental comments addressing ambiguities in reliability standards in response to the Commission’s July 6, 2010 technical conference convened to consider industry perspectives on issues pertaining to the development and enforcement of mandatory reliability standards for the bulk-power system.¹

I. Introduction

The California ISO has previously remarked that the Commission should strive toward a regulatory framework that produces reliability standards, which are (1) informed by and reflect industry experience and expertise, (2) are technically sound, (3) clearly delineate the requirements and responsible parties, (4) are compatible with competitive electricity markets, and (5) provide clear

¹ *Notice Soliciting Comments*, AD10-14-000 (July 7, 2010).

enforcement mechanisms and consequences.² Ambiguity undermines each of these elements. The California ISO therefore focuses these comments on the specific request made at the technical conference to identify specific ambiguities in, and impact on, the reliability standards.³

Not all ambiguities are equal. Vague language that creates uncertainty in real-time system operation or equipment performance requirements poses the most significant risk to grid reliability. Resolving such ambiguities deserves the greatest attention. In this regard, the California ISO commends the Commission, the Electric Reliability Organization (ERO) and industry participants for proactively seeking to identify and address many ambiguities falling within this category. An example is the pending effort to clarify the meaning of the phrase “local Network customers” when assessing the viability of interrupting electric service for a Category B Contingency under the TPL standards.⁴

Other ambiguities may have a less direct impact on maintaining grid reliability, but may nevertheless exert critical influence on the equitable and consistent enforcement of the reliability standards. The California ISO generally supports a proactive approach that minimizes uncertainty by revising the use of commonly used, but inherently ambiguous, terms. The California ISO has, however, admonished against impulsively “tweaking” reliability standards “down

² *Prepared Statement of Nancy Saracino, Vice-President, General Counsel and Chief Compliance Officer for the California Independent System Operator Corporation, AD10-14-000 (July 6, 2010) at p. 2*

³ The California ISO’s views on the broader issues raised by the technical conference regarding the structure and effectiveness of the regulatory framework for electric reliability are set forth in the prepared and oral statements of Nancy Saracino and the comments of the Independent System Operator/Regional Transmission Organization Counsel submitted in this docket. *Id.*

⁴ See http://www.nerc.com/filez/standards/Project2010-11_TPL_Table-1_Order.html

to the last word.” As such, it may be that certain ambiguities that effect administrative requirements or less important sub-requirements are best addressed, in the first instance, through more comprehensive and thoughtful modifications to the enforcement structure that effectively mitigate the consequences of misapplied or differing interpretations and, secondarily, through appropriately prioritized revisions to the standards themselves. The California ISO’s comments largely focus on this latter category of ambiguities, setting forth illustrative examples.⁵

II. Efforts Should Be Taken to Address the Use of Inherently Indistinct, but Commonly Used, Terms in Reliability Standards

Much of the ambiguity in the reliability standards occurs from the use of common terms, which typically are imprecise in their meaning. The most prominent area of concern involves adjectives or adverbs that, without further description, allow for considerable variability in their application.⁶ The following chart lists examples of such ambiguities and their frequency in the standards:

Ambiguous Term	No. of Occurrences
Significant	19
Substantial	10
Appropriate	198
Timely	28
Sufficient	72

Notwithstanding the presence of these ambiguous terms, the Commission concluded in Order No. 693 that the approved reliability standards “are

⁵ The ambiguities identified in these comments are not intended to comprise an exhaustive list of ambiguities in the reliability standards.

⁶ A similar observation was made by several parties in the context of Order No. 693, 18 CFR Part 40 at P 272.

sufficiently clear as to be enforceable and do not create due process concerns.” Nevertheless, the Commission also contemplated a two-pronged approach to increasing the precision of the reliability standards on a going forward basis. One identified prong relies on the ERO’s reliability standards development process. A second prong relies on the dissemination of interpretations of ambiguous terms through the audit process and guidelines.⁷ Given the pervasiveness of the use of the inherently ambiguous terms, however, it is understandable that considerable uncertainty or variability in application among industry and enforcement entities continues to persist despite the dual approach. Moreover, the concern is not so much whether the standards are enforceable, but rather as to whether enforcement is consistent and equitable in light of the many subjective terms used in the standards.

Although the ERO’s interpretation and audit processes” have provided greater meaning for some of these terms in accordance with the Commission’s expectation, for most there remains no clear “definition” or uniform industry practice which continues to create inconsistencies in application and enforcement. In any event, the majority of the uses of the foregoing terms introduce uncertainty into the standards. The term’s meaning remains contingent upon particular circumstances, and is subject to the discretion of those applying the standard. Considering the standards are mandatory, enforced with the imposition of significant penalties and sanctions, entities need to be able to rely upon authoritative and citable interpretations.

⁷ *Order No. 693*, 18 C.F.R. Part 40 (March 16, 2007) at P 274-280.

Other terms may be clear in the abstract, but not in practice because they lack accompanying detailed metrics. For example, IRO-005 requires the Transmission Operator to “immediately inform the Reliability Coordinator of the status of the Special Protection System including any degradation or potential failure.” It is not possible, however, absent an automatic procedure to provide an immediate notification, especially in this case regarding a potential failure. Accordingly, a more helpful measure that reduces the risk of inconsistent enforcement would be to specify a definite metric, such as “within 15 minutes of discovery.” Similarly, TOP-002 requires the reporting of changes in capabilities of generation.” It is unclear whether this means wholly unavailable, partially unavailable and, if partial, how much of a change is required and for how long in duration before the reporting threshold is triggered?

Other common words used in the standards are generally understood to require an entity take some type of action, but it is unclear as to the precise nature of that action, the performance or outcome to be achieved, or the methods acceptable to achieve the result. The following list sets forth examples of such terms and their frequency in the reliability standards:

Ambiguous Term	No. of Occurrences
Consider	42
Review	309
Communicate	43
Inform	38
Coordinate	95

These terms leave open to interpretation precisely how an entity complies. For example, is it acceptable to “inform” an entity through a general notice or must it be directed to a specific individual or function within the entity? What form of “notice” is sufficient? What constitutes coordination or consideration?

Some level of flexibility may be appropriate in particular situations that endanger reliable system operation. However, the enforcement protocols and consequences for “violations” must account for such discretionary decision-making where such flexibility exists - at least until an interpretation or standards revision processes are capable of ensuring clear communication of an accepted “common interpretation.” One mechanism to address this need is the concept of a “fix-it ticket” or written warning, which would account for the legitimate exercise of discretion in the context of inherently ambiguous terms. See comments of the Independent System Operator/Regional Transmission Organization Council submitted in this docket on July 26, 2010. Absent some recognition of the use of the audit and enforcement process to provide interpretations of inherently ambiguous language in the reliability standards, there will inevitably be disparate treatment of those entities subject to penalties prior to the adoption of the accepted interpretation. Furthermore, this mechanism provides a means of addressing discretionary matters as well as minor infractions that do not affect core reliability, and permits a more equitable basis for enforcement action that focuses on improving processes and procedures.

III. Conclusion

The California ISO fully supports the Commission's efforts to improve the development and enforcement of reliability standards. An important component of that effort is addressing ambiguities in the standards. These supplemental comments have sought to identify some examples of such ambiguities, which the California ISO believes will be helpful to the Commission in these efforts.

Respectfully submitted,

/s/ Grant Rosenblum

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CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon the parties listed on the official service list in the captioned proceedings, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, California this 26th of July, 2010.

Anna Pascuzzo

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