

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

Revisions to Regulations on)
Electric Reliability Organization) Docket No. RM21-12-000
Performance Assessments)

**COMMENTS OF
THE ISO/RTO COUNCIL**

The ISO/RTO Council (“IRC”)¹ submits these comments in reply to the Notice of Proposed Rulemaking that the Federal Energy Regulatory Commission (“FERC” or “Commission”) issued in Docket No. RM21-12-000 on January 19, 2021.² In the NOPR, the Commission, proposes: (1) “to amend section 39.3(c) of the Commission’s regulations to require the Commission-certified Electric Reliability Organization (“ERO”) to submit assessments of its performance every three years instead of the current period of every five years[;]”³ (2) “to add subsection (iv) to section 39.3(c)(1) of the Commission’s regulations to require the Commission-certified ERO to include in its performance assessments a detailed discussion of any areas of the ERO’s responsibilities and activities, or the Regional Entities’ delegated functions, beyond those required by section 39.3(c)(1)(i), (ii), and (iii), that the Commission identifies for inclusion at least 90 days prior to the expected

¹ The IRC comprises the following independent system operators (“ISOs”) and regional transmission organization (“RTOs”): Alberta Electric System Operator (“AESO”); California Independent System Operator (“CAISO”); Electric Reliability Council of Texas, Inc. (“ERCOT”); the Independent Electricity System Operator of Ontario, Inc. (“IESO”); ISO New England Inc. (“ISO-NE”); Midcontinent Independent System Operator, Inc. (“MISO”); New York Independent System Operator, Inc. (“NYISO”); PJM Interconnection, L.L.C. (“PJM”); and Southwest Power Pool, Inc. (“SPP”).

² *Revisions to Regulations on Electric Reliability Organization Performance Assessments*, Notice of Proposed Rulemaking, 174 FERC ¶ 61,031 (2021) (“NOPR”).

³ NOPR at P 1.

performance assessment submission date[;]”⁴ and (3) “formalizing the method for the [ERO] and Regional Entities to receive and respond to recommendations by the users, owners, and operators of the Bulk-Power System, and other interested parties for improvement of the [ERO’s] operations, activities, oversight and procedures.”⁵

The IRC’s comments are in support of the third proposal that the Commission has presented in the NOPR.

I. FORMALIZING THE RECOMMENDATION PROCESS INCREASES GOOD GOVERNANCE

In conducting the assessment of its performance, the ERO is already required to respond to improvement recommendations submitted by interested parties.⁶ The Commission is proposing to amend its regulations to require that the ERO and Regional Entities solicit recommendations via a noticed, public comment period.

The IRC supports the Commission’s proposal to formalize the method for interested parties to constructively provide recommendations regarding the ERO and Regional Entities’ operations, activities, oversight and procedures. Recommendations from interested parties that are action-oriented, future-focused, and have the common goal of increased security, resilience, and reliability, would support the ERO’s efforts. In the NOPR, the Commission proposed that the ERO include the recommendations and the ERO’s responses to them in its ERO Performance Assessment report.⁷ The IRC believes that analyzing and responding to constructive recommendations is an important part of

⁴ NOPR at P 2.

⁵ *Id.* at P 3.

⁶ 18 CFR § 39.3(c)(1)(ii).

⁷ NOPR at P 15.

good governance that will help support continuous improvement efforts in all the Regional Entities' territories.

Accordingly, the IRC supports formalizing the recommendation process for the ERO Performance Assessments.

II. A FORMALIZED METHOD TO PROVIDE RECOMMENDATIONS ALLOWS FOR TIMELY RESOLUTION OF MINOR ISSUES

The IRC believes that, similar to the Commission's justification for the proposed shorter timeframes for the ERO Performance Assessments, a formalized method to provide recommendations on ERO Performance Assessments would also "provide an opportunity to identify potential improvements with regard to ERO performance in a more timely fashion, allow for changes to be made in a more timely manner, and improve the efficiency of the overall performance assessment process."⁸

Specifically, bringing public comments more formally into the problem-solving process could help identify issues quickly and provide recommendations to the ERO on how to solve the issues, while the Performance Assessment is still in an early draft phase. The ERO could then adjust and address minor issues in its ERO Performance Assessment before it is even submitted to the Commission. A formal public comment period could also increase the number of constructive comments submitted. The requirement for the ERO to include comments and its responses in the ERO Performance Assessment may provide additional ways to achieve consensus and work towards a common goal for a secure, resilient, and reliable Bulk Electric System.

⁸ NOPR at P 1.

III. A FORMALIZED METHOD TO PROVIDE RECOMMENDATIONS IMPROVES TRANSPARENCY AND COLLABORATION

Finally, the IRC believes that a formalized method to solicit improvement recommendations for the ERO would support stronger, two-way communication between the ERO/Regional Entities and registered entities regarding ERO/Regional Entity operations, activities, oversight and procedures. While the current, informal means for registered entities to provide feedback to the ERO and Regional Entities is a good start, the more formalized approach proposed in the NOPR adds rigor and substance, enhances transparency, and improves registered entity insight into the ERO's and Regional Entities' processes and policy decisions. The shared responsibilities of the regulators and the regulated community for system reliability, security and resilience demand no less. The communication method for ERO Performance Assessment recommendations, as proposed in the NOPR, where the ERO/Regional Entities will be required to receive, consider, and formally address comments, serves to enhance transparency and to increase registered entity insight into the ERO's perspective. Providing clarity to the registered entities about some of the ERO's current processes will enhance understanding not only of process but also policy decisions. This will help to generate alignment across the industry and consistency among the regions and the entire ERO.

The IRC does not advocate in these Comments that the ERO be required to fully replace its existing, more informal means of soliciting and responding to recommendations. Rather, to the extent feasible, the ERO could simply make incremental changes to its existing process for considering Performance Assessment recommendations by providing as an addition to that process, a NERC-administered, noticed public comment period, full consideration by NERC and a written response to all comments received.

As the Commission acknowledges in the NOPR, meaningful regulatory oversight improves with this kind of transparency. The formalized method for recommendations proposed in the NOPR can facilitate better, more meaningful communications between registered entities and the ERO/Regional Entities. In addition, a formalized method for the ERO and the Regional Entities to solicit and respond to improvement recommendations is a logical next step in the transparent and collaborative culture that the ERO, the Regional Entities, and registered entities all seek to achieve in furtherance of system reliability, security and resilience for the Bulk Electric System.

IV. CONCLUSION

The IRC respectfully requests that the Commission accept and consider these comments.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day e-served a copy of this document upon all parties listed on the official service list compiled by the Secretary in the above-captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated this 1st day of March, 2021 in Carmel, Indiana.

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