

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

**Rules Concerning Certification of the Electric)
Reliability Organization; and Procedures) Docket No: RM05-30-000
for the Establishment, Approval, and)
Enforcement of Electric Reliability Standards)**

**COMMENTS OF THE
AMERICAN WIND ENERGY ASSOCIATION**

Pursuant to the Commission’s Notice of Proposed Rulemaking (“NOPR”) issued in the above-referenced docket September 1, 2005, the American Wind Energy Association (“AWEA”)¹ respectfully files the following comments on proposed rules for certification of the Electric Reliability Organization (“ERO”) and the approval and enforcement of reliability standards. In sum, AWEA believes:

- 1. Balanced decision-making by the ERO should be ensured;**
- 2. FERC should ensure that Reliability Standards are not unduly discriminatory and do not harm competition by creating barriers to entry; and**
- 3. Delegation to Regional Entities that are not Interconnection-wide should be minimized and limited to enforcement.**

¹ AWEA is a national trade association representing a broad range of entities with a common interest in encouraging the expansion and facilitation of wind energy resources in the United States. AWEA members include wind turbine manufacturers, component suppliers, project developers, project owners and operators, financiers, researchers, renewable energy supporters, utilities, marketers, customers and their advocates.

I. Communications

AWEA requests that all pleadings, correspondence and other communications concerning this docket be directed to the following persons, and their names and addresses be placed on the official service list for this docket:

Robert E. Gramlich
Policy Director
American Wind Energy Association
1101 14th Street, NW, 12th Floor
Washington, DC 20005
Tel: 202-383-2521
rgramlich@awea.org

II. Comments

A. The FERC Should Ensure Balanced decision-making by the ERO.

The Energy Policy Act of 2005 Section 215(c)(2)(A) directs the Commission to ensure that an ERO has balanced decision-making. The Commission's proposed regulations in Section 38.3(b)(2) provide that the applicant must document that it has stakeholder representation in the selection of its directors and balanced decision-making in any ERO committee or subordinate organizational structure. Section 38.3(b)(2) also provides that an ERO's rules allocate equitably reasonable dues, fees and charges among end users for all activities under this new reliability regulation. Today, NERC's committees are dominated by utilities that have their meeting attendance costs paid through rate base. AWEA members, in contrast, do not have that luxury and therefore as a practical matter have much less ability to participate. As a result, while NERC committees are open to participation by all NERC members equally, the number of meetings and the cost of participation is such that large transmission owners and utilities that can recover these costs in rates are almost always disproportionately represented.

Ensuring balanced decision-making is of utmost importance. AWEA has made an organizational commitment to participate in NERC committees, but the resources we have to do so are very limited. For FERC to execute this requirement, it should review, in the initial certification of the ERO, the balance of its committees. This exercise would be similar to the Commission's review of RTO independence and the balance of interests on advisory RTO boards. FERC should also review the ability of the independent board to ensure balanced decision-making. The independent board must review not only the rules but the process with which the rules were developed through its committees to ensure that balance was achieved. The ERO's independent board should have adequate resources to independently review the standards that are proposed by committees.

B. FERC should ensure that Reliability Standards do not harm competition by creating barriers to entry.

The Energy Policy Act of 2005 directs the Commission not to defer to the ERO or a Regional Entity with respect to the effect of a Reliability Standard on competition. The Commission asks for a definition of competition and specific examples. With regard to the question of how competition should be defined, AWEA submits that the Commission should use the standard criteria of “perfect competition” such that any detraction from these criteria would be deemed to have an adverse effect on competition. These criteria, found in standard microeconomics and industrial organization textbooks², include: many buyers and sellers, free entry and exit, perfect information, and no transactions costs. Any Reliability Standard that reduces the number of buyers and sellers, creates barriers to entry and/or exit, reduces the information available to the market, or increases transactions costs should be deemed to harm competition. We recognize that harm to competition must be balanced against the reliability benefits of proposed rules.

One aspect of competition is not to be balanced against other factors: discrimination. AWEA has been concerned at times that certain Reliability Standards are stricter for wind generators than for others. That outcome would create a barrier to entry for wind and therefore should be deemed to harm competition. Fortunately the law requires that all Reliability Standards must be “not unduly discriminatory.” We urge the Commission to recognize that this standard is absolute and is not to be balanced against other factors.

C. Delegation to Regional Entities that are not Interconnection-wide should be minimized and limited to enforcement.

The Energy Policy Act of 2005 provides that the ERO may enter into an agreement to delegate authority to a Regional Entity for the purpose of proposing Reliability Standards to the ERO and enforcing Reliability Standards. The Commission asks: “should a higher standard apply to Regional Entities that are not organized on an Interconnection-wide basis?” “Should a Regional Entity not organized on an Interconnection-wide basis have the burden to demonstrate that it has appropriate regional scope and configuration to promote effective and efficient administration of Bulk-Power System reliability?” “Should the Commission prescribe a size, scope, or configuration requirement for the Regional Entities? And, if so, what should it be?”

AWEA believes that delegation should be minimized. Industry participants like AWEA are burdened by facing different reliability standards in every territory. Wind turbine manufacturers could produce turbines at a much lower cost to end-use customers if standards are clear and consistent across the continent. AWEA believes a very high burden should be applied to Regional Entities that are not organized on an Interconnection-wide basis. We believe the geographic scope should be at least the size of current NERC regions.

² See, e.g., Walter Nicholson, *Microeconomic Theory: Basic Principles and Extensions*, Fifth Edition, The Dryden Press, 1992, page 427.

AWEA supports the Commission's interpretation of Subtitle A that "the only delegated authority a Regional Entity would possess would be the authority to enforce Reliability Standards approved by the Commission in a specific region." Other than for Regional Entities organized on an interconnection-wide basis, there should not be delegated authority with respect to developing rules and standards. AWEA also supports the Commission's interpretation that Regional Entities may propose Reliability Standards to the ERO and those standards would be ERO variances, not Regional Entity Reliability Standards.

October 7, 2005

AMERICAN WIND ENERGY ASSOCIATION

By: Filed Electronically

Robert E. Gramlich
Policy Director
American Wind Energy Association
1101 14th Street, NW, 12th Floor
Washington, DC 20005
Tel: 202-383-2521
rgramlich@awea.org