

Public Power Entities Comments on Standard Processes Manual (SPM)

The American Public Power Association (APPA), Large Public Power Council (LPPC), and Transmission Access Policy Study Group (TAPS) (collectively, Public Power Entities) would like to thank the North American Electric Reliability Corporation (NERC) for its dedication and willingness to engage with industry throughout this highly collaborative process. NERC staff has worked hard to ensure that the Modernization of Standards Processes and Procedures (MSPP) Task Force's recommendations are appropriately implemented, and we are hopeful that the final revisions will move us toward a more effective and efficient industry-driven standards development process that continues to produce technically strong standards that can be fairly applied to the wide range of registered entities required to comply with them.

We have identified below several items that we believe would benefit from additional clarification or revision:

SPM Sections 4.9 and 4.10: We appreciate NERC revising these provisions to reflect the MSPP Task Force's Final Recommendations regarding the minimum duration of comment periods for fast track standards. When doing so, however, NERC added new language to both sections stating that the minimum periods would apply "unless otherwise authorized by the Reliability Standards Body." The SPM does not specify the circumstances under which the Reliability Standards Body (RSB) may authorize shorter comment periods.

Based on NERC's statements in the *Consideration of Comments* document, Public Power Entities understand that NERC intends the "otherwise authorized" language to allow the RSB to authorize shorter comment periods than the stated minimums without going through the formal waiver process, but that any such shortened periods would be signaled upfront through the initial project schedule. See NERC, *Consideration of Comments*, ch. 3 at 9 (stating that "the Project Schedule, established in accordance with proposed Section 4.3, will be the means of establishing, refining, and communicating to stakeholders the project posting timelines throughout the lifespan of the project . . . replac[ing] the current process by which a procedural waiver must be sought on an *ad hoc* basis whenever a shorter posting timeline is required to meet a regulatory or Board deadline.").

Public Power Entities agree that allowing the RSB to authorize fast track comment periods shorter than stated in the SPM may be acceptable in very limited circumstances. Given the challenges stakeholders face in addressing proposed standards in less than the time recommended by the MSPP Task Force, it is imperative that that any such shortened periods are clearly identified for stakeholders in the initial project schedule, consistent with NERC's stated intent. Accordingly, Public Power Entities recommend that the "unless otherwise authorized" language included in SPM Sections 4.9 and 4.10 be revised to expressly provide that time periods shorter than the stated default comment periods would occur only (1)

when scheduled upfront through the initial project schedule process; or (2) pursuant to the waiver process. Such clarification would preserve scheduling flexibility while ensuring that reductions in stakeholder review time are subject to notice and have an identifiable procedural basis.

SPM Section 4.10: SPM Section 4.10 states:

There are no limits to the number of . . . non-binding straw polls that may be conducted to produce a Reliability Standard that is clear and enforceable and has the support of a sufficient number of stakeholders to achieve approval during a confirmation ballot.

Public Power Entities are concerned that evaluating the “number” of supportive stakeholders will not give the RSB a clear indication of the likelihood that a particular standard will pass a confirmation ballot. Because ballots pass based on the outcome of a weighted segment vote, a non-binding straw poll that considers only the number of supportive votes risks providing misleading feedback about the likely outcome of the actual ballot. NERC’s conclusory statement that “there is no weighted segment voting for straw polls” in its Consideration of Comments Document, see NERC, *Consideration of Comments*, ch. 3 at 10, compounds this concern.

Given the importance of straw polls being fashioned to be truly indicative of likely achievement of favorable confirmation balloting (that reflects weighted segment votes), Public Power Entities recommend that the phrase “sufficient number of stakeholders” as used in SPM Section 4.10, be modified to “sufficient stakeholder support.”

Public Power Entities further urge NERC staff to make clear that the methods to be used by the RSB to craft straw polls will be left to the RSB, with input from stakeholders. The RSB should have the authority determine how straw polls are best structured to provide a meaningful indication of sufficient stakeholder support, including whether a proposal can achieve the weighted segment approval required in a confirmation ballot.

SPM Section 4.16: SPM Section 4.16 states:

The Board shall consider approval of the VRFs and VSLs associated with a Reliability Standard. In making its determination, the Board shall consider the results of the non-binding poll conducted and a summary of minority opinions received on the final posting of the proposed VRFs and VSLs.

The reference to “minority opinions” is an unexplained departure from the currently effective SPM language, which contemplates the Board being provided with a “summary of industry comments received on the final posting of the proposed VRFs and VSLs.” See SPM Section 4.15 (effective version).

Public Power Entities agree that consideration of minority opinions is important. To avoid limiting the comments presented to the Board, however, NERC should either (1) restore the

original language; or (2) modify the proposed language to make clear that the Board shall consider the results of all comments. For example, the language could be revised to state that:

“In making its determination, the Board shall consider the results of the non-binding poll conducted and a summary of industry opinions, including but not limited to minority opinions, received on the final posting of the proposed VRFs and VSLs.”

Either way, the Board should receive the full range of relevant stakeholder views, including comments that support the proposal while identifying implementation, consistency, or drafting concerns.

Public Power Entities look forward to continuing to work collaboratively to ensure the success of the standards development process.