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President and CEO

NORTH AMERICAN ELECTRIC RELIABILITY COUNCIL

Princeton Forrestal Village, 116-390 Village Boulevard, Princeton, New Jersey 08540-5731

February 25, 2005

The Honorable Joe Barton
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Barton:

Limitations on Reliability Funding in Energy Bill Discussion Draft

We are writing to express our serious concern about provisions in the February 8, 2005 energy bill discussion draft ("Discussion Draft") that would limit the "total amount of all dues, fees, and other charges collected by the [Electric Reliability Organization]" to \$50 million per year, for 2006 through 2015. Title XII, Section 1211(a). We urge that this limitation and a related "Limitation on Annual Appropriations" at the end of this section be deleted.

As a threshold matter, we have disagreed with, and continue to disagree with the position of the Congressional Budget Office that the revenues of the electric reliability organization ("ERO") that is authorized by this legislation should be treated and scored as "on budget" revenues. The North American Electric Reliability Council ("NERC") and the regional councils currently collect their funds from their members, who in turn recover those expenses from electric ratepayers. The only federal funds involved are those that come from entities such as the power marketing administrations. These federal utility contributions to NERC and the regional councils are already treated as federal expenditures and should not increase substantially following enactment of this legislation. While the ERO's specific funding mechanism will be worked out in the implementing rulemaking to be adopted by the Federal Energy Regulatory Commission, the ERO will be similarly funded by electricity end-users, not the federal government. Thus, in performing its reliability responsibilities, the ERO will neither receive nor expend federal funds (except to the limited extent that reliability costs are paid by federal utilities). Moreover, organizations on which the ERO is modeled (e.g., the National Association of Securities Dealers) perform similar functions, yet their collections and expenditures are not "on budget." Nevertheless, we understand that CBO is unyielding in its position, and that because of this, the reliability legislation has been "scored" by CBO at roughly \$1 billion over ten years. We also understand that the limitations on funding contained in the Discussion Draft are an effort to reduce this score, and hence, the overall cost of the energy legislation. While we are eager to do anything that we can to help you secure enactment of long-overdue reliability legislation, we believe these limitations on ERO funding are a grave mistake and must be removed.

Currently, the North American Electric Reliability Council and its regional reliability council members collect and expend just over \$50 million per year. Thus, spending by existing national and regional reliability organizations to preserve the reliability of the bulk power grid is already above the cap contained in the Discussion Draft. The cap is half what CBO itself estimates will be needed for the ERO and the regional entities to carry out the functions authorized by the legislation. To put this amount in perspective, with electricity consumption in the U.S. and Canada approaching or exceeding 4 billion MWh, this cap would mean that we could spend no more than 1.25 cents per MWh (or .00125 cents per KWh) to maintain the reliability of the bulk power system. For a residential consumer who uses 800 KWh per month, that would amount to a charge of about one penny per month. Surely, a reliable electricity grid is worth more than that, especially when one considers that the Department of Energy has estimated the cost of the August 2003 blackout to range between \$4.5 and \$12 billion.

To make matters even worse, the cap would extend for a decade into the future, even though improved reliability requires more, not less resources. Enforcement activities, new software tools, increased operator training, and new standards for vegetation management, for example, may not be adequately funded under the cap. The appropriations authorization in the Discussion Draft is little comfort given the tremendous pressure on federal budgets and the experience of other programs, such as the nuclear waste fund. Moreover, since the ERO will be a private organization, it is unclear how an appropriation would work. Would the ERO have to go through the appropriations process in order to get authority to modify its dues structure, if doing so would cause the cap to be exceeded? Will the Administration have to make an annual request for direct spending authority for the ERO? Can the appropriators assign direct spending to a private entity?

Beyond the damage that a cap on ERO funding would cause, assuming that it can be applied, there are numerous issues as to how the cap would actually work. For example, Canada represents 12.5% of the load in North America, and NERC currently receives about 12.5% of its revenues from Canada. Would the ERO be prohibited from collecting funds from Canada? NERC also receives a small amount of revenue from services performed both inside and outside North America, primarily related to its Generating Availability Data System. How would expenses and revenues of such a program be handled under the cap? Finally, NERC serves as a kind of clearing account for the revenues needed to develop and maintain certain reliability support services and tools used by transmission owners and users. How would the cap affect these programs?

The bottom line is that without an adequate budget, the ERO cannot be successful and reliability will inevitably suffer. We hope that you will agree that the funding limitations on the reliability organization contained in the Discussion Draft are not appropriate, and should be removed. We welcome the opportunity to discuss this further with you and your staff.

Sincerely,



Honorable Joe Barton
February 25, 2005
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Organizations joining the North American Electric Reliability Council in this letter:

American Public Power Association
East Central Area Reliability Coordination Agreement
Edison Electric Institute
Electric Reliability Council of Texas
Florida Reliability Coordinating Council
Institute Of Electrical and Electronics Engineers — USA
Mid-America Interconnected Network, Inc.
Midwest Reliability Organization
National Association of Regulatory Utility Commissioners
National Association of State Energy Officials
National Association of State Utility Consumer Advocates
National Rural Electric Cooperative Association
Southwest Power Pool
Western Electricity Coordinating Council

cc: Hon. John D. Dingell
 Ranking Minority Member
 Members of the Energy and Commerce Committee