

From: BOLAND Bruce -CORP AFFAIRS
Sent: July 11, 2006 1:19 PM
Subject: For Tomorrow's SAC Meeting--ERO Implementation

SAC Members:

Item 3 of our Wednesday agenda includes a Management Update on the Electric Reliability Organization. With respect to this item, I have a few points I would like to raise and request that the IESO respond to them at that time. I will also be asking that the SAC provide advice to the IESO Board on this issue.

My staff attended the IESO's June 28th workshop and also the July 6th FERC Technical Conference where Kim Warren was a speaker. As a result of both of these meetings, OPG has significant concerns about the process for development and approval of reliability standards applicable in Ontario going forward, which we do not believe have been fully addressed.

Of particular importance is that U.S. legislation gives FERC the authority to approve or remand all standards developed by NERC. Once approved they become mandatory and enforceable with a FERC backstop in the U.S. While there is also agreement amongst FERC and the Canadian regulators that the Canadians will have analogous authority, the OEB has advised market participants that under existing legislation, they do not have the ability to exercise a remand authority in Ontario and we understand that no other entity in the Province does either.

It is true that these standards are already mandatory in Ontario pursuant to the market rules and therefore, arguably the status quo exists. However, we would disagree and believe that the status quo has been altered substantially. All new or amended standards will no longer merely be standards developed and adopted through an industry consensus-driven process. They will be reviewed and could be strongly influenced by regulators throughout North America, but most significantly FERC. FERC now has approximately 40 staff in their reliability division--more staff than NERC has employed in developing standards in the first place. In addition, at the FERC Technical Conference, almost all of the participants, including NERC's CEO, agreed that not more than 1/2 of the existing 102 standards are appropriate for unconditional approval. Therefore at least 1/2 of the existing standards, prior to adoption by FERC, will be strengthened or otherwise conditioned in some fashion.

The IESO has indicated that they will be active and have agreed to some new activities to inform Ontario market participants. We support these proposals. However, we do not believe they go far enough.

Under the existing regime in Ontario, to which no immediate changes are contemplated, following approval by the NERC Board of a new or amended standard, it will immediately become mandatory in Ontario. Regulators throughout the rest of North America will take approximately 60 days during which they may be discussing use of their remand authority or in some manner conditioning their acceptance of the standard. Ontario market participants will however already be subject to mandatory compliance. Since the OEB has no remand authority, it is not even clear if Ontario will be represented in any discussions that may be taking place amongst regulators.

OPG has a suggestion for a simple amendment to IESO procedures that could address these procedural limitations. We will present it at the SAC meeting on Wednesday and I hope that the SAC will be able to reach some consensus on formal advice we might provide to the IESO Board in this regard.

Bruce