Canadian Electricity Association
Association canadienne de l'électricité

January 4, 2001

Office of Policy, Office of Economic,
Electricity & Natural Gas Analysis PO-21
Attention: Electric Reliability Comments,
U.S. Department of Energy,
Forrestal Building, Room 7H-034
1000 Independence Avenue, S.S.,
Washington, D.C. 20585

By email to: "policy.energy@hq.doe.gov"

Re: Electric Reliability Comments on DOE November 20, 2000 Notice of Inquiry

On behalf of the member utilities of the Canadian Electricity Association (CEA), I am writing to provide our comments on the November 20, 2000 Department of Energy Notice of Inquiry on Interstate Electric Transmission System and Electric Reliability Issues. CEA is a trade association representing 95% of all generating capacity in Canada.

Trade between our two countries in electricity is growing each year, and the value of that trade is growing at an even faster pace. A mutually dependent relationship has developed that relies on a robust and reliable international electricity grid, with large inter-ties across the international border at strategic points East to West. Canadian utilities have been quite active in NERC efforts to establish mandatory reliability standards and thus ensure a reliable international grid. However, an effective and efficient international market requires an approach to the establishment of such standards that takes into account the international nature of the transmission grid, as explained in the following comments.

The SRRO Model

Over the past several years, a broad range of industry participants have been active in a process led by the North American Electric Reliability Council (NERC) to develop an approach to the establishment of enforceable reliability standards.[1] Historically, compliance with NERC's standards and guidelines has been voluntary. However, industry restructuring and wholesale competition in the last five years have spawned many new market participants, prompting

[1] NERC was formed in 1968 to promote the reliability of the electricity supply in North America. It is comprised of 10 regional councils, made up of members from across the electricity industry who account for virtually all of the electricity supplied in Canada and the United States. For over 30 years, it has served to provide the essential reliability standards and guidelines for the electricity industry in North America.

66 Slater Street, Suite 1210
Ottawa, Ontario K1P 5H1
Tel: (613) 230-7384
Fax: (613) 230-9326

concerns that voluntary compliance with operating and planning rules could be compromised. In response to these concerns, and to achieve an enforceable mandatory standards regime, this NERC-facilitated group of industry participants developed proposed legislation language that would establish a self-regulating reliability organization (SRRO) with regulatory oversight from a U.S. federal regulator, presumably FERC.

One of the key advantages of operating a self-regulating body is the open atmosphere it creates. The regulator as rule-setter can be replaced by a more open dialogue, where stakeholders draw on their own technical expertise to set the rules. Moreover, the SRRO model can operate effectively on an international basis. The SRRO model would protect the organization from undue control by any particular interest - government, or other. Because only the SRRO can develop reliability standards, as opposed to a regulatory or legislative body, the SRRO can operate effectively as an international body.

CEA supports the reliability legislation drafted by the NERC-facilitated process and introduced during the 106th Congress. CEA will continue to support the passage of this language in the next Congress. CEA believes that the SRRO, as proposed by NERC and contained in the proposed legislative language, represents the best mechanism for ensuring the continued and improving reliability of the North American bulk transmission system. The effective co-ordination between the U.S., Canada and Mexico requires that the reliability standards be developed by an independent, international body. While regulatory back-stop is important, which we understand is required in the United States, only an entity independent of parochial interests can balance the differing needs of market participants and develop reliability standards that truly reflect the interests of all users of the international grid. Beyond balancing the differing needs of all market participants, the SRRO and its affiliate regional organizations will be positioned to effectively manage market participants' concerns with the settlement dispute mechanisms evolving as part of the overall regime.

DOE's Notice of Inquiry

DOE is seeking comments on whether it should issue a directed rulemaking to FERC to impose mandatory reliability standards. Such an approach would differ from the legislative approach discussed above, relying instead on the authority of the Commission (to the extent any is found) to develop and enforce reliability standards. To the extent such an approach is chosen, CEA would recommend that the directed rulemaking be drafted consistent with the approach taken in the NERC-proposed language.

The NERC language was drafted to allow the SRRO to function as an international body. This body is designed to develop reliability standards, with the appropriate regulatory body or bodies (on either side of the border) having authority to approve those standards, or remand them back to the SRRO if required. To the extent DOE issues a directed rulemaking to FERC, CEA recommends that such a rulemaking contain language which delegates FERC's authority to develop, implement, and enforce reliability standards to an SRRO. It is this particular separation

of responsibilities which permits the SRRO to exist as an international body and maintain the appropriate balance of interests. Moreover, FERC needs to avoid circumstances where it might be forced to administer internationally - and delegation can address that problem, as well.

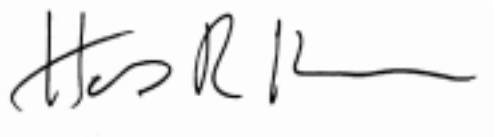
In addition, to the extent DOE issues a directed rulemaking, this rulemaking should make clear that only the SRRO is responsible for establishing, implementing and enforcing reliability standards and therefore FERC will need to reconcile the SRRO's reliability responsibilities with the responsibilities of regional transmission organizations.

Conclusion

The transmission system in North America is an integrated one. That integration between Canada, the United States and Mexico will only increase as energy trade grows, and markets continue to deregulate. This demands that jurisdictions in our three countries work closely together. At the same time, the market, regulatory, and administrative systems are different in each country. These regional differences will necessitate flexibility in any regime for the common administration of transmission, in order to ensure regional solutions. Accordingly, the strong and growing electricity trade relationship between our countries requires the establishment of an international SRRO that has the authority to develop, implement, and enforce reliability standards.

Yours sincerely,

CANADIAN ELECTRICITY ASSOCIATION



Hans R. Konow
President and Chief Executive Officer

Cc: CEA Transmission Strategic Issues Working Group