UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

Revisions to Regulations on Electric Reliability Docket No. RM21-12

Organization Performance Assessments

**Comments of Public Citizen, Inc.**

 The Commission seeks suggestions on how the North American Electric Reliability Corporation (NERC) can better “receive and respond to recommendations by the users, owners, and operators of the Bulk-Power System, and other interested parties for improvement of the Electric Reliability Organization’s operations, activities, oversight and procedures.”[[1]](#footnote-1) Public Citizen offers the following comments:

* We strongly endorse the Commission’s proposal requiring NERC to submit assessments of its performance every three years instead of the current period of every five years.
* The Commission should compel changes to NERC’s Board of Trustees to diversify representation of stakeholders, including allocating at least one seat for an individual with professional experience as a bona fide consumer advocate.
* FERC’s new Office of Public Participation should coordinate assistance to the public to participate in NERC stakeholder proceedings and public comment opportunities.
* Notices of NERC public comment opportunities should be posted in the Federal Register.
* NERC stakeholder committees should expand the number of allocated seats for consumer advocates, as in some cases there are no consumer advocates present in key stakeholder proceedings. Spaces for small end-use customers should be reserved for bona fide consumer advocates—not utility executives who happen to pay a utility bill.

**About Public Citizen, Inc.**

Established in 1971, Public Citizen is a national, not-for-profit, non-partisan, research and advocacy organization representing the interests of household consumers. Public Citizen is active before FERC promoting just and reasonable rates, and supporting efforts for utilities to be accountable to the public interest. Our financial details are located on our web site.[[2]](#footnote-2)

**Public Citizen Comments**

First, we endorse the Commission’s proposal requiring NERC to submit assessments of its performance every three years instead of the current period of every five years.

Second, NERC’s Board of Trustees plays a central role in maintaining independent oversight for the nation’s electricity reliability. But despite NERC’s transformation from a voluntary coordination arm of the utility industry to its current status as the nation’s official Electric Reliability Organization, the orientation of the membership of its Board of Trustees remains overwhelmingly comprised of former utility executives. Ten of the twelve seats are currently occupied by individuals who either were employed as senior executives in electric utility management or advocated on behalf of utility interests in a trade association. Federal law requires NERC to have “established rules that assure its independence of the users and owners and operators of the bulk-power system, **while assuring fair stakeholder representation in the selection of its directors**” [emphasis added].[[3]](#footnote-3) The official federal electricity reliability organization should feature a Board of Trustees representing diverse perspectives from all stakeholders impacted by reliability standards—not just utilities. Including at least one board seat for an individual with a professional background of bona fide consumer advocacy will help improve the organization’s guidance on needed reliability standards. After all, it is consumers that ultimately pay the bills for reliability. Considerations for additional board requirements could include those with backgrounds in organized labor, and academics with concentrations studying the utility industry.

While utility executive experience is of course valuable, the post-Valentine’s Day blackouts that ravaged ERCOT make clear that all segments of society are impacted by grid reliability, and solutions require a seat at the table by various affected stakeholders. As part of this rulemaking, the Commission should require NERC to formally embark on a plan to include more diverse perspectives for the Board of Trustees.

Third, we urge the Commission’s new Office of Public Participation[[4]](#footnote-4) to include responsibilities to coordinate outreach to the public and consumer advocates on NERC proceedings, public comment opportunities, and stakeholder committee participation.

Fourth, we applaud the Commission’s proposal requiring NERC “to add a formal requirement for a public comment period to solicit Regional Entities, users, owners, and operators of the Bulk-Power System, and other interested parties for improvement of the ERO's operations, activities, oversight and procedures.”[[5]](#footnote-5) We advise the Commission to specifically include “consumer advocates” in this suggested list of parties for NERC to engage.

 Fifth, we recommend that the Commission require NERC to post notice of public comment opportunities in the *Federal Register*, in addition to NERC’s web site. The Federal Register is the standard medium to notify the public of federal-jurisdictional comment periods.

 Sixth, in comments we provided last year to the Commission,[[6]](#footnote-6) we noted that reserved seats for consumer advocates in NERC’s stakeholder committees (such as the Reliability And Security Technical Committee) were underrepresented in relation to guaranteed slots for utilities, generation owners, and financial traders, and that consumer advocates had no representation in the at-large categories.

This is a common problem throughout the composition of NERC’s various stakeholder committees. For example, the 2020 roster of NERC’s powerful Reliability Issues Steering Committee features not a single consumer advocate.

 In addition, we noted last year that in order to qualify to run as a voting representative for the small end-use electricity sector, NERC simply requires that candidates pay a utility bill. This means that any individual—including employees of investor owned utilities or other entities represented in the other sectors—are free to run for a voting seat. Indeed, it is quite common for NERC to permit utility executives to run as candidates for the end-use sector, forcing bona fide consumer advocates to compete for representation. The result is that the small end-use electricity sector is not guaranteed to have an individual representing a bona-fide household consumer advocate. FERC should therefore require NERC to amend its charter to reserve small end-use electricity sector seats for bona fide consumer advocates.

Respectfully submitted,

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1. NOPR, at page 1. [↑](#footnote-ref-1)
2. [www.citizen.org/about/annual-report/](http://www.citizen.org/about/annual-report/) [↑](#footnote-ref-2)
3. 16 USC § 824o(c)(2)(A). [↑](#footnote-ref-3)
4. FERC Docket No. AD21-9. [↑](#footnote-ref-4)
5. NOPR, at paragraph 15. [↑](#footnote-ref-5)
6. *Joint Comments By Consumer Advocates on NERC Cybersecurity*, Docket No. RR19-7-001, June 19, 2020, www.citizen.org/article/joint-comments-by-consumer-advocates-on-nerc-cybersecurity-to-ferc/ [↑](#footnote-ref-6)