



## Minutes

### Board of Directors • Nominating & Governance Committee

August 21, 2024

ReliabilityFirst Corporation

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#### Open Session

**Call to Order** – Chair Rachel Snead called to order a duly noticed open meeting of the Nominating & Governance Committee (Committee) on August 21, 2024, at 3:27 pm (ET). A quorum was present, consisting of the following members of the Committee: Chair Rachel Snead; Steve Ambrose; Melika Carroll; Lesley Evancho; Craig Grooms; and Scott Hipkins. A list of others present during the Committee meeting is set forth in Attachment A.

**Appoint Secretary to Record Minutes** – Chair Snead designated Niki Schaefer, ReliabilityFirst's (RF) Vice President & General Counsel, as secretary to record the meeting minutes.

**Antitrust Statement** – Chair Snead advised all present that this meeting is subject to, and all attendees must adhere to, RF's Antitrust Compliance Guidelines.

**Consent Items** – Chair Snead introduced the following consent agenda items for approval:

- Agenda Item 3(a): Draft Minutes from May 1, 2024
- Agenda Item 3(b): Summary of CIPC Charter Revisions
- Agenda Item 3(c): Revised CIPC Charter

Upon a motion duly made and seconded, the Committee approved all the consent agenda items.

**Timetable of Key ReliabilityFirst Events** – Chelsey Eppich, Managing Corporate Counsel, reviewed the Timetable of Key ReliabilityFirst events. She recapped events that occurred since the last meeting, including soliciting nominees and holding the July 30<sup>th</sup> election where Melika Carroll and Robert Taylor were elected. She then highlighted upcoming events, including upcoming director elections.

**Resolution for Annual Meeting of Members** – Ms. Eppich presented Resolution 2024-03 to hold the Annual Meeting of Members. The resolution sets the record date of November 4, 2024 and also includes industry sector elections to allow the sectors to vote to fill upcoming vacant positions in December. Upon a motion duly made and seconded, the Committee endorsed Resolution 2024-03.

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**Discuss Membership in Relation to Election Quorum** – Ms. Eppich reviewed the quorum requirements and process and shared feedback from recent elections, noting that it has been administratively difficult to reach quorum. She shared ideas to better facilitate elections, including streamlining the process and simplifying documents. She shared that calls and emails are often being made to reach quorum until the day of the election, and some entities do not respond at all. Additionally, during the 30-day voting window RF may be informed that member representative or contact information has changed.

Ms. Eppich proposed proactively reaching out to all the RF members outside of an election window to ensure that RF has current contact information on file and confirm their interest in continuing to be an RF member. If there is no response after multiple attempts, RF would inform them they will be removed as an RF member. The Committee was in favor of this approach, and RF staff will report back on the response. The Committee then discussed the difference between RF entities and RF members, and the value of being an RF member. Ms. Eppich noted that entities who are subsidiaries may only be able to join RF as an associate member for the intangible benefits (such as furthering the relationship with RF and receiving information early). The Committee also discussed how some entities may be too small to fully participate due to limited resources, and to be mindful of the impact of extra meetings.

**Next Meeting** – Chair Snead noted that the next Committee meeting will occur on December 4, 2024 in Washington, DC.

The Committee then went into closed session at 3:42 pm (ET).

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### **Closed Session**

**Individual Director Survey** – Ms. Eppich discussed the results of the individual director survey, noting that the responses were positive with no concerns identified. She shared other feedback from the survey and reported on the survey response rate. The Committee discussed and recommended changing the survey scale going forward to remove the “exceeds expectations” option, because the goal of the surveys is to confirm directors are meeting expectations. The Committee also stressed the importance of keeping the “N/A” choice in the survey that newer directors can use or for questions that do not apply.

**At-Large Nomination Discussion** – Chair Snead reviewed the At-Large Director Criteria (included in the agenda package) and led a discussion on the open At-Large position. She shared that Simon Whitelocke is concluding his third term as At-Large director at the end of this year. He joined the Board in 2016, formerly served as Board Chair, and will not be serving a fourth term. Snead shared that an At-Large director can be from any industry sector, and that the position is designed to fill a gap in expertise and provide valuable input to the Board. She noted that the Committee could add specific criteria to the request for nominees that will be sent after this meeting. The Committee discussed the desire to focus on executive experience, specifically the value of experience within the NERC space. The

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Committee also discussed the importance of understanding the history of the ERO's structure and to focus on knowledge in the regulatory space.

The Committee agreed to send a notice to the Board, to consider individuals with executive and NERC experience both within and outside of their own organizations. Then, after the request for nominees is sent to all members, the Committee will reconvene to ensure a candidate is nominated before the November record date so they can be elected during the annual meeting.

**Discuss Director Conflicts** – Ms. Eppich shared that she wanted to share recent topics regarding director conflicts, for information and awareness. She recapped the reasoning used when applying the independence criteria during a recent director search, as well as other related questions that arose. The Committee discussed the independence criteria and deemed no revisions need to be made at this time. The Committee also discussed potential future updates to the criteria to reflect the current landscape (for example, AI may not have been a critical skill at the time the document was created). Ms. Eppich also shared the results of recent director conflict surveys, and the process for documenting satisfactory background checks and information relevant to conflicts.

**Chevron Discussion** – Kristen Senk, Deputy General Counsel & Director, Legal and Enforcement discussed the U.S. Supreme Court's recent *Loper* decision overturning *Chevron* deference, which agencies and courts have relied on for over 40 years. She explained that the *Loper* decision held that *Chevron* deference to an agency's interpretation of a statute is contrary to the Administrative Procedure Act. She discussed the potential impact of the decision on FERC's and RF's work, especially as the landscape of risks facing the electric industry is rapidly changing. She also discussed the recent statements from FERC Commissioner Christie and FERC Chair Phillips relating to the application of the *Loper* decision to FERC's recently issued Order 1920.

Ms. Senk noted that the U.S. House Energy and Commerce Committee and the U.S. House Oversight and Accountability Committee sent letters to multiple federal agencies, including FERC, requesting information on all agency rules, orders, adjudications, and enforcement actions (pending or final) that relied on *Chevron* or could be challenged in light of *Loper*. She noted that RF would monitor activities related to this information request. A discussion ensued relating to the broader impacts of the *Loper* decision across the power industry and other related industries.

Ms. Evancho asked about impact of potential litigation on key statutes due to the decision, and Ms. Senk explained that it is a long process if statutes are challenged. There was discussion on the impact of the decision on EPA regulations, and how the decision could potentially slow new legislation. The Committee also discussed the potential of future challenges as makeup of the Supreme Court changes and the potential impact to the creation and approval of Reliability Standards. Mr. Ambrose asked about the potential for it to mute work, to which Ms. Senk replied that it will simply require RF's work to have better justification.

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**Adjourn** – Upon a motion duly made and seconded, Chair Snead adjourned the Committee meeting at 4:21 pm (ET).

As approved on this 4<sup>th</sup> day of December, 2024 by  
the Nominating and Governance Committee,

A handwritten signature in blue ink, appearing to read "Niki Schaefer".

Niki Schaefer  
*Vice President General Counsel & Corporate  
Secretary*

## Attachment A

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### Others Present at Nominating and Governance Committee Meeting

Chelsey Eppich • ReliabilityFirst

Niki Schaefer • ReliabilityFirst

Kristen Senk • ReliabilityFirst