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January 25, 2012

**VIA ELECTRONIC FILING**

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

**Re: North American Electric Reliability Corporation  
Docket No. RR\_\_ - \_\_ - \_\_  
Petition of the North American Electric Reliability Corporation for Approval of  
Revisions to its Rules of Procedure to Adopt a Bulk Electric System Exception  
Procedure**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby submits the "Petition of the North American Electric Reliability Corporation for Approval of Revisions to its Rules of Procedure to Adopt a Bulk Electric System Exception Procedure."

NERC's filing consists of: (1) this transmittal letter, (2) the Petition, which follows this transmittal letter, and (3) Attachments 1, 2A, 2B, 3A, 3B, 4A, 4B, 5A, 5B, 6A, 6B, 7A, 7B, 8A, 8B and 9, all of which is being transmitted in a single pdf file. The Table of Contents to the Petition lists and identify the Attachments.

Please contact the undersigned if you have any questions concerning this filing.

Respectfully submitted,

/s/ Owen E. MacBride  
Owen E. MacBride

Attorney for North American Electric  
Reliability Corporation

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**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**NORTH AMERICAN ELECTRIC )  
RELIABILITY CORPORATION )**

**Docket No. RR\_\_ - \_\_ - \_\_\_\_**

**PETITION OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
FOR APPROVAL OF REVISIONS TO ITS RULES OF PROCEDURE  
TO ADOPT A BULK ELECTRIC SYSTEM EXCEPTION PROCEDURE**

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January 25, 2012

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**Attachments 2A and 2B:** Clean and Redlined Versions of the Revised Rules of Procedure, Sections 100-1700 (including proposed new Sections 509 and 1703)

**Attachments 3A and 3B:** Clean and Redlined Versions of Revised Appendix 2 of the Rules of Procedure – *Definitions Used in the Rules of Procedure*

**Attachments 4A and 4B:** Clean and Redlined Versions of Revised Appendix 3D of the Rules of Procedure – *Registered Ballot Body Criteria*

**Attachments 5A and 5B:** Clean and Redlined Versions of Revised Appendix 4B of the Rules of Procedure – *Sanction Guidelines of the North American Electric Reliability Corporation*

**Attachments 6A and 6B:** Clean and Redlined Versions of Revised Appendix 5B of the Rules of Procedure – *Statement of Compliance Registry Criteria*

**Attachments 7A and 7B:** Clean and Redlined Versions of Revised Appendix 6 of the Rules of Procedure – *System Operator Certification Program Manual*

**Attachments 8A and 8B:** Clean and Redlined Versions of Revised Appendix 8 of the Rules of Procedure – *NERC Blackout and Disturbance Response Procedures*

**Attachment 9:** “The Development Process and Basis for the RoP Team’s Recommended Provisions – Including How Stakeholder Comments Were Considered and Addressed,” prepared by the BES Rules of Procedure Team

## **I. INTRODUCTION**

The North American Electric Reliability Corporation (“NERC”) respectfully requests the Commission to approve, in accordance with §215(f) of the Federal Power Act (“FPA”)<sup>1</sup> and the Commission’s regulations at 18 C.F.R. §39.10, revisions to NERC’s Rules of Procedure (“ROP”) for the purpose of adopting a procedure for requesting and receiving exceptions from the NERC definition of Bulk Electric System (“BES Exception Procedure”), as directed by the Commission in Order No. 743.<sup>2</sup> NERC requests approval for the following revisions and additions to the ROP:

- Proposed new Appendix 5C to the ROP, *Procedure for Requesting and Receiving an Exception to the NERC Definition of Bulk Electric System* (**Attachment 1**)
- Proposed new Sections 509 (“Exceptions to the Definition of the Bulk Electric System”) and 1703 (“Challenges to NERC Determinations of BES Exception Requests Under Section 509”) of the ROP (included in **Attachments 2A** (clean) and **2B** (redlined))<sup>3</sup>

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<sup>1</sup> 16 U.S.C. §824o.

<sup>2</sup> *Revision to Electric Reliability Organization Definition of Bulk Electric System*, 133 FERC ¶ 61,150 (2011) (“Order No. 743”); *Order on Rehearing*, 134 FERC ¶ 61,210 (2011) (“Order No. 743-A”).

<sup>3</sup> On November 29, 2011, NERC filed with the Commission, for approval, revisions to sections 100-1600 of the ROP. *Petition for Approval of Revisions to the Rules of Procedure of the North American Electric Reliability Corporation*, Docket No. RR12-3-000 (“November 29, 2011 ROP Revisions Filing”). Further, on November 7, 2011, NERC made a compliance filing with the Commission in Docket No. RR10-11-004 in response to an October 7, 2011 Order, to amend one section of the Rules of Procedure. *Compliance Filing of the North American Electric Reliability Corporation in Response to October 7, 2011 Order*. In addition, on March 18, 2011, NERC filed proposed new sections 1701 and 1702 of the ROP with the Commission for approval, in connection with the request for approval of Reliability Standard PRC-023-2. *Petition of the North American Electric Reliability Corporation for Approval of a Protection and Control (PRC) Reliability Standard*, Docket No. RM08-13-000. As of the date of this Petition, the Commission has not acted on any of these filings. **Attachments 2A** and **2B** incorporate the revisions to the ROP filed in the November 29, 2011 ROP Revisions Filing and the November 7, 2011 compliance filing, and to ROP sections 1701-1702 filed on March 18, 2011, as though all these revisions had been approved by the Commission.

- Revisions to sections 302.2.2, 501.1.4.4, 804, 1102.2 and 1701 of the ROP to reflect the adoption of the revised BES Definition and new section 1703 and Appendix 5C of the ROP (these revisions are shown in **Attachments 2A** and **2B**).
- Revisions to Appendix 2 to the ROP, *Definitions Used in the Rules of Procedure* (**Attachments 3A** (clean) and **3B** (redlined))<sup>4</sup>
- Revisions to Appendix 3D to the ROP, *Registered Ballot Body Criteria* (**Attachments 4A** (clean) and **4B** (redlined)).<sup>5</sup>
- Revisions to Appendix 4B to the ROP, *Sanction Guidelines of the North American Electric Reliability Corporation* (**Attachments 5A** (clean) and **5B** (redlined)).<sup>6</sup>
- Revisions to Appendix 5B to the ROP, *Statement of Compliance Registry Criteria* (**Attachments 6A** (clean) and **6B** (redlined))<sup>7</sup>
- Revisions to Appendix 6 to the ROP, *System Operator Certification Program Manual* (**Attachments 7A** (clean) and **7B** (redlined)).<sup>8</sup>

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<sup>4</sup> NERC filed proposed Appendix 2, as a new appendix to the ROP, for Commission approval in the November 29, 2011 ROP Revisions Filing. As of the date of the instant filing, the Commission has not acted on NERC's request for approval of proposed Appendix 2. **Attachments 3A** and **3B** are based on Appendix 2 as filed in the November 29, 2011 ROP Revisions filing as though it were already approved.

<sup>5</sup> The November 29, 2011 ROP Revisions Filing included proposed revisions to Appendix 3D. As of the date of the instant filing, the Commission has not yet acted on the November 29, 2011 ROP Revisions Filing. **Attachments 4A** and **4B** incorporate the revisions to Appendix 3D submitted for approval in the November 29, 2011 ROP Revisions Filing, as though approved.

<sup>6</sup> The November 29, 2011 ROP Revisions Filing included proposed revisions to Appendix 4B. As of the date of the instant filing, the Commission has not yet acted on the November 29, 2011 ROP Revisions Filing. **Attachments 5A** and **5B** incorporate the revisions to Appendix 4B submitted for approval in the November 29, 2011 ROP Revisions Filing, as though approved.

<sup>7</sup> The November 29, 2011 ROP Revisions Filing included proposed revisions to Appendix 5B. As of the date of the instant filing, the Commission has not yet acted on the November 29, 2011 ROP Revisions Filing. **Attachments 6A** and **6B** incorporate the revisions to Appendix 5B submitted for approval in the November 29, 2011 ROP Revisions Filing, as though approved.

<sup>8</sup> The November 29, 2011 ROP Revisions Filing included proposed revisions to Appendix 6. As of the date of the instant filing, the Commission has not yet acted on the November 29, 2011 ROP Revisions Filing. **Attachments 7A** and **7B** incorporate the revisions to Appendix 6 submitted for approval in the November 29, 2011 ROP Revisions Filing, as though approved.

- Revisions to Appendix 8 to the ROP, *NERC Blackout and Disturbance Response Procedures* (**Attachments 8A** (clean) and **8B** (redlined)).<sup>9</sup>

In Order No. 743, the Commission directed NERC to develop, using its Reliability Standards development process, a revised definition of the term “Bulk Electric System” (“BES Definition”);<sup>10</sup> and to also develop, through a stakeholder process, a process to exempt facilities from inclusion in the Bulk Electric System through application of the BES Definition.<sup>11</sup> The Commission directed NERC to file the revised BES Definition and the exemption procedure within one year following the effective date of the final rule adopted in Order No. 743. Order No. 743 specified the effective date of the final rule to be 60 days following the date of its publication in the *Federal Register*. The final rule was published in the *Federal Register* on November 26, 2010<sup>12</sup>; the date 60 days following the date of publication was January 25, 2011.

As directed in Order No. 743, NERC has developed both a revised BES Definition and a proposed BES Exception Procedure.<sup>13</sup> NERC is submitting the revised BES Definition to the Commission for approval in a separate petition that is being filed contemporaneously with the instant Petition. The petitions for approval of the revised BES Definition and of the BES

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<sup>9</sup> The November 29, 2011 ROP Revisions Filing included proposed revisions to Appendix 8. As of the date of the instant filing, the Commission has not yet acted on the November 29, 2011 ROP Revisions Filing. **Attachments 8A** and **8B** incorporate the revisions to Appendix 8 submitted for approval in the November 29, 2011 ROP Revisions Filing, as though approved.

<sup>10</sup> Order No. 743 at PP 29-33.

<sup>11</sup> Order No. 743 at PP 112-13.

<sup>12</sup> 75 FR 72910 (2010).

<sup>13</sup> Proposed Sections 509 and 1703 and Appendix 5C use the term “exception” rather than the term “exemption” used in Order No. 743. Use of the term “exception” is consistent with the terminology used in section 411 of the ROP and Appendix 4D pertaining to requests for Technical Feasibility Exceptions (“TFE”) from NERC Critical Infrastructure Protection Standards.

Exception Procedure are being filed within one year following January 25, 2011.

The proposed BES Exception Procedure addresses the applicable concerns raised by the Commission, in Order No. 743, with respect to the current processes for determining what facilities are part of the BES and what facilities are not.<sup>14</sup> The BES Exception Procedure provides for decisions to approve or disapprove Exception Requests<sup>15</sup> to be made by NERC, rather than by the Regional Entities, thereby eliminating the potential for inconsistency and subjectivity that the Commission was concerned was created by having decisions as to what facilities are included in or excluded from the BES made at the Regional Entity level.

This filing also includes proposed conforming revisions to sections 302.2, 501.1.4.4, 804, 1102.2 and 1701 of the ROP and to Appendices 2, 3D, 4B, 5B, 6 and 8 of the ROP which are necessary in light of the revised BES Definition and the new BES Exception Procedure provisions in section 1703 and Appendix 5C. The revisions to Appendix 2, *Definitions Used in the Rules of Procedure*, add new defined terms that are used in the revised BES Definition or in proposed Appendix 5C, modify certain other definitions to distinguish their meanings as used in Appendix 5C from their meanings as used elsewhere in the ROP, and make minor revisions to other definitions resulting from adoption of the revised BES Definition. The revision to Appendix 5B, *Statement of Compliance Registry Criteria*, replaces the existing BES Definition with the revised BES Definition in the text of Appendix 5B. The revision to section 1701 of the ROP is necessary to reference the addition of new section 1703 to section 1700. The revisions to

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<sup>14</sup> As shown in the separate petition being filed contemporaneously for approval of the revised BES Definition, the revised BES Definition fully addresses the concerns the Commission expressed in Order No. 743 with respect to the current definition of Bulk Electric System and its application to determine what facilities are included in or excluded from the BES.

<sup>15</sup> Capitalized terms used in this Petition, such as “Exception Requests,” that are not otherwise defined herein, are defined terms in proposed Appendix 5C, or in proposed ROP Appendix 2 which is currently pending before the Commission.



sections 302.2.2, 501.1.4.4, 804 and 1102.2 of the ROP and to Appendices 3D, 4B, 6 and 8 are necessary to reflect capitalization of certain terms that become defined terms in the ROP as the result of the revised BES Definition.

The NERC Board of Trustees voted to adopt the proposed ROP revisions, including proposed new Appendix 5C and proposed new sections 509 and 1703 of the ROP, on January 18, 2012.

**Attachment 1** to this Petition is the proposed Appendix 5C to the ROP, *Procedure for Requesting and Receiving an Exception from the NERC Definition of Bulk Electric System*. **Attachments 2A** and **2B** are clean and redlined versions of the ROP, Sections 100-1700, showing proposed new Sections 509 and 1703 and the revisions to other sections as enumerated above. **Attachments 3A** and **3B** are clean and redlined versions of proposed revised Appendix 2 to the ROP, *Definitions Used in the Rules of Procedure*. **Attachments 4A** and **4B** are clean and redlined versions of proposed revised Appendix 3D to the ROP, *Registered Ballot Body Criteria*. **Attachments 5A** and **5B** are clean and redlined versions of proposed revised Appendix 4B to the ROP, *Sanction Guidelines of the North American Electric Reliability Corporation*. **Attachments 6A** and **6B** are clean and redlined versions of proposed revised Appendix 5B to the ROP, *Statement of Compliance Registry Criteria*. **Attachments 7A** and **7B** are clean and redlined versions of proposed revised Appendix 6 to the ROP, *System Operator Certification Program Manual*. **Attachments 8A** and **8B** are clean and redlined versions of proposed revised Appendix 8 to the ROP, *NERC Blackout and Disturbance Response Procedures*. **Attachment 9**, captioned “The Development Process and Basis for the RoP Team’s Recommended Provisions – Including How Stakeholder Comments Were Considered and Addressed,” was prepared by the stakeholder-based BES Rules of Procedure Team (“BES ROP Team”) that developed a proposed

Exception Procedure on which Appendix 5C and ROP sections 509 and 1703 are based. **Attachment 9** describes the process that was followed by the BES ROP Team in developing these documents, and key issues that were identified and addressed by the Team in the course of developing its proposals.

NERC requests that the Commission approve Appendix 5C and the other proposed ROP revisions with the same effective date as the proposed effective date of the revised BES Definition, as discussed in NERC’s separate petition for approval of the revised BES Definition.

NERC is also filing the proposed revisions to the ROP, including proposed new Sections 509 and 1703 and Appendix 5C, with Applicable Governmental Authorities in Canada.

**II. NOTICES AND COMMUNICATIONS**

Notices and communications with respect to this filing may be addressed to:

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### **III. PROPOSED REVISIONS TO THE RULES OF PROCEDURE**

#### **A. Order Nos. 743 and 743-A**

In Order No. 743, the Commission directed NERC to develop a process for exempting facilities from being included in the BES by the application of the BES Definition.

[W]e direct the ERO to develop a proposed exemption process. We believe that it is appropriate that NERC develop the process in its function as the ERO. Further, allowing the ERO to develop an appropriate exemption process should provide interested stakeholders an opportunity to participate in the development of the process, as requested by some commenters.<sup>16</sup>

The Commission also expressed a number of concerns that it believed needed to be addressed in the development of the exemption process.

**P 115.** “NERC should develop an exemption process that includes clear, objective, transparent, and uniformly applicable criteria for exemption of facilities that are not necessary for operating the grid. The ERO should also determine any related changes to its Rules of Procedure that may be required to implement the exemption process, and file the proposed exemption process and rule changes with the Commission.”

**P 116.** “. . . [W]e no longer contemplate a process that requires Commission review of each request for exemption. However, in order to avoid an inconsistent application of the exemption process, NERC should oversee the facility-by-facility exemption process to ensure an objective and uniform application of the exemption criteria that it develops. NERC may consider delegating responsibilities for the exemption process to Regional Entities, so long as the process is clear and capable of being applied consistently, objectively and uniformly across all regions. However, consistent with our statements in Order No. 672 concerning the need for a strong ERO, NERC should maintain oversight of any Regional Entity activity. We believe ERO oversight is also vital in ensuring consistent application of any nation-wide exemption criteria that the ERO develops.” (Footnote omitted.)

**P 117.** “While the Commission will not require that we review each exemption on a facility-by-facility basis, we would maintain the authority to conduct audits to determine the appropriateness of a particular exemption. We contemplate that a Commission staff audit would review the application of the exemption criteria developed by NERC in NERC’s or a Regional Entity’s determination to approve an exemption for a particular facility. However, to facilitate such audits, the ERO

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<sup>16</sup> Order No. 743 at P 112.

should maintain a list of exempted facilities that can be made available to the Commission upon request. NERC can decide how best to maintain the list, including determining whether or not to post it on the NERC website.”

**P 118.** “Additionally, the ERO should consider developing criteria for revoking an exemption if a particular transmission facility no longer qualifies for such an exemption. This may be appropriate, for example, when a transmission system in the vicinity undergoes a significant change.”

**P 119.** “. . . [T]he exemption process provides a means of ensuring that relatively high voltage distribution facilities are excluded from compliance with mandatory Reliability Standards. In this light, we believe that it would be beneficial for the ERO in maintaining a list of exempted facilities, to consider including a means to track and review facilities that are classified as local distribution to ensure accuracy and consistent application of the definition. Similarly, the ERO could track exemptions for radial facilities.”

**P 120.** “In response to comments seeking a blanket exemption for industrial facilities, the Commission is not inclined to grant categorical exemptions of any kind. However, NERC should consider the parties’ concerns regarding exemption categories in developing an exemption process and criteria. Entities can submit specific facilities for exemption through the NERC-developed exemption process . . . .”

**P 121.** “We agree with ERCOT’s suggestion that the ERO should develop a parallel process for including as part of the bulk electric system ‘critical’ facilities, operated at less than 100 kV, that the Regional Entities determine are necessary for operating the interconnected transmission network. Currently, Regional Entities have the ability to include ‘critical’ facilities operated below 100 kV. We believe that it would be worthwhile for NERC to consider formalizing the criteria for inclusion of critical facilities operated below 100 kV in developing the exemption process. Additionally, we note that Order No. 716 creates a process to include critical facilities under NUC-001-1. Similarly, we note that Order No. 733 creates an additional ‘add in’ approach to sub-100 kV facilities that Regional Entities and planning coordinators have identified as critical to the reliability of the bulk electric system.” (Footnotes omitted.)

**P 150.** “We disagree with commenters that definitions of ‘integrated transmission elements’ and ‘material impact’ are needed to implement this Final Rule. These terms are not defined by the present bulk electric system definition, and defining these terms is not necessary to revise the definition as directed herein. Whether specific facilities have a material impact is not dispositive with respect to whether they are needed for reliable operation. These questions are more appropriately addressed through development of an exemption process at NERC.”

In Order No. 743-A, the Commission provided additional clarification with respect to the scope of the exemption process.

**P 76.** “The Commission notes some confusion regarding ‘exclusions’ versus ‘exemptions.’ We understand that a facility that is *excluded* would not have to go through any process at NERC to determine applicability. On the other hand, where an entity applies to NERC to seek to *exempt* its facility from the bulk electric system, NERC would follow an *exemption* process. With that understanding, we clarify that, as discussed herein, we envision that the process for determining which facilities will be included under the bulk electric system will involve several steps. NERC will develop criteria for determining whether a facility that falls under the definition of bulk electric system may qualify for exclusion. If, for example, the application of the criteria clearly indicates that a facility is local distribution, the facility is excluded, and no process before the ERO is required. If application of the NERC criteria does not lead to a definitive result, the entity could apply for an exemption, invoking a factual inquiry before the ERO to determine the proper categorization of facilities.” (Italics in original.)

**P 84.** “In Order No. 743, . . . while the Commission stated that the ERO should develop an exemption process that includes ‘clear, objective, transparent, and uniformly applicable criteria’ for determining exemptions, the Commission otherwise left it to the ERO’s discretion to develop an appropriate exemption process, which the Commission will review. Any exemption of radial facilities is not based on a statutory requirement, unlike exclusion of local distribution. However, the Commission believes that certain categories of radial facilities may lend themselves to an ‘exclusion’ process as described above (i.e., once identified as belonging to a certain radial category, the facilities could be excluded without further review). For example, should the revised bulk electric system definition maintain the exclusion of radial facilities serving only load from one transmission source, these types of facilities easily could be excluded without further analysis.”

**P 86.** “The Commission clarifies that Order No. 743 granted NERC discretion to make a determination regarding whether to exclude or exempt radial facilities. One consideration in this regard is whether an exclusion process will avoid NERC having to review thousands of exemptions for facilities outside the NPCC region that previously were excluded as radial.”

**P 88.** “With respect to Consumers’ request for clarification regarding how much incidental generation a line could serve and continue to meet the bulk electric system radial line exclusion, this is an issue that should be raised with NERC as it develops criteria for determining what is considered radial.”

**P 98.** “Order No. 743 directed the ERO to develop an exemption process, and specifically declined to ‘dictate the substance or content of the exemption process.’ However, we provided guidance, stating that the process should include

clear, objective, transparent and uniformly applicable criteria for exemption of facilities that are not necessary for operating the interconnected transmission system. Accordingly, the Commission grants EEI's, Consumers Energy's and Wisconsin Electric's requests for clarification that the discussion regarding which facilities should or should not be included in the bulk electric system definition was intended to provide guidance, not to prejudge what should be included in the exemption criteria. . . ."

As discussed in the balance of this §III, the proposed Exception Procedure appropriately addresses the Commission's directives and concerns expressed in Order Nos. 743 and 743-A with respect to the exemption procedure. In addition, in §V below, NERC acknowledges the need to maintain a list of facilities that have been granted Exceptions from the BES Definition, as indicated in Order No. 743.

**B. Proposed Section 509 of the Rules of Procedure**

Proposed new Section 509 of the ROP, "Exceptions to the Definition of the Bulk Electric System," identifies the availability of the procedure in Appendix 5C to request a determination that an Element that falls within the BES Definition should be excluded from the BES or that an Element that falls outside of the BES Definition should be included in the BES:

An Element is considered to be (or not be) part of the Bulk Electric System by applying the BES Definition to the Element (including the inclusions and exclusions set forth therein). Appendix 5C sets forth the procedures by which (i) an entity may request a determination that an Element that falls within the definition of Bulk Electric System should be exempted from being considered a part of the Bulk Electric System, or (ii) an entity may request that an Element that falls outside the definition of the Bulk Electric System should be considered a part of the Bulk Electric System.

Section 509 specifies that the Exception Procedure in Appendix 5C is available with respect to (i) Elements that are considered to be part of the BES by applying the BES Definition, and (ii) Elements that are not considered to be part of the BES based on applying the BES Definition, but which the Submitting Entity believes should be excluded from or included in, respectively, the BES. The Exception Procedure is not intended to be used to resolve ambiguous

situations in which it cannot be determined by applying the BES Definition whether an Element is part of or not part of the BES.

**C. Proposed Appendix 5C to the Rules of Procedure**

**1. Overview**

Proposed Appendix 5C sets forth the detailed procedures for requesting and receiving an Exception from inclusion in or exclusion from the Bulk Electric System based on application of the BES Definition. As discussed in greater detail in §IV below, following the issuance of Order No. 743, NERC established a stakeholder-based BES ROP Team to develop a proposed Exception Procedure. The BES ROP Team developed a proposed Exception Procedure which the Team submitted to NERC. As also discussed in §IV, proposed Appendix 5C as approved by the NERC Board and submitted for approval in this filing incorporates several modifications to the BES ROP Team's proposal, both revisions recommended by NERC staff and revisions directed by the NERC Board of Trustees. However, the basic structure and concepts of the proposed Exception Procedure for which approval is requested herein are the same as in the BES ROP Team's proposal.

Taking into account the directives and concerns set forth in Order Nos. 743 and 743-A, the BES ROP Team considered several process attributes to be important in developing the Exception Procedure:

- The Exception Procedure should maintain the exemption for facilities used in the local distribution of electric energy and the exemption for radial facilities.
- The Exception Procedure, including the criteria for allowing Exceptions, should be clear, objective, transparent and uniformly applicable.
- The Exception Procedure should allow any Registered Entity to utilize the process to seek an Exception either for its own facilities or for the facilities of others with respect to which the Registered Entity has ERO-related reliability responsibilities.

- NERC should be the ultimate decision-maker for Exception Requests, in order to retain facility-by-facility oversight of the objective and uniform application of the Exception criteria.
- The Exception Procedure should include provisions for revoking a previously-granted Exception for a facility if the Exception is no longer warranted.

With respect to establishing criteria for Exceptions, the proposed Exception Procedure establishes specific steps to be followed in submitting, reviewing and deciding Exception Requests. It also specifies detailed Required Information that must be submitted with an Exception Request, or it will be rejected. In terms of technical criteria for allowing Exceptions, it was determined jointly by the NERC Standards Committee, NERC Reliability Standards Program management, the leaders of the BES Definition Standard Drafting Team (“SDT”) and the BES ROP Team that the SDT would take responsibility for determining the technical criteria for Exceptions. As discussed in detail in §III.D of NERC’s petition for approval of the proposed BES Definition, which is being filed contemporaneously with this Petition, the SDT determined that developing a single set of technical criteria that would be applicable to all Exception Requests was not feasible. The SDT determined, instead, that a common set of data and information that the Submitting Entity would be required to submit with each Exception Request should be developed (the “Detailed Information to Support an Exception Request”). The Detailed Information is intended to ensure that a consistent baseline of technical information is provided to the Regional Entity and NERC with all Exception Requests, in addition to the specific information and arguments submitted by the Submitting Entity in support of its Exception Request. The Submitting Entity remains responsible to present sufficient information and argument to justify the Exception Request.<sup>17</sup>

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<sup>17</sup> See section 3.2 of proposed Appendix 5C.



Additionally, several significant issues were identified during development of the Exception Procedure (some of these were raised by stakeholder comments) that the BES ROP Team needed to address. These issues generally fell into the following categories:

- Who is eligible to initiate and/or participate in the process by which an Exception is granted? What is the role of state regulators?
- What should be the scope of the Elements for which an Exception can be requested in a single Exception Request?
- Should an entity that is unable to determine the status of an Element by applying the BES Definition be able to use the Exception Procedure to obtain a determination?
- What is the appropriate balance between allowing open access to the Exception process and ensuring the resources of NERC and the Regional Entities are spent processing and analyzing valid, permissible requests?
- What is the appropriate balance between allowing open access to the Exception process and an appropriate level of consistency, respecting the varied roles and proper exercise of discretion by each participant?
- How transparent should the Exception process be? In addition to the Submitting Entity (and Owner of the facility, if different), should any entities other than the Regional Entity, NERC, the Commission, and Applicable Governmental Authorities in Canada, be allowed access to facility-specific information filed with an Exception Request?
- What should be the status for compliance purposes of an Element during the pendency of the request?

These and other issues were resolved in the development of the BES Exception Procedure, and their resolution is reflected in proposed Appendix 5C.<sup>18</sup>

The Exception Procedure developed by the BES ROP Team – and, with relatively minor modifications, approved by the NERC Board and submitted in this Petition for the Commission’s approval – provides, for most circumstances, a fairly simple and direct process of discrete steps:

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<sup>18</sup> See **Attachment 9** for further discussion of how the BES ROP Team addressed these issues and other stakeholder concerns.

1. An entity applies the BES Definition to an Element, but nonetheless believes that the Element, contrary to its characterization based on the BES Definition, should either be included in or excluded from the BES. The entity therefore submits an Exception Request to the Regional Entity in which the Element is located.
2. The Regional Entity receives the Exception Request.
  - a. The Regional Entity conducts an initial screening looking for three items to determine if the Exception Request is a valid request for processing:
    - i. Is the Exception Request from an eligible submitter?
    - ii. Is the Exception Request a request for an Exception from the BES Definition?
    - iii. Is all the Required Information provided with the Exception Request?

If the initial answer to each question is yes, the Exception Request is moved along in the process to a substantive review. If the answers to all questions are not yes, the submitter is given an opportunity to modify or supplement the Exception Request before the Regional Entity rejects it.
  - b. The Regional Entity substantively evaluates the Exception Request and makes a recommendation to NERC as to whether it should be approved or disapproved.
3. NERC reviews the Exception Request and all information developed at the Regional Entity level, and either approves or disapproves the Exception Request.
4. The Submitting Entity either accepts the NERC decision, or appeals it to the NERC Board of Trustees Compliance Committee (“BOTCC”).

Importantly, in response to the Commission’s directives and concerns expressed in Order Nos. 743 and 743-A, the decision as to whether to approve or disapprove an Exception Request is made only by NERC. The Regional Entity performs a non-substantive initial screening of the Exception Request and, if the Exception Request passes the initial screening, conducts a substantive review and makes a recommendation to NERC as to whether the Exception Request should be approved or disapproved. However, the actual decision to approve or disapprove the Exception Request is made by the NERC President after considering the opinion provided by a three-person NERC review panel (as well as the Recommendation of the Regional Entity and

other information placed into the record at the Regional Entity and NERC levels). Further, if the Regional Entity rejects the Exception Request based on the initial screening but the Submitting Entity believes the Exception Request is proper and complete as submitted, the Exception Procedure allows the Submitting Entity to appeal the Rejection to NERC.

Placing the decision-making responsibility with NERC will provide for a consistent approach to and determination of Exception Requests coming from Submitting Entities in all Regions, thereby eliminating Regional Entity discretion in the determination of Exception Requests. Further, not only will NERC be able to provide consistent determinations on Exception Requests coming from Submitting Entities in different Regions but involving the same or similar facts and circumstances, but NERC, as the sole decision-maker, will be able to take into account the aggregate impact on the BES of approving or disapproving all the Exception Requests submitted. NERC's ability to provide for consistency and to assess aggregate impacts is enhanced by the provision added to Appendix 5C at the direction of the NERC Board (as described in §IV below) specifying that the final decision on all Exception Requests will be issued by the NERC President.

Additionally, the proposed Exception Procedure includes provisions for requesting and approving an Inclusion Exception, by which an Element that the BES Definition would not include in the BES can be included in the BES.<sup>19</sup> A request for an Inclusion Exception can be submitted by the Owner of an Element, or by a Regional Entity, Planning Authority ("PA"), Reliability Coordinator ("RC"), Transmission Operator ("TOP"), Transmission Planner ("TP") or Balancing Authority ("BA") that has the Element within its Scope of Responsibility.<sup>20</sup>

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<sup>19</sup> See Order No. 743 at P 121.

<sup>20</sup> Scope of Responsibility is defined in section 2.26 of Appendix 5C as "The registered functions of a PA, RC, TOP, TP or BA and the geographical or electric region in which the PA, RC, TOP,

Finally, the Exception Procedure also includes provisions for monitoring that an Exception that has been granted continues to be warranted, and for revoking an Exception that is no longer warranted.<sup>21</sup>

In Order No. 743-A, the Commission noted that NERC would need to determine whether local distribution facilities and radial facilities would be “excluded” from the BES, or “exempted” through the exemption process.<sup>22</sup> The proposed BES Definition expressly excludes both “facilities used in the local distribution of electric energy,” and radial systems as described in Exclusion E1 of the BES Definition, from the Bulk Electric System.<sup>23</sup> Therefore, it was not necessary for the BES Exception Procedure to contain detailed criteria or procedures to exempt local distribution facilities or radial facilities from inclusion in the Bulk Electric System.

In summary, the proposed Exception Procedure establishes a process that (1) balances the need for effective and efficient administration with due process and clarity of expectations; (2) promotes consistency in determinations and eliminates Regional discretion by having all decisions on Exception Requests made at NERC; (3) provides for involvement of persons with applicable technical expertise in making decisions on Exception Requests; and (4) should alleviate concerns about a “one-size-fits-all” approach.

## **2. Section-by-Section Summary of Proposed Exception Procedure**

The following subsections provide a section-by-section summary of the Exception

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TP or BA operates to perform its registered functions, or with respect to a Regional Entity, its Regional Entity Region.”

<sup>21</sup> See Order No. 743 at P 118.

<sup>22</sup> Order No. 743-A at PP 76, 84, 86 and 88.

<sup>23</sup> See the discussion in §III.C of NERC’s contemporaneously-filed petition for approval of the revised BES Definition.

Procedure in proposed Appendix 5C.

**a. Section 1.0 – Introduction**

Section 1.1, Purpose, states the purpose of Appendix 5C:

The NERC definition of the Bulk Electric System uses specific terms and thresholds that, in most cases, should appropriately identify Elements and groups of Elements that are appropriately classified as part of the Bulk Electric System. Conversely, the BES Definition should, in most cases, exclude Elements that are not part of the Bulk Electric System. In certain cases, however, the BES Definition may classify certain Elements as part of the Bulk Electric System that are not necessary for the Reliable Operation of the interconnected bulk-power transmission system or the BES Definition may classify certain Elements as non-Bulk Electric System that are necessary for the Reliable Operation of the interconnected bulk-power transmission system.

This Appendix . . . provides the procedure by which an entity may request and receive an Exception which will have the effect of either including within the BES an Element or Elements that would otherwise be excluded by application of the BES Definition or excluding from the BES an Element or Elements that would otherwise be included by application of the BES Definition.

Section 1.1 also states the status of an Element until the time that an Exception from the BES Definition has been requested and granted:

An entity must request and obtain an Exclusion Exception pursuant to an Exception Request under this Exception Procedure before any Element that is included in the BES by application of the BES Definition shall be excluded from the BES. Likewise, an entity must request and obtain an Inclusion Exception pursuant to an Exception Request under this Exception Procedure before any Element that is excluded from the BES by application of the BES Definition shall be included in the BES.

During the pendency of an Exception Request, the status of an Element(s) that is the subject of an Exception Request shall remain as it is determined based on application of the BES Definition. This status will continue until all appeals to all Applicable Governmental Authorities are completed.

Section 1.1 further provides that an entity planning the connection of a new Element for which it believes an Exception would be appropriate may request an Exception prior to commercial operation of the Element.

Finally, section 1.1 details who is entitled to file an Exception Request. The right to file an Exception Request is not limited to the Owner of the Element that is the subject of the Exception Request. Rather, the Regional Entity or a Registered Entity performing reliability functions that would have the Element within its Scope of Responsibility may submit an Exception Request with respect to the Element:

The Owner of the Element to which the Exception Request applies or, with respect to an Element owned by another Registered Entity, any Regional Entity, Planning Authority (“PA”), Reliability Coordinator (“RC”), Transmission Operator (“TOP”), Transmission Planner (“TP”) or Balancing Authority (“BA”) that has (or will have upon inclusion of the Elements in the BES) the Elements covered by an Exception Request within its Scope of Responsibility may submit an Exception Request for the Element as provided in this Exception Procedure.

Section 1.2, Authority, includes a statement relating to adoption of the Exception Procedure or a comparable procedure by Applicable Governmental Authorities in Canada and Mexico: “This Exception Procedure or an equivalent procedure is to be implemented in Canada and Mexico consistent with their respective laws and agreements.”

Section 1.3 states obligations of Canadian and Mexican Entities and Cross-Border Regional Entities with regard to seeking Exceptions from Applicable Governmental Authorities consistent with their respective laws and agreements.<sup>24</sup> This section states that a Canadian Entity or Mexican Entity “shall not be required to subject itself to United States federal or state laws not otherwise applicable to the entity in order to utilize this Exception Procedure or an equivalent procedure.”

#### **b. Section 2.0 – Definitions**

Section 2.0 sets forth the definitions of defined terms that are frequently used in

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<sup>24</sup> A Canadian Entity is defined in section 2.5 of Appendix 5C as “a Registered Entity that is organized under Canadian federal or provincial law;” and a Mexican Entity is defined in section 2.18 as “a Registered Entity that is organized under Mexican law.”

Appendix 5C. The text of section 2.0 assumes that proposed Appendix 2, *Definitions Used in the Rules of Procedure*, of the ROP is approved by the Commission and in effect prior to Appendix 5C becoming effective. Therefore, section 2.0 of Appendix 5C states:<sup>25</sup>

For purposes of this Appendix, capitalized terms shall have the definitions set forth in Appendix 2 to the Rules of Procedure. For ease of reference, the definitions of the following terms that are used in this Appendix are also set forth below.

This text is consistent with the modified text in a number of existing ROP Appendices (e.g., Appendices 4C and 4D) as submitted in the November 29, 2011 ROP Revisions Filing. If proposed Appendix 5C is approved and becomes effective prior to the effective date of proposed Appendix 2, then the above-quoted text should be replaced by the following text, until Appendix 2 is approved and becomes effective:

For purposes of this Appendix, the following terms shall be defined as set forth in this section 2.0. Capitalized terms used in this Appendix that are not defined in this section 2.0 shall have the meanings as defined in, as applicable, (i) the NERC *Glossary of Terms Used in Reliability Standards*, or (ii) section 1.0 of the NERC *Uniform Compliance Monitoring and Enforcement Program*, Appendix 4C to the NERC *Rules of Procedure*, or (iii) page 20 of the Organization Registration and Certification Manual, or (iv) section 1501 of the NERC *Rules of Procedure*.

A number of the defined terms and their definitions in section 2.0 are taken from existing Appendix 4D, including Canadian Entity, Classified National Security Information, Eligible Reviewer, FOIA, NRC Safeguards Information, and Protected FOIA Information.

**c. Section 3.0 – Basis for Approval of an Exception**

Section 3.1, Grounds for an Exception, identifies the two types of Exception Requests and their grounds – Exclusion Exceptions and Inclusion Exceptions. An Exclusion Exception may be requested and obtained “on the grounds that the Element(s) for which the Exception

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<sup>25</sup> As noted above, Appendix 2 was filed for approval in the November 29, 2011 ROP Revisions Filing and is pending before the Commission as of the date of this Petition.

Request is filed is included within the BES based on application of the BES Definition but is not necessary for the Reliable Operation of the interconnected bulk-power transmission system as evidenced by Required Information provided pursuant to **Detailed Information to Support an Exception Request** (Section III.B of the Exception Request Form).” An Inclusion Exception may be requested and obtained “on the grounds that the Element(s) for which the Exception Request is filed is not included within the BES based on application of the BES Definition but is necessary for the Reliable Operation of the interconnected bulk-power transmission system as evidenced by Required Information provided pursuant to **Detailed Information to Support an Exception Request** (Section III.B of the Exception Request Form).”

Section 3.2, Burden, specifies that the burden to provide a sufficient basis for Approval of an Exception Request is on the Submitting Entity. This provision is consistent with the placement of the burden to justify a Technical Feasibility Exception as set forth in section 3.3 of existing Appendix 4D, the TFE Procedure. This is an important provision because it establishes that where an Element is *included* in the BES by application of the BES Definition, the entity submitting an Exception Request must prove that the Element should not be included in the BES, or else the Element will remain in the BES; and where an Element is *not included* in the BES by application of the BES Definition, the entity submitting the Exception Request must prove that the Element should be included in the BES, or else the Element will continue to be excluded from the BES. Section 3.2 also specifies that all evidence provided as part of an Exception Request or response thereto will be considered in determining whether the Exception Request shall be approved or disapproved.

**d. Section 4.0 – Form, Contents, and Submission of an Exception Request**

Section 4.1, Eligible Submitting Entities, details what entities may submit Exception



Requests:

- The Owner of an Element may submit an Exception Request for either an Inclusion Exception or an Exclusion Exception regarding that Element.
- A Regional Entity, PA, RC, TOP, TP, or BA that has (or will have upon inclusion in the BES) the Elements covered by an Exception Request within its Scope of Responsibility may submit an Exception Request for the inclusion in the BES of an Element or Elements owned by a Registered Entity, provided that before doing so, (i) the Submitting Entity conferred with the Owner about the reasons for an Exception, and (ii) could not reach agreement regarding the submission of such an Exception Request. (If the Owner agrees with submitting an Exception Request, the Owner should be the Submitting Entity.)
- A Regional Entity may submit an Exception Request for the inclusion in the BES of an Element or Elements owned by an Owner that is not a Registered Entity.
- An Owner or a Regional Entity may submit an Exception Request for the exclusion from the BES of an Element.

Section 4.2, Separate Submissions for Each Exception Request, specifies as general rules that (i) a separate Exception Request shall be submitted for each Element or set of connected Elements for which the Submitting Entity seeks an Exception, and (ii) a single Exception Request may not be submitted for separate Elements within the geographic boundaries of more than one Regional Entity. Additionally, where the Submitting Entity seeks Exceptions for multiple, similar Elements (all within the boundaries of a single Regional Entity) on the same basis, the Exception Requests for all the Elements may be included in one Exception Request with all the Elements or sets of connected Elements separately identified. Finally, section 4.2 specifies a procedure by which multiple Submitting Entities may jointly file Exception Requests for similar Elements on the same basis; in this situation, one of the Submitting Entities will be designated as the Lead Entity and will submit the Exception Request Form with all Required Information to support the Exception Request.

Section 4.3, Withdrawal of an Exception Request, specifies that a Submitting Entity may withdraw an Exception Request at any time prior to Approval or Disapproval of the Exception Request by NERC.

Section 4.4, Form and Format of Exception Request, specifies that the Exception Request shall consist of three sections. (The required contents of the three sections are enumerated in sections 4.5.1, 4.5.2 and 4.5.3, respectively.) This section also requires that if the Submitting Entity is not the Owner of the Element, the Submitting Entity shall provide a copy of the Exception Request to the Owner (or to the operator(s) of the Element if the Owner is unknown) when the Exception Request is submitted to the Regional Entity.

Section 4.5, Required Information to be Included in the Exception Request, details the Required Information that is to be included in each section of the Exception Request. Section 4.5.1 details the Section I Required Information, section 4.5.2 details the Section II Required Information, and section 4.5.3 describes the Section III Required Information. Each of sections 4.5.1, 4.5.2 and 4.5.3 specifies that failure to provide all of the Required Information for Section I, Section II or Section III, respectively, may result in Rejection of the Exception Request as incomplete.

Section 4.5.1 specifies the Required Information to be included in Section I of the Exception Request. The Section I Required Information is identifying information concerning the Submitting Entity (and Owner, if different), the Exception Request and the Element(s).

Section 4.5.2 specifies the Required Information to be included in Section II of the Exception Request. The Section II Required Information includes (among other things):

- Identification and location of the Element(s) for which the Exception is being requested.

- A statement of the basis on which the Submitting Entity contends the Exception Request should be approved, and if the Submitting Entity is not the Owner, a statement of the basis of the Submitting Entity's reason for submitting the Exception Request.
- A statement, signed and dated by an authorized representative of the Submitting Entity's senior management, stating that the representative has read the Exception Request on behalf of the Submitting Entity and that the Submitting Entity believes Approval of the Exception Request is warranted.

The Section II Required Information will not be publicly posted or disclosed to third parties except for persons involved in reviewing the Exception Request.

Sections 4.5.1 and 4.5.2 each specifies that at the same time the Submitting Entity submits the Exception Request Form to the Regional Entity, the Submitting Entity shall submit a copy of Section I and Section II to each PA, RC, TOP, TP and BA that has (or will have upon inclusion of the Elements in the BES) the Elements covered by the Exception Request within its Scope of Responsibility.

Section 4.5.3 specifies that Section III of the Exception Request shall contain the Detailed Information to Support an Exception Request as specified on the Exception Request Form. The Detailed Information to Support an Exception Request was developed by the SDT for the BES Definition through the NERC Reliability Standard development process.<sup>26</sup> The development and contents of the Detailed Information to Support an Exception Request are described in §III.D of NERC's Petition for approval of the revised BES Definition, which is being filed contemporaneously with this Petition.

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<sup>26</sup> Because the Detailed Information to Support an Exception Request was developed and adopted through the Reliability Standard development process, it can only be modified through the Reliability Standard development process, and not through the procedure for revising the ROP.

Section 4.5.3 states that the Submitting Entity may designate all or part of the Section III Required Information as Confidential Information. It sets forth specific provisions for the handling of and access to any Classified National Security Information, NRC Safeguards Information and/or Protected FOIA Information that is submitted in support of the Exception Request.

Section 4.5.4 provides for information to be submitted by entities in addition to the Submitting Entity:

- If the Owner is different than the Submitting Entity, the Owner may file a response to supplement, correct or disagree with all or any part of the Exception Request.
- Any PA, RC, TOP, TP, and BA that has (or will have upon inclusion of the Element(s) in the BES) the Elements covered by an Exception Request within its Scope of Responsibility may also provide input to the Regional Entity regarding the request.

Section 4.5.4 also sets forth procedures by which the Owner (if different than the Submitting Entity) or a PA, RC, TOP, TP or BA, in order to enable it to evaluate the Exception Request, may request and obtain the Section III Required Information from the Regional Entity. Section 4.5.4 includes provisions to protect, in such a transaction, any Confidential Information included in the Section III Required Information.

Section 4.6, Access to Confidential Information, Classified National Security Information, NRC Safeguards Information, and Protected FOIA Information Included in Required Information, sets forth provisions by which the Regional Entity can obtain access to any Confidential Information, Classified National Security Information, NRC Safeguards Information, and Protected FOIA Information included in the Exception Request from the Submitting Entity or Owner, while protecting the confidentiality of the information.

e. **Section 5.0 – Review, Acceptance or Rejection, and Recommendation Regarding Exception Requests**

Section 5.0 specifies that the Regional Entity’s evaluation of an Exception Request will consist of two stages:

- an initial screening to determine whether to accept or reject the Exception Request, and
- a substantive review to determine the Regional Entity’s recommendation to NERC as to whether or not the Exception Request should be approved.

The details of the procedures for the Regional Entity’s initial screening and substantive review of the Exception Request are set forth in sections 5.1, 5.2 and 5.3. Sections 5.1.3(a) and 5.2.2 set forth the time periods for completion of the initial screening and substantive review. However, section 5.0 also allows the Regional Entity the ability to establish an alternative time period objective and work plan:

If the Regional Entity determines at any time that for a specified period of time, the Regional Entity will be unable to complete initial screenings of Exception Requests within the time provided by section 5.1.3(a) and/or substantive reviews of Exception Requests within the time provided in section 5.2.2, the Regional Entity, based on consultation with NERC, shall establish an alternative time period objective and work plan for completing initial screenings and substantive reviews of Exception Requests during the specified period of time. The alternative time period and work plan shall be publicized by posting on the Regional Entity’s website.<sup>27</sup>

Section 5.0 also sets forth exceptions to the procedures for the initial screening and substantive review of an Exception Request where the Regional Entity is the Submitting Entity:

- There will be no initial screening, and no Acceptance or Rejection, of the Exception Request.
- The Regional Entity will begin substantive review of the Exception Request (and of any responses received from the Owner and other applicable entities) within sixty

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<sup>27</sup> This provision is comparable to sections 5.1.3(b) of Appendix 4D, the TFE Procedure.

days after submitting the Exception Request to the Owner and other applicable entities, and shall complete the substantive review within six months.

- Before the Regional Entity issues a Recommendation to NERC to approve or disapprove the Exception Request in whole or in part, the Technical Review Panel shall review the proposed Recommendation and issue an opinion on it, with copies provided to the Owner and to NERC.

Section 5.1, Initial Screening of Exception Request for Acceptance or Rejection, sets forth the detailed procedures relating to the Regional Entity's initial screening of an Exception Request. Section 5.1.3 specifies that the Regional Entity is to complete the initial screening within 60 days after receiving the Exception Request or, if the Submitting Entity is not the Owner, within 30 days after receiving the Owner's response, unless (i) the Regional Entity has established an alternative time period objective and work plan (as described above), or (ii) the Regional Entity issues a notice to the Submitting Entity (and to the Owner, if different), prior to the deadline date, stating a revised deadline date.

The initial screening shall review (i) whether the Exception Request is from an eligible (in accordance with section 4.1) Submitting Entity, and (ii) whether all Required Information has been provided; the Exception Request may be rejected for failure to meet either criterion. (Sections 5.1.4 and 5.1.5.) However, the Regional Entity may not reject the Exception Request because it is missing Required Information, unless (1) it first contacts the Submitting Entity to request that the missing Required Information be provided, and (2) the Submitting Entity fails to submit the missing Required Information within 30 days or such additional period of time that the Regional Entity allows based on the circumstances. If the Submitting Entity submits supplemental Required Information in response to the Regional Entity's request, the time for the Regional Entity to complete the initial screening is extended by 15 days from the receipt of the supplemental Required Information.

Section 5.1.6 specifies that the Regional Entity may either accept the Exception Request in its entirety, reject it in its entirety, or if the Exception Request is for more than one Element, may accept it with respect to a subset of the Elements and reject it with respect to the remainder of the Elements. Section 5.1.5(b) specifies that if the Regional Entity rejects the Exception Request, its notice must explain the reason for the Rejection. Section 5.1.6 also specifies that the Submitting Entity may, within 30 days after receipt of the Rejection, appeal to NERC to reverse the Rejection and to direct the Regional Entity to proceed with a substantive review of the Exception Request.

Section 5.2, Substantive Review of Exception Request for Approval or Disapproval, sets forth the detailed procedures for the Regional Entity's substantive review of the Exception Request. Section 5.2.1 specifies that in conducting its substantive review, the Regional Entity:

- may request access to and review the Required Information, including any Confidential Information, Classified National Security Information, NRC Safeguards Information, and Protected FOIA Information;
- may conduct one or more physical inspections of the relevant Element(s) and its (their) context and surrounding Elements and Facilities;
- may request additional information from the Submitting Entity, Owner, or applicable PAs, RCs, BAs, TOPs and TPs; and
- may engage in further discussions concerning possible revisions to the Exception Request.

Section 5.2.2 specifies that at the outset of its substantive review of the Exception Request, the Regional Entity shall develop a milestone schedule pursuant to which it plans to conduct the substantive review, and shall send a copy of the milestone schedule to the Submitting Entity and the Owner (if different) for information. Section 5.2.2 further provides that the Regional Entity shall complete the substantive review and issue a notice with its Recommendation within six months following Acceptance of the Exception Request or within an

alternative time period established pursuant to section 5.0. However, the Regional Entity may extend the period for substantive review by issuing a notice stating the revised date by which it will issue its Recommendation.

Section 5.2.3 specifies that upon completion of its substantive review of the Exception Request, the Regional Entity shall issue a Recommendation to NERC (with a copy to the Submitting Entity and to the Owner if different) as to whether the Exception Request should be approved or disapproved (in whole or in part), and stating the basis for the Recommendation. The Regional Entity shall also transmit to NERC the Exception Request Form and all other information considered by the Regional Entity in arriving at its Recommendation.

Section 5.2.4 provides that the Regional Entity shall not recommend Disapproval of an Exception Request, in whole or in part, without first submitting the Exception Request to a Technical Review Panel and receiving its opinion, in accordance with section 5.3 (summarized below).

Section 5.2.5 states that NERC shall develop, and post on its web site, a reporting program and schedule pursuant to which Regional Entities will be required to submit to NERC periodic reports on the numbers, status and timing of their initial screenings and substantive reviews of Exception Requests. While NERC considered establishing specific reporting requirements, including specific content, in Appendix 5C, it was determined that (i) it would be premature to do so prior to the Commission's approval of the BES Exception Procedure, and (ii) in any event, flexibility should be maintained to change the reporting requirements and content, once developed, by not hard-wiring these requirements in Appendix 5C.<sup>28</sup> These reports may

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<sup>28</sup> Candidate data items for the reporting requirements could include the number of new Exception Requests received during the quarter; the number of Exception Requests for which initial screening was completed during the quarter; the number of Exception Requests for which



also be posted on the Regional Entity and NERC websites, and would provide a basis for the development of periodic reports that NERC could submit to the Commission. Submission and posting of periodic status reports will enable NERC to maintain oversight, and stakeholders to have visibility, of the Regional Entities' success or lack thereof in processing Exception Requests within the time periods specified in Appendix 5C.

Section 5.3, Technical Review Panel, contains the provisions relating to the Regional Entity Technical Review Panels. Each Regional Entity shall have a Technical Review Panel comprised of not less than three individuals appointed by the Regional Entity senior executive. Any panel members who are industry subject matter experts or Regional Entity members shall comply with section 403.7 of the ROP (pertaining to confidentiality and to lack of conflicts of interest and financial interest in the matter), shall not have participated in the Regional Entity's review of the Exception Request that they are to evaluate, and shall have the required technical background to evaluate Exception Requests. Section 5.3 requires that if the Regional Entity intends to issue a Recommendation of Disapproval, in whole or in part, it must first submit its proposed determination to the Technical Review Panel and receive the Panel's opinion. If the Regional Entity decides to recommend Disapproval of the Exception Request, a copy of the Technical Review Panel's opinion is to be provided to the Submitting Entity (and to the Owner, if different). The Regional Entity is not bound by the Technical Review Panel's opinion, but the

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substantive review was completed during the quarter; the number of Exceptions Requests in the process of initial screening; the number of Exception Requests for which the original deadline date as specified in section 5.1.3 has not been reached; the number of Exception Requests for which the deadline date for the initial screening has been extended pursuant to section 5.1.3; the number of Exception Requests undergoing substantive review, the number of Exception Requests undergoing substantive review that are within the six month review period pursuant to section 5.2.2; and the number of Exception Requests undergoing substantive review for which the six month review period has been extended pursuant to section 5.2.2. However, no determination has been made as to the content requirements for the periodic reports.

Panel's opinion will be part of the record associated with the Exception Request and shall be provided to NERC.

**f. Section 6.0 – Supplementation of an Exception Request Prior to a Recommendation**

Section 6.0 specifies that a Submitting Entity or Owner, at any time prior to the Regional Entity issuing its Recommendation, may supplement the Exception Request, either at the Regional Entity's request or at the Submitting Entity's or Owner's own initiative, for the purpose of providing additional or revised Required Information. The Submitting Entity or Owner shall submit a written explanation of what Required Information is being added or revised and the purpose of the supplementation. Section 6.0 provides that supplementing a pending Exception Request may, in the Regional Entity's discretion, reset the time period for the Regional Entity's initial screening or substantive review.

**g. Section 7.0 – Appeal of Rejection of an Exception Request**

Section 7.0 sets forth procedures by which a Submitting Entity may appeal to NERC the Regional Entity's Rejection of an Exception Request. The submission to NERC must demonstrate that the Submitting Entity is eligible (in accordance with section 4.1) to submit the Exception Request and that all Required Information has been provided. If NERC determines that the Submitting Entity is eligible to submit the Exception Request, that all Required Information has been provided, and that the Exception Request should proceed to substantive review, NERC shall issue a decision directing the Regional Entity to proceed to a substantive review of the Exception Request. NERC's decision to direct, or not to direct, the Regional Entity to proceed to substantive review, is to be issued within 45 days after receiving the Submitting Entity's submission, with copies to the Submitting Entity (and Owner if different).

**h. Section 8.0 – Approval or Disapproval of an Exception Request**

Section 8.0 sets forth the process by which NERC will review an Exception Request, following receipt of the Regional Entity’s Recommendation. The Submitting Entity or Owner will have 30 days following the date of the Regional Entity’s recommendation to NERC to submit a comment in support of or opposition to the Recommendation. The Exception Request will be reviewed by a team of at least three persons, appointed by the NERC President, with the required technical background to evaluate Exception Requests. The members of the review team must have no financial, contractual, employment or other interest in the Submitting Entity or Owner that would present a conflict of interest and must be free of any conflicts of interest in accordance with NERC policies.<sup>29</sup> NERC may ask the Regional Entity and the Submitting Entity and Owner (if different) to appear at a NERC office, or to participate in a teleconference or webinar, to discuss questions concerning the Exception Request.<sup>30</sup>

The NERC team’s review shall be completed within 90 days after NERC receives the Regional Entity’s Recommendation, at the conclusion of which the team will issue a written proposed decision to approve or disapprove the Exception Request. If the Exception Request

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<sup>29</sup> At the present time, NERC anticipates that its review teams would be drawn from staff resources, supplemented by contractors as necessary, particularly where needed to provide specific relevant subject matter expertise. However, situations may also arise in which NERC may need to call on industry subject matter experts to participate as members of review teams.

<sup>30</sup> In addition to the Regional Entity’s Recommendation, the materials available to the NERC review team (and to the NERC President, see below) will include the Exception Request itself (including the Detailed Information to Support an Exception Request), any opinion from the Regional Entity Technical Review Panel, and any information submitted at the Regional Entity level by a PA, RC, BA, TOP or TP concerning the Exception Request. Although it is presumed that a PA, RC, BA, TOP or TP will present a comprehensive statement of its comments and concerns, if any, at the Regional Entity review stage, NERC would have the ability to ask the PA, RC, BA, TOP or TP if it needs to supplement the information, comments or concerns that were submitted to the Regional Entity, in order to provide the NERC review team and the NERC President with the most complete information on which to base their respective decisions.

concerns more than one Element, the review team's proposed decision may approve a portion and disapprove a portion of the Exception Request. The written proposed decision shall state the basis for the decision. If the review team's proposed decision is not unanimous, the dissenting team member may, if he or she wishes to do so, issue a minority report stating the dissenting member's reasons for disagreement with the proposed decision.

Within 30 days after the date of the NERC review team's proposed decision, the NERC President will issue a final written decision on the Exception Request on behalf of NERC. The NERC President's decision may adopt the review panel's proposed decision or modify the proposed decision, and may reach a different conclusion than the proposed decision as to whether the Exception Request is approved or disapproved. The decision issued by the NERC President shall be the decision of NERC with respect to the Approval or Disapproval of the Exception Request.

Section 8.0 also specifies that NERC shall provide to the Submitting Entity and to the Owner, if different, copies of any documents considered by the NERC review team in reaching its proposed decision, and any additional documents considered by the NERC President in reaching the final decision, that were not originally provided by, or have not previously been provided to, the Submitting Entity or Owner. Finally, Section 8.0 provides that NERC shall retain the documentation used to substantiate the decision related to an Exception Request for the longer of seven years or as long as the Exception is in effect, unless a different retention period is otherwise identified.

**i. Section 9.0 – Appeal of Approval or Disapproval of an Exception Request**

Section 9.0 specifies that a Submitting Entity or Owner aggrieved by NERC's Approval or Disapproval of an Exception Request or termination of an Exception (pursuant to section 11.0,

described below) may, within 30 days following the date of the NERC decision, challenge the determination pursuant to ROP section 1703 (described in §III.D below). If neither the Submitting Entity nor the Owner challenges NERC's decision within the 30 day period with respect to any Element to which the Exception Request or the Exception applies, the determination becomes effective with respect to that Element on the thirty-first day following the date of the NERC decision.

**j. Section 10.0 – Implementation Period for Exceptions**

Section 10.1, Inclusion Exceptions, specifies that for an Element for which an Inclusion Exception is approved, the Owner must submit to the Regional Entity a proposed implementation plan detailing the schedule for the Owner to achieve compliance with any Reliability Standards that are applicable to the newly included Element. The Owner and the Regional Entity shall confer to agree upon the implementation schedule. If they are unable to agree on a schedule, the Regional Entity shall notify the NERC director of compliance operations of the disagreement and provide statements of the Regional Entity's and the Owner's positions, and NERC shall specify a reasonable implementation schedule.

Section 10.2 pertains to establishing the compliance implementation plan for an Element for which an Exclusion Exception has been denied.

- Subsection (a) specifies that in the case of a newly-constructed or installed Element which is included in the BES by application of the BES Definition but for which an Exception Request for an Exclusion Exception was submitted at least 12 months before commercial operation of the Element, but either is still pending or has been rejected or disapproved at the time of commercial operation, the Owner shall submit an implementation plan to the Regional Entity detailing the schedule for the Owner to

achieve compliance with any Reliability Standards applicable to the newly constructed or installed Element.

- Subsection (b) specifies that in the case of an Element that was not included in the BES under the previously effective BES Definition but is included in the BES based on application of the revised BES Definition, and for which an Exception Request for an Exclusion Exception was submitted within 12 months after the revised BES Definition became effective but either is still pending or has been rejected or disapproved at the end of the applicable BES Definition implementation plan time period,<sup>31</sup> the Owner shall submit a proposed implementation plan to the Regional Entity detailing the schedule for the Owner to achieve compliance with any Reliability Standards applicable to the newly included Element.

Under both subsections, the Owner and the Regional Entity shall confer to agree upon the implementation schedule. If they are unable to agree on a schedule, the Regional Entity shall notify the NERC director of compliance operations of the disagreement and provide statements of the Regional Entity's and the Owner's positions, and NERC shall specify a reasonable implementation schedule.

**k. Section 11.0 – Termination of an Approved Exception**

Section 11.1 specifies that an Exception Request typically will be approved without a specified date of termination but will be subject to review to verify continuing justification for the Exception. Section 11.2 requires that a Submitting Entity must notify the Regional Entity and NERC within 90 days after learning of any change of condition which would affect the basis stated by NERC in its decision approving the Exception Request. NERC will review the

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<sup>31</sup> The proposed implementation period for the revised BES Definition is addressed in §III.E of NERC's contemporaneously-filed petition for approval of the revised BES Definition.

notification and determine whether to direct the Regional Entity to perform a substantive review pursuant to section 5.2 to verify continuing justification for the Exception and to issue a Recommendation to NERC on whether the Exception should be continued or terminated.

Section 11.3 requires a Submitting Entity that has received an Exception to certify periodically to the Regional Entity that the basis for the Exception remains valid, and in connection with each certification, shall provide any changes to the Section I Required Information or Section II Required Information. (Section 11.6 requires that upon request by the Regional Entity, the Submitting Entity or Owner (if different) shall, within 30 days, provide the most recent versions of any Section III Required Information requested.) The certification is to consider the effect on the basis for the Exception of changes such as load growth and topological changes and the effects on system limits and impacts as a result of contingencies listed in Table 1 of each applicable TPL Reliability Standard. The certifications must be provided every 36 months for as long as the Exception remains in effect. The first certification is due on the first day of the first quarter 36 months after the date on which the Exception Request was approved. If the certification is not provided, the Exception is subject to termination 90 days after the date the certification was due.

Additionally, section 11.4 specifies that if the Regional Entity obtains information through means other than those described in sections 11.2 (notification from the Submitting Entity) or 11.3 (periodic certifications submitted by the Submitting Entity) indicating an Exception may no longer be warranted, the Regional Entity shall provide the information to NERC. NERC will determine whether to direct the Regional Entity to perform a substantive review pursuant to section 5.2 to verify continuing justification for the Exception and to issue a Recommendation to NERC on whether the Exception should be continued or terminated. This

process will also provide NERC the ability to direct the Regional Entity to conduct a substantive review of the Exception, if NERC obtains information indicating the Exception may no longer be warranted.

Section 11.5 specifies that if the Regional Entity recommends that an Exception be terminated, NERC shall take the following actions:

- issue a written notice to the Submitting Entity (and the Owner, if different) that the exception is under review for possible termination;
- allow the Submitting Entity and/or Owner 30 days to submit comments or information to NERC to show that the Exception continues to be justified and should remain in effect; and
- cause the Regional Entity's Recommendation to be reviewed by a NERC review panel for purposes of issuing a proposed decision, followed by a final decision by the NEC President, in accordance with section 8.0.

If the conclusion of the NERC review is that the Exception should be terminated, NERC shall send a written notice to the Submitting Entity and/or Owner stating that the Exception is terminated and the reasons for the termination. When an Element will be included in the BES as a result of the termination of an Exclusion Exception, an implementation plan detailing the schedule for complying with any Reliability Standards applicable to the newly-included Element will be developed in accordance with section 10.1 as if it were being included by an Inclusion Exception.

**D. Proposed Section 1703 of the Rules of Procedure**

Proposed ROP section 1703 (included in **Attachments 2A** and **2B**) provides a procedure for a Submitting Entity or Owner to challenge the NERC decision to approve or disapprove an Exception Request pursuant to Appendix 5C. The Submitting Entity (or Owner, if different) must file the challenge within 30 days of the date of the NERC decision, by submitting it to the NERC director of compliance operations, with copies to the Regional Entity and to the



Submitting Entity or Owner (if different). The Regional Entity, and the Submitting Entity or Owner if different, may file a response within 30 days after the date the challenge is filed with NERC. The challenge will be decided by the NERC BOTCC. The BOTCC must issue its decision within 90 days after the submission of the challenge, unless the BOTCC issues a notice extending the deadline for its decision to a stated date later than the 90-day deadline, and stating the reason for the extension. The BOTCC decision will be the final NERC decision on the Exception Request.

Section 1703.4 states that the Submitting Entity, or Owner if different, may appeal the final NERC decision to, or seek review of the final NERC decision by, the Applicable Governmental Authority(ies), in accordance with the legal authority and rules and procedures of the Applicable Governmental Authority(ies). An appeal to an Applicable Governmental Authority must be filed within 30 days following the date of the BOTCC's decision or within such other time period as is provided for in the legal authority, rules or procedures of the Applicable Governmental Authority.

**E. Proposed Revisions to Appendix 2 to the Rules of Procedure**

In the November 29, 2011 ROP Revisions Filing, which is still pending before the Commission as of the date of this Petition, NERC submitted for approval (among other revisions to the ROP) proposed new Appendix 2, *Definitions Used in the Rules of Procedure*. Appendix 2 is intended to collect, in one appendix to the ROP, all defined terms used anywhere in the ROP and appendices.

Proposed Appendix 5C includes a number of new defined terms that are not included in proposed Appendix 2 as filed with the Commission in the November 29, 2011 ROP Revisions Filing (including, of course, the revised definition of Bulk Electric System). In addition, it is

necessary to slightly modify several other definitions in proposed Appendix 2, which are already used elsewhere in the ROP, to make them consistent with definitions in proposed Appendix 5C. Accordingly, NERC is submitting for approval, as part of this filing, proposed revisions to Appendix 2 as originally filed in the November 29, 2011 ROP Revisions Filing. **Attachment 3A** is a clean version of Appendix 2 incorporating the additional and revised definitions that are being added due to Appendix 5C, and **Attachment 3B** is a redlined version of Appendix 5C, as originally submitted in the November 29, 2011 ROP Revisions Filing, showing the additional and revised definitions that are being added due to Appendix 5C.<sup>32</sup>

Following is a list of the new and revised definitions in Appendix 2:

Acceptance of the Exception Request or Acceptance (new defined term from Appendix 5C)

Approval of the Exception Request or Approval (new defined term from Appendix 5C)

Balancing Authority (minor revision to reflect inclusion of new defined terms in the BES through adoption of the revised BES Definition)

Balancing Authority Area (minor revision to reflect inclusion of new defined terms in the BES through adoption of the revised BES Definition)

BES Definition (new defined term from Appendix 5C)

Blackstart Resource (minor revision to reflect inclusion of new defined terms in the BES through adoption of the revised BES Definition)

Bulk Electric System or BES (revised definition from NERC Glossary)

Canadian Entity (revised definition to distinguish the meanings of this term as used in Appendix 4D and Appendix 5C, respectively)

Disapproval of the Exception Request or Disapproval (new defined term from Appendix 5C)

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<sup>32</sup> NERC is making the assumption that the November 29, 2011 ROP Revisions Filing will be acted upon by the Commission before the instant Petition is acted on.

Distribution Factor (defined term from the NERC Glossary being added to the defined terms in the ROP as a result of adoption of the revised BES Definition)

Exception (new defined term from Appendix 5C)

Exception Procedure (new defined term from Appendix 5C)

Exception Request (new defined term from Appendix 5C)

Exception Request Form (new defined term from Appendix 5C)

Flowgate (defined term from the NERC Glossary being added to the defined terms in the ROP due to its use in the revised BES Definition)

Inclusion Exception (new defined term from Appendix 5C)

Interchange Distribution Calculator (defined term from the NERC Glossary being added to the defined terms in the ROP as a result of adoption of the revised BES Definition)

Lead Entity (new defined term from Appendix 5C)

Load (defined term from the NERC Glossary being added to the defined terms in the ROP due to its use in the revised BES Definition)

Mexican Entity (new defined term from Appendix 5C)

Owner (new defined term from Appendix 5C)

Reactive Power (defined term from the NERC Glossary being added to the defined terms in the ROP due to its use in the revised BES Definition)

Real Power (defined term from the NERC Glossary being added to the defined terms in the ROP due to its use in the revised BES Definition)

Recommendation (new defined term from Appendix 5C)

Rejection of the Exception Request or Rejection (new defined term from Appendix 5C)

Required Information (revised definition to distinguish the meanings of this term as used in Appendix 4D and Appendix 5D, respectively)

Scope of Responsibility (new defined term from Appendix 5C)

Section I Required Information (new defined term from Appendix 5C)

Section II Required Information (new defined term from Appendix 5C)

Section III Required Information (new defined term from Appendix 5C)

Sink Balancing Authority (minor revision to reflect inclusion of new defined terms in the BES through adoption of the revised BES Definition)

Special Protection System (minor revision to reflect inclusion of new defined terms in the BES through adoption of the revised BES Definition)

Submitting Entity (revised definition to distinguish the meanings of this term as used in Appendix 5C and in section 1500 of the ROP, respectively)

Technical Review Panel (new defined term from Appendix 5C)

**F. Proposed Revisions to Appendix 5B to the Rules of Procedure**

Appendix 5B of the ROP, *Statement of Compliance Registry Criteria*, includes within its text the current definition of Bulk Electric System. Accordingly, and assuming the revised definition of Bulk Electric System is approved by the Commission, Appendix 5B needs to be revised to include the revised BES Definition. In addition, several other terms in Appendix 5B will now be capitalized because they become defined terms due to adoption of the revised BES Definition.

**Attachment 6A** to this Petition is a clean version of Appendix 5B, as filed with the Commission for approval in the November 29, 2011 ROP Revisions Filing, with the existing definition of Bulk Electric System replaced by the revised BES Definition. **Attachment 6B** is a redlined version of Appendix 5B, as filed in the November 29, 2011 ROP Revisions Filing, showing, in legislative style, the deletion of the current definition of Bulk Electric System and the insertion of the revised BES Definition, as well as the other capitalization revisions described above.<sup>33</sup>

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<sup>33</sup> In **Attachments 6A** and **6B**, the proposed revisions to Appendix 5B for which approval has been sought in the November 29, 2011 ROP Revisions Filing, which is still pending before the Commission as of the date of this Petition, are assumed to have been accepted and therefore are incorporated in the existing text.

**G. Proposed Revisions to Other Sections of the Rules of Procedure and to Appendices 3D, 4B, 6 and 8**

NERC also requests approval of minor revisions to sections 302.2.2, 501.1.4.4, 804, 1102.2 and 1701 of the ROP and Appendices 3D, 4B, 6 and 8. The revisions to section 1701 are necessary to reflect the addition of new section 1703 to section 1700 of the ROP. The revisions to the other sections of the ROP and to Appendices 3D, 4B, 6 and 8 are all necessary to capitalize (consistent with the capitalization convention adopted in the November 29, 2011 ROP Revisions Filing) terms that become defined terms as the result of adoption of the revised BES Definition and several defined terms from the NERC Glossary that are used within the revised BES Definition. The revisions to these ROP sections and Appendices are shown in the redlined versions in **Attachments 2B, 4B, 5B, 7B and 8B**, respectively.<sup>34</sup>

**IV. NERC APPROVALS FOR THE PROPOSED REVISION**

Following the issuance of Order No. 743 on November 28, 2010, a SDT was formed charged with the responsibility to develop a revised BES Definition, technical criteria for Exception Requests, and an implementation plan (Standards Project 2010-17); and the BES ROP Team was formed to develop a proposed BES Exception Procedure to be added to the NERC ROP. The BES ROP Team members were selected, from stakeholder names that were submitted for participation on the Standards Project 2010-17 SDT, to provide a good mixture of technical, policy and industry view. The Team included Canadian representatives.<sup>35</sup>

During the course of the BES ROP Team's work, interested stakeholders were provided multiple opportunities to participate in the development of a BES Exception Procedure, through

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<sup>34</sup> Each of these Attachments was prepared assuming that the proposed revisions submitted to the Commission in the November 29, 2011 ROP Revisions Filing will be approved.

<sup>35</sup> The BES ROP Team roster is available at:  
[http://www.nerc.com/docs/standards/dt/BESROP\\_ROSTER\\_08312011.pdf](http://www.nerc.com/docs/standards/dt/BESROP_ROSTER_08312011.pdf).

open meetings of the Team as well as through extensive use of e-mail, web postings, and informational and question-and-answer sessions held jointly with the BES Definition SDT. An extensive stakeholder e-mail list (the same list used for the BES Definition SDT's work) was compiled and used to distribute status information about the Team's work as well as draft documents. The use of a common e-mail list kept the BES Definition SDT and the BES ROP Team aware of each other's work. As an additional source of information for stakeholders, a BES ROP Team web page was created and hyperlinked to the "Standards Under Development" page on the NERC web site. Further, the NERC Member Representatives Committee was briefed on the BES ROP Team's progress on several occasions during 2011; two joint (with the SDT) NERC webinars with questions and answers were presented; and there was one joint presentation at a NERC Standards workshop.

Through two separate postings and comment periods, stakeholders were provided the opportunity to provide feedback on draft amendments to the ROP for the BES Exception Procedure. A 30-day posting for comment was held from May 10, 2011 through June 10, 2011, in conjunction with the first posting of the draft revised BES Definition. Seventy sets of comments were received on this draft posting, including comments from more than 176 different people from approximately 131 organizations representing all ten Registered Ballot Body Segments. A special electronic comment form was utilized to facilitate the submission and review of stakeholder comments.

After considering the comments received in the first posting, the BES ROP Team made substantial revisions to the proposed ROP amendments. A second posting for a 45-day comment period was conducted from September 13, 2011 through October 27, 2011, in conjunction with the second posting and initial ballot of the revised BES Definition. There were 72 sets of

comments received on the second posting, including comments from more than 134 different people from approximately 86 organizations representing nine of the ten Segments. An electronic comment form was again used which included specific questions that stakeholders were asked to respond to, as well as providing the ability to comment generally on the proposed text.<sup>36</sup>

After reviewing the second set of comments, the BES ROP Team made additional revisions to the draft ROP provisions, and submitted the Team's proposed versions of Appendix 5C and ROP sections 509 and 1703 to NERC.

A more detailed discussion of the development process followed by the BES ROP Team and how the Team considered and addressed a number of issues it identified, including issues raised in stakeholder comments, in arriving at its final proposed ROP provisions, is provided in **Attachment 9**, which was prepared by the BES ROP Team.

The provisions proposed by the BES ROP Team were reviewed and discussed by NERC Reliability Standards, Compliance Operations, Reliability Assessment and Performance Analysis, and Legal staffs to identify any revisions to the Team's documents that NERC staff should recommend to the Board. Although generally accepting the structure and process embodied in the ROP provisions proposed by the BES ROP Team, NERC staff did make a number of specific revisions to the Team's proposed documents for the versions that were submitted to the NERC Board for approval. A number of these revisions were non-substantive revisions for purposes of internal consistency within Appendix 5C and/or for consistency

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<sup>36</sup> The NERC Bylaws (Article XI, section 2) only require that one, 45-day comment period be provided for proposed additions or revisions to the ROP, before the additions or revisions are submitted to the Board for approval. By providing for two postings and stakeholder comment periods, the BES ROP Team exceeded the requirements of the Bylaws.

(including format consistency) with other ROP provisions. Substantive revisions that were made to proposed Appendix 5C include the following items:

- Sections 5.0 item (iii), 5.1.5 and 5.3 – The Team’s proposal included a requirement for a review by the Regional Entity Technical Review Panel if the Regional Entity proposes to reject an Exception Request. This provision has been deleted. In deleting this provision, NERC staff considered both this specific provision and the overall amount of process and resource requirements that Appendix 5C and ROP section 1703 would require of the Regional Entities and NERC, as well as the time potentially required to complete the overall Exception Request process, and concluded that the amount of process steps, resources and time required needed to be reduced. NERC Staff also noted that sections 5.1.5(b) and 7.0 give the Submitting Entity the right to appeal a Rejection of an Exception Request by the Regional Entity to NERC, thereby providing an opportunity for review of the Rejection decision.
- Section 5.1.3. The time periods for the Regional Entity to complete initial screening of Exception Requests, described in the Team’s proposal as “typical,” were changed to deadlines, with a provision added whereby the Regional Entity can extend the deadline to a new date by issuing a notice.<sup>37</sup>
- Section 5.0 item (ii) and 5.2.2. The Team’s version included a requirement for the Regional Entity to confer with the Submitting Entity (and Owner, if different) to establish milestones for the Regional Entity to complete its substantive review of the Exception Request within six months. This requirement for such consultations has been deleted. The necessity to engage in such conferences and negotiations in connection with every substantive review of an Exception Request was viewed as an excessive time and resource requirement for the Regional Entities. However, in its place, a provision was added in section 5.2.2 requiring the Regional Entity, at the outset of its substantive review, to develop a milestone schedule pursuant to which it plans to conduct the substantive review, and to send a copy of the milestone schedule to the Submitting Entity and the Owner (if different) for information.
- A new section 5.2.5 was added stating that NERC shall develop, and post on its web site, a reporting program and schedule pursuant to which Regional Entities will be required to submit to NERC periodic reports on the numbers, status and timing of their initial screenings and substantive reviews of Exception Requests.

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<sup>37</sup> In addition, section 5.0 allows a Regional Entity to establish an alternative time period objective and work plan for completing initial screenings and substantive reviews of Exception Requests, for a period of time, if the Regional Entity determines it will be unable to complete these activities within the time periods specified in section 5.0.



- Section 8.0. The Team’s proposed version included a requirement that if the decision of the three-person NERC team reviewing an Exception Request is not unanimous, its decision must note that fact and state the basis on which the minority disagreed. This provision has been eliminated and replaced with a provision that the dissenting team member may, if he or she wishes, submit a minority report stating the dissenting member’s reasons for disagreement with the decision. NERC staff did not see a need to require a statement of the minority position if the dissenting member did not feel sufficiently strongly to provide one.
- Section 8.0. The minimum time period for NERC to retain documentation of the NERC decision was increased from six years (in the Team’s proposal) to seven years, to be more consistent with other NERC document retention policies.
- Section 8.0. A provision in the Team’s version that “The Submitting Entity and/or Owner if different shall be given access to this record upon request, subject to applicable confidentiality provisions” was deleted. Entities should be responsible to maintain their own copies of the record of the Exception Request process; further, responding to requests for documents from the record (including ensuring that confidentiality requirements are maintained when access or copies are provided) would be an unnecessary resource requirement for NERC. However, this provision was replaced with a requirement that NERC shall provide to the Submitting Entity and to the Owner (if different), copies of any documents considered by the NERC review team in reaching its proposed decision, and any additional documents considered by the NERC President in reaching the final decision, that were not originally provided by, or have not previously been provided to, the Submitting Entity or Owner. (The references to the review team’s “proposed decision” and to the NERC President’s “final decision” were added as the result of the additional changes made to Section 8.0 at the direction of the NERC Board, as discussed below.)
- Sections 10.1, 10.2(a) and 10.2(b). In the Team’s version, the three cited sections each provided that if the Regional Entity and the Owner are unable to agree on an implementation plan for compliance with Reliability Standards applicable to an Element that is included in the BES due to Approval or Disapproval of an Exception Request, “the Regional Entity Board or a Board-appointed committee shall specify a reasonable implementation schedule.” NERC staff concluded that designating Regional Entity boards to make these determinations was inappropriate for a number of reasons, including lack of expertise and the fact that some Regional Entity boards meet infrequently so that the determination of the implementation plan schedule could be unduly delayed. These provisions were deleted and replaced with provisions specifying that if the Regional Entity and the Owner are unable to agree on an implementation plan, the matter shall be brought to NERC and NERC will determine an appropriate implementation schedule.
- Section 11.3. The frequency with which the Submitting Entity must certify that the basis for the Exception remains valid was changed from 24 months (in the Team’s version) to 36 months. NERC staff noted that (i) the underlying system conditions

and configurations on which the Exception was based are not likely to change frequently, (ii) Regional Entity resources will be required to track the certification due dates and process and review the certifications, and (iii) section 11.2 imposes a separate requirement on Submitting Entities to notify the Regional Entity and NERC within 90 days after learning of any change in condition which would affect the basis stated in the NERC decision approving the Exception Request.

Substantive revisions that NERC staff made to the BES ROP Team's proposed ROP section 1703 (providing the procedures for a challenge of the NERC decision on an Exception Request to the NERC Board) are the following items:

- The Team's proposed version of ROP section 1703 provided for two levels of review: review by a separate standing technical panel appointed by the NERC Board, followed by review (if requested by the appellant) by the NERC BOTCC. NERC Staff concluded that providing for two levels of review at the appeal stage, including review by another panel of technical experts, was unnecessary in light of the review steps in the process leading up to the "initial" NERC decision on the Exception Request, which already will have included review by two separate panels of technical experts. Therefore, section 1703 was revised to eliminate review by the standing panel of experts, and instead to provide for only one step in the challenge process, *i.e.*, consideration of the challenge by the BOTCC.
- The Team's version also provided that the BOTCC, when asked to review the decision of the standing panel, could simply allow the 90-day period for BOTCC review to expire with no action, thereby making the standing panel's decision the final NERC decision. However, because the review by the standing panel was eliminated, section 1703 was also revised to specify that the BOTCC must render a decision on each challenge. A provision was also added to allow the BOTCC to extend its decision deadline date beyond 90 days by issuing a notice to the parties stating the extended deadline date. This "extension" provision gives the BOTCC flexibility in scheduling and to ensure it has sufficient time to consider the challenge.

During the course of consideration of the BES ROP Team's proposed Exception Procedure, there was also consideration of whether provisions should be added to Appendix 5C to provide for coordination among Regional Entities concerning Exception Requests. Section 4.1 of proposed Appendix 5C specifies that:

With respect to an Element that crosses a boundary between Regional Entities, (1) the Submitting Entity will submit the Exception Request to both (or all) Regional Entities, which will cooperate to process the Exception Request pursuant to section 5.1 below, or (2) the Regional Entities must jointly submit an

Exception Request to NERC (neither Regional Entity shall be allowed to submit such Exception Request unilaterally).

However, consideration was also given to whether to include procedures by which neighboring Regional Entities in an Interconnection to the Region in which the Element is located would be sent notification of, and could submit comments on, an Exception Request concerning how the Exception Request could impact reliability in the neighboring Region, even where the Element(s) that are the subject of the Exception Request are located solely within a single Region. It was the near-unanimous conclusion of the Regional Entities and NERC that such additional procedures were not needed and would, in fact, create additional prescriptive administrative requirements that could burden efficient implementation of the Exception Procedure. Rather, the Regional Entities can work cooperatively together to keep each other apprised of Exception Requests that could, if granted, have impacts on the Reliable Operation of the interconnected bulk-power transmission system in a neighboring Region within the Interconnection, and seek input from the neighboring Regional Entity where appropriate. Additionally, NERC, in its role under the Exception Procedure as the entity deciding whether Exception Requests should be approved or disapproved, can consider and evaluate the potential impacts of an Exception Request on the Reliable Operation of the interconnected bulk-power transmission system in neighboring Regional Entities.

The NERC Board accepted the revisions to the Exception Procedure recommended by NERC staff and directed that two additional revisions be made to the BES ROP Team's proposed version of Appendix 5C. Both of the revisions directed by the Board have been implemented in section 8.0.

- The Board determined that the three-person NERC review team should not make the decision on behalf of NERC to approve or disapprove the Exception Request, but rather that the decision should be made by the NERC President. Accordingly, section

8.0 was revised to specify that the review team is to issue a proposed decision within 90 days after the Regional Entity's Recommendation is received, and that within 30 days thereafter, the NERC President will issue a final decision to approve or disapprove the Exception Request, which shall be the NERC decision.

- The Board directed that a provision be added to specify that the NERC review team members shall be free of any conflicts of interest with respect to the Submitting Entity or Owner. Based on this direction, the following sentence was added in section 8.0: "The members of the review team shall have no financial, contractual, employment or other interest in the Submitting Entity or Owner that would present a conflict of interest and shall be free of any conflicts of interest in accordance with NERC policies."

On January 18, 2012, the NERC Board approved proposed Appendix 5C, as modified by NERC staff and subject to revisions as directed by the Board (as described above), proposed ROP section 509, and proposed ROP section 1703 (also as modified by NERC staff). The Board also approved the proposed revisions to ROP sections 302.2.2, 501.1.4.4, 804, 1102.2 and 1701 and to Appendices 2, 3D, 4B, 5B, 6 and 8 that are submitted with this Petition.

## **V. NERC LIST OF FACILITIES THAT HAVE RECEIVED EXCEPTIONS**

In Order No. 743, the Commission indicated that NERC should maintain a list of facilities that are granted exemptions from the BES Definition pursuant to the exemption process that NERC was directed to develop:

While the Commission will not require that we review each exemption on a facility-by-facility basis, we would maintain the authority to conduct audits to determine the appropriateness of a particular exemption. We contemplate that a Commission staff audit would review the application of the exemption criteria developed by NERC in NERC's or a Regional Entity's determination to approve an exemption for a particular facility. However, to facilitate such audits, the ERO should maintain a list of exempted facilities that can be made available to the Commission on request. NERC can decide how best to maintain the list, including determining whether or not to post it on the NERC website.<sup>38</sup>

. . . [T]he exemption process provides a means of ensuring that relatively high voltage distribution facilities are excluded from compliance with mandatory Reliability Standards. In this light, we believe that it would be beneficial for the

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<sup>38</sup> Order No. 743 at P 117.

ERO in maintaining a list of exempted facilities, to consider including a means to track and review facilities that are classified as local distribution to ensure accuracy and consistent application of the definition. Similarly, the ERO could track exemptions for radial facilities.<sup>39</sup>

The proposed BES Exemption Procedure and the other new ROP provisions submitted in this Petition do not include provisions for NERC to maintain a list of facilities that have received Exceptions, as this is an internal administrative matter for NERC to implement that does not need to be embedded in the ROP. However, NERC recognizes the Commission's statement that NERC should maintain such a list, and plans to do so. NERC will develop a specific internal plan and procedures for maintaining a list of facilities for which Exceptions have been granted, in order to be prepared to initiate the list when the BES Definition and the BES Exception Procedure go into effect and Exception Requests begin to be received and processed. NERC has not yet determined specifically how the list will be organized and structured, nor whether or under what conditions the list will be made available on the NERC web site or otherwise made available to any entities other than the Commission (and other Applicable Governmental Authorities) and the Regional Entities. One overriding issue will be the extent of Confidential Information (including Critical Energy Infrastructure Information) that will be included in Exception Requests and in decisions on Exception Requests, and how to make the list of facilities with Exceptions available (if at all) to other stakeholders while continuing to protect Confidential Information.

In addition to the list that NERC will maintain, it will be necessary for Regional Entities to maintain lists of facilities within their Regions for which Exceptions have been granted, in order to monitor compliance with the requirement to submit periodic certifications pursuant to section 11.3 of Appendix 5C.

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<sup>39</sup> Order No. 743 at P 119.

**VI. CONCLUSION**

NERC respectfully requests that the Commission approve (1) proposed new Appendix 5C to the NERC Rules of Procedure, *Procedure for Requesting and Receiving Exceptions from the NERC Definition of the Bulk Electric System*, (2) proposed new Sections 509 and 1703 of the ROP, and (3) the proposed revisions to sections 302.2.2, 501.1.4.4, 804, 1102.2 and 1701 of the ROP and to Appendices 2, 3D, 4B, 5A, 6 and 8 submitted with and described in this Petition, and that the Commission find this filing and the proposed new provisions of the ROP to constitute full compliance with the Commission’s directives in Order Nos. 743 and 743-A concerning development of a procedure for exemptions from application of the BES Definition. NERC requests that the Commission approve the proposed ROP revisions with the same effective date as the proposed effective date of the revised BES Definition.

Respectfully submitted,

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**PETITION OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
FOR APPROVAL OF REVISIONS TO ITS RULES OF PROCEDURE  
TO ADOPT A BULK ELECTRIC SYSTEM EXCEPTION PROCEDURE**

**ATTACHMENT 1**

**PROPOSED APPENDIX 5C TO THE RULES OF PROCEDURE,  
*PROCEDURE FOR REQUESTING AND RECEIVING AN EXCEPTION  
FROM THE NERC DEFINITION OF BULK ELECTRIC SYSTEM***

Proposed Version 1-25-2012

**PROCEDURE FOR REQUESTING AND RECEIVING  
AN EXCEPTION FROM THE APPLICATION  
OF THE  
NERC DEFINITION OF BULK ELECTRIC SYSTEM**



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## 1.0 INTRODUCTION

### 1.1 Purpose

The NERC definition of the Bulk Electric System uses specific terms and thresholds that, in most cases, should appropriately identify Elements and groups of Elements that are appropriately classified as part of the Bulk Electric System. Conversely, the BES Definition should, in most cases, exclude Elements that are not part of the Bulk Electric System. In certain cases, however, the BES Definition may classify certain Elements as part of the Bulk Electric System that are not necessary for the Reliable Operation of the interconnected bulk-power transmission system or the BES Definition may classify certain Elements as non-Bulk Electric System that are necessary for the Reliable Operation of the interconnected bulk-power transmission system.

This Appendix to the Rules of Procedure of the North American Electric Reliability Corporation provides the procedure by which an entity may request and receive an Exception which will have the effect of either including within the BES an Element or Elements that would otherwise be excluded by application of the BES Definition or excluding from the BES an Element or Elements that would otherwise be included by application of the BES Definition. This Appendix is intended to implement authorization granted by FERC to allow such Exceptions from the BES Definition.<sup>1</sup>

An entity must request and obtain an Exclusion Exception pursuant to an Exception Request under this Exception Procedure before any Element that is included in the BES by application of the BES Definition shall be excluded from the BES. Likewise, an entity must request and obtain an Inclusion Exception pursuant to an Exception Request under this Exception Procedure before any Element that is excluded from the BES by application of the BES Definition shall be included in the BES.

During the pendency of an Exception Request, the status of an Element(s) that is the subject of an Exception Request shall remain as it is determined based on application of the BES Definition. This status will continue until all appeals to all Applicable Governmental Authorities are completed. An entity that is planning a connection of a new Element for which it believes an Exception would be appropriate may request an Exception prior to commercial operation of the Element.

The Owner of the Element to which the Exception Request applies or, with respect to an Element owned by another Registered Entity, any Regional Entity, Planning Authority (“PA”), Reliability Coordinator (“RC”), Transmission Operator (“TOP”), Transmission Planner (“TP”) or Balancing Authority (“BA”) that has (or will have upon inclusion of the Elements in the BES) the Elements covered by an Exception Request within its Scope of Responsibility may submit an Exception Request for the Element as provided in this Exception Procedure.

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<sup>1</sup> *Revision to Electric Reliability Organization Definition of Bulk Electric System*, 133 FERC ¶ 61,150 (“Order No. 743”) (2010), *Order on Reh’g, Revision to Electric Reliability Organization Definition of Bulk Electric System*, 134 FERC ¶61,210 (“Order No. 743-A”) (2011).

## **1.2. Authority**

This Appendix is a NERC Rule of Procedure and an Electric Reliability Organization Rule. This Appendix has been approved by (i) the NERC Board of Trustees and (ii) FERC. Any future revisions to this Appendix must be adopted in accordance with Article XI, section 2 of the NERC *Bylaws* and Section 1400 of the NERC *Rules of Procedure*, including approval by the NERC Board of Trustees and by FERC, in order to become effective. This Exception Procedure or an equivalent procedure is to be implemented in Canada and Mexico consistent with their respective laws and agreements.

## **1.3 Canadian and Mexican Entities and Cross-Border Regional Entities**

A Registered Entity that is a Canadian Entity or a Mexican Entity seeking an Exception will be expected to work with the Regional Entity, NERC, and Applicable Governmental Authorities in Canada or Mexico, as appropriate, consistent with their respective laws and agreements, and without being obligated to authorize the disclosure of information prohibited by applicable federal, state or provincial law from disclosure to FERC or other governmental authorities in the U.S., in order to implement this Exception Procedure or an equivalent procedure. A Canadian Entity or a Mexican Entity shall not be required to subject itself to United States federal or state laws not otherwise applicable to the entity in order to utilize this Exception Procedure or an equivalent procedure.

## **2.0. DEFINITIONS**

For purposes of this Appendix, capitalized terms shall have the definitions set forth in Appendix 2 to the Rules of Procedure. For ease of reference, the definitions of the following terms that are used in this Appendix are also set forth below.

**2.1 Acceptance of the Exception Request (or Acceptance):** The determination that an eligible Exception Request (i.e., an Exception Request permitted by section 4.1) contains all the Required Information so that it can undergo substantive review.

**2.2 Approval of the Exception Request (or Approval):** The determination by NERC that an Exception Request meets the criteria to receive the requested Exception.

**2.3 BES:** Bulk Electric System.

**2.4 BES Definition:** The NERC definition of the Bulk Electric System as set forth in the NERC *Glossary of Terms Used in Reliability Standards*.

**2.5 Canadian Entity:** A Registered Entity that is organized under Canadian federal or provincial law.

**2.6 Classified National Security Information:** Required Information that has been determined to be protected from unauthorized disclosure pursuant to Executive Order No. 12958,

as amended, and/or the regulations of the NRC at 10 C.F.R. §95.35; or pursuant to any comparable provision of Canadian or Mexican federal or provincial law.

**2.7 Disapproval of the Exception Request (or Disapproval):** The determination by NERC that an Exception Request does not meet the criteria to receive the requested Exception.

**2.8 Eligible Reviewer:** A person who has the required security clearances or other qualifications, or who otherwise meets the applicable criteria, to have access to Confidential Information, Classified National Security Information, NRC Safeguards Information or Protected FOIA Information, as applicable to the particular information to be reviewed.

**2.9 Exception:** Either an Inclusion Exception or an Exclusion Exception.

**2.10 Exception Procedure:** The procedure set forth in this Appendix.

**2.11 Exception Request:** A request made by a Submitting Entity in accordance with this Appendix for an Exception.

**2.12 Exception Request Form:** The form adopted by each Regional Entity, in accordance with a template provided by NERC, for use by Submitting Entities in submitting Exception Requests; provided, that the Exception Request Form must include Section III.B as adopted by NERC.

**2.13 Exclusion Exception:** A determination that an Element that falls within the BES Definition should be excluded from the BES.

**2.14 FERC:** The United States Federal Energy Regulatory Commission.

**2.15 FOIA:** The U.S. Freedom of Information Act, 5 U.S.C. §552.

**2.16 Inclusion Exception:** A determination that an Element that falls outside the BES Definition should be included in the BES.

**2.17 Lead Entity:** The entity that submits Exception Request information that is common to a group of Submitting Entities that are submitting Exception Requests jointly.

**2.18 Mexican Entity:** A Registered Entity that is organized under Mexican law.

**2.19 NRC:** The United States Nuclear Regulatory Commission.

**2.20 NRC Safeguards Information:** Required Information that is subject to restrictions on disclosure pursuant to 42 U.S.C. §2167 and the regulations of the NRC at 10 C.F.R. §73.21-73.23; or pursuant to comparable provisions of Canadian or Mexican federal or provincial law.

**2.21 Owner:** The owner(s) of an Element or Elements that is or may be determined to be part of the BES as a result of either the application of the BES Definition or an Exception, or another entity, such as an operator, authorized to act on behalf of the owner of the Element or Elements in the context of an Exception Request.

**2.22 Protected FOIA Information:** Required Information, held by a governmental entity, that is subject to an exemption from disclosure under FOIA [5 U.S.C. §552(e)], under any similar state or local statutory provision, or under any comparable provision of Canadian or Mexican federal or provincial law, which would be lost were the Required Information to be placed into the public domain.

**2.23 Recommendation:** The report to NERC containing the evaluation prepared in accordance with section 5.2 concerning whether or to what extent an Exception Request should be approved.

**2.24 Rejection of the Exception Request (or Rejection):** The determination that an Exception Request is not an eligible Exception Request (i.e., an Exception Request permitted by section 4.1) or does not contain all the Required Information in accordance with section 4.5 in order to be reviewed for substance.

**2.25 Required Information:** Information required to be provided in an Exception Request, as specified in section 4.0.

**2.26 Scope of Responsibility:** The registered functions of a PA, RC, TOP, TP or BA and the geographical or electric region in which the PA, RC, TOP, TP or BA operates to perform its registered functions, or with respect to a Regional Entity, its Regional Entity Region.

**2.27 Section I Required Information:** Required Information that is to be provided in Section I of a Submitting Entity's Exception Request.

**2.28 Section II Required Information:** Required Information that is to be provided in Section II of a Submitting Entity's Exception Request.

**2.29 Section III Required Information:** Required Information that is to be provided in Section III of a Submitting Entity's Exception Request.

**2.30 Submitting Entity:** The entity that submits an Exception Request in accordance with section 4.0.

**2.31 Technical Review Panel:** A panel established pursuant to section 5.3 of this Appendix.

### **3.0. BASIS FOR APPROVAL OF AN EXCEPTION**

#### **3.1. Grounds for an Exception**

##### **(a) Exclusion Exception**

An entity may request and obtain Approval from NERC for an Exclusion Exception on the grounds that the Element(s) for which the Exception Request is filed is included within the BES based on application of the BES Definition but is not necessary for the Reliable Operation of the interconnected bulk-power transmission system as evidenced by Required Information provided pursuant to **Detailed Information to Support an Exception Request** (Section III.B of the Exception Request Form).

##### **(b) Inclusion Exception**

An entity may request and obtain Approval from NERC for an Inclusion Exception on the grounds that the Element(s) for which the Exception Request is filed is not included within the BES based on application of the BES Definition but is necessary for the Reliable Operation of the interconnected bulk-power transmission system as evidenced by Required Information provided pursuant to **Detailed Information to Support an Exception Request** (Section III.B of the Exception Request Form).

#### **3.2. Burden**

The burden to provide a sufficient basis for Approval of an Exception Request in accordance with the provisions of this Exception Procedure is on the Submitting Entity. It is the responsibility of the Regional Entity, subject to oversight by NERC as provided in this Exception Procedure, to evaluate the request and make a Recommendation to NERC regarding its Approval. All evidence provided as part of an Exception Request or response will be considered in determining whether an Exception Request shall be approved or disapproved.

### **4.0. FORM, CONTENTS, AND SUBMISSION OF AN EXCEPTION REQUEST**

#### **4.1. Eligible Submitting Entities**

The Owner of an Element may submit an Exception Request for either an Inclusion Exception or an Exclusion Exception regarding that Element. A Regional Entity, PA, RC, TOP, TP, or BA that has (or will have upon inclusion in the BES) the Elements covered by an Exception Request within its Scope of Responsibility may submit an Exception Request for the inclusion in the BES of an Element or Elements owned by a Registered Entity, provided that before doing so, (i) the Submitting Entity conferred with the Owner about the reasons for an Exception, and (ii) could not reach agreement regarding the submission of such an Exception Request. (If the Owner agrees with submitting an Exception Request, the Owner should be the Submitting Entity.) Only a Regional Entity may submit an Exception Request for the inclusion in the BES of an Element or Elements owned by an Owner that is not a Registered Entity. Only an

Owner or a Regional Entity may submit an Exception Request for the exclusion from the BES of an Element.

When a Regional Entity requests an Exception, the Regional Entity shall be the Submitting Entity and shall prepare and submit copies of its Exception Request (or portions thereof) to all applicable entities in accordance to this section 4.0.

With respect to an Element that crosses a boundary between Regional Entities, (1) the Submitting Entity will submit the Exception Request to both (or all) Regional Entities, which will cooperate to process the Exception Request pursuant to section 5.1 below, or (2) the Regional Entities must jointly submit an Exception Request to NERC (neither Regional Entity shall be allowed to submit such Exception Request unilaterally).

#### **4.2. Separate Submissions for Each Exception Request**

A separate Exception Request shall be submitted for each Element or set of connected Elements for which the Submitting Entity seeks an Exception. The scope of an Exception Request shall cover the terminal connections of the Element or set of Elements as identified in the Exception Request. Where the Submitting Entity seeks Exceptions from the BES Definition for multiple, similar Elements (either at the same location or at different locations within the geographic boundaries of a Regional Entity) on the same basis, the Exception Requests for all such Elements may be included in one Exception Request with all such Elements or sets of connected Elements separately identified. A single Exception Request may not be submitted for separate Elements within the geographic boundaries of more than one Regional Entity.

Multiple Submitting Entities may jointly file Exception Requests for similar Elements for which they are requesting Exceptions on the same basis. In such a situation, the Submitting Entities will submit a package comprised of a complete Exception Request Form for a Lead Entity, and an Exception Request Form for each other Submitting Entity that (1) provides the Submitting Entity's differing individual information to the extent such is required (e.g., contact information, identification, and location of Element(s), etc.), and (2) otherwise references the pertinent portions of the complete Exception Request Form filed by the Lead Entity (e.g., status under application of the BES Definition, basis for an Exception under section 3.1, etc.). For any Exception Request filed by multiple Submitting Entities as provided in this section, the Lead Entity shall be considered the "Submitting Entity" for purposes of the Regional Entity's and NERC's notices and actions in accordance with the remainder of this Exception Procedure. However, any Owner nonetheless may take any action otherwise appropriate for a Submitting Entity (e.g., respond to a Recommendation, submit an appeal, etc.).

#### **4.3. Withdrawal of an Exception Request**

A Submitting Entity may withdraw an Exception Request at any time prior to NERC Approval or Disapproval of the Exception Request.

#### **4.4. Form and Format of Exception Request**

An Exception Request shall consist of three sections, all of which must be submitted to the applicable Regional Entity. If the Submitting Entity is not the Owner [i.e., is a Regional Entity, PA, RC, TOP, TP, or BA that has (or will have upon inclusion of the Element in the BES) the Elements covered by an Exception Request within its Scope of Responsibility], it shall at the same time provide a copy of the Exception Request to the Owner (or if the Owner is unknown, to the operator of the Element(s)) to which the Exception Request applies.

#### **4.5. Required Information to be Included in the Exception Request**

**4.5.1.** Section I of an Exception Request shall contain the Required Information specified in this section 4.5.1. At the same time the Submitting Entity submits the Exception Request Form to the Regional Entity, the Submitting Entity shall submit a copy of Section I to each PA, RC, TOP, TP, and BA that has (or will have upon inclusion in the BES) the Elements covered by an Exception Request within its Scope of Responsibility. Failure to provide all Section I Required Information may result in Rejection of the Exception Request as incomplete.

1. Name and address of Submitting Entity.
2. Submitting Entity NERC Compliance Registry ID (if yet assigned).
3. Name of the Owner, if different than the Submitting Entity,
4. Owner's NERC Compliance Registry ID (if yet assigned).
5. Exception Request submittal date.
6. Whether the Exception Request is an original Exception Request or an amended Exception Request; and if it is an amended Exception Request, the identification number(s) of the original Exception Request and any previous amendments.
7. Whether the Exception Request is being submitted in conjunction with Exception Requests by other Submitting Entities. If so, the names of the other Submitting Entities.
8. Whether the Submitting Entity is filing a similar Exception Request(s) with one or more other Regional Entities, and if yes, the name(s) of the other Regional Entity(ies).
9. The type(s) of Element(s) for which the Exception is being requested.
10. Status, based on application of the BES Definition, of the Element(s) for which the Exception is being requested.



**4.5.2.** Section II of an Exception Request shall contain the Required Information specified in this section 4.5.2. At the same time the Submitting Entity submits the Exception Request Form to the Regional Entity, the Submitting Entity shall submit a copy of Section II to each PA, RC, TOP, TP, and BA that has (or will have upon inclusion of the Element(s) in the BES) the Elements covered by an Exception Request within its Scope of Responsibility. Failure to provide all Section II Required Information may result in Rejection of the Exception Request as incomplete.

Section II Required Information will not be publicly posted or disclosed to third parties except for persons involved in reviewing the Exception Request.

1. Identification and location(s) of Element(s) for which the Exception is being requested.
2. Name, title, phone number, facsimile number, and E-mail address of the Submitting Entity's technical contact person for the Exception Request.
3. Certification by the Submitting Entity (if other than Owner) that it conferred with the Owner regarding the reason for the requested Exception, but could not reach agreement regarding the submission of an Exception Request.
4. To the extent known by the Submitting Entity, name, mailing address, phone number, facsimile number, and E-mail address of the Owner's technical contact person for the Exception Request, if the Owner is different from the Submitting Entity.
5. Identification of PA, RC, TOP, TP, and BA that has (or will have upon inclusion in the BES) the Elements covered by the Exception Request within its Scope of Responsibility, and certification by the Submitting Entity that it has sent copies of Sections I and II to each such entity.
6. A statement of the basis on which the Submitting Entity contends the Exception Request should be approved, and if the Submitting Entity is not the Owner, a statement of the basis of the Submitting Entity's reason for submitting the Exception Request.
7. A statement, signed and dated by an authorized representative of the Submitting Entity's senior management stating that the representative has read the Exception Request on behalf of the Submitting Entity and that the Submitting Entity believes Approval of the Exception Request is warranted.

**4.5.3** Section III of an Exception Request shall contain the **Detailed Information to Support an Exception Request** as specified on the Exception Request Form. Failure to include all Section III Required Information may result in Rejection of the Exception Request. The Submitting Entity may designate all or part of the Section III Required Information as Confidential Information.

1. If the Exception Request is supported, in whole or in part, by Classified National Security Information, NRC Safeguards Information, and/or Protected FOIA Information, Section III shall include a statement identifying which of these categories each such item of information falls into and explaining why each such item of information is Classified National Security Information, NRC Safeguards Information, and/or Protected FOIA Information.
2. If the Submitting Entity is prohibited by law from disclosing any Classified National Security Information, NRC Safeguards Information and/or Protected FOIA Information to any person who is not an Eligible Reviewer (such as, for example, the restriction on access to Classified National Security Information specified in section 4.1 of Executive Order No. 12958, as amended), Section III shall identify the Classified National Security Information, NRC Safeguards Information and/or Protected FOIA Information that is subject to such restrictions on disclosure and shall identify the criteria which a person must meet in order to be an Eligible Reviewer of the Classified National Security Information, NRC Safeguards Information and/or Protected FOIA Information.

**4.5.4** The Owner of the Element(s) to which the Exception Request applies, if different than the Submitting Entity, may file a response to supplement, correct or disagree with all or any part of an Exception Request. Any PA, RC, TOP, TP, and BA that has (or will have upon inclusion of the Element(s) in the BES) the Elements covered by an Exception Request within its Scope of Responsibility may also provide input to the Regional Entity regarding the Exception Request. If in order to evaluate an Exception Request, the Owner, PA, RC, TOP, TP or BA wishes to obtain any Required Information in Section III of the Exception Request, the Owner, PA, RC, TOP, TP or BA may submit to the Regional Entity that received the Exception Request a request stating its reason for wanting to review such information, and the Regional Entity may provide such information to the Owner, PA, RC, TOP, TP or BA if the Regional Entity believes such review may assist the Regional Entity's review; if any of such Section III Required Information has been designated Confidential Information, prior to being provided the Confidential Information, the Owner, PA, RC, TOP, TP or BA shall execute a confidentiality agreement in a form established by the Regional Entity. Any response provided pursuant to this section 4.5.4 must be submitted to the Regional Entity with copies to the Submitting Entity and the Owner, if different from the Submitting Entity, within forty-five (45) days after the date the Exception Request Form was submitted to the Regional Entity.

#### **4.6 Access to Confidential Information, Classified National Security Information, NRC Safeguards Information, and Protected FOIA Information Included in Required Information**

**4.6.1.** Upon reasonable advance notice from a Regional Entity, and subject to section 4.6.2, a Submitting Entity or Owner must provide the Regional Entity (a) with access to Confidential Information, Classified National Security Information, NRC Safeguards Information, and Protected FOIA Information included in the Exception Request, and (b) with

access for purposes of making a physical review and inspection of the Element or Elements for which an Exception Request has been submitted.

**4.6.2.** If the Submitting Entity or Owner is prohibited by law from disclosing any Confidential Information, Classified National Security Information, NRC Safeguards Information, or Protected FOIA Information to any person who is not an Eligible Reviewer (such as, for example, the restriction on access to Classified National Security Information specified in section 4.1 of Executive Order No. 12958, as amended), then such Confidential Information, Classified National Security Information, NRC Safeguards Information, or Protected FOIA Information shall only be reviewed by a representative or representatives of the Regional Entity which may include contractors, who are Eligible Reviewers.

**4.6.3.** The Regional Entity, as applicable, will work cooperatively with the Submitting Entity and/or Owner to provide necessary levels of protection for information identified in Section 1500 of the NERC Rules of Procedure and to access Protected FOIA Information in a way that does not waive or extinguish the exemption of the Protected FOIA Information from disclosure. If the Regional Entity shares any Confidential Information with a third party it shall do so subject to restrictions in applicable law under appropriate confidentiality agreements.

## **5.0 REVIEW, ACCEPTANCE OR REJECTION, AND RECOMMENDATION REGARDING EXCEPTION REQUESTS**

The Regional Entity's evaluation of the Exception Request will consist of two stages:

- (a) During the first stage, the Regional Entity shall conduct an initial screening to determine whether to accept or reject the Exception Request; and
- (b) During the second stage, the Regional Entity shall conduct a substantive review to determine its Recommendation to NERC as to whether or not the Exception Request should be approved.

If the Regional Entity determines at any time that for a specified period of time, the Regional Entity will be unable to complete initial screenings of Exception Requests within the time provided by section 5.1.3(a) and/or substantive reviews of Exception Requests within the time provided in section 5.2.2, the Regional Entity, based on consultation with NERC, shall establish an alternative time period objective and work plan for completing initial screenings and substantive reviews of Exception Requests during the specified period of time. The alternative time period and work plan shall be publicized by posting on the Regional Entity's website.

When a Regional Entity is the Submitting Entity of an Exception Request, it nonetheless shall process such Request in accordance with this section 5.0, with the following exceptions:

- i. There will be no initial screening, Acceptance, or Rejection, and therefore sections 5.1.3 through 5.1.6 will not apply;

- ii. No later than sixty (60) days after the submission of the Exception Request to the Owner and other applicable entities, the Regional Entity shall commence its substantive review of the Exception Request (and of any responses received from the Owner and other applicable entities) in accordance with section 5.2 and shall complete such substantive review within six (6) months; and
- iii. Before the Regional Entity issues a Recommendation to NERC to approve or disapprove the Exception Request in whole or in part, the Technical Review Panel shall review the proposed determination and issue an opinion with copies provided to the Owner and to NERC, in accordance with section 5.3.

### **5.1. Initial Screening of Exception Request for Acceptance or Rejection**

**5.1.1.** Upon receipt of an Exception Request, the Regional Entity will assign a unique identifier to the Exception Request, and will review the Exception Request to determine that the Exception Request is from an eligible (in accordance with section 4.1) Submitting Entity for an Exception from the application of the BES Definition and that all Required Information has been provided. If the Exception Request indicates that the Submitting Entity has submitted a similar Exception Request to one or more other Regional Entities, the Regional Entities shall coordinate their actions undertaken pursuant to this section 5.0. If the Exception Request is for an Element that crosses boundaries between or among Regional Entities, the Regional Entities shall cooperatively determine a lead Regional Entity to assess the request in a single process yielding a single Recommendation to NERC.

**5.1.2.** The unique identifier assigned to the Exception Request will be in the form of XXXX-YYYY-NECID-ExceptionZZZZZ, where “XXXX” is the year in which the Exception Request is received by the Regional Entity (*e.g.*, “2012”); “YYYY” is the acronym for the Regional Entity within whose geographic boundaries the relevant Element or Elements are located<sup>2</sup>; NECID is the Submitting Entity’s NERC Compliance Registry ID (or an abbreviation of its name if an ID is not yet assigned); and “ZZZZZ” is the sequential number of the Exception Requests received by the Regional Entity in that year. If the Exception Request is amended or resubmitted, “-AZ” will be added to the end of the identifier, where “Z” is the number of the amendment to the Exception Request. If the Exception Request is for an Element that crosses boundaries between or among Regional Entities, the YYYY identifier shall be that of the lead Regional Entity assessing the request.

**5.1.3.** The Regional Entity will complete its initial screening of the Exception Request Form and any Owner’s response submitted pursuant to section 4.5.4 no later than either sixty (60) days after receiving the Exception Request or, if the Submitting Entity is not the Owner, thirty (30) days after receiving any Owner’s response, whichever is later, unless (i) the

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<sup>2</sup> The acronyms to be used are: FRCC (Florida Reliability Coordinating Council); MRO (Midwest Reliability Organization); NPCC (Northeast Power Coordinating Council); RFC (ReliabilityFirst Corporation); SERC (SERC Reliability Corporation); SPP (Southwest Power Pool Regional Entity); TRE (Texas Reliability Entity); and WECC (Western Electricity Coordinating Council), and NERC in cases where the Exception Request is submitted to NERC.

Regional Entity has established an alternative time period objective and work plan for completing initial screenings pursuant to this section 5.0 that provides for a different time period(s) for completing initial screenings, or (ii) the Regional Entity issues a notice to the Submitting Entity, and to the Owner if different, prior to the deadline date for completing the initial screening, stating that the Regional Entity will not be able to complete the initial screening by the deadline date and stating a revised deadline date.

**5.1.4.** If, based on its initial screening, the Regional Entity determines the Exception Request is from an eligible (in accordance with section 4.1) Submitting Entity for an Exception from the BES Definition, and that all Required Information has been provided, the Regional Entity shall accept the Exception Request as complete and send a notice of such Acceptance to the Submitting Entity, with a copy to the Owner, if different than the Submitting Entity, and to NERC.

**5.1.5.** (a) If the Regional Entity determines, based on its review of the Exception Request, that the Exception Request (i) is not from an eligible (in accordance with section 4.1) Submitting Entity for an Exception from application of the BES Definition, and/or (ii) does not contain all Required Information, the Regional Entity shall reject the Exception Request as incomplete and send a notice of such Rejection to the Submitting Entity, with a copy to the Owner, if different than the Submitting Entity, and to NERC. To the extent feasible, if an Exception Request Form is missing Required Information, the Regional Entity shall not reject the Exception Request until (1) it has contacted the Submitting Entity to request that the Exception Request Form be supplemented with the missing Required Information, and (2) the Submitting Entity has failed to submit such Required Information within thirty (30) days or such additional period of time as the Regional Entity may allow at its discretion based on the circumstances. Under appropriate confidentiality/security agreements, the Regional Entity shall facilitate the access to data and information from other entities required by the Submitting Entity to accurately supply the **Detailed Information to Support an Exception Request** (e.g., interconnection base case power flow studies) and/or by the Owner to accurately respond. When a Submitting Entity submits supplemental Required Information in response to a request under this section 5.1.5(a), the time for the Regional Entity to perform its initial screening will be extended for fifteen (15) days after receipt of the supplemental Required Information.

(b) If the Regional Entity rejects the Exception Request in accordance with section 5.1.5 (a), the Regional Entity's notice shall explain the reason for the Rejection. The Submitting Entity may, within thirty (30) days after receipt of the Rejection, appeal to NERC in accordance with section 7.0 of this Exception Procedure to reverse the Rejection and to direct the Regional Entity to proceed with a substantive review of the Exception Request.

**5.1.6.** The Regional Entity may either accept the Exception Request in its entirety, reject the Exception Request in its entirety, or if the Exception Request is for more than one Element, may accept it with respect to a subset of the Elements and reject it with respect to the remainder based on the similarity of the evidence presented for the Exception Request.

## **5.2 Substantive Review of Exception Request for Approval or Disapproval**

**5.2.1** After Acceptance of an Exception Request, the Regional Entity shall conduct a substantive review of all evidence provided as part of an Exception Request or response to evaluate whether or to what extent the Exception Request should be approved. As part of its substantive review, depending on the circumstances of the Exception Request, the Regional Entity may request access to and review the Required Information, including any Confidential Information, Classified National Security Information, NRC Safeguards Information, and Protected FOIA Information that is necessary to support the Exception Request; may conduct one or more physical inspections of the relevant Element(s) and its (their) context and surrounding Elements and Facilities; may request additional information from the Submitting Entity, Owner, or applicable PAs, RCs, BAs, TOPs and TPs; and may engage in further discussions concerning possible revisions to the Exception Request.

**5.2.2.** At the outset of its substantive review of the Exception Request, the Regional Entity shall develop a milestone schedule pursuant to which it plans to conduct the substantive review, and shall send a copy of the milestone schedule to the Submitting Entity and the Owner, if different, for information. The Regional Entity shall complete the substantive review of the Exception Request within six months after Acceptance of the Exception Request or within an alternative time period under section 5.0, at the conclusion of which the Regional Entity shall issue a notice (in accordance with section 5.2.3) stating its Recommendation that the Exception Request be approved or disapproved. The Regional Entity may extend the period of substantive review for individual Exception Requests; the revised date by which the Regional Entity will issue its Recommendation concerning the Exception Request shall be stated in a notice issued by the Regional Entity.

**5.2.3.** Upon completion of its substantive review of the Exception Request, the Regional Entity shall issue a Recommendation to NERC, with a copy to the Submitting Entity and to the Owner if different than the Submitting Entity, including the Regional Entity's evaluation of whether and to what extent the Exception Request qualifies to be approved in its entirety or be disapproved in its entirety, or if the Exception Request is for more than one Element, to be approved with respect to a subset of the Elements and disapproved with respect to the remainder of the Elements. The Recommendation shall set forth the basis on which the Regional Entity arrived at its Recommendation. With the Recommendation, the Regional Entity will also send NERC copies of the Exception Request Form and all other information considered by the Regional Entity in arriving at its Recommendation.

**5.2.4** The Regional Entity shall not recommend Disapproval of the Exception Request in whole or in part without first submitting the Exception Request for review to a Technical Review Panel and receiving its opinion, in accordance with section 5.3.

**5.2.5** NERC shall develop, and post on its web site, a reporting program and schedule pursuant to which Regional Entities will be required to submit to NERC periodic reports on the numbers, status and timing of their initial screenings and substantive reviews of Exception Requests.

### **5.3 Technical Review Panel**

Each Regional Entity shall establish provisions for a Technical Review Panel consisting of not less than three (3) individuals appointed by the Regional Entity senior executive (CEO, President, General Manager, etc.). Panel members shall comply with Subsection 7 of Section 403 of the NERC Rules of Procedure, shall not have participated in the review of the Exception Request, and shall have the required technical background to evaluate Exception Requests. When the Regional Entity intends pursuant to section 5.2.2 to issue a Recommendation of Disapproval, in whole or in part, the Technical Review Panel must first review the Regional Entity's proposed determinations and provide an opinion, a copy of which shall be provided to the Submitting Entity (and Owner if different) in the event the Regional Entity decides to disapprove the Exception Request. The Regional Entity will not be bound by the opinion of the Technical Review Panel, but such evaluation shall become part of the record associated with the Exception Request and shall be provided to NERC.

## **6.0 SUPPLEMENTATION OF AN EXCEPTION REQUEST PRIOR TO A RECOMMENDATION**

A Submitting Entity or Owner at any time prior to the Regional Entity issuing its Recommendation may supplement a pending Exception Request that is under review by a Regional Entity, either at the request of the Regional Entity or at the Submitting Entity's or Owner's own initiative, for the purpose of providing additional or revised Required Information. The Submitting Entity or Owner shall submit a written explanation of what Required Information is being added or revised and the purpose of the supplementation. Supplementing a pending Exception Request may, in the Regional Entity's discretion, reset the time period for the Regional Entity's initial screening or substantive review, as applicable, of the Exception Request.

## **7.0 APPEAL OF REJECTION OF AN EXCEPTION REQUEST**

The Submitting Entity may submit to the NERC Director of Compliance Operations, with a copy to the Regional Entity and Owner if different, information that demonstrates that the insufficiencies in an Exception Request Form identified in the notice of Rejection by the Regional Entity pursuant to section 5.1.5 are incorrect or otherwise do not warrant Rejection of the Exception Request, and that the Exception Request should be accepted and proceed to substantive review. A Submitting Entity's submission to NERC under this section 7.0 shall be in writing, shall provide the Exception Request which received the Rejection (using the identifier assigned to the Exception Request pursuant to section 5.1.2), and shall set forth a description of the errors that the Submitting Entity believes are in the notice of Rejection. The Submitting Entity's submission must demonstrate that it is eligible (in accordance with section 4.1) to submit the Exception Request and that all Required Information for the Exception Request has been provided. NERC will review the Submitting Entity's submission and the reports submitted by the Regional Entity or Regional Entities pursuant to section 5.1.5 with respect to the Exception Request, and if NERC determines that the Submitting Entity is eligible (in accordance with section 4.1) to submit the Exception Request, that all Required Information has been provided, and that the Exception Request should proceed to substantive review, NERC shall,

within forty-five (45) days after receiving the submission, issue a decision directing the Regional Entity to proceed to a substantive review of the Exception Request in accordance with section 5.2. NERC will send a written notice to the Submitting Entity, the Owner if different, and the Regional Entity stating that NERC either directs the Regional Entity to proceed to a substantive review or that NERC does not direct such a review.

## **8.0 APPROVAL OR DISAPPROVAL OF AN EXCEPTION REQUEST**

Following the date of the Regional Entity's Recommendation to NERC, a Submitting Entity or Owner, will have thirty (30) days to submit a comment in support of or opposition to the Recommendation. The NERC President shall appoint a team of no less than (3) three persons with the required technical background to evaluate Exception Requests to review the Recommendation and accompanying materials provided by the Regional Entity pursuant to section 5.2.3, the Technical Review Panel opinion (if any), and any comment submitted by the Submitting Entity or Owner. The members of the review team shall have no financial, contractual, employment or other interest in the Submitting Entity or Owner that would present a conflict of interest and shall be free of any conflicts of interest in accordance with NERC policies. This review shall be completed within ninety (90) days after NERC receives the Recommendation. NERC may choose to ask the Regional Entity, Submitting Entity and Owner, if different than the Submitting Entity, to appear at a NERC office for interviews or discussion regarding any questions. In lieu of appearing in person at a NERC office, appearances may be, upon the mutual agreement of NERC, the Regional Entity, the Submitting Entity and/or Owner, conducted by a conference call, teleconferencing, or webinar. By the end of the ninety-day review period, the team shall issue a proposed decision either to approve or to disapprove the Exception Request. If the Exception Request concerns more than one Element, the review team's proposed decision may approve the Exception Request in its entirety, disapprove the Exception Request in its entirety, or approve some portion of the Exception Request and disapprove the remaining portion. The proposed decision shall be in writing, shall be based on the team's independent consideration of the full record, and state the basis for the decision. If the proposed decision of the team was not unanimous, the dissenting team member may, if he or she wishes to do so, issue a minority report stating the dissenting member's reasons for disagreement with the proposed decision. Within thirty (30) days after the date of the review team's proposed decision, the NERC President shall issue a final written decision on the Exception Request on behalf of NERC. The final decision may adopt the proposed decision or modify the proposed decision, and may reach a different conclusion than the proposed decision as to whether the Exception Request is approved or disapproved. The final decision issued by the NERC President shall be the decision of NERC with respect to Approval or Disapproval of the Exception Request.

NERC shall provide to the Submitting Entity and to the Owner, if different, copies of any documents considered by the NERC review team in reaching its proposed decision, and any additional documents considered by the NERC President in reaching the final decision, that were not originally provided by, or have not previously been provided to, the Submitting Entity or Owner.



Documentation used to substantiate the decision related to an Exception Request shall be retained by NERC for a minimum of seven (7) years or as long as the Exception is in effect, whichever is longer, unless a different retention period is otherwise identified

## **9.0 CHALLENGES TO APPROVAL OR DISAPPROVAL OF EXCEPTION REQUESTS**

A Submitting Entity or Owner aggrieved by NERC's Approval or Disapproval of an Exception Request or termination of an Exception may, within thirty (30) days following the date of NERC's decision, challenge such determination pursuant to Section 1703 of the NERC Rules of Procedure. If neither a Submitting Entity nor Owner challenges, within such period, NERC's determination with respect to any Element to which the Exception Request or the Exception applies, such determination shall become effective with respect to such Element on the thirty-first day following the date of the NERC decision.

## **10.0 IMPLEMENTATION PERIOD FOR EXCEPTIONS**

### **10.1 Inclusion Exceptions**

In the case of an Element not included in the BES by application of the BES Definition but for which an Inclusion Exception is approved, the Owner shall submit a proposed implementation plan to the Regional Entity detailing the schedule for complying with any Reliability Standards applicable to the newly included Element. The Regional Entity and Owner shall confer to agree upon such schedule. If the Regional Entity and Owner are unable to agree on the implementation plan, the Regional Entity shall notify the NERC Director of Compliance Operations of the disagreement, and shall provide statements of the Regional Entity's and the Owner's positions, and NERC shall specify a reasonable implementation schedule.

### **10.2 Denials of Exception Requests for Exclusion**

(a) In the case of a newly-constructed or installed Element which is included in the BES by application of the BES Definition but for which an Exception Request for an Exclusion Exception was submitted at least twelve (12) months before commercial operation of the Element, but which Exception Request either is still pending or has been rejected or disapproved at the time of commercial operation, the Owner shall submit a proposed implementation plan to the Regional Entity detailing the schedule for complying with any Reliability Standards applicable to the newly constructed or installed Element. The Regional Entity and Owner shall confer to agree upon such schedule. If the Regional Entity and Owner are unable to agree on the implementation plan, the Regional Entity shall notify the NERC Director of Compliance Operations of the disagreement, and shall provide statements of the Regional Entity's and the Owner's positions, and NERC shall specify a reasonable implementation schedule.

(b) In the case of an Element which is included in the BES based on application of the current BES Definition but was not included in the BES under the BES Definition in effect immediately prior to the current BES Definition, and for which an Exception Request for an Exclusion Exception was submitted no more than twelve (12) months after the current BES

Definition became effective, but which Exception Request either is still pending or has been rejected or disapproved at the end of any applicable BES Definition implementation plan time period, the Owner shall submit a proposed implementation plan to the Regional Entity detailing the schedule for complying with any Reliability Standards applicable to the newly included Element. The Regional Entity and Owner shall confer to agree upon such schedule. If the Regional Entity and Owner are unable to agree on the implementation plan, the Regional Entity shall notify the NERC Director of Compliance Operations of the disagreement, and shall provide statements of the Regional Entity's and the Owner's positions, and NERC shall specify a reasonable implementation schedule.

## **11.0 TERMINATION OF AN APPROVED EXCEPTION**

**11.1** An Exception Request typically will be approved without a specified date of termination but will be subject to review to verify continuing justification for the Exception.

**11.2** Submitting Entity(ies) shall notify the appropriate Regional Entity, with a copy to NERC, within ninety (90) days after learning of any change of condition which would affect the basis stated by NERC in its decision pursuant to section 8.0 approving the Exception Request. NERC shall review such notification and determine whether to direct the Regional Entity to perform a substantive review (pursuant to section 5.2) to verify continuing justification for the Exception and to issue a Recommendation to NERC.

**11.3** Submitting Entity(ies) shall certify<sup>3</sup> periodically to the appropriate Regional Entity that the basis for an Element being included or excluded in the BES through the Exception remains valid and in connection with each certification, shall provide the Regional Entity with any changes to Section I Required Information or Section II Required Information. The certification shall be due on the first day of the first quarter thirty-six (36) months after the date on which the Exception Request was approved and every thirty-six (36) months thereafter, as long as the Exception remains in effect. If such certification is not provided, the Exception is subject to termination ninety (90) days after the date the certification was due, and the Regional Entity shall send the Submitting Entity and NERC written notice of such termination.

**11.4** If the Regional Entity obtains information through means other than those described in sections 11.2 and 11.3 that indicates an Exception may no longer be warranted, the Regional Entity shall provide such information to NERC. NERC shall review the information and determine whether to direct the Regional Entity to perform a substantive review (pursuant to section 5.2) to verify continuing justification for the Exception and to issue a Recommendation to NERC.

**11.5** If the Regional Entity's Recommendation following a substantive review pursuant to section 11.2 or 11.4 is that the Exception shall be terminated, NERC shall (i) issue a written notice to the Submitting Entity and Owner, if different, that the Exception is under review for possible termination, (ii) allow the Submitting Entity and/or Owner, as applicable, thirty (30)

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<sup>3</sup> The certification shall consider the effect on the basis for the Exception of changes such as Load growth and topological changes, as well as the effect on system limits and impacts as a result of the contingencies listed in Table 1 of each applicable NERC TPL Reliability Standard.

days from the date of the notice to submit comments or information to NERC to show that the Exception continues to be justified and should remain in effect, and (iii) cause the Recommendation to be reviewed in accordance with section 8.0 of this Appendix. If the conclusion of the review is that the Exception should be terminated, NERC shall send a written notice to the Submitting Entity and Owner, if different, stating that the Exception is terminated and the reasons for the termination. When an Element will be included in the BES as a result of the termination of an Exclusion Exception under this section, an implementation plan detailing the schedule for complying with any Reliability Standards applicable to the newly included Element will be developed in accordance with section 10.1 as if it were an Inclusion Exception.

**11.6** Upon request by the Regional Entity, the Submitting Entity(ies) and/or Owner if different shall provide within thirty (30) days the most recent versions of any Section III Required Information so requested.

**PETITION OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
FOR APPROVAL OF REVISIONS TO ITS RULES OF PROCEDURE  
TO ADOPT A BULK ELECTRIC SYSTEM EXCEPTION PROCEDURE**

**ATTACHMENT 2A**

**REVISED RULES OF PROCEDURE, SECTIONS 100-1700  
(INCLUDING PROPOSED NEW SECTIONS 509 AND 1703)**

**CLEAN VERSION**



**Proposed Revisions 1-9-2012**  
**[Incorporates proposed revisions filed with FERC on**  
**March 18, November 7 and November 29, 2011]**

# **Rules of Procedure**

Effective: January 10, 2012

Rules of Procedure Section 400 is subject to further revisions to comply with directives in a FERC Order issued October 7, 2011 (137 FERC ¶ 61,028).

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## **SECTION 100 — APPLICABILITY OF RULES OF PROCEDURE**

NERC and NERC Members shall comply with these Rules of Procedure. Each Regional Entity shall comply with these Rules of Procedure as applicable to functions delegated to the Regional Entity by NERC or as required by an Applicable Governmental Authority or as otherwise provided.

Each Bulk Power System owner, operator, and user shall comply with all Rules of Procedure of NERC that are made applicable to such entities by approval pursuant to applicable legislation or regulation, or pursuant to agreement.

Any entity that is unable to comply or that is not in compliance with a NERC Rule of Procedure shall immediately notify NERC in writing, stating the Rule of Procedure of concern and the reason for not being able to comply with the Rule of Procedure.

NERC shall evaluate each case and inform the entity of the results of the evaluation. If NERC determines that a Rule of Procedure has been violated, or cannot practically be complied with, NERC shall notify the Applicable Governmental Authorities and take such other actions as NERC deems appropriate to address the situation.

NERC shall comply with each approved Reliability Standard that identifies NERC or the Electric Reliability Organization as a responsible entity. Regional Entities shall comply with each approved Reliability Standard that identifies Regional Entities as responsible entities. A violation by NERC or a Regional Entity of such a Reliability Standard shall constitute a violation of these Rules of Procedure.

## **SECTION 200 — DEFINITIONS OF TERMS**

Definitions of terms used in the NERC Rules of Procedure are set forth in **Appendix 2, *Definitions Used in the Rules of Procedure.***

## **SECTION 300 — RELIABILITY STANDARDS DEVELOPMENT**

### **301. General**

NERC shall develop and maintain Reliability Standards that apply to Bulk Power System owners, operators, and users and that enable NERC and Regional Entities to measure the reliability performance of Bulk Power System owners, operators, and users; and to hold them accountable for Reliable Operation of the Bulk Power Systems. The Reliability Standards shall be technically excellent, timely, just, reasonable, not unduly discriminatory or preferential, in the public interest, and consistent with other applicable standards of governmental authorities.

### **302. Essential Attributes for Technically Excellent Reliability Standards**

1. **Applicability** — Each Reliability Standard shall clearly identify the functional classes of entities responsible for complying with the Reliability Standard, with any specific additions or exceptions noted. Such functional classes<sup>1</sup> include: Reliability Coordinators, Balancing Authorities, Transmission Operators, Transmission Owners, Generator Operators, Generator Owners, Interchange Authorities, Transmission Service Providers, market operators, Planning Authorities, Transmission Planners, Resource Planners, Load-Serving Entities, Purchasing-Selling Entities, and Distribution Providers. Each Reliability Standard shall also identify the geographic applicability of the Reliability Standard, such as the entire North American Bulk Power System, an Interconnection, or within a Region. A Reliability Standard may also identify any limitations on the applicability of the Reliability Standard based on electric Facility characteristics.
2. **Reliability Objectives** — Each Reliability Standard shall have a clear statement of purpose that shall describe how the Reliability Standard contributes to the reliability of the Bulk Power System. The following general objectives for the Bulk Power System provide a foundation for determining the specific objective(s) of each Reliability Standard:
  - 2.1 **Reliability Planning and Operating Performance**— Bulk Power Systems shall be planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions.
  - 2.2 **Frequency and Voltage Performance**— The frequency and voltage of Bulk Power Systems shall be controlled within defined limits through the balancing of Real and Reactive Power supply and demand.

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<sup>1</sup> These functional classes of entities are derived from NERC's Reliability Functional Model. When a Reliability Standard identifies a class of entities to which it applies, that class must be defined in the Glossary of Terms Used in NERC Reliability Standards.

- 2.3 **Reliability Information** — Information necessary for the planning and operation of reliable Bulk Power Systems shall be made available to those entities responsible for planning and operating Bulk Power Systems.
  - 2.4 **Emergency Preparation** — Plans for emergency operation and system restoration of Bulk Power Systems shall be developed, coordinated, maintained, and implemented.
  - 2.5 **Communications and Control** — Facilities for communication, monitoring, and control shall be provided, used, and maintained for the reliability of Bulk Power Systems.
  - 2.6 **Personnel** — Personnel responsible for planning and operating Bulk Power Systems shall be trained and qualified, and shall have the responsibility and authority to implement actions.
  - 2.7 **Wide-Area View** — The reliability of the Bulk Power Systems shall be assessed, monitored, and maintained on a Wide-Area basis.
  - 2.8 **Security** — Bulk Power Systems shall be protected from malicious physical or cyber attacks.
3. **Performance Requirement or Outcome**— Each Reliability Standard shall state one or more performance Requirements, which if achieved by the applicable entities, will provide for a reliable Bulk Power System, consistent with good utility practices and the public interest. Each Requirement is not a “lowest common denominator” compromise, but instead achieves an objective that is the best approach for Bulk Power System reliability, taking account of the costs and benefits of implementing the proposal.
  4. **Measurability** — Each performance Requirement shall be stated so as to be objectively measurable by a third party with knowledge or expertise in the area addressed by that Requirement. Each performance Requirement shall have one or more associated measures used to objectively evaluate compliance with the Requirement. If performance can be practically measured quantitatively, metrics shall be provided to determine satisfactory performance.
  5. **Technical Basis in Engineering and Operations**— Each Reliability Standard shall be based upon sound engineering and operating judgment, analysis, or experience, as determined by expert practitioners in that particular field.
  6. **Completeness** — Reliability Standards shall be complete and self-contained. The Reliability Standards shall not depend on external information to determine the required level of performance.

7. **Consequences for Noncompliance** — In combination with guidelines for Penalties and sanctions, as well as other ERO and Regional Entity compliance documents, the consequences of violating a Reliability Standard are clearly presented to the entities responsible for complying with the Reliability Standards.
8. **Clear Language** — Each Reliability Standard shall be stated using clear and unambiguous language. Responsible entities, using reasonable judgment and in keeping with good utility practices, are able to arrive at a consistent interpretation of the required performance.
9. **Practicality** — Each Reliability Standard shall establish Requirements that can be practically implemented by the assigned responsible entities within the specified effective date and thereafter.
10. **Consistent Terminology** — To the extent possible, Reliability Standards shall use a set of standard terms and definitions that are approved through the NERC Reliability Standards development process.

### **303. Relationship between Reliability Standards and Competition**

To ensure Reliability Standards are developed with due consideration of impacts on competition, to ensure Reliability Standards are not unduly discriminatory or preferential, and recognizing that reliability is an essential requirement of a robust North American economy, each Reliability Standard shall meet all of these market-related objectives:

1. **Competition** — A Reliability Standard shall not give any market participant an unfair competitive advantage.
2. **Market Structures** — A Reliability Standard shall neither mandate nor prohibit any specific market structure.
3. **Market Solutions** — A Reliability Standard shall not preclude market solutions to achieving compliance with that Reliability Standard.
4. **Commercially Sensitive Information** — A Reliability Standard shall not require the public disclosure of commercially sensitive information or other Confidential Information. All market participants shall have equal opportunity to access commercially non-sensitive information that is required for compliance with Reliability Standards.
5. **Adequacy** — NERC shall not set Reliability Standards defining an adequate amount of, or requiring expansion of, Bulk Power System resources or delivery capability.

### **304. Essential Principles for the Development of Reliability Standards**

NERC shall develop Reliability Standards in accordance with the NERC *Standard Processes Manual*, which is incorporated into these Rules of Procedure as **Appendix 3A**. Appeals in connection with the development of a Reliability Standard shall also be conducted in accordance with the NERC *Standard Processes Manual*. Any amendments or revisions to the *Standard Processes Manual* shall be consistent with the following essential principles:

1. **Openness** — Participation shall be open to all Persons who are directly and materially affected by the reliability of the North American Bulk Power System. There shall be no undue financial barriers to participation. Participation shall not be conditional upon membership in NERC or any other organization, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements.
2. **Transparency** — The process shall be transparent to the public.
3. **Consensus-building** — The process shall build and document consensus for each Reliability Standard, both with regard to the need and justification for the Reliability Standard and the content of the Reliability Standard.
4. **Fair Balance of Interests** — The process shall fairly balance interests of all stakeholders and shall not be dominated by any single interest category.
5. **Due Process** — Development of Reliability Standards shall provide reasonable notice and opportunity for any Person with a direct and material interest to express views on a proposed Reliability Standard and the basis for those views, and to have that position considered in the development of the Reliability Standards.
6. **Timeliness** — Development of Reliability Standards shall be timely and responsive to new and changing priorities for reliability of the Bulk Power System.

### **305. Registered Ballot Body**

NERC Reliability Standards shall be approved by a Registered Ballot Body prior to submittal to the Board and then to Applicable Governmental Authorities for their approval, where authorized by applicable legislation or agreement. This Section 305 sets forth the rules pertaining to the composition of, and eligibility to participate in, the Registered Ballot Body.

1. **Eligibility to Vote on Reliability Standards** — Any person or entity may join the Registered Ballot Body to vote on Reliability Standards, whether or not such person or entity is a Member of NERC.
2. **Inclusive Participation** — The Segment qualification guidelines are inclusive; i.e., any entity with a legitimate interest in the reliability of the Bulk Power System that can meet any one of the eligibility criteria for a Segment is entitled to belong to and vote in each Segment for which it qualifies, subject to limitations defined in Sections 305.3 and 305.5.
3. **General Criteria for Registered Ballot Body Membership** — The general criteria for membership in the Segments are:
  - 3.1 **Multiple Segments** — A corporation or other organization with integrated operations or with affiliates that qualifies to belong to more than one Segment (e.g., Transmission Owners and Load-Serving Entities) may join once in each Segment for which it qualifies, provided that each Segment constitutes a separate membership and the organization is represented in each Segment by a different representative. Affiliated entities are collectively limited to one membership in each Segment for which they are qualified.
  - 3.2 **Withdrawing from a Segment or Changing Segments** — After its initial registration in a Segment, each registered participant may elect to withdraw from a Segment or apply to change Segments at any time.
  - 3.3 **Review of Segment Criteria** — The Board shall review the qualification guidelines and rules for joining Segments at least every three years to ensure that the process continues to be fair, open, balanced, and inclusive. Public input will be solicited in the review of these guidelines.
4. **Proxies for Voting on Reliability Standards** — Any registered participant may designate an agent or proxy to vote on its behalf. There are no limits on how many proxies an agent may hold. However, for the proxy to be valid, NERC must have in its possession written documentation signed by the representative of the registered participant that the voting right by proxy has been transferred from the registered participant to the agent.
5. **Segments** — The specific criteria for membership in each Registered Ballot Body Segment are defined in the *Standard Processes Manual* in **Appendix 3A**.
6. **Review of Segment Entries** — NERC shall review all applications for joining the Registered Ballot Body, and shall make a determination of whether the applicant's self-selection of a Segment satisfies at least one of the guidelines to belong to that Segment. The entity shall then become eligible to participate as a voting member of that Segment. The Standards Committee shall resolve disputes

regarding eligibility for membership in a Segment, with the applicant having the right of appeal to the Board.

### **306. Standards Committee**

The Standards Committee shall provide oversight of the Reliability Standards development process to ensure stakeholder interests are fairly represented. The Standards Committee shall not under any circumstance change the substance of a draft or approved Reliability Standard.

1. **Membership** — The Standards Committee is a representative committee comprising representatives of two members of each of the Segments in the Registered Ballot Body.
2. **Elections** — Standards Committee members are elected for staggered (one per Segment per year) two-year terms by the respective Segments in accordance with the *Procedure for the Election of Members of the NERC Standards Committee*, which is incorporated into these Rules of Procedure as **Appendix 3B**. Segments may use their own election procedure if such a procedure is ratified by two-thirds of the members of a Segment and approved by the Board.
3. **Canadian Representation**
  - 3.1 **Provision for Sufficient Canadian Representation** — If any regular election of Standards Committee members does not result in at least two Canadian members on the Standards Committee, the Canadian nominees who were not elected but who received the next highest percentage of votes within their respective Segment(s) will be designated as additional members of the Standards Committee, as needed to achieve a total of two Canadian members.
  - 3.2 **Terms of Specially Designated Canadian Members** — Each specially designated Canadian member of the Standards Committee shall have a term ending with the next annual election.
  - 3.3 **Segment Preference** — If any Segment has an unfilled representative position on the Standards Committee following the annual election, the first preference is to assign each specially designated Canadian representative to a Segment with an unfilled representative position for which his or her organization qualifies.
  - 3.4 **Rights of Specially Designated Canadian Members** — Any specially designated Canadian members of the Standards Committee shall have the same rights and obligations as all other members of the Standards Committee.



4. **Open Meetings** — All meetings of the Standards Committee shall be open and publicly noticed on the NERC website.

### **307. Standards Process Manager**

NERC shall assign a standards process manager to administer the development of Reliability Standards. The standards process manager shall be responsible for ensuring that the development and revision of Reliability Standards are in accordance with the NERC *Standard Processes Manual*. The standards process manager shall work to achieve the highest degree of integrity and consistency of quality and completeness of the Reliability Standards. The standards process manager shall coordinate with any Regional Entities that develop Regional Reliability Standards to ensure those Regional Reliability Standards are effectively integrated with the NERC Reliability Standards.

### **308. Steps in the Development of Reliability Standards**

1. **Procedure** — NERC shall develop Reliability Standards through the process set forth in the NERC *Standard Processes Manual* (**Appendix 3A**). The procedure includes a provision for approval of urgent action Reliability Standards that can be completed within 60 days and emergency actions that may be further expedited.
2. **Board Approval** — Reliability Standards or revisions to Reliability Standards approved by the ballot pool in accordance with the *Standard Processes Manual* shall be submitted for approval by the Board. No Reliability Standard or revision to a Reliability Standard shall be effective unless approved by the Board.
3. **Governmental Approval** — After receiving Board approval, a Reliability Standard or revision to a Reliability Standard shall be submitted to all Applicable Governmental Authorities in accordance with Section 309. No Reliability Standard or revision to a Reliability Standard shall be effective within a geographic area over which an Applicable Governmental Authority has jurisdiction unless approved by such Applicable Governmental Authority or is otherwise made effective pursuant to the laws applicable to such Applicable Governmental Authority.

### **309. Filing of Reliability Standards for Approval by Applicable Governmental Authorities**

1. **Filing of Reliability Standards for Approval** — Where authorized by applicable legislation or agreement, NERC shall file with the Applicable Governmental Authorities each Reliability Standard, modification to a Reliability Standard, or withdrawal of a Reliability Standard that is approved by the Board. Each filing shall be in the format required by the Applicable Governmental Authority and

shall include: a concise statement of the basis and purpose of the Reliability Standard; the text of the Reliability Standard; the implementation plan for the Reliability Standard; a demonstration that the Reliability Standard meets the essential attributes of Reliability Standards as stated in Section 302; the drafting team roster; the ballot pool and final ballot results; and a discussion of public comments received during the development of the Reliability Standard and the consideration of those comments.

2. **Remanded Reliability Standards and Directives to Develop Standards** — If an Applicable Governmental Authority remands a Reliability Standard to NERC or directs NERC to develop a Reliability Standard, NERC shall within five (5) business days notify all other Applicable Governmental Authorities, and shall within thirty (30) calendar days report to all Applicable Governmental Authorities a plan and timetable for modification or development of the Reliability Standard. Reliability Standards that are remanded or directed by an Applicable Governmental Authority shall be modified or developed using the *Standard Processes Manual*. NERC shall, during the development of a modification for the remanded Reliability Standard or directed Reliability Standard, consult with other Applicable Governmental Authorities to coordinate any impacts of the proposed Reliability Standards in those other jurisdictions. The expedited action procedure may be applied if necessary to meet a timetable for action required by the Applicable Governmental Authorities, respecting to the extent possible the provisions in the Reliability Standards development process for reasonable notice and opportunity for public comment, due process, openness, and a balance of interest in developing Reliability Standards. If the Board of Trustees determines that the process did not result in a Reliability Standard that addresses a specific matter that is identified in a directive issued by an Applicable Governmental Authority, then Rule 321 of these Rules of Procedure shall apply.
3. **Directives to Develop Reliability Standards under Extraordinary Circumstances** — An Applicable Governmental Authority may, on its own initiative, determine that extraordinary circumstances exist requiring expedited development of a Reliability Standard. In such a case, the Applicable Governmental Authority may direct the development of a Reliability Standard within a certain deadline. NERC staff shall prepare the Standards Authorization Request and seek a stakeholder sponsor for the request. If NERC is unable to find a sponsor for the proposed Reliability Standard, NERC will be designated as the requestor. The proposed Reliability Standard will then proceed through the Reliability Standards development process, using the expedited action procedures described in the *Standard Processes Manual* as necessary to meet the specified deadline. The timeline will be developed to respect, to the extent possible, the provisions in the Reliability Standards development process for reasonable notice and opportunity for public comment, due process, openness, and a balance of interests in developing Reliability Standards. If the Board of Trustees determines that the process did not result in a Reliability Standard that addresses a specific matter that is identified in a directive issued by an Applicable Governmental

Authority, then Rule 321 of these Rules of Procedure shall apply, with appropriate modification of the timeline.

- 3.1 Consistent with all Reliability Standards developed under the expedited action process, each of the three possible follow-up actions as documented in the *Standard Processes Manual* are to be completed through the Reliability Standards development process and are subject to approval by the Applicable Governmental Authorities in the U.S. and Canada.

### **310. Annual Reliability Standards Development Plan**

NERC shall develop and provide an annual Reliability Standards Development Plan for development of Reliability Standards to the Applicable Governmental Authorities. NERC shall consider the comments and priorities of the Applicable Governmental Authorities in developing and updating the annual Reliability Standards Development Plan. Each annual Reliability Standards Development Plan shall include a progress report comparing results achieved to the prior year's Reliability Standards Development Plan.

### **311. Regional Entity Standards Development Procedures**

1. **NERC Approval of Regional Entity Reliability Standards Development Procedure** — To enable a Regional Entity to develop Regional Reliability Standards that are to be recognized and made part of NERC Reliability Standards, a Regional Entity may request NERC to approve a Regional Reliability Standards development procedure.
2. **Public Notice and Comment on Regional Reliability Standards Development Procedure** — Upon receipt of such a request, NERC shall publicly notice and request comment on the proposed Regional Reliability Standards development procedure, allowing a minimum of 45 days for comment. The Regional Entity shall have an opportunity to resolve any objections identified in the comments and may choose to withdraw the request, revise the Regional Reliability Standards development procedure and request another posting for comment, or submit the Regional Reliability Standards development procedure, along with its consideration of any objections received, for approval by NERC.
3. **Evaluation of Regional Reliability Standards Development Procedure** — NERC shall evaluate whether a Regional Reliability Standards development procedure meets the criteria listed below and shall consider stakeholder comments, any unresolved stakeholder objections, and the consideration of comments provided by the Regional Entity, in making that determination. If NERC determines the Regional Reliability Standards development procedure meets these requirements, the Regional Reliability Standards development procedure shall be submitted to the Board for approval. The Board shall consider the recommended action, stakeholder comments, any unresolved stakeholder

comments, and the Regional Entity consideration of comments in determining whether to approve the Regional Reliability Standards development procedure.

3.1 **Evaluation Criteria** — The Regional Reliability Standards development procedure shall be:

3.1.1 **Open** — The Regional Reliability Standards development procedure shall provide that any person or entity who is directly and materially affected by the reliability of the Bulk Power Systems within the Regional Entity shall be able to participate in the development and approval of Reliability Standards. There shall be no undue financial barriers to participation. Participation shall not be conditional upon membership in the Regional Entity, a Regional Entity or any organization, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements.

3.1.2 **Inclusive** — The Regional Reliability Standards development procedure shall provide that any Person with a direct and material interest has a right to participate by expressing an opinion and its basis, having that position considered, and appealing through an established appeals process if adversely affected.

3.1.3 **Balanced** — The Regional Reliability Standards development procedure shall have a balance of interests and shall not permit any two interest categories to control the vote on a matter or any single interest category to defeat a matter.

3.1.4 **Due Process** — The Regional Reliability Standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the Regional Reliability Standards development procedure shall include public notice of the intent to develop a Regional Reliability Standard, a public comment period on the proposed Regional Reliability Standard, due consideration of those public comments, and a ballot of interested stakeholders.

3.1.5 **Transparent** — All actions material to the development of Regional Reliability Standards shall be transparent. All Regional Reliability Standards development meetings shall be open and publicly noticed on the Regional Entity's website.

3.1.6 **Accreditation of Regional Standards Development Procedure** — A Regional Entity's Regional Reliability Standards development procedure that is accredited by the American National Standards Institute or the Standards Council of Canada

shall be deemed to meet the criteria listed in this Section 311.3.1, although such accreditation is not a prerequisite for approval by NERC.

3.1.7 **Use of NERC Procedure** — A Regional Entity may adopt the NERC *Standard Processes Manual* as the Regional Reliability Standards development procedure, in which case the Regional Entity's Regional Reliability Standards development procedure shall be deemed to meet the criteria listed in this Section 311.3.1.

4. **Revisions of Regional Reliability Standards Development Procedures** — Any revision to a Regional Reliability Standards development procedure shall be subject to the same approval requirements set forth in Sections 311.1 through 311.3.
5. **Duration of Regional Reliability Standards Development Procedures** — The Regional Reliability Standards development procedure shall remain in effect until such time as it is replaced with a new version approved by NERC or it is withdrawn by the Regional Entity. The Regional Entity may, at its discretion, withdraw its Regional Reliability Standards development procedure at any time.

## **312. Regional Reliability Standards**

1. **Basis for Regional Reliability Standards** — Regional Entities may propose Regional Reliability Standards that set more stringent reliability requirements than the NERC Reliability Standard or cover matters not covered by an existing NERC Reliability Standard. Such Regional Reliability Standards shall in all cases be approved by NERC and made part of the NERC Reliability Standards and shall be enforceable in accordance with the delegation agreement between NERC and the Regional Entity or other instrument granting authority over enforcement to the Regional Entity. No entities other than NERC and the Regional Entity shall be permitted to develop Regional Reliability Standards that are enforceable under statutory authority delegated to NERC and the Regional Entity.
2. **Regional Reliability Standards That are Directed by a NERC Reliability Standard** — Although it is the intent of NERC to promote uniform Reliability Standards across North America, in some cases it may not be feasible to achieve a reliability objective with a Reliability Standard that is uniformly applicable across North America. In such cases, NERC may direct Regional Entities to develop Regional Reliability Standards necessary to implement a NERC Reliability Standard. Such Regional Reliability Standards that are developed pursuant to a direction by NERC shall be made part of the NERC Reliability Standards.
3. **Procedure for Developing an Interconnection-wide Regional Standard** — A Regional Entity organized on an Interconnection-wide basis may propose a

Regional Reliability Standard for approval as a NERC Reliability Standard to be made mandatory for all applicable Bulk Power System owners, operators, and users within that Interconnection.

- 3.1 **Presumption of Validity** — An Interconnection-wide Regional Reliability Standard that is determined by NERC to be just, reasonable, and not unduly discriminatory or preferential, and in the public interest, and consistent with such other applicable standards of governmental authorities, shall be adopted as a NERC Reliability Standard. NERC shall rebuttably presume that a Regional Reliability Standard developed, in accordance with a Regional Reliability Standards development process approved by NERC, by a Regional Entity organized on an Interconnection-wide basis, is just, reasonable, and not unduly discriminatory or preferential, and in the public interest, and consistent with such other applicable standards of governmental authorities.
- 3.2 **Notice and Comment Procedure for Interconnection-wide Regional Reliability Standard** — NERC shall publicly notice and request comment on the proposed Interconnection-wide Regional Reliability Standard, allowing a minimum of 45 days for comment. NERC may publicly notice and post for comment the proposed Regional Reliability Standard concurrent with similar steps in the Regional Entity's Regional Reliability Standards development process. The Regional Entity shall have an opportunity to resolve any objections identified in the comments and may choose to comment on or withdraw the request, revise the proposed Regional Reliability Standard and request another posting for comment, or submit the proposed Regional Reliability Standard along with its consideration of any objections received, for approval by NERC.
- 3.3 **Approval of Interconnection-wide Regional Reliability Standard by NERC** — NERC shall evaluate and recommend whether a proposed Interconnection-wide Regional Reliability Standard has been developed in accordance with all applicable procedural requirements and whether the Regional Entity has considered and resolved stakeholder objections that could serve as a basis for rebutting the presumption of validity of the Regional Reliability Standard. The Regional Entity, having been notified of the results of the evaluation and recommendation concerning NERC proposed Regional Reliability Standard, shall have the option of presenting the proposed Regional Reliability Standard to the Board for approval as a NERC Reliability Standard. The Board shall consider the Regional Entity's request, NERC's recommendation for action on the Regional Reliability Standard, any unresolved stakeholder comments, and the Regional Entity's consideration of comments, in determining whether to approve the Regional Reliability Standard as a NERC Reliability Standard.

- 3.4 **Applicable Governmental Authority Approval** — An Interconnection-wide Regional Reliability Standard that has been approved by the Board shall be filed with the Applicable Governmental Authorities for approval, where authorized by applicable legislation or agreement, and shall become effective when approved by such Applicable Governmental Authorities or on a date set by the Applicable Governmental Authorities.
- 3.5 **Enforcement of Interconnection-wide Regional Reliability Standard** — An Interconnection-wide Regional Reliability Standard that has been approved by the Board and by the Applicable Governmental Authorities or is otherwise made effective within Canada as mandatory within a particular Region shall be applicable and enforced as a NERC Reliability Standard within the Region.
4. **Procedure for Developing Non-Interconnection-Wide Regional Reliability Standards** — Regional Entities that are not organized on an Interconnection-wide basis may propose Regional Reliability Standards to apply within their respective Regions. Such Regional Reliability Standards may be developed through the NERC Reliability Standards development procedure, or alternatively, through a Regional Reliability Standards development procedure that has been approved by NERC.
- 4.1 **No Presumption of Validity** — Regional Reliability Standards that are not proposed to be applied on an Interconnection-wide basis are not presumed to be valid but may be demonstrated by the proponent to be valid.
- 4.2 **Notice and Comment Procedure for Non-Interconnection-wide Regional Reliability Standards** — NERC shall publicly notice and request comment on the proposed Regional Reliability Standard, allowing a minimum of 45 days for comment. NERC may publicly notice and post for comment the proposed Regional Reliability Standard concurrent with similar steps in the Regional Entity's Regional Reliability Standards development process. The Regional Entity shall have an opportunity to comment on or resolve any objections identified in the comments and may choose to withdraw the request, revise the proposed Regional Reliability Standard and request another posting for comment, or submit the proposed Regional Reliability Standard along with its consideration of any objections received, for approval by NERC.
- 4.3 **NERC Approval of Non-Interconnection-wide Regional Reliability Standards** — NERC shall evaluate and recommend whether a proposed non-Interconnection-wide Regional Reliability Standard has been developed in accordance with all applicable procedural requirements and whether the Regional Entity has considered and resolved stakeholder objections. The Regional Entity, having been notified of the results of the

evaluation and recommendation concerning proposed Regional Reliability Standard, shall have the option of presenting the proposed Regional Reliability Standard to the Board for approval as a NERC Reliability Standard. The Board shall consider the Regional Entity's request, the recommendation for action on the Regional Reliability Standard, any unresolved stakeholder comments, and the Regional Entity's consideration of comments, in determining whether to approve the Regional Reliability Standard as a NERC Reliability Standard.

4.4 **Applicable Governmental Authority Approval** — A non-Interconnection-wide Regional Reliability Standard that has been approved by the Board shall be filed with the Applicable Governmental Authorities for approval, where authorized by applicable legislation or agreement, and shall become effective when approved by such Applicable Governmental Authorities or on a date set by the Applicable Governmental Authorities.

4.5 **Enforcement of Non-Interconnection-wide Regional Reliability Standards** — A non-Interconnection-wide Regional Reliability Standard that has been approved by the Board and by the Applicable Governmental Authorities or is otherwise made effective within Canada as mandatory within a particular Region shall be applicable and enforced as a NERC Reliability Standard within the Region.

5. **Appeals** — A Regional Entity shall have the right to appeal NERC's decision not to approve a proposed Regional Reliability Standard or Variance to the Commission or other Applicable Governmental Authority.

### **313. Other Regional Criteria, Guides, Procedures, Agreements, Etc.**

1. **Regional Criteria** — Regional Entities may develop Regional Criteria that are necessary to implement, to augment, or to comply with Reliability Standards, but which are not Reliability Standards. Regional Criteria may also address issues not within the scope of Reliability Standards, such as resource adequacy. Regional Criteria may include specific acceptable operating or planning parameters, guides, agreements, protocols or other documents used to enhance the reliability of the Bulk Power System in the Region. These documents typically provide benefits by promoting more consistent implementation of the NERC Reliability Standards within the Region. These documents are not NERC Reliability Standards, Regional Reliability Standards, or regional Variances, and therefore are not enforceable under authority delegated by NERC pursuant to delegation agreements and do not require NERC approval.

2. **Catalog of Regional Criteria** — NERC shall maintain a current catalog of Regional Criteria. Regional Entities shall provide a catalog listing of Regional



Criteria to NERC and shall notify NERC of changes to the listing. Regional Entities shall provide any listed document to NERC upon written request.

### **314. Conflicts with Statutes, Regulations, and Orders**

**Notice of Potential Conflict** — If a Bulk Power System owner, operator, or user determines that a NERC or Regional Reliability Standard may conflict with a function, rule, order, tariff, rate schedule, legislative requirement or agreement that has been accepted, approved, or ordered by a governmental authority affecting that entity, the entity shall expeditiously notify the governmental authority, NERC, and the relevant Regional Entity of the conflict.

1. **Determination of Conflict** — NERC, upon request of the governmental authority, may advise the governmental authority regarding the conflict and propose a resolution of the conflict, including revision of the Reliability Standard if appropriate.
2. **Regulatory Precedence** — Unless otherwise ordered by a governmental authority, the affected Bulk Power System owner, operator, or user shall continue to follow the function, rule, order, tariff, rate schedule, legislative requirement, or agreement accepted, approved, or ordered by the governmental authority until the governmental authority finds that a conflict exists and orders a remedy and such remedy is affected.

### **315. Revisions to NERC Reliability Standards Development Procedure**

Any person or entity may submit a written request to modify NERC *Standard Processes Manual*. Consideration of the request and development of the revision shall follow the process defined in the NERC *Standard Processes Manual*. Upon approval by the Board, the revision shall be submitted to the Applicable Governmental Authorities for approval. Changes shall become effective only upon approval by the Applicable Governmental Authorities or on a date designated by the Applicable Governmental Authorities or as otherwise applicable in a particular jurisdiction.

### **316. Accreditation**

NERC shall seek continuing accreditation of the NERC Reliability Standards development process by the American National Standards Institute and the Standards Council of Canada.

**317. Five-Year Review of Reliability Standards**

NERC shall complete a review of each NERC Reliability Standard at least once every five years from the effective date of the Reliability Standard or the latest revision to the Reliability Standard, whichever is later. The review process shall be conducted in accordance with the NERC *Standard Processes Manual*. The standards process manager shall be responsible for administration of the five-year review of Reliability Standards. As a result of this review, the NERC Reliability Standard shall be reaffirmed, revised, or withdrawn. If the review indicates a need to revise or withdraw the Reliability Standard, a request for revision or withdrawal shall be prepared, submitted and addressed in accordance with the NERC *Standard Processes Manual*.

**318. Coordination with the North American Energy Standards Board**

NERC shall, through a memorandum of understanding, maintain a close working relationship with the North American Energy Standards Board and ISO/RTO Council to ensure effective coordination of wholesale electric business practice standards and market protocols with the NERC Reliability Standards.

**319. Archived Standards Information**

NERC shall maintain a historical record of Reliability Standards information that is no longer maintained on-line. For example, Reliability Standards that expired or were replaced may be removed from the on-line system. Archived information shall be retained indefinitely as practical, but in no case less than five years or one complete Reliability Standards review cycle from the date on which the Reliability Standard was no longer in effect. Archived records of Reliability Standards information shall be available electronically within 30 days following the receipt by the standards process manager of a written request.

**320. Alternate Method for Adopting Violation Risk Factors**

In the event the Reliability Standards development process fails to produce Violation Risk Factors for a particular Reliability Standard in a timely manner, the Board of Trustees may adopt Violation Risk Factors for that Reliability Standard using the procedures set out in Section 1400 of these Rules of Procedure.

**321. Special Rule to Address Certain Regulatory Directives**

In circumstances where this Rule 321 applies, the Board of Trustees shall have the authority to take one or more of the actions set out below. The Board of Trustees shall have the authority to choose which one or more of the actions are appropriate to the circumstances and need not take these actions in sequential steps.

1. The Standards Committee shall have the responsibility to ensure that standards drafting teams address specific matters that are identified in directives issued by Applicable Governmental Authorities. If the Board of Trustees is presented with a proposed Reliability Standard that fails to address such directives, the Board of Trustees has the authority to remand, with instructions (including establishing a timetable for action), the proposed Reliability Standard to the Standards Committee.
2. Upon a written finding by the Board of Trustees that a ballot pool has failed to approve a proposed Reliability Standard that contains a provision to address a specific matter identified in a directive issued by an Applicable Governmental Authority, the Board of Trustees has the authority to remand the proposed Reliability Standard to the Standards Committee, with instructions to (i) convene a public technical conference to discuss the issues surrounding the regulatory directive, including whether or not the proposed Reliability Standard is just, reasonable, not unduly discriminatory or preferential, in the public interest, helpful to reliability, practical, technically sound, technically feasible, and cost-justified; (ii) working with NERC staff, prepare a memorandum discussing the issues, an analysis of the alternatives considered and other appropriate matters; and (iii) re-ballot the proposed Reliability Standard one additional time, with such adjustments in the schedule as are necessary to meet the deadline contained in paragraph 2.1 of this Rule.
  - 2.1 Such a re-ballot shall be completed within forty-five (45) days of the remand. The Standards Committee memorandum shall be included in the materials made available to the ballot pool in connection with the re-ballot.
  - 2.2 In any such re-ballot, negative votes without comments related to the proposal shall be counted for purposes of establishing a quorum, but only affirmative votes and negative votes with comments related to the proposal shall be counted for purposes of determining the number of votes cast and whether the proposed Reliability Standard has been approved.
3. If the re-balloted proposed Reliability Standard achieves at least an affirmative two-thirds majority vote of the weighted Segment votes cast, with a quorum established, then the proposed Reliability Standard shall be deemed approved by the ballot pool and shall be considered by the Board of Trustees for approval.
4. If the re-balloted proposed Reliability Standard fails to achieve at least an affirmative two-thirds majority vote of the weighted Segment votes cast, but does achieve at least a sixty percent affirmative majority of the weighted Segment votes cast, with a quorum established, then the Board of Trustees has the authority to consider the proposed Reliability Standard for approval under the following procedures:
  - 4.1 The Board of Trustees shall issue notice of its intent to consider the proposed Reliability Standard and shall solicit written public comment

particularly focused on the technical aspects of the provisions of the proposed Reliability Standard that address the specific matter identified in the regulatory directive, including whether or not the proposed Reliability Standard is just, reasonable, not unduly discriminatory or preferential, in the public interest, helpful to reliability, practical, technically sound, technically feasible, and cost-justified.

4.2 The Board of Trustees may, in its discretion, convene a public technical conference to receive additional input on the matter.

4.3 After considering the developmental record, the comments received during balloting and the additional input received under paragraphs 4.1 and 4.2 of this Rule, the Board of Trustees has authority to act on the proposed Reliability Standard.

4.3.1 If the Board of Trustees finds that the proposed Reliability Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is helpful to reliability, practical, technically sound, technically feasible, and cost-justified, then it has authority to approve the proposed Reliability Standard and direct that it be filed with Applicable Governmental Authorities with a request that it be made effective.

4.3.2 If the Board of Trustees is unable to find that the proposed Reliability Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is helpful to reliability, practical, technically sound, technically feasible, and cost-justified, then it has authority to treat the proposed Reliability Standard as a draft Reliability Standard and direct that the draft Reliability Standard and complete developmental record, including the additional input received under paragraphs 4.1 and 4.2 of this Rule, be filed with the Applicable Governmental Authorities as a compliance filing in response to the order giving rise to the regulatory directive, along with a recommendation that the Reliability Standard not be made effective and an explanation of the basis for the recommendation.

A5. Upon a written finding by the Board of Trustees that standard drafting team has failed to develop, or a ballot pool has failed to approve, a proposed Reliability Standard that contains a provision to address a specific matter identified in a directive issued by an Applicable Governmental Authority, the Board of Trustees has the authority to direct the Standards Committee (with the assistance of stakeholders and NERC staff) to prepare a draft Reliability Standard that addresses the regulatory directive, taking account of the entire developmental record pertaining to the matter. If the Standards Committee fails to prepare such

draft Reliability Standard, the Board of Trustees may direct NERC management to prepare such draft Reliability Standard.

- 5.1 The Board of Trustees may, in its discretion, convene a public technical conference to receive input on the matter. The draft Reliability Standard shall be posted for a 45-day public comment period.
  - 5.2 If, after considering the entire developmental record (including the comments received under paragraph 5.1 of this Rule), the Board of Trustees finds that the draft Reliability Standard, with such modifications as the Board of Trustees determines are appropriate in light of the comments received, is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is practical, technically sound, technically feasible, cost-justified and serves the best interests of reliability of the Bulk Power System, then the Board of Trustees has the authority to approve the draft Reliability Standard and direct that the proposed Reliability Standard be filed with Applicable Governmental Authorities with a request that the proposed Reliability Standard be made effective.
  - 5.3 If, after considering the entire developmental record (including the comments received under paragraph 5.1 of this Rule), the Board of Trustees is unable to find that the draft Reliability Standard, even with modifications, is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is practical, technically sound, technically feasible, cost-justified and serves the best interests of reliability of the Bulk Power System, then the Board of Trustees has the authority to direct that the draft Reliability Standard and complete developmental record be filed as a compliance filing in response to the regulatory directive with the Applicable Governmental Authority issuing the regulatory directive, with a recommendation that the draft Reliability Standard not be made effective.
  - 5.4 The filing of the Reliability Standard under either paragraph 5.2 or paragraph 5.3 of this Rule shall include an explanation of the basis for the decision by the Board of Trustees.
  - 5.5 A Reliability Standard approved under paragraph 5 of this Rule shall not be eligible for submission as an American National Standard.
6. NERC shall on or before March 31<sup>st</sup> of each year file a report with Applicable Governmental Authorities on the status and timetable for addressing each outstanding directive to address a specific matter received from an Applicable Governmental Authority.

## **SECTION 400 — COMPLIANCE ENFORCEMENT**

### **401. Scope of the NERC Compliance Monitoring and Enforcement Program**

1. **Components of the NERC Compliance Monitoring and Enforcement Program** — NERC shall develop and implement a NERC Compliance Monitoring and Enforcement Program to promote the reliability of the Bulk Power System by enforcing compliance with approved Reliability Standards in those regions of North American in which NERC and/or a Regional Entity (pursuant to a delegation agreement with NERC that has been approved by the Applicable Governmental Authority) has been given enforcement authority. There are four distinct parts of the NERC Compliance Monitoring and Enforcement Program: (1) NERC's oversight of the Regional Entity Compliance Monitoring and Enforcement Programs (Section 402), (2) the definition of the required Regional Entity Compliance Monitoring and Enforcement Program attributes (Section 403), (3) NERC's monitoring of Regional Entity compliance with Reliability Standards (Section 404), and (4) the monitoring of compliance with Reliability Standards that are applicable to NERC (Sections 405–406).
2. **Who Must Comply** — Where required by applicable legislation, regulation, rule or agreement, all Bulk Power System owners, operators, and users, Regional Entities, and NERC, are required to comply with all approved NERC Reliability Standards at all times. Regional Reliability Standards and Variances approved by NERC and the Applicable Governmental Authority shall be considered NERC Reliability Standards and shall apply to all Bulk Power System owners, operators, or users responsible for meeting those Reliability Standards within the Regional Entity boundaries, whether or not the Bulk Power System owner, operator, or user is a member of the Regional Entity.
3. **Data Access** — All Bulk Power System owners, operators, and users shall provide to NERC and the applicable Regional Entity such information as is necessary to monitor compliance with the Reliability Standards. NERC and the applicable Regional Entity will define the data retention and reporting requirements in the Reliability Standards and compliance reporting procedures.
4. **Role of Regional Entities in the Compliance Monitoring and Enforcement Program** — Each Regional Entity that has been delegated authority through a delegation agreement or other legal instrument approved by the Applicable Governmental Authority shall, in accordance with the terms of the approved delegation agreement, administer a Regional Entity Compliance Monitoring and Enforcement program to meet the NERC Compliance Monitoring and Enforcement Program goals and the requirements in this Section 400.
5. **Program Continuity** — NERC will ensure continuity of compliance monitoring and enforcement within the geographic boundaries of a Regional Entity in the event that NERC does not have a delegation agreement, or the Regional Entity withdraws from the agreement or does not operate its Compliance Monitoring and Enforcement Program in accordance with the delegation agreement or other applicable requirements.

- 5.1 Should NERC not have a delegation agreement with a Regional Entity covering a geographic area, or a Regional Entity withdraws from an existing delegation agreement or the delegation agreement is otherwise terminated, NERC will directly administer the Compliance Monitoring and Enforcement Program applicable to owners, operators and users of the Bulk Power System within that geographic area.
  1. This monitoring and enforcement will be accomplished by NERC and Compliance Staff from another approved Regional Entity.
  2. If an existing delegation agreement with a Regional Entity is terminating, the Regional Entity shall promptly provide to NERC all relevant compliance information regarding Registered Entities, contacts, prior compliance information and actions, Mitigation Plans, and remedial actions for the period in which the Regional Entity was responsible for administering the Compliance Monitoring and Enforcement Program.
  3. NERC will levy and collect all Penalties directly and will utilize any Penalty monies collected to offset the expenses of administering the Compliance Monitoring and Enforcement Program for the geographic area.
- 5.2 Should a Regional Entity seek to withdraw from its delegation agreement, NERC will seek agreement from another Regional Entity to amend its delegation agreement with NERC to extend that Regional Entity's boundaries for compliance monitoring and enforcement. In the event no Regional Entity is willing to accept this responsibility, NERC will administer the Compliance Monitoring and Enforcement Program within the geographical boundaries of the Regional Entity seeking to withdraw from the delegation agreement, in accordance with Section 401.5.1.
6. **Actively Monitored Requirements** — NERC, with input from the Regional entities, stakeholders, and regulators, shall annually select a subset of the NERC Reliability Standards and Requirements to be actively monitored and audited in the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan. Compliance is required with all NERC Reliability Standards whether or not they are included in the subset of Reliability Standards and Requirements designated to be actively monitored and audited in the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan.
7. **Penalties, Sanctions, and Remedial Actions** — NERC and Regional Entities will apply Penalties, sanctions, and remedial actions that bear a reasonable relation to the seriousness of a violation and take into consideration timely remedial efforts as defined in the NERC *Sanction Guidelines*, which is incorporated into these rules as **Appendix 4B**.
8. **Multiple Enforcement Actions** – A Registered Entity shall not be subject to an enforcement action by NERC and a Regional Entity for the same violation.

9. **Records** — NERC shall maintain a record of each compliance submission, including Self-Reported, Possible, Alleged, and Confirmed Violations of approved Reliability Standards; associated Penalties, sanctions, remedial actions and settlements; and the status of mitigation actions.

10. **Confidential Information** — NERC will treat all Possible and Alleged Violations of Reliability Standards and matters related to a Compliance Monitoring and Enforcement Program process, including the status of any Compliance Investigation or other Compliance Monitoring and Enforcement Program process, as confidential in accordance with Section 1500.

The types of information that will be considered confidential and will not (subject to statutory and regulatory requirements) be disclosed in any public information reported by NERC are identified in Section 1500. Information that would jeopardize Bulk Power System reliability, including information relating to a Cyber Security Incident, will be identified and protected from public disclosure as Critical Energy Infrastructure Information in accordance with Section 1500.

The Regional Entity and NERC shall give Bulk Power System owners, operators, and users a reasonable opportunity to demonstrate that information concerning a violation is confidential before such report is disclosed to the public.

11. **Public Posting** — When the affected Bulk Power System owner, operator, or user either agrees with a Possible or Alleged Violation(s) of a Reliability Standard(s) or a report of a Compliance Audit or Compliance Investigation, or enters into a settlement agreement concerning a Possible or Alleged Violation(s), or the time for submitting an appeal is passed, or all appeals processes are complete, NERC shall, subject to the confidentiality requirements of these Rules of Procedure, publicly post each Confirmed Violation, Penalty or sanction, settlement agreement, and final Compliance Audit or Compliance Investigation report, on its website.

11.1 Each Bulk Power System owner, operator, or user may provide NERC with a statement to accompany the Confirmed Violation or report to be posted publicly. The statement must be on company letterhead and include a signature, as well as the name and title of the person submitting the information.

11.2 In accordance with Section 1500, information deemed by a Bulk Power System owner, operator, or user, Regional Entity, or NERC as Critical Energy Infrastructure Information (*NERC Security Guidelines for the Electricity Sector — Protecting Potentially Sensitive Information* may be used as a guide) or other Confidential Information shall be redacted in accordance with Section 1500 and not be released publicly.

11.3 Subject to redaction of Critical Energy Infrastructure Information or other Confidential Information, for each Confirmed Violation or settlement relating to a Possible Violation or an Alleged Violation, the public posting



shall include the name of any relevant entity, the nature, time period, and circumstances of such Possible, Alleged or Confirmed Violation, any Mitigation Plan to be implemented by the Registered Entity in connection with the Confirmed Violation or settlement, and sufficient facts to assist owners, operators and users of the Bulk Power System to evaluate whether they have engaged in or are engaging in similar activities.

12. **Violation Information Review** — NERC Compliance Staff shall periodically review and analyze all reports of Possible, Alleged and Confirmed Violations to identify trends and other pertinent reliability issues.

#### **402. NERC Oversight of the Regional Entity Compliance Monitoring and Enforcement Programs**

1. **NERC Monitoring Program** — NERC shall have a program to monitor the Compliance Monitoring and Enforcement Program of each Regional Entity that has been delegated authority. The objective of this monitoring program shall be to ensure that the Regional Entity carries out its Compliance Monitoring and Enforcement Program in accordance with these Rules of Procedure and the terms of the delegation agreement, and to ensure consistency and fairness of the Regional Entity's Compliance Monitoring and Enforcement Program. Oversight and monitoring by NERC shall be accomplished through an annual Compliance Monitoring and Enforcement Program review, program audits, and regular evaluations of Regional Entity Compliance Monitoring and Enforcement Program performance as described below.
  - 1.1 **NERC Review of Annual Regional Entity Compliance Monitoring and Enforcement Program Implementation Plans** — NERC shall require each Regional Entity to submit for review and approval an annual Regional Entity Compliance Monitoring and Enforcement Program Implementation Plan. NERC shall review each annual Regional Entity Compliance Monitoring and Enforcement Program Implementation Plan and shall accept the plan if it meets NERC requirements and the requirements of the delegation agreement.
  - 1.2 **Regional Entity Compliance Monitoring and Enforcement Program Evaluation** — NERC shall annually evaluate the goals, tools, and procedures of each Regional Entity Compliance Monitoring and Enforcement Program to determine the effectiveness of each Regional Entity Compliance Monitoring and Enforcement Program, using criteria developed by the NERC Compliance and Certification Committee.
  - 1.3 **Regional Entity Compliance Monitoring and Enforcement Program Audit** — At least once every five years, NERC shall conduct an audit to evaluate how each Regional Entity Compliance Monitoring and Enforcement Program implements the NERC Compliance Monitoring and Enforcement Program. The evaluation shall be based on these Rules of Procedure, including Appendix 4C, the delegation agreement, directives in effect pursuant to the delegation agreement, approved annual Regional

Entity Compliance Monitoring and Enforcement Program Implementation Plans, required Compliance Monitoring and Enforcement Program attributes, and the NERC Compliance Monitoring and Enforcement Program procedures. These evaluations shall be provided to the Applicable Governmental Authorities to demonstrate the effectiveness of each Regional Entity. In addition, audits of Cross-Border Regional Entities shall cover applicable requirements imposed on the Regional Entity by statute, regulation, or order of, or agreement with, provincial governmental and/or regulatory authorities for which NERC has auditing responsibilities over the Regional Entity's compliance with such requirements within Canada or Mexico. Participation of a representative of an Applicable Governmental Authority shall be subject to the limitations of sections 3.1.6 and 8.0 of Appendix 4C of these Rules of Procedure regarding disclosures of non-public compliance information related to other jurisdictions. NERC shall maintain an audit procedure containing the requirements, steps, and timelines to conduct an audit of each Regional Entity Compliance Monitoring and Enforcement Program. The current procedure is contained in the NERC Audit of Regional Entity Compliance Programs, which is incorporated into these rules as **Appendix 4A**.

1.3.1. NERC shall establish a program to audit bulk power system owners, operators, and users operating within a regional entity to verify the findings of previous compliance audits conducted by the regional entity to evaluate how well the regional entity compliance enforcement program is meeting its delegated authority and responsibility.

1.4 Applicable Governmental Authorities will be allowed to participate as an observer in any audit conducted by NERC of a Regional Entity's Compliance Monitoring and Enforcement Program. A representative of the Regional Entity being audited will be allowed to participate in the audit as an observer.

2. **Consistency Among Regional Compliance Monitoring and Enforcement Programs** — To provide for a consistent Compliance Monitoring and Enforcement Program for all Bulk Power System owners, operators, and users required to comply with approved Reliability Standards, NERC shall maintain a single, uniform Compliance Monitoring and Enforcement Program, which is incorporated into these rules of procedure as **Appendix 4C**. Any differences in Regional Entity Compliance Monitoring and Enforcement Program methods, including determination of violations and Penalty assessment, shall be justified on a case-by-case basis and fully documented in each Regional Entity delegation agreement.

2.1 NERC shall ensure that each of the Regional Entity Compliance Monitoring and Enforcement Programs meets these Rules of Procedure, including **Appendix 4C**, and follows the terms of the delegation

agreement and the approved annual Regional Entity Compliance Monitoring and Enforcement Program Implementation Plan.

- 2.2 NERC shall maintain a single, uniform Compliance Monitoring and Enforcement Program in **Appendix 4C** containing the procedures to ensure the consistency and fairness of the processes used to determine Regional Entity Compliance Monitoring and Enforcement Program findings of compliance and noncompliance, and the application of Penalties and sanctions.
- 2.3 NERC shall periodically conduct Regional Entity compliance manager forums. These forums shall use the results of Regional Entity Compliance Monitoring and Enforcement Program audits and findings of NERC Compliance Staff to identify and refine Regional Entity Compliance Monitoring and Enforcement Program differences into a set of best practices over time.
3. **Information Collection and Reporting** — NERC and the Regional Entities shall implement data management procedures that address data reporting requirements, data integrity, data retention, data security, and data confidentiality.
4. **Violation Disclosure** — NERC shall disclose all Confirmed Violations and maintain as confidential Possible Violations and Alleged Violations, according to the reporting and disclosure process in **Appendix 4C**.
5. **Authority to Determine Noncompliance, Levy Penalties and Sanctions, and Issue Remedial Action Directives** — NERC and Regional Entity Compliance Staff shall have the authority and responsibility to make initial determinations of compliance or noncompliance, and where authorized by the Applicable Governmental Authorities or where otherwise authorized, to determine Penalties and sanctions for noncompliance with a Reliability Standard, and issue Remedial Action Directives. Regional Entity boards or a compliance panel reporting directly to the Regional Entity board will be vested with the authority for the overall Regional Entity Compliance Monitoring and Enforcement Program and have the authority to impose Penalties and sanctions on behalf of NERC, where authorized by applicable legislation or agreement. Remedial Action Directives may be issued by NERC or a Regional Entity that is aware of a Bulk Power System owner, operator, or user that is about to engage in an act or practice that would result in noncompliance with a Reliability Standard, where such Remedial Action Directive is immediately necessary to protect the reliability of the Bulk Power System from an imminent threat. If, after receiving such a Remedial Action Directive, the Bulk Power System owner, operator, or user does not take appropriate action to avert a violation of a Reliability Standard, NERC may petition the Applicable Governmental Authority to issue a compliance order.
6. **Due Process** — NERC shall establish and maintain a fair, independent, and nondiscriminatory appeals process. The appeals process is set forth in Sections

408-410. The process shall allow Bulk Power System owners, operators, and users to appeal the Regional Entity's findings of noncompliance and to appeal Penalties, sanctions, and Remedial Action Directives that are levied by the Regional Entity. Appeals beyond the NERC process will be heard by the Applicable Governmental Authority.

The appeals process will also allow for appeals to NERC of any findings of noncompliance issued by NERC to a Regional Entity for Reliability Standards and Requirements where the Regional Entity is monitored for compliance to a Reliability Standard. No monetary Penalties will be levied in these matters; however sanctions, remedial actions, and directives to comply may be applied by NERC.

7. **Conflict Disclosure** — NERC shall disclose to the appropriate governmental authorities any potential conflicts between a market rule and the enforcement of a Regional Reliability Standard.
8. **Confidentiality** — To maintain the integrity of the NERC Compliance Monitoring and Enforcement Program, NERC and Regional Entity staff, Compliance Audit team members, and committee members shall maintain the confidentiality of information obtained and shared during compliance monitoring and enforcement processes including Compliance Investigations, Compliance Audits, Spot Checks, drafting of reports, appeals, and closed meetings.
  - 8.1 NERC and the Regional Entity shall have in place appropriate codes of conduct and confidentiality agreements for staff and other Compliance Monitoring and Enforcement Program participants.
  - 8.2 Individuals not bound by NERC or Regional Entity codes of conduct who serve on compliance-related committees or Compliance Audit teams shall sign a NERC confidentiality agreement prior to participating on the committee or Compliance Audit team.
  - 8.3 Information deemed by a Bulk Power System owner, operator, or user, Regional Entity, or NERC as Critical Energy Infrastructure Information shall not be distributed outside of a committee or team, nor released publicly. Other information subject to confidentiality is identified in Section 1500.
  - 8.4 In the event that a staff, committee, or Compliance Audit team member violates any of the confidentiality rules set forth above, the staff, committee, or Compliance Audit team member and any member organization with which the individual is associated may be subject to appropriate action by the Regional Entity or NERC, including prohibiting participation in future Compliance Monitoring and Enforcement Program activities.

9. **Auditor Training** — NERC shall develop and provide training in auditing skills to all people who participate in NERC and Regional Entity Compliance Audits. Training for NERC and Regional Entity personnel and others who serve as Compliance Audit team leaders shall be more comprehensive than training given to industry subject matter experts and Regional Entity members. Training for Regional Entity members may be delegated to the Regional Entity.

#### **403. Required Attributes of Regional Entity Compliance Monitoring and Enforcement Programs**

Each Regional Entity Compliance Monitoring and Enforcement Program shall promote excellence in the enforcement of Reliability Standards. To accomplish this goal, each Regional Entity Compliance Monitoring and Enforcement Program shall (i) conform to and comply with the NERC uniform Compliance Monitoring and Enforcement Program, **Appendix 4C** to these Rules of Procedure, except to the extent of any deviations that are stated in the Regional Entity's delegation agreement, and (ii) meet all of the attributes set forth in this Section 403.

##### **Program Structure**

1. **Independence** — Each Regional Entity's governance of its Compliance Monitoring and Enforcement Program shall exhibit independence, meaning the Compliance Monitoring and Enforcement Program shall be organized so that its compliance monitoring and enforcement activities are carried out separately from other activities of the Regional Entity. The Compliance Monitoring and Enforcement Program shall not be unduly influenced by the Bulk Power System owners, operators, and users being monitored or other Regional Entity activities that are required to meet the Reliability Standards. Regional Entities must include rules providing that no two industry sectors may control any decision and no single segment may veto any matter related to compliance.
2. **Exercising Authority** — Each Regional Entity Compliance Monitoring and Enforcement Program shall exercise the responsibility and authority in carrying out the delegated functions of the NERC Compliance Monitoring and Enforcement Program in accordance with delegation agreements and **Appendix 4C**. These functions include but are not limited to: data gathering, data reporting, Compliance Investigations, Compliance Audit activities, evaluating compliance and noncompliance, imposing Penalties and sanctions, and approving and tracking mitigation actions.
3. **Delegation of Authority** — To maintain independence, fairness, and consistency in the NERC Compliance Monitoring and Enforcement Program, a Regional Entity shall not sub-delegate its Compliance Monitoring and Enforcement Program duties to entities or persons other than the Regional Entity Compliance Staff, unless (i) required by statute or regulation in the applicable jurisdiction, or (ii) by agreement with express approval of NERC and of FERC or other Applicable Governmental Authority, to another Regional Entity.
4. **Hearings of Contested Findings or Sanctions** — The Regional Entity board or compliance panel reporting directly to the Regional Entity board (with appropriate

recusal procedures) will be vested with the authority for conducting compliance hearings in which any Bulk Power System owner, operator, or user provided a Notice of Alleged Violation may present facts and other information to contest a Notice of Alleged Violation or any proposed Penalty, sanction, any Remedial Action Directive, or any Mitigation Plan component. Compliance hearings shall be conducted in accordance with the Hearing Procedures set forth in Attachment 2 to **Appendix 4C**. If a stakeholder body serves as the Hearing Body, no two industry sectors may control any decision and no single segment may veto any matter related to compliance after recusals.

### **Program Resources**

5. **Regional Entity Compliance Staff** — Each Regional Entity shall have sufficient resources to meet delegated compliance monitoring and enforcement responsibilities, including the necessary professional staff to manage and implement the Regional Entity Compliance Monitoring and Enforcement Program.
6. **Regional Entity Compliance Staff Independence** — The Regional Entity Compliance Staff shall be capable of and required to make all determinations of compliance and noncompliance and determine Penalties, sanctions, and remedial actions.
  - 6.1 Regional Entity Compliance Staff shall not have a conflict of interest, real or perceived, in the outcome of compliance monitoring and enforcement processes, reports, or sanctions. The Regional Entity shall have in effect a conflict of interest policy.
  - 6.2 Regional Entity Compliance Staff shall have the authority and responsibility to carry out compliance monitoring and enforcement processes (with the input of industry subject matter experts), make determinations of compliance or noncompliance, and levy Penalties and sanctions without interference or undue influence from Regional Entity members and their representative or other industry entities.
  - 6.3 Regional Entity Compliance Staff may call upon independent technical subject matter experts who have no conflict of interest in the outcome of the compliance monitoring and enforcement process to provide technical advice or recommendations in the determination of compliance or noncompliance.
  - 6.4 Regional Entity Compliance Staff shall abide by the confidentiality requirements contained in Section 1500 and **Appendix 4C** of these Rules of Procedure, the NERC delegation agreement and other confidentiality agreements required by the NERC Compliance Monitoring and Enforcement Program.
  - 6.5 Contracting with independent consultants or others working for the Regional Entity Compliance Monitoring and Enforcement Program shall be permitted provided the individual has not received compensation from a Bulk Power System owner, operator, or user being monitored for a

period of at least the preceding six months and owns no financial interest in any Bulk Power System owner, operator, or user being monitored for compliance to the Reliability Standard, regardless of where the Bulk Power System owner, operator, or user operates. Any such individuals for the purpose of these Rules of Procedure shall be considered as augmenting Regional Entity Compliance Staff.

**7. Use of Industry Subject Matter Experts and Regional Entity Members —** Industry experts and Regional Entity members may be called upon to provide their technical expertise in Compliance Monitoring and Enforcement Program activities.

- 7.1 The Regional Entity shall have procedures defining the allowable involvement of industry subject matter experts and Regional Entity members. The procedures shall address applicable antitrust laws and conflicts of interest.
- 7.2 Industry subject matter experts and Regional Entity members shall have no conflict of interest or financial interests in the outcome of their activities.
- 7.3 Regional Entity members and industry subject matter experts, as part of teams or Regional Entity committees, may provide input to the Regional Entity Compliance Staff so long as the authority and responsibility for (i) evaluating and determining compliance or noncompliance and (ii) levying Penalties, sanctions, or remedial actions shall not be delegated to any person or entity other than the Compliance Staff of the Regional Entity. Industry subject matter experts, Regional Entity members, or Regional Entity committees shall not make determinations of noncompliance or levy Penalties, sanctions, or remedial actions. Any committee involved shall be organized so that no two industry sectors may control any decision and no single segment may veto any matter related to compliance.
- 7.4 Industry subject matter experts and Regional Entity members shall sign a confidentiality agreement appropriate for the activity being performed.
- 7.5 All industry subject matter experts and Regional Entity members participating in Compliance Audits and Compliance Investigations shall successfully complete auditor training provided by NERC or the Regional Entity prior to performing these activities

**Program Design**

- 8. Regional Entity Compliance Monitoring and Enforcement Program Content** — All approved Reliability Standards shall be included in the Regional Entity Compliance Monitoring and Enforcement Program for all Bulk Power System owners, operators, and users within the defined boundaries of the Regional Entity.

Compliance to approved Regional Reliability Standards is applicable only within the Region of the Regional Entity that submitted those particular Regional Reliability Standards for approval. NERC will identify the minimum set of Reliability Standards and Requirements to be actively monitored by the Regional Entity in a given year.

9. **Antitrust Provisions** — Each Regional Entity’s Compliance Monitoring and Enforcement Program shall be structured and administered to abide by U.S. antitrust law and Canadian competition law.
10. **Information Submittal** — All Bulk Power System owners, operators, and users within the Regional Entity responsible for complying with Reliability Standards shall submit timely and accurate information when requested by the Regional Entity or NERC. NERC and the Regional Entities shall preserve any mark of confidentiality on information submitted pursuant to Section 1502.1.
  - 10.1 Each Regional Entity has the authority to collect the necessary information to determine compliance and shall develop processes for gathering data from the Bulk Power System owners, operators, and users the Regional Entity monitors.
  - 10.2 The Regional Entity or NERC has the authority to request information from Bulk Power System owners, operators, and users pursuant to Section 401.3 or this Section 403.10 without invoking a specific compliance monitoring and enforcement process in **Appendix 4C**, for purposes of determining whether to pursue one such process in a particular case and/or validating in the enforcement phase of a matter the conclusions reached through the compliance monitoring and enforcement process(es).
  - 10.3 When required or requested, the Regional Entities shall report information to NERC promptly and in accordance with **Appendix 4C** and other NERC procedures.
  - 10.4 Regional Entities shall notify NERC of all Possible, Alleged and Confirmed Violations of NERC Reliability Standards by Registered Entities over which the Regional Entity has compliance monitoring and enforcement authority, in accordance with **Appendix 4C**.
  - 10.5 A Bulk Power System owner, operator, or user found in noncompliance with a Reliability Standard shall submit a Mitigation Plan with a timeline addressing how the noncompliance will be corrected. The Regional Entity Compliance Staff shall review and approve the Mitigation Plan in accordance with **Appendix 4C**.
  - 10.6 An officer of a Bulk Power System owner, operator, or user shall certify as accurate all compliance data Self-Reported to the Regional Entity Compliance Monitoring and Enforcement Program.



- 10.7 Regional Entities shall develop and implement procedures to verify the compliance information submitted by Bulk Power System owners, operators, and users.
11. **Compliance Audits of Bulk Power System Owners, Operators, and Users** — Each Regional Entity will maintain and implement a program of proactive Compliance Audits of Bulk Power System owners, operators, and users responsible for complying with Reliability Standards, in accordance with **Appendix 4C**. A Compliance Audit is a process in which a detailed review of the activities of a Bulk Power System owner, operator, or user is performed to determine if that Bulk Power System owner, operator, or user is complying with approved Reliability Standards.
- 11.1 For an entity registered as a Balancing Authority, Reliability Coordinator, or Transmission Operator, the Compliance Audit will be performed at least once every three years. For other Bulk Power System owners, operators, and users on the NERC Compliance Registry, Compliance Audits shall be performed on a schedule established by NERC.
- 11.2 Compliance Audits of Balancing Authorities, Reliability Coordinators, and Transmission Operators will include a component at the audited entity's site. For other Bulk Power System owners, operators, and users on the NERC Compliance Registry, the Compliance Audit may be either an on-site Compliance Audit or based on review of documents, as determined to be necessary and appropriate by NERC or Regional Entity Compliance Staff.
- 11.3 Compliance Audits must include a detailed review of the activities of the Bulk Power System owner, operator, or user to determine if the Bulk Power System owner, operator, or user is complying with all approved Reliability Standards identified for audit by NERC. The Compliance Audit shall include a review of supporting documentation and evidence used by the Bulk Power System owner, operator or user to demonstrate compliance for an appropriate period prior to the Compliance Audit.
12. **Confidentiality of Compliance Monitoring and Enforcement Processes** — All compliance monitoring and enforcement processes, and information obtained from such processes, are to be non-public and treated as confidential in accordance with Section 1500 and **Appendix 4C** of these Rules of Procedure, unless NERC, the Regional Entity or FERC or another Applicable Governmental Authority with jurisdiction determines a need to conduct a Compliance Monitoring and Enforcement Program process on a public basis, provided, that NERC and the Regional Entities shall publish (i) schedules of Compliance Audits scheduled in each year, (ii) a public report of each Compliance Audit, and (iii) Notices of Penalty and settlement agreements. Advance authorization from the Applicable Governmental Authority is required to make public any compliance monitoring and enforcement process or any information relating to a compliance

monitoring and enforcement process, or to permit interventions when determining whether to impose a Penalty. This prohibition on making public any compliance monitoring and enforcement process does not prohibit NERC or a Regional Entity from publicly disclosing (i) the initiation of or results from an analysis of a significant system event under Section 807 or of off-normal events or system performance under Section 808, or (ii) information of general applicability and usefulness to owners, operators, and users of the Bulk Power System concerning reliability and compliance matters, so long as specific allegations or conclusions regarding Possible or Alleged Violations of Reliability Standards are not included in such disclosures.

13. **Critical Energy Infrastructure Information** — Information that would jeopardize Bulk Power System reliability, including information relating to a Cyber Security Incident will be identified and protected from public disclosure as Critical Energy Infrastructure Information. In accordance with Section 1500, information deemed by a Bulk Power System owner, operator, or user, Regional Entity, or NERC as Critical Energy Infrastructure Information shall be redacted according to NERC procedures and shall not be released publicly.
14. **Penalties, Sanctions, and Remedial Action Directives** — Each Regional Entity will apply all Penalties, sanctions, and Remedial Action Directives in accordance with the approved *Sanction Guidelines*, **Appendix 4B** to these Rules of Procedure. Any changes to the *Sanction Guidelines* to be used by any Regional Entity must be approved by NERC and submitted to the Applicable Governmental Authority for approval. All Confirmed Violations, Penalties, and sanctions will be provided to NERC for review and filing with Applicable Governmental Authorities as a Notice of Penalty, in accordance with **Appendix 4C**.
15. **Regional Entity Hearing Process** — Each Regional Entity Compliance Monitoring and Enforcement Program shall establish and maintain a fair, independent, and nondiscriminatory process for hearing contested violations and any Penalties or sanctions levied, in conformance with Attachment 2 to **Appendix 4C** to these Rules of Procedure and any deviations therefrom that are set forth in the Regional Entity's delegation agreement. The hearing process shall allow Bulk Power System owners, operators, and users to contest findings of compliance violations, any Penalties and sanctions that are proposed to be levied, proposed Remedial Action Directives, and components of proposed Mitigation Plans. The Regional Entity hearing process shall be conducted before the Regional Entity board or a balanced committee established by and reporting to the Regional Entity board as the final adjudicator, provided, that Canadian provincial regulators may act as the final adjudicator in their respective jurisdictions. The Regional Entity hearing process shall (i) include provisions for recusal of any members of the Hearing Body with a potential conflict of interest, real or perceived, from all compliance matters considered by the Hearing Body for which the potential conflict of interest exists and (ii) provide that no two industry sectors may control any decision and no single segment may veto any matter brought before the Hearing Body after recusals.

Each Regional Entity will notify NERC of all hearings and NERC may observe any of the proceedings. Each Regional Entity will notify NERC of the outcome of all hearings.

If a Bulk Power System owner, operator, or user has completed the Regional Entity hearing process and desires to appeal the outcome of the hearing, the Bulk Power System owner, operator, or user shall appeal to NERC in accordance with Section 409 of these Rules of Procedure, except that a determination of violation or Penalty that has been directly adjudicated by an Applicable Governmental Authority shall be appealed with that Applicable Governmental Authority.

16. **Annual Regional Entity Compliance Monitoring and Enforcement Program Implementation Plan** — Each Regional Entity shall annually develop and submit to NERC for approval a Regional Entity Compliance Monitoring and Enforcement Implementation Plan in accordance with **Appendix 4C** that identifies the Reliability Standards and Requirements to be actively monitored (both those required by NERC and any additional Reliability Standards the Regional Entity proposes to monitor), and how each NERC and Regional Entity identified Reliability Standard will be monitored, evaluated, reported, sanctioned, and appealed. These Regional Implementation Plans will be submitted to NERC on the schedule established by NERC, generally on or about November 1 of the preceding year. In conjunction with the annual Regional Implementation Plan, each Regional Entity must report to NERC regarding how it carried out its delegated compliance monitoring and enforcement authority in the previous year, the effectiveness of the Compliance Monitoring and Enforcement Program, and changes expected to correct any deficiencies identified. Each Regional Entity will provide its annual report on the schedule established by NERC, generally on or about February 15 of the following year.

**404. NERC Monitoring of Compliance for Regional Entities or Bulk Power Owners, Operator, or Users**

NERC shall monitor Regional Entity compliance with NERC Reliability Standards and, if no there is no delegation agreement in effect with a Regional Entity for the geographic area, shall monitor Bulk Power System owners, operators, and users for compliance with NERC Reliability Standards. Industry subject matter experts may be used as appropriate in Compliance Investigations, Compliance Audits, and other Compliance Monitoring and Enforcement Program activities, subject to confidentiality, antitrust, and conflict of interest provisions.

1. **NERC Obligations** — NERC Compliance Staff shall monitor the compliance of the Regional Entity with the Reliability Standards for which the Regional Entities are responsible, in accordance with **Appendix 4C**. NERC shall actively monitor in its annual Compliance Enforcement and Monitoring Program selected Reliability Standards that apply to the Regional Entities. NERC shall evaluate compliance and noncompliance with all of the Reliability Standards that apply to the Regional Entities and shall impose sanctions, Penalties, or Remedial Action

Directives when there is a finding of noncompliance. NERC shall post all violations of Reliability Standards that apply to the Regional Entities as described in the reporting and disclosure process in **Appendix 4C**.

In addition, NERC will directly monitor Bulk Power System owners, operators, and users for compliance with NERC Reliability Standards in any geographic area for which there is not a delegation agreement in effect with a Regional Entity, in accordance with **Appendix 4C**. In such cases, NERC will serve as the Compliance Enforcement Authority described in **Appendix 4C**. Compliance matters contested by Bulk Power System owners, operators, and users in such an event will be heard by the NERC Compliance and Certification Committee.

2. **Compliance Audit of the Regional Entity** — NERC shall perform a Compliance Audit of each Regional Entity responsible for complying with Reliability Standards at least once every three years. NERC shall make an evaluation of compliance based on the information obtained through the Compliance Audit. After due process is complete, the final Compliance Audit report shall be made public in accordance with the reporting and disclosure process in **Appendix 4C**.
3. **Appeals Process** —Any Regional Entity or Bulk Power System owner, operator or user found by NERC, as opposed to a Regional Entity, to be in noncompliance with a Reliability Standard may appeal the findings of noncompliance with Reliability Standards and any sanctions or Remedial Action Directives that are issued by, or Mitigation Plan components imposed by, NERC, pursuant to the processes described in Sections 408 through 410.

#### **405. Monitoring of Reliability Standards and Other Requirements Applicable to NERC**

The NERC Compliance and Certification Committee shall establish and implement a process to monitor NERC's compliance with the Reliability Standards that apply to NERC. The process shall use independent monitors with no conflict of interest, real or perceived, in the outcomes of the process. All violations shall be made public according to the reporting and disclosure process in **Appendix 4C**. The Compliance and Certification Committee will also establish a procedure for monitoring NERC's compliance with its Rules of Procedure for the Standards Development, Compliance Monitoring and Enforcement, and Organization Registration and Certification Programs. Such procedures shall not be used to circumvent the appeals processes established for those programs.

#### **406. Independent Audits of the NERC Compliance Monitoring and Enforcement Program**

NERC shall provide for an independent audit of its Compliance Monitoring and Enforcement Program at least once every three years, or more frequently as determined by the Board. The audit shall be conducted by independent expert auditors as selected by the Board. The independent audit shall meet the following minimum requirements and any other requirements established by the NERC Board.

1. **Effectiveness** — The audit shall evaluate the success and effectiveness of the NERC Compliance Monitoring and Enforcement Program in achieving its mission.
2. **Relationship** — The audit shall evaluate the relationship between NERC and the Regional Entity Compliance Monitoring and Enforcement Programs and the effectiveness of the programs in ensuring reliability.
3. **Final Report Posting** — The final report shall be posted by NERC for public viewing in accordance with **Appendix 4C**.
4. **Response to Recommendations** — If the audit report includes recommendations to improve the NERC Compliance Monitoring and Enforcement Program, the administrators of the NERC Compliance Monitoring and Enforcement Program shall provide a written response and plan to the Board within 30 days of the release of the final audit report.

#### **407. Penalties, Sanctions, and Remedial Actions**

1. **NERC Review of Regional Entity Penalties and Sanctions** — NERC shall review all Penalties, sanctions, and remedial actions imposed by each Regional Entity for violations of Reliability Standards to determine if the Regional Entity's determination is supported by a sufficient record compiled by the Regional Entity, is consistent with the *Sanction Guidelines* incorporated into these Rules of Procedure as **Appendix 4B** and with other directives, guidance and directions issued by NERC pursuant to the delegation agreement, and is consistent with Penalties, sanctions and remedial actions imposed by the Regional Entity and by other Regional Entities for violations involving the same or similar facts and circumstances.
2. **Developing Penalties and Sanctions** — The Regional Entity Compliance Staff shall use the *Sanction Guidelines*, which are incorporated into these Rules of Procedure as **Appendix 4B**, to develop an appropriate Penalty, sanction, or remedial action for a violation, and shall notify NERC of the Penalty or sanction.
3. **Effective Date of Penalty** — Where authorized by applicable legislation or agreement, no Penalty imposed for a violation of a Reliability Standard shall take effect until the thirty-first day after NERC files, with the Applicable Governmental Authority, a "Notice of Penalty" and the record of the proceedings in which the violation and Penalty were determined, or such other date as ordered by the Applicable Governmental Authority.

#### **408. Review of NERC Decisions**

1. **Scope of Review** — A Registered Entity or a Regional Entity wishing to challenge a finding of noncompliance and the imposition of a Penalty for a compliance measure directly administered by NERC, or a Regional Entity wishing to challenge a Regional Entity Compliance Monitoring and Enforcement Program audit finding, may do so by filing a notice of the challenge with NERC's

Director of Compliance no later than 21 days after issuance of the notice of finding of violation or audit finding. Appeals by Registered Entities of decisions of Regional Entity Hearing Bodies shall be pursuant to Section 409 .

2. **Contents of Notice** — The notice of challenge shall include the full text of the decision that is being challenged, a concise statement of the error or errors contained in the decision, a clear statement of the relief being sought, and argument in sufficient detail to justify such relief.
3. **Response by NERC Compliance Monitoring and Enforcement Program** — Within 21 days after receiving a copy of the notice of challenge, the NERC Director of Compliance may file with the Hearing Panel a response to the issues raised in the notice, with a copy to the Regional Entity.
4. **Hearing by Compliance and Certification Committee** — The NERC Compliance and Certification Committee shall provide representatives of the Regional Entity or Registered Entity, and the NERC Compliance Monitoring and Enforcement Program an opportunity to be heard and shall decide the matter based upon the filings and presentations made, with a written explanation of its decision.
5. **Appeal** — The Regional Entity, or Registered Entity may appeal the decision of the Compliance and Certification Committee by filing a notice of appeal with NERC's Director of Compliance no later than 21 days after issuance of the written decision by the Compliance and Certification Committee. The notice of appeal shall include the full text of the written decision of the Compliance and Certification Committee that is being appealed, a concise statement of the error or errors contained in the decision, a clear statement of the relief being sought, and argument in sufficient detail to justify such relief. No factual material shall be presented in the appeal that was not presented to the Compliance and Certification Committee.
6. **Response by NERC Compliance Monitoring and Enforcement Program** — Within 21 days after receiving a copy of the notice of appeal, the NERC Compliance Monitoring and Enforcement Program staff may file its response to the issues raised in the notice of appeal, with a copy to the entity filing the notice.
7. **Reply** — The entity filing the appeal may file a reply within 7 days.
8. **Decision** — The Compliance Committee of the NERC Board of Trustees shall decide the appeal, in writing, based upon the notice of appeal, the record, the response, and any reply. At its discretion, the Compliance Committee may invite representatives of the Regional Entity or Registered Entity, and the NERC Compliance Monitoring and Enforcement Program to appear before the Compliance Committee. Decisions of the Compliance Committee shall be final, except for further appeal to the Applicable Governmental Authority.

9. **Impartiality** — No member of the Compliance and Certification Committee or the Board of Trustees Compliance Committee having an actual or perceived conflict of interest in the matter may participate in any aspect of the challenge or appeal except as a party or witness.
10. **Expenses** — Each party in the challenge and appeals processes shall pay its own expenses for each step in the process.
11. **Non-Public Proceedings** — All challenges and appeals shall be closed to the public to protect Confidential Information.

#### **409. Appeals from Final Decisions of Regional Entities**

1. **Time for Appeal** — An owner, operator or user of the Bulk Power System wishing to appeal from a final decision of a Regional Entity that finds a violation of a Reliability Standard or imposes a Penalty for violation of a Reliability Standard shall file its notice of appeal with NERC's Director of Compliance, with a copy to the Regional Entity, no later than 21 days after issuance of the final decision of the Regional Entity Hearing Body. The same appeal procedures will apply regardless of whether the matter first arose in a Compliance Investigation, Compliance Audit or Self-Report, other compliance monitoring and enforcement process, or in a reliability readiness evaluation.
2. **Contents** — The notice of appeal shall include the full text of the final decision of the Regional Entity Hearing Body that is being appealed, a concise statement of the error or errors contained in the final decision, a clear statement of the relief being sought, and argument in sufficient detail to justify such relief. No factual material shall be presented in the appeal that was not first presented during the compliance hearing before the Regional Entity Hearing Body.
3. **Response by Regional Entity** — Within 21 days after receiving a copy of the notice of appeal, the Regional Entity shall file the entire record of the matter with NERC's Director of Compliance, with a copy to the Registered Entity filing the notice, together with its response to the issues raised in the notice of appeal.
4. **Reply** — The Registered Entity filing the appeal may file a reply to the Regional Entity within 7 days.
5. **Decision** — The Compliance Committee of the NERC Board of Trustees shall decide the appeal, in writing, based upon the notice of appeal, the record of the matter from the Regional Entity, the response, and any reply filed with NERC. At its discretion, the Compliance Committee may invite representatives of the Registered Entity making the appeal and the Regional Entity to appear before the Committee. Decisions of the Compliance Committee shall be final, except for further appeal to the Applicable Governmental Authority.
6. **Expenses** — Each party in the appeals process shall pay its own expenses for each step in the process.

7. **Non-Public Proceedings** — All appeals shall be closed to the public to protect Confidential Information.

**410. Hold Harmless**

A condition of invoking the challenge or appeals processes under Section 408 or 409 is that the entity requesting the challenge or appeal agrees that neither NERC (defined to include its Members, Board of Trustees, committees, subcommittees, staff and industry subject matter experts), any person assisting in the challenge or appeals processes, nor any company employing a person assisting in the challenge or appeals processes, shall be liable, and they shall be held harmless against the consequences of or any action or inaction or of any agreement reached in resolution of the dispute or any failure to reach agreement as a result of the challenge or appeals proceeding. This “hold harmless” clause does not extend to matters constituting gross negligence, intentional misconduct, or a breach of confidentiality.

**411. Requests for Technical Feasibility Exceptions to NERC Critical Infrastructure Protection Reliability Standards**

A Registered Entity that is subject to an Applicable Requirement of a NERC Critical Infrastructure Protection Standard for which Technical Feasibility Exceptions are permitted, may request a Technical Feasibility Exception to the Requirement, and the request will be reviewed, approved or disapproved, and if approved, implemented, in accordance with the NERC *Procedure for Requesting and Receiving Technical Feasibility Exceptions to NERC Critical Infrastructure Protection Standard*, Appendix 4D to these Rules of Procedure.



## SECTION 500 — ORGANIZATION REGISTRATION AND CERTIFICATION

### 501. Scope of the Organization Registration and Organization Certification Programs

The purpose of the Organization Registration Program is to clearly identify those entities that are responsible for compliance with the FERC approved Reliability Standards. Organizations that are registered are included on the NERC Compliance Registry (NCR) and are responsible for knowing the content of and for complying with all applicable Reliability Standards. Registered Entities are not and do not become Members of NERC or a Regional Entity, by virtue of being listed on the NCR. Membership in NERC is governed by Article II of NERC's Bylaws; membership in a Regional Entity or regional reliability organization is governed by that entity's bylaws or rules.

The purpose of the Organization Certification Program is to ensure that the new entity (i.e., applicant to be an RC, BA, or TOP that is not already performing the function for which it is applying to be certified as) has the tools, processes, training, and procedures to demonstrate their ability to meet the Requirements/sub-Requirements of all of the Reliability Standards applicable to the function(s) for which it is applying thereby demonstrating the ability to become certified and then operational.

Organization Registration and Organization Certification may be delegated to Regional Entities in accordance with the procedures in this Section 500; the NERC *Organization Registration and Organization Certification Manual*, which is incorporated into these Rules of Procedure as **Appendix 5A**; and, approved Regional Entity delegation agreements or other applicable agreements.

1. **NERC Compliance Registry** — NERC shall establish and maintain the NCR of the Bulk Power System owners, operators, and users that are subject to approved Reliability Standards.
  - 1.1 (a) The NCR shall set forth the identity and functions performed for each organization responsible for meeting Requirements/sub-Requirements of the Reliability Standards. Bulk Power System owners, operators, and users (i) shall provide to NERC and the applicable Regional Entity information necessary to complete the Registration, and (ii) shall provide NERC and the applicable Regional Entity with timely updates to information concerning the Registered Entity's ownership, operations, contact information, and other information that may affect the Registered Entity's Registration status or other information recorded in the Compliance Registry.
    - (b) A generation or transmission cooperative, a joint-action agency or another organization may register as a Joint Registration Organization (JRO), in lieu of each of the JRO's members or related entities being registered individually for one or more functions. Refer to Section 507.

(c) Multiple entities may each register using a Coordinated Functional Registration (CFR) for one or more Reliability Standard(s) and/or for one or more Requirements/sub-Requirements within particular Reliability Standard(s) applicable to a specific function pursuant to a written agreement for the division of compliance responsibility. Refer to Section 508.

- 1.2 In the development of the NCR, NERC and the Regional Entities shall determine which organizations should be placed on the NCR based on the criteria provided in the NERC *Statement of Compliance Registry Criteria* which is incorporated into these Rules of Procedure as **Appendix 5B**.
- 1.3 NERC and the Regional Entities shall use the following rules for establishing and maintaining the NCR based on the Registration criteria as set forth in **Appendix 5B** *Statement of Compliance Registry Criteria*:
  - 1.3.1 NERC shall notify each organization that it is on the NCR. The Registered Entity is responsible for compliance with all the Reliability Standards applicable to the functions for which it is registered from the time it receives the Registration notification from NERC.
  - 1.3.2 Any organization receiving such a notice may challenge its placement on the NCR according to the process in **Appendix 5A** *Organization Registration and Organization Certification Manual*, Section V.
  - 1.3.3 The Compliance Committee of the Board of Trustees shall promptly issue a written decision on the challenge, including the reasons for the decision.
  - 1.3.4 The decision of the Compliance Committee of the Board of Trustees shall be final unless, within 21 days of the date of the Compliance Committee of the Board of Trustees decision, the organization appeals the decision to the Applicable Governmental Authority.
  - 1.3.5 Each Registered Entity identified on the NCR shall notify its corresponding Regional Entity(s) of any corrections, revisions, deletions, changes in ownership, corporate structure, or similar matters that affect the Registered Entity's responsibilities with respect to the Reliability Standards. Failure to notify will not relieve the Registered Entity from any responsibility to comply with the Reliability Standards or shield it from any Penalties or sanctions associated with failing to comply with the Reliability Standards applicable to its associated Registration.

- 1.4 For all geographical or electrical areas of the Bulk Power System, the Registration process shall ensure that (1) no areas are lacking any entities to perform the duties and tasks identified in and required by the Reliability Standards to the fullest extent practical, and (2) there is no unnecessary duplication of such coverage or of required oversight of such coverage. In particular the process shall:
  - 1.4.1 Ensure that all areas are under the oversight of one and only one Reliability Coordinator.
  - 1.4.2 Ensure that all Balancing Authorities and Transmission Operator entities<sup>2</sup> are under the responsibility of one and only one Reliability Coordinator.
  - 1.4.3 Ensure that all transmission Facilities of the Bulk Power System are the responsibility and under the control of one and only one Transmission Planner, Planning Authority, and Transmission Operator.
  - 1.4.4 Ensure that all Loads and generators are under the responsibility and control of one and only one Balancing Authority.
- 1.5 NERC shall maintain the NCR of organizations responsible for meeting the Requirements/sub-Requirements of the Reliability Standards currently in effect on its website and shall update the NCR monthly.
2. **Entity Certification** — NERC shall provide for Certification of all entities with primary reliability responsibilities requiring Certification. This includes those entities that satisfy the criteria established in the NERC provisional Certification process. The NERC programs shall:
  - 2.1 Evaluate and certify the competency of entities performing reliability functions. The entities presently expected to be certified include Reliability Coordinators, Transmission Operators, and Balancing Authorities.
  - 2.2 Evaluate and certify each applicant's ability to meet the requirements for Certification.
  - 2.3 Maintain process documentation.
  - 2.4 Maintain records of currently certified entities.

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<sup>2</sup> Some organizations perform the listed functions (e.g., Balancing Authority, Transmission Operator) over areas that transcend the Footprints of more than one Reliability Coordinator. Such organizations will have multiple Registrations, with each such Registration corresponding to that portion of the organization's overall area that is within the Footprint of a particular Reliability Coordinator.

- 2.5 Issue a Certification document to the applicant that successfully demonstrates its competency to perform the evaluated functions.

### **3. Delegation and Oversight**

- 3.1 NERC may delegate responsibilities for Organization Registration and Organization Certification to Regional Entities in accordance with requirements established by NERC. Delegation will be via the delegation agreement between NERC and the Regional Entity or other applicable agreement. The Regional Entity shall administer Organization Registration and Organization Certification Programs in accordance with such delegations to meet NERC's programs goals and requirements subject to NERC oversight.
- 3.2 NERC shall develop and maintain a plan to ensure the continuity of Organization Registration and Organization Certification within the geographic or electrical boundaries of a Regional Entity in the event that no entity is functioning as a Regional Entity for that Region, or the Regional Entity withdraws as a Regional Entity, or does not operate its Organization Registration and Organization Certification Programs in accordance with delegation agreements.
- 3.3 NERC shall develop and maintain a program to monitor and oversee the NERC Organization Registration and Organization Certification Programs activities that are delegated to each Regional Entity through a delegation agreement or other applicable agreement.
  - 3.3.1 This program shall monitor whether the Regional Entity carries out those delegated activities in accordance with NERC requirements, and whether there is consistency, fairness of administration, and comparability.
  - 3.3.2 Monitoring and oversight shall be accomplished through direct participation in the Organization Registration and Organization Certification Programs with periodic reviews of documents and records of both programs.

## **502. Organization Registration and Organization Certification Program Requirements**

1. NERC shall maintain the Organization Registration and Organization Certification Programs.
  - 1.1 The roles and authority of Regional Entities in the programs are delegated from NERC pursuant to the Rules of Procedure through regional delegation agreements or other applicable agreements.

- 1.2 Processes for the programs shall be administered by NERC and the Regional Entities. Materials that each Regional Entity uses are subject to review and approval by NERC.
  - 1.3 The appeals process for the Organization Registration and Organization Certification Programs are identified in **Appendix 5A** *Organization Registration and Organization Certification Manual*, Sections V and VI, respectively.
  - 1.4 The Certification Team membership is identified in **Appendix 5A** *Organization Registration and Organization Certification Manual*, Section IV.8.d.
2. To ensure consistency and fairness of the Organization Registration and Organization Certification Programs, NERC shall develop procedures to be used by all Regional Entities and NERC in accordance with the following criteria:
- 2.1 NERC and the Regional Entities shall have data management processes and procedures that provide for confidentiality, integrity, and retention of data and information collected.
  - 2.2 Documentation used to substantiate the conclusions of the Regional Entity/ NERC related to Registration and/or Certification must be retained by the Regional Entity for (6) six years, unless a different retention period is otherwise identified, for the purposes of future audits of these programs.
  - 2.3 To maintain the integrity of the NERC Organization Registration and Organization Certification Programs, NERC, Regional Entities, Certification Team members, program audit team members (Section 506), and committee members shall maintain the confidentiality of information provided by an applicant or entities.
    - 2.2.1 NERC and the Regional Entities shall have appropriate codes of conduct and confidentiality agreements for staff, Certification Team, Certification related committees, and Certification program audit team members.
    - 2.2.2 NERC, Regional Entities, Certification Team members, program audit team members and committee members shall maintain the confidentiality of any Registration or Certification-related discussions or documents designated as confidential (see Section 1500 for types of Confidential Information).
    - 2.2.3 NERC, Regional Entities, Certification Team members, program audit team members and committee members shall treat as confidential the individual comments expressed during evaluations, program audits and report-drafting sessions.

- 2.2.4 Copies of notes, draft reports, and other interim documents developed or used during an entity Certification evaluation or program audit shall be destroyed after the public posting of a final, uncontested report.
- 2.2.5 Information deemed by an applicant, entity, a Regional Entity, or NERC as confidential, including Critical Energy Infrastructure Information, shall not be released publicly or distributed outside of a committee or team.
- 2.2.6 In the event that an individual violates any of the confidentiality rules set forth above, that individual and any member organization with which the individual is associated will be subject to immediate dismissal from the audit team and may be prohibited from future participation in Compliance Monitoring and Enforcement Program activities by the Regional Entity or NERC.
- 2.2.7 NERC shall develop and provide training in auditing skills to all individuals prior to their participation in Certification evaluations. Training for Certification Team leaders shall be more comprehensive than the training given to industry subject matter experts and Regional Entity members. Training for Regional Entity members may be delegated to the Regional Entity.
- 2.4 An applicant that is determined to be competent to perform a function after completing all Certification requirements shall be deemed certified by NERC to perform that function for which it has demonstrated full competency.

2.4.1 All NERC certified entities shall be included on the NCR.

**503. Regional Entity Implementation of Organization Registration and Organization Certification Program Requirements**

- 1. **Delegation** — Recognizing the Regional Entity’s knowledge of and experience with their members, NERC may delegate responsibility for Organization Registration and Organization Certification to the Regional Entity through a delegation agreement.
- 2. **Registration** — The following Organization Registration activities shall be managed by the Regional Entity per the NERC *Organization Registration and Organization Certification Manual*, which is incorporated into the Rules of Procedure as Appendix 5A *Organization Registration and Organization Certification Manual*:
  - 2.1 Regional Entities shall verify that all Reliability Coordinators, Balancing Authorities, and Transmission Operators meet the Registration requirements of Section 501(1.4).

3. **Certification** — The following Organization Certification activities shall be managed by the Regional Entity in accordance with an approved delegation agreement or another applicable agreement:
  - 3.1 An entity seeking Certification to perform one of the functions requiring Certification shall contact the Regional Entity for the Region(s) in which it plans to operate to apply for Certification.
  - 3.2 An entity seeking Certification and other affected entities shall provide all information and data requested by NERC or the Regional Entity to conduct the Certification process.
  - 3.3 Regional Entities shall notify NERC of all Certification applicants.
  - 3.4 NERC and/or the Regional Entity shall evaluate the competency of entities requiring Certification to meet the NERC Certification requirements.
  - 3.5 NERC or the Regional Entity shall establish Certification procedures to include evaluation processes, schedules and deadlines, expectations of the applicants and all entities participating in the evaluation and Certification processes, and requirements for Certification Team members.
    - 3.5.1 The NERC / Regional Entity Certification procedures will include provisions for on-site visits to the applicant's facilities to review the data collected through questionnaires, interviewing the operations and management personnel, inspecting the facilities and equipment (including requesting a demonstration of all tools identified in the Certification process), reviewing all necessary documents and data (including all agreements, processes, and procedures identified in the Certification process), reviewing Certification documents and projected system operator work schedules, and reviewing any additional documentation needed to support the completed questionnaire or inquiries arising during the site visit.
    - 3.5.2 The NERC/ Regional Entity Certification procedures will provide for preparation of a written report by the Certification Team, detailing any deficiencies that must be resolved prior to granting Certification, along with any other recommendations for consideration by the applicant, the Regional Entity, or NERC.

#### **504. Appeals**

1. NERC shall maintain an appeals process to resolve any disputes related to Registration or Certification activities per the *Organization Registration and Organization Certification Manual*, which is incorporated in these Rules of Procedure as Appendix 5A.

2. The Regional Entity Certification appeals process shall culminate with the Regional Entity board or a committee established by and reporting to the Regional Entity board as the final adjudicator, provided that where applicable, Canadian provincial governmental authorities may act as the final adjudicator in their jurisdictions. NERC shall be notified of all appeals and may observe any proceedings (**Appendix 5A** *Organization Registration and Organization Certification Manual*).

**505. Program Maintenance**

NERC shall maintain its program materials, including such manuals or other documents as it deems necessary, of the governing policies and procedures of the Organization Registration and Organization Certification Programs.

**506. Independent Audit of NERC Organization Registration and Organization Certification Program**

1. NERC, through the Compliance and Certification Committee, shall provide for an independent audit of its Organization Registration and Organization Certification Programs at least once every three years, or more frequently, as determined by the Board. The audit shall be conducted by independent expert auditors as selected by the Board.
2. The audit shall evaluate the success, effectiveness and consistency of the NERC Organization Registration and Organization Certification Programs.
3. The final report shall be posted by NERC for public viewing.
4. If the audit report includes recommendations to improve the program, the administrators of the program shall provide a written response to the Board within 30 days of the final report, detailing the disposition of each and every recommendation, including an explanation of the reasons for rejecting a recommendation and an implementation plan for the recommendations accepted.

**507. Provisions Relating to Joint Registration Organizations (JRO)**

1. In addition to registering as the entity responsible for all functions that it performs itself, an entity may register as a JRO on behalf of one or more of its members or related entities for one or more functions for which such members or related entities would otherwise be required to register and, thereby, accept on behalf of such members or related entities all compliance responsibility for that function or those functions including all reporting requirements. Any entity seeking to register as a JRO must submit a written agreement with its members or related entities for all Requirements/sub-Requirements for the function(s) for which the entity is registering for and takes responsibility for, which would otherwise be the responsibility of one or more of its members or related entities. Neither NERC nor



the Regional Entity shall be parties to any such agreement, nor shall NERC or the Regional Entity have responsibility for reviewing or approving any such agreement, other than to verify that the agreement provides for an allocation or assignment of responsibilities consistent with the JRO Registration.

2. The JRO Registration data must include the same Registration information as a normal compliance Registration entry. The JRO is responsible for providing all of the information and data, including submitting reports, as needed by the Regional Entity for performing assessments of compliance.
3. The Regional Entity shall notify NERC of each JRO that the Regional Entity accepts. The notification will identify the point of contact and the function(s) being registered for on behalf of its members or related entities.
4. For purposes of Compliance Audits, the Regional Entity shall keep a list of all JROs. This document shall contain a list of each JRO's members or related entities and the function(s) for which the JRO is registered for that member(s) or related entity(s). It is the responsibility of the JRO to provide the Regional Entity with this information as well as the applicable JRO agreement(s).
5. The Regional Entity may request clarification of any list submitted to it that identifies the members of the JRO and may request such additional information as the Regional Entity deems appropriate.
6. The Regional Entity's acceptance of a JRO shall be a representation by the Regional Entity to NERC that the Regional Entity has concluded the JRO will meet the Registration requirements of Section 501(1.4).
7. NERC shall maintain, and post on its website, a JRO registry listing all JRO Registrations that have been reviewed and accepted by the Regional Entity. The posting shall identify the JRO entity taking compliance responsibilities for itself and its members.
8. The JRO shall inform the Regional Entity of any changes to an existing JRO. The Regional Entity shall promptly notify NERC of each such revision.
9. Nothing in Section 507 shall preclude a member of a JRO, a related entity, or any other entity from registering on its own behalf and undertaking full compliance responsibility including reporting Requirements for the Reliability Standards applicable to the function(s) for which the member or other entity is registering. A JRO member or related entity that registers as responsible for any Reliability Standard or Requirement/sub-Requirement of a Reliability Standard shall inform the JRO of its Registration.

**508. Provisions Relating to Coordinated Functional Registration (CFR) Entities**

1. In addition to registering as an entity responsible for all functions that it performs itself, multiple entities may each register using a CFR for one or more Reliability

Standard(s) and/or for one or more Requirements/sub-Requirements within particular Reliability Standard(s) applicable to a specific function. The CFR submission must include a written agreement that governs itself and clearly specifies the entities' respective compliance responsibilities. The Registration of the CFR is the complete Registration for each entity. Additionally, each entity shall take full compliance responsibility for those Reliability Standards and/or Requirements/sub-Requirements it has registered for in the CFR. Neither NERC nor the Regional Entity shall be parties to any such agreement, nor shall NERC or the Regional Entity have responsibility for reviewing or approving any such agreement, other than to verify that the agreement provides for an allocation or assignment of responsibilities consistent with the CFR.

2. Each CFR or each individual entity within a CFR must identify a point of contact that is responsible for providing information and data, including submitting reports as needed by the Regional Entity related to the CFR Registration.
3. The Regional Entity shall notify NERC of each CFR that the Regional Entity accepts.
4. NERC or the Regional Entity may request clarification of any list submitted to it that identifies the compliance responsibilities of the CFR and may request such additional information as NERC or the Regional Entity deems appropriate.
5. The Regional Entity's acceptance of that CFR shall be a representation by the Regional Entity to NERC that the Regional Entity has concluded the CFR will meet the Registration requirements of Section 501(1.4).
6. NERC shall maintain, and post on its website, a CFR registry listing all CFR Registrations that have been accepted by NERC or by a Regional Entity. The posting shall clearly list all the Reliability Standards or Requirements/sub-Requirements thereof for which each entity of the CFR is responsible for under the CFR.
7. The point of contact shall inform the Regional Entity of any changes to an existing CFR. The Regional Entity shall promptly notify NERC of each such revision.
8. In the event of a violation of a Reliability Standard or of a Requirement/sub-Requirement of a Reliability Standard for which an entity of a CFR is registered, that entity shall be identified in the Notice of Alleged Violation and shall be assessed the sanction or Penalty in accordance with the NERC Sanctions Guidelines. In the event a Regional Entity is not able to determine which entity(ies) is responsible for a particular Reliability Standard, or Requirements/sub-Requirements thereof that has been violated, the Regional Entity shall investigate the noncompliance in accordance with the NERC Rules of Procedure Section 400, *Compliance Enforcement*, to determine the entity(ies) to which the Regional Entity shall to issue the sanction or Penalty for the violation.

9. Nothing in Section 508 shall preclude an entity registered in a CFR, or any other entity from registering on its own behalf and undertaking full compliance responsibility including reporting Requirements for the Reliability Standards applicable to the function(s) for which the entity is registering. An entity registered in a CFR that registers as responsible for any Reliability Standard or Requirement/sub-Requirement of a Reliability Standard shall inform the point of contact of its Registration.

**509. Exceptions to the Definition of the Bulk Electric System**

An Element is considered to be (or not be) part of the Bulk Electric System by applying the BES Definition to the Element (including the inclusions and exclusions set forth therein). Appendix 5C sets forth the procedures by which (i) an entity may request a determination that an Element that falls within the definition of the Bulk Electric System should be exempted from being considered a part of the Bulk Electric System, or (ii) an entity may request that an Element that falls outside of the definition of the Bulk Electric System should be considered part of the Bulk Electric System.

## **SECTION 600 — PERSONNEL CERTIFICATION**

### **601. Scope of Personnel Certification**

Maintaining the reliability of the Bulk Electric System through implementation of the Reliability Standards requires skilled, trained and qualified system operators. The System Operator Certification Program provides the mechanism to ensure system operators are provided the education and training necessary to obtain the essential knowledge and skills and are therefore qualified to operate the Bulk Electric System. NERC, as the ERO, will ensure skilled, trained, and qualified system operators through the System Operator Certification Program.

NERC shall develop and maintain a personnel Certification program to evaluate individuals and to issue Credentials to individuals who demonstrate the required level of competence. A current version of such a program is the *System Operator Certification Program Manual*, which is incorporated into these Rules of Procedure as **Appendix 6**.

### **602. Structure of ERO Personnel Certification Program**

1. The NERC personnel Certification program shall be international in scope.
2. The personnel Certification program shall have a governing body that (1) is able to independently exercise decision-making for all matters pertaining to Certification, (2) includes individuals from the discipline being certified and whose composition addresses the needs of the users of the program (e.g., employers, regulators, etc.), and (3) has representation for each specialty or level within a discipline.
3. NERC shall maintain a nominating process for membership in the governing body. Nominations shall be open to all interested parties and self-nominations shall be accepted. The NERC Board of Trustees shall appoint members to the governing body from among those nominated. The members of the governing body shall serve at the pleasure of the Board.
4. The personnel Certification program governing body shall have control over the matters related to the personnel Certification and re-Certification programs listed below, without being subject to approval by any other body.
  - 4.1 Policies and procedures, including eligibility requirements and application processing.
  - 4.2 Requirements for personnel Certification, maintaining Certification, and re-Certification.
  - 4.3 Examination content, development, and administration.
  - 4.4 Examination cut score.
  - 4.5 Grievance and disciplinary processes.

- 4.6 Governing body and subgroup(s)' meeting rules including agenda, frequency, and related procedures.
  - 4.7 Subgroup(s) appointments and work assignments.
  - 4.8 Publications about personnel Certification and re-Certification.
  - 4.9 Setting fees for application, and all other services provided as a part of the personnel Certification and re-Certification activities.
  - 4.10 Program funding, spending, and budget authority. Financial matters related to the operation of the program shall be segregated from other NERC activities.
5. The personnel Certification program shall utilize written procedures for the selection of members of the governing body that prohibit the governing body from selecting a majority of its successors.
  6. The personnel Certification program shall be separate from the accreditation and education functions of NERC in related disciplines.
  7. No member of the personnel Certification program governing body or staff member working with the personnel Certification program governing body shall have or exercise any authority or responsibility for compliance matters related to Reliability Standards concerning personnel Certification.

**603. Candidate Testing Mechanisms**

1. The personnel Certification program shall utilize reliable testing mechanisms to evaluate individual competence in a manner that is objective, fair to all candidates, job-related, and based on the knowledge and skill needed to function in the discipline.
2. The personnel Certification program shall implement a formal policy of periodic review of the testing mechanisms to ensure ongoing relevance of the mechanisms to knowledge and skill needed in the discipline.
3. The personnel Certification program shall utilize policies and procedures to ensure that all test administration and development materials are secure and demonstrate that these policies and procedures are consistently implemented.
4. The personnel Certification program shall establish pass/fail levels that protect the public with a method that is based on competence and generally accepted in the psychometric community as being fair and reasonable.
5. The personnel Certification program shall conduct ongoing studies to substantiate the reliability and validity of the testing mechanisms.

6. The personnel Certification program shall utilize policies and procedures that govern how long examination records are kept in their original format.
7. The personnel Certification program shall demonstrate that different forms of the testing mechanisms assess equivalent content and that candidates are not penalized for taking forms of varying difficulty.

**604. Public Information About the Personnel Certification Program**

1. The personnel Certification program shall provide for publishing and availability of general descriptive material on the procedures used in examination construction and validation; all eligibility requirements and determination; fees; and examination administration documents, including: reporting of results, re-Certification requirements, and disciplinary and grievance procedures.
2. The personnel Certification program shall publish and make available a comprehensive summary or outline of the information, knowledge, or functions covered by the examination.
3. The personnel Certification program shall publish and make available at least annually a summary of Certification activities for the program, including at least the following information: number of examinations delivered, the number passed, the number failed, and the number certified.

**605. Responsibilities to Applicants for Certification or Re-Certification**

The personnel Certification program:

1. Shall not discriminate among applicants as to age, gender, race, religion, national origin, disability, or marital status and shall include a statement of non-discrimination in announcements of the program.
2. Shall comply with all requirements of applicable federal and state/provincial laws with respect to all Certification and re-Certification activities, and shall require compliance of all contractors and/or providers of services.
3. Shall make available to all applicants copies of formalized procedures for application for, and attainment of, personnel Certification and re-Certification and shall uniformly follow and enforce such procedures for all applicants.
4. Shall implement a formal policy for the periodic review of eligibility criteria and application procedures to ensure that they are fair and equitable.
5. Shall provide competently proctored examination sites.
6. Shall uniformly report examination results to applicants in a timely manner.
7. Shall give applicants failing the examination information on general content areas of deficiency.

8. Shall implement policies and procedures providing due process for applicants questioning eligibility determination, examination results, and Certification status, and shall publish this information. A current version of such a procedure is the *NERC System Operator Certification Dispute Resolution Process*, which is incorporated into these Rules of Procedure as part of **Appendix 6**.
9. Shall develop and maintain a program manual containing the processes and procedures for applicants for Certification and re-Certification.

**606. Responsibilities to the Public and to Employers of Certified Practitioners**

The personnel Certification program:

1. Shall demonstrate that the testing mechanisms adequately measure the knowledge and skill required for entry, maintenance, and/or advancement in the profession for each position to be certified.
2. Shall award Certification and re-Certification only after the skill and knowledge of the individual have been evaluated and determined to be acceptable.
3. Shall periodically publish or maintain, in an electronic format, a current list of those persons certified in the programs and have policies and procedures that delineate what information about a Credential holder may be made public and under what circumstances.
4. Shall have formal policies and procedures for discipline of a Credential holder, including the revocation of the certificate, for conduct deemed harmful to the public or inappropriate to the discipline (e.g., incompetence, unethical behavior, physical or mental impairment affecting performance). These procedures shall incorporate due process. The current procedure is the *NERC Certified System Operator Credential Disciplinary Action Procedure*, which is incorporated into these Rules of Procedure as part of **Appendix 6**.
5. Shall demonstrate that any title or Credential awarded accurately reflects or applies to the practitioner's daily occupational or professional duties and is not confusing to employers, consumers, regulators, related professions, and/or other interested parties.

## **SECTION 700 — RELIABILITY READINESS EVALUATION AND IMPROVEMENT AND FORMATION OF SECTOR FORUMS**

### **701. Confidentiality Requirements for Readiness Evaluations and Evaluation Team Members**

1. All information made available or created during the course of any reliability readiness evaluation including, but not limited to, data, Documents, observations and notes, shall be maintained as confidential by all evaluation team members, in accordance with the requirements of Section 1500.
2. Evaluation team members are obligated to destroy all confidential evaluation notes following the posting of the final report of the reliability readiness evaluation.
3. NERC will retain reliability readiness evaluation-related documentation, notes, and materials for a period of time as defined by NERC.
4. These confidentiality requirements shall survive the termination of the NERC Reliability Readiness Evaluation and Improvement Program.

### **702. Formation of Sector Forum**

1. NERC will form a sector forum at the request of any five members of NERC that share a common interest in the safety and reliability of the Bulk Power System. The members of sector forum may invite such others of the members of NERC to join the sector forum as the sector forum deems appropriate.
2. The request to form a sector forum must include a proposed charter for the sector forum. The Board must approve the charter.
3. NERC will provide notification of the formation of a sector forum to its membership roster. Notices and agendas of meetings shall be posted on NERC's website.
4. A sector forum may make recommendations to any of the NERC committees and may submit a Standards Authorization Request to the NERC *Reliability Standards Development Procedure*.



## **SECTION 800 — RELIABILITY ASSESSMENT AND PERFORMANCE ANALYSIS**

### **801. Objectives of the Reliability Assessment and Performance Analysis Program**

The objectives of the NERC Reliability Assessment and Performance Analysis Program are to: (1) conduct, and report the results of, an independent assessment of the overall reliability and adequacy of the interconnected North American Bulk Power Systems, both as existing and as planned; (2) analyze off-normal events on the Bulk Power System; (3) identify the root causes of events that may be precursors of potentially more serious events; (4) assess past reliability performance for lessons learned; (5) disseminate findings and lessons learned to the electric industry to improve reliability performance; and (6) develop reliability performance benchmarks. The final reliability assessment reports shall be approved by the Board for publication to the electric industry and the general public.

### **802. Scope of the Reliability Assessment Program**

1. The scope of the Reliability Assessment Program shall include:
  - 1.1 Review, assess, and report on the overall electric generation and transmission reliability (adequacy and operating reliability) of the interconnected Bulk Power Systems, both existing and as planned.
  - 1.2 Assess and report on the key issues, risks, and uncertainties that affect or have the potential to affect the reliability of existing and future electric supply and transmission.
  - 1.3 Review, analyze, and report on Regional Entity self-assessments of electric supply and bulk power transmission reliability, including reliability issues of specific regional concern.
  - 1.4 Identify, analyze, and project trends in electric customer demand, supply, and transmission and their impacts on Bulk Power System reliability.
  - 1.5 Investigate, assess, and report on the potential impacts of new and evolving electricity market practices, new or proposed regulatory procedures, and new or proposed legislation (e.g. environmental requirements) on the adequacy and operating reliability of the Bulk Power Systems.
2. The Reliability Assessment Program shall be performed in a manner consistent with the Reliability Standards of NERC including but not limited to those that specify reliability assessment Requirements.

### **803. Reliability Assessment Reports**

The number and type of periodic assessments that are to be conducted shall be at the discretion of NERC. The results of the reliability assessments shall be documented in three reports: the long-term and the annual seasonal (summer) and the annual seasonal (winter) assessment reports. NERC shall also conduct special reliability assessments from time to time as circumstances warrant. The reliability assessment reports shall be reviewed and approved for publication by the Board. The three regular reports are described below.

1. **Long-Term Reliability Assessment Report** — The annual long-term report shall cover a ten-year planning horizon. The planning horizon of the long-term reliability assessment report shall be subject to change at the discretion of NERC. Detailed generation and transmission adequacy assessments shall be conducted for the first five years of the review period. For the second five years of the review period, the assessment shall focus on the identification, analysis, and projection of trends in peak demand, electric supply, and transmission adequacy, as well as other industry trends and developments that may impact future electric system reliability. Reliability issues of concern and their potential impacts shall be presented along with any mitigation plans or alternatives. The long-term reliability assessment reports will generally be published in the fall (September) of each year. NERC will also publish electricity supply and demand data associated with the long-term reliability assessment report.
2. **Summer Assessment Report** — The annual summer seasonal assessment report typically shall cover the four-month (June–September) summer period. It shall provide an overall perspective on the adequacy of the generation resources and the transmission systems necessary to meet projected summer peak demands. It shall also identify reliability issues of interest and regional and subregional areas of concern in meeting projected customer demands and may include possible mitigation alternatives. The report will generally be published in mid-May for the upcoming summer period.
3. **Winter Assessment Report** — The annual winter seasonal assessment report shall cover the three-month (December–February) winter period. The report shall provide an overall perspective on the adequacy of the generation resources and the transmission systems necessary to meet projected winter peak demands. Similar to the summer assessment, the winter assessment shall identify reliability issues of interest and regional and subregional areas of concern in meeting projected customer demands and may also include possible mitigation alternatives. The winter assessment report will generally be published in mid-November for the upcoming winter period.
4. **Special Reliability Assessment Reports** — In addition to the long-term and seasonal reliability assessment reports, NERC shall also conduct special reliability assessments on a regional, interregional, and Interconnection basis as conditions warrant, or as requested by the Board or governmental authorities. The teams of reliability and technical experts also may initiate special assessments of key

reliability issues and their impacts on the reliability of a regions, subregions, or Interconnection (or a portion thereof). Such special reliability assessments may include, among other things, operational reliability assessments, evaluations of emergency response preparedness, adequacy of fuel supply, hydro conditions, reliability impacts of new or proposed environmental rules and regulations, and reliability impacts of new or proposed legislation that affects or has the potential to affect the reliability of the interconnected Bulk Power Systems in North America.

**804. Reliability Assessment Data and Information Requirements**

To carry out the reviews and assessments of the overall reliability of the interconnected Bulk Power Systems, the Regional Entities and other entities shall provide sufficient data and other information requested by NERC in support of the annual long-term and seasonal assessments and any special reliability assessments.

Some of the data provided for these reviews and assessment may be considered confidential from a competitive marketing perspective, a Critical Energy Infrastructure Information perspective, or for other purposes. Such data shall be treated in accordance with the provisions of Section 1500 – Confidential Information.

While the major sources of data and information for this program are the Regional Entities, a team of reliability and technical experts is responsible for developing and formulating its own independent conclusions about the near-term and long-term reliability of the Bulk Power Systems.

In connection with the reliability assessment reports, requests shall be submitted to each of the Regional Entities for required reliability assessment data and other information, and for each Regional Entity’s self-assessment report. The timing of the requests will be governed by the schedule for the preparation of the assessment reports.

The Regional Entity self-assessments are to be conducted in compliance with NERC Reliability Standards and the respective regional planning criteria. The team(s) of reliability and technical experts shall also conduct interviews with the Regional Entities as needed. The summary of the Regional Entity self-assessments that are to be included in the assessment reports shall follow the general outline identified in NERC’s request. This outline may change from time to time as key reliability issues change.

In general, the Regional Entity reliability self-assessments shall address, among other areas, the following topics: demand and Net Energy for Load; assessment of projected resource adequacy; any transmission constraints that may impact bulk transmission adequacy and plans to alleviate those constraints; any unusual operating conditions that could impact reliability for the assessment period; fuel supply adequacy; the deliverability of generation (both internal and external) to Load; and any other reliability issues in the Region and their potential impacts on the reliability of the Bulk Power Systems.

### **805. Reliability Assessment Process**

Based on their expertise, the review of the collected data, the review of the Regional Entity self-assessment reports, and interviews with the Regional Entities, as appropriate, the teams of reliability and technical experts shall perform an independent review and assessment of the generation and transmission adequacy of each Region's existing and planned Bulk Power System. The results of the review teams shall form the basis of NERC's long-term and seasonal reliability assessment reports. The review and assessment process is briefly summarized below.

1. **Resource Adequacy Assessment** — The teams shall evaluate the regional demand and resource capacity data for completeness in the context of the overall resource capacity needs of the Region. The team shall independently evaluate the ability of the Regional Entity members to serve their obligations given the demand growth projections, the amount of existing and planned capacity, including committed and uncommitted capacity, contracted capacity, or capacity outside of the Region. If the Region relies on capacity from outside of the Region to meet its resource objectives, the ability to deliver that capacity shall be factored into the assessment. The demand and resource capacity information shall be compared to the resource adequacy requirements of the Regional Entity for the year(s) or season(s) being assessed. The assessment shall determine if the resource information submitted represents a reasonable and attainable plan for the Regional Entity and its members. For cases of inadequate capacity or reserve margin, the Regional Entity will be requested to analyze and explain any resource capacity inadequacies and its plans to mitigate the reliability impact of the potential inadequacies. The analysis may be expanded to include surrounding areas. If the expanded analysis indicates further inadequacies, then an interregional problem may exist and will be explored with the applicable Regions. The results of these analyses shall be described in the assessment report.
2. **Transmission Adequacy and Operating Reliability Assessment** — The teams shall evaluate transmission system information that relates to the adequacy and operating reliability of the regional transmission system. That information shall include: regional planning study reports, interregional planning study reports, and/or regional operational study reports. If additional information is required, another data request shall be sent to the Regional Entity. The assessment shall provide a judgment on the ability of the regional transmission system to operate reliably under the expected range of operating conditions over the assessment period as required by NERC Reliability Standards. If sub-areas of the regional system are especially critical to the Reliable Operation of the regional bulk transmission system, these Facilities or sub-areas shall be reviewed and addressed in the assessment. Any areas of concern related to the adequacy or operating reliability of the system shall be identified and reported in the assessment.
3. **Seasonal Operating Reliability Assessment** — The team(s) shall evaluate the overall operating reliability of the regional bulk transmission systems. In areas with potential resource adequacy or system operating reliability problems, operational readiness of the affected Regional Entities for the upcoming season

shall be reviewed and analyzed. The assessment may consider unusual but possible operating scenarios and how the system is expected to perform. Operating reliability shall take into account a wide range of activities, all of which should reinforce the Regional Entity's ability to deal with the situations that might occur during the upcoming season. Typical activities in the assessment may include: facility modifications and additions, new or modified operating procedures, emergency procedures enhancement, and planning and operating studies. The teams shall report the overall seasonal operating reliability of the regional transmission systems in the annual summer and winter assessment reports.

4. **Reporting of Reliability Assessment Results** — The teams of reliability and technical experts shall provide an independent assessment of the reliability of the Regional Entities and the North American interconnected Bulk Power System for the period of the assessment. While the Regional Entities are relied upon to provide the information to perform such assessments, the review team is not required to accept the conclusions provided by the Regional Entities. Instead, the review team is expected, based on their expertise, to reach their own independent conclusions about the status of the adequacy of the generation and bulk power transmission systems of North America.

The review team also shall strive to achieve consensus in their assessments. The assessments that are made are based on the best information available at the time. However, since judgment is applied to this information, legitimate differences of opinion can develop. Despite these differences, the review team shall work to achieve consensus on their findings.

In addition to providing long-term and seasonal assessments in connection with the Reliability Assessment Program, the review team of experts shall also be responsible for recommending new and revised Reliability Standards related to the reliability assessments and the reliability of the Bulk Power Systems. These proposals for new or revised Reliability Standards shall be entered into NERC's Reliability Standards development process.

Upon completion of the assessment, the team shall share the results with the Regional Entities. The Regional Entities shall be given the opportunity to review and comment on the conclusions in the assessment and to provide additional information as appropriate. The reliability assessments and their conclusions are the responsibility of NERC's technical review team and NERC.

The preparation and approval of NERC's reliability assessment reports shall follow a prescribed schedule including review, comment, and possible approval by appropriate NERC committees. The long-term and seasonal (summer and winter) reliability assessment reports shall be further reviewed for approval by the Board for publication to the electric industry.

**806. Scope of the Reliability Performance and Analysis Program**

The components of the program will include analysis of large-scale outages, disturbances, and near misses to determine root causes and lessons learned; identification and continuous monitoring of performance indices to detect emerging trends and signs of a decline in reliability performance; and communications of performance results, trends, recommendations, and initiatives to those responsible to take actions; followed with confirmation of actions to correct any deficiencies identified. Within NERC, the reliability performance program will provide performance results to the Reliability Standards Development and Compliance Monitoring and Enforcement Programs to make the necessary adjustments to preserve reliability based on a risk-based approach.

**807. Analysis of Major Events**

Responding to major blackouts and other system disturbances or emergencies can be divided into four phases: situational assessment and communications; situation tracking and communications; data collection, investigation, analysis, and reporting; and follow-up on recommendations.

- a. NERC's role following a blackout or other major Bulk Power System disturbance or emergency is to provide leadership, coordination, technical expertise, and assistance to the industry in responding to the event. Working closely with the Regional Entities and Reliability Coordinators, NERC will coordinate and facilitate efforts among industry participants, and with state, federal, and provincial governments in the United States and Canada to support the industry's response.
- b. When responding to any event where physical or cyber security is suspected as a cause or contributing factor to an event, NERC will immediately notify appropriate government agencies and coordinate its activities with them.
- c. Each user, owner, and operator of the Bulk Power System shall provide NERC and the applicable Regional Entities with such information as is necessary to enable NERC and the applicable Regional Entities to carry out their responsibilities under this section.
- d. During the conduct of some NERC analyses, assistance may be needed from government agencies. This assistance could include: authority to require data reporting from affected or involved parties; communications with other agencies of government; investigations related to possible criminal or terrorist involvement in the event; resources for initial data gathering immediately after the event; authority to call meetings of affected or involved parties; and technical and analytical resources for studies.
- e. NERC shall work with other participants to establish a clear delineation of roles, responsibilities, and coordination requirements among industry and government for the investigation and reporting of findings, conclusions, and recommendations related to major blackouts, disturbances, or other emergencies affecting the Bulk Power System with the objective of avoiding, to the extent possible, multiple

investigations of the same event. If the event is confined to a single Regional Entity, NERC representatives will participate as members of the Regional Entity analysis team.

- f. NERC and applicable entity(s) shall apply the NERC *Blackout and Disturbance Response Procedures*, which are incorporated into these Rules of Procedure as **Appendix 8**. These procedures provide a framework to guide NERC's response to events that may have multiregional, national, or international implications. Experienced industry leadership shall be applied to tailor the response to the specific circumstances of the event. In accordance with that procedure, the NERC president will determine whether the event warrants analysis at the NERC-level. A Regional Entity may request that NERC elevate any analysis to a NERC level.
- g. NERC will screen and analyze the findings and recommendations from the analysis, and those with generic applicability will be disseminated to the industry in accordance with Section 810.

**808. Analysis of Off-Normal Events, Potential System Vulnerabilities, and System Performance**

- 1. NERC and Regional Entities shall analyze system and equipment performance events that do not rise to the level of a major blackout, disturbance, or system emergency, as described in Section 807. NERC and Regional Entities shall also analyze potential vulnerabilities in the Bulk Power System brought to their attention by government agencies. The purpose of these analyses is to identify the root causes of events that may be precursors of potentially more serious events or that have the potential to cause more serious events, to assess past reliability performance for lessons learned, and to develop reliability performance benchmarks and trends.
- 2. NERC and Regional Entities will screen and analyze events and potential vulnerabilities for significance, and information from those with generic applicability will be disseminated to the industry in accordance with Section 810.
- 3. Each user, owner, and operator, of the Bulk Power System shall provide NERC and the applicable Regional Entities with such information as is necessary to enable NERC and the applicable Regional Entities to carry out their responsibilities under this section.

**809. Reliability Benchmarking**

NERC shall identify and track key reliability indicators as a means of benchmarking reliability performance and measuring reliability improvements. This program will include assessing available metrics, developing guidelines for acceptable metrics, maintaining a performance metrics “dashboard” on the NERC website, and developing appropriate reliability performance benchmarks.

**810. Information Exchange and Issuance of NERC Advisories, Recommendations and Essential Actions**

1. Members of NERC and Bulk Power System owners, operators, and users shall provide NERC with detailed and timely operating experience information and data.
2. In the normal course of operations, NERC disseminates the results of its events analysis findings, lessons learned and other analysis and information gathering to the industry. These findings, lessons learned and other information will be used to guide the Reliability Assessment Program.
3. When NERC determines it is necessary to place the industry or segments of the industry on formal notice of its findings, analyses, and recommendations, NERC will provide such notification in the form of specific operations or equipment Advisories, Recommendations or Essential Actions:
  - 3.1 Level 1 (Advisories) – purely informational, intended to advise certain segments of the owners, operators and users of the Bulk Power System of findings and lessons learned;
  - 3.2 Level 2 (Recommendations) – specific actions that NERC is recommending be considered on a particular topic by certain segments of owners, operators, and users of the Bulk Power System according to each entity’s facts and circumstances;
  - 3.3 Level 3 (Essential Actions) – specific actions that NERC has determined are essential for certain segments of owners, operators, or users of the Bulk Power System to take to ensure the reliability of the Bulk Power System. Such Essential Actions require NERC Board approval before issuance.
4. The Bulk Power System owners, operators, and users to which Level 2 (Recommendations) and Level 3 (Essential Actions) notifications apply are to evaluate and take appropriate action on such issuances by NERC. Such Bulk Power System owners, operators, and users shall also provide reports of actions taken and timely updates on progress towards resolving the issues raised in the Recommendations and Essential Actions in accordance with the reporting date(s) specified by NERC.
5. NERC will advise the Commission and other Applicable Governmental Authorities of its intent to issue all Level 1 (Advisories), Level 2 (Recommendations), and Level 3 (Essential Actions) at least five (5) business days prior to issuance, unless extraordinary circumstances exist that warrant issuance less than five (5) business days after such advice. NERC will file a report with the Commission and other Applicable Governmental Authorities no later than thirty (30) days following the date by which NERC has requested the Bulk Power System owners, operators, and users to which a Level 2



(Recommendation) or Level 3 (Essential Action) issuance applies to provide reports of actions taken in response to the notification. NERC's report to the Commission and other Applicable Governmental Authorities will describe the actions taken by the relevant owners, operators, and users of the Bulk Power System and the success of such actions taken in correcting any vulnerability or deficiency that was the subject of the notification, with appropriate protection for Confidential Information or Critical Energy Infrastructure Information.

**811. Equipment Performance Data**

Through its Generating Availability Data System (GADS), NERC shall collect operating information about the performance of electric generating equipment; provide assistance to those researching information on power plant outages stored in its database; and support equipment reliability as well as availability analyses and other decision-making processes developed by GADS subscribers. GADS data is also used in conducting assessments of generation resource adequacy.

## **SECTION 900 — TRAINING AND EDUCATION**

### **901. Scope of the Training and Education Program**

Maintaining the reliability of the Bulk Electric System through implementation of the Reliability Standards requires informed and trained personnel. The training and education program will provide the education and training necessary for Bulk Power System personnel and regulators to obtain the essential knowledge necessary to understand and operate the Bulk Electric System.

NERC shall develop and maintain training and education programs for the purpose of establishing training requirements, developing materials, and developing training activities. The target audience of the training and education programs shall be Bulk Power System operating personnel including system operations personnel, operations support personnel (engineering and information technology), supervisors and managers, training personnel, and other personnel directly responsible for complying with NERC Reliability Standards who, through their actions or inactions, may impact the real-time, or day-ahead reliability of the Bulk Power System.

NERC shall also develop and provide appropriate training and education for industry participants and regulators affected by new or changed Reliability Standards or compliance Requirements.

To accomplish those objectives:

1. NERC shall periodically conduct job task analyses for targeted Bulk Power System personnel to ensure that the training program content is properly aligned to the job tasks performed by those personnel.
2. NERC shall develop and maintain personnel training program curriculum requirements based on valid job-task analysis.
3. NERC shall periodically conduct performance surveys to determine the effectiveness of the training program and identify areas for further training development and improvement.
4. NERC shall develop training and education materials and activities to assist Bulk Power System entities implementing new or revised Reliability Standard Requirements or other NERC-related changes.
5. NERC shall develop and provide training to people who participate in NERC and Regional Entity evaluations, audits, and investigations for the Compliance Monitoring and Enforcement Program, Organization Certification Program, and the continuing education program.

### **902. Continuing Education Program**

NERC shall develop and maintain a continuing education program to foster the improvement of training and to promote quality in the training programs used by and

implemented by Bulk Power System entities. The program shall approve or accredit those activities and entities meeting NERC continuing education requirements.

1. NERC shall develop and implement continuing education program requirements that promote excellence in training programs and advance improved performance for Bulk Power System personnel identified in Section 901.
2. NERC shall develop and maintain a process to approve or accredit continuing education Providers and activities seeking approval or accreditation and meeting NERC-approved continuing education requirements.
3. NERC shall perform periodic audits on continuing education Providers and training activities to ensure that the approved or accredited Providers and training activities satisfy NERC continuing education requirements.
4. NERC shall develop and maintain an appeals process for disputed application reviews, interpretations of guidelines and standards, probation or suspension of NERC-approved Provider status, or Continuing Education Hour disputes.

## **SECTION 1000 — SITUATION AWARENESS AND INFRASTRUCTURE SECURITY**

### **1001. Situation Awareness**

NERC shall through the use of Reliability Coordinators and available tools, monitor present conditions on the Bulk Power System and provide leadership coordination, technical expertise, and assistance to the industry in responding to events as necessary. To accomplish these goals, NERC will:

1. Maintain real-time situation awareness of conditions on the Bulk Power System;
2. Notify the industry of significant Bulk Power System events that have occurred in one area, and which have the potential to impact reliability in other areas;
3. Maintain and strengthen high-level communication, coordination, and cooperation with governments and government agencies regarding real-time conditions; and
4. Enable the Reliable Operation of interconnected Bulk Power Systems by facilitating information exchange and coordination among reliability service organizations.

### **1002. Reliability Support Services**

NERC will provide tools and other support services for the benefit of Reliability Coordinators and other system operators, including the Area Control Error (ACE) and Frequency Monitoring System, NERC Hotline, Real-time Flows, System Data Exchange (SDX), Reliability Coordinator Information System (RCIS), Transmission Services Information Network (TSIN), Interchange Distribution Calculator (IDC), Interregional Security Network (ISN), and Central Repository for Security Events (CRC). To accomplish this goal, NERC will:

1. Maintain the reliability and effectiveness of all mission-critical operating reliability support systems and services;
2. Continue to support maintenance of a transmission provider curtailment report on the CRC site in response to Federal Energy Regulatory Commission Order 605;
3. Investigate and analyze the use of high-speed real-time system measurements, including phasors, in predicting the behavior and performance of the Eastern Interconnection; and
4. Facilitate real-time voice and data exchange services among Reliability Coordinators (e.g., Hotline, Interregional Security Network, NERCnet, System Data Exchange, etc.).

### **1003. Infrastructure Security Program**

NERC shall coordinate electric industry activities to promote Critical Infrastructure protection of the Bulk Power System in North America by taking a leadership role in

Critical Infrastructure protection of the electricity sector so as to reduce vulnerability and improve mitigation and protection of the electricity sector's Critical Infrastructure. To accomplish these goals, NERC shall perform the following functions.

1. Electric Sector Information Sharing and Analysis Center (ESISAC)
  - 1.1 NERC shall serve as the electricity sector's sector coordinator and operate its Information Sharing and Analysis Center to gather information and communicate security-related threats and incidents within the sector, with United States and Canadian government agencies, and with other Critical Infrastructure sectors.
  - 1.2 NERC shall improve the capability of the ESISAC to analyze security threats and incident information and provide situational assessments for the electricity sector and governments.
  - 1.3 NERC shall work closely with the United States Department of Homeland Security, Department of Energy, Natural Resources Canada, and Public Safety and Emergency Preparedness Canada.
  - 1.4 NERC shall strengthen and expand these functions and working relationships with the electricity sector, other Critical Infrastructure industries, governments, and government agencies throughout North America to ensure the protection of the infrastructure of the Bulk Power System.
  - 1.5 NERC shall fill the role of the Electricity Sector Coordinating Council and coordinate with the Government Coordinating Council.
  - 1.6 NERC shall coordinate with other Critical Infrastructure sectors through active participation with the other Sector Coordinating Councils, the other ISACs, and the National Infrastructure Advisory Committee.
  - 1.7 NERC shall encourage and participate in coordinated Critical Infrastructure protection exercises, including interdependencies with other Critical Infrastructure sectors.
2. Security Planning
  - 2.1 NERC shall take a risk management approach to Critical Infrastructure protection, considering probability and severity, and recognizing that mitigation and recovery can be practical alternatives to prevention.
  - 2.2 NERC shall keep abreast of the changing threat environment through collaboration with government agencies.
  - 2.3 NERC shall develop criteria to identify critical physical assets and Critical Cyber Assets, assess security threats, identify risk assessment

- methodologies, and assess effectiveness of physical and cyber protection measures.
- 2.4 NERC shall enhance and maintain the Bulk Power System critical spare transformer program, encourage increased participation by asset owners, and continue to assess the need to expand this program to include other critical Bulk Power System equipment.
  - 2.5 NERC shall support implementation of the Critical Infrastructure Protection Standards through education and outreach.
  - 2.6 NERC shall review and improve existing security guidelines, develop new security guidelines to meet the needs of the electricity sector, and consider whether any guidelines should be developed into Reliability Standards.
  - 2.7 NERC shall conduct education and outreach initiatives to increase awareness and respond to the needs of the electricity sector.
  - 2.8 NERC shall strengthen relationships with federal, state, and provincial government agencies on Critical Infrastructure protection matters.
  - 2.9 NERC shall maintain and improve mechanisms for the sharing of sensitive or classified information with federal, state, and provincial government agencies on Critical Infrastructure protection matters; work with DOE and DHS to implement the National Infrastructure Protection Plan, as applicable to the electricity sector; and coordinate this work with PSEPC.
  - 2.10 NERC shall improve methods to better assess the impact of a possible physical attack on the Bulk Power System and means to deter, mitigate, and respond following an attack.
  - 2.11 NERC shall assess the results of vulnerability assessments and enhance the security of system control and data acquisition (SCADA) and process control systems by developing methods to detect an emerging cyber attack and the means to mitigate impacts on the Bulk Power Systems.
  - 2.12 NERC shall work with the National SCADA Test Bed and the Process Control Systems Forum to accelerate the development of technology that will enhance the security, safety, and reliability of process control and SCADA systems.

## **SECTION 1100 — ANNUAL NERC BUSINESS PLANS AND BUDGETS**

### **1101. Scope of Business Plans and Budgets**

The Board shall determine the content of the budgets to be submitted to the Applicable Governmental Authorities with consultation from the members of the Member Representatives Committee, Regional Entities, and others in accordance with the Bylaws. The Board shall identify any activities outside the scope of NERC's statutory reliability functions, if any, and the appropriate funding mechanisms for those activities.

### **1102. NERC Funding and Cost Allocation**

1. In order that NERC's costs shall be fairly allocated among Interconnections and among Regional Entities, the NERC funding mechanism for all statutory functions shall be based on Net Energy for Load (NEL).
2. NERC's costs shall be allocated so that all Load (or, in the case of costs for an Interconnection or Regional Entity, all Load within that Interconnection or Regional Entity) bears an equitable share of such costs based on NEL.
3. Costs shall be equitably allocated between countries or Regional Entities thereof for which NERC has been designated or recognized as the Electric Reliability Organization.
4. Costs incurred to accomplish the statutory functions for one Interconnection, Regional Entity, or group of entities will be directly assigned to that Interconnection, Regional Entity, or group of entities provided that such costs are allocated equitably to end-users based on Net Energy for Load.

### **1103. NERC Budget Development**

1. The NERC annual budget process shall be scheduled and conducted for each calendar year so as to allow a sufficient amount of time for NERC to receive Member inputs, develop the budget, and receive Board and, where authorized by applicable legislation or agreement, Applicable Governmental Authority approval of the NERC budget for the following fiscal year, including timely submission of the proposed budget to FERC for approval in accordance with FERC regulations.
2. The NERC budget submittal to Applicable Governmental Authorities shall include provisions for all ERO functions, all Regional Entity delegated functions as specified in delegation agreements and reasonable reserves and contingencies.
3. The NERC annual budget submittal to Applicable Governmental Authorities shall include description and explanation of NERC's proposed ERO program activities for the year; budget component justification based on statutory or other authorities; explanation of how each budgeted activity lends itself to the accomplishment of the statutory or other authorities; sufficiency of resources

provided for in the budget to carry out the ERO program responsibilities; explanation of the calculations and budget estimates; identification and explanation of changes in budget components from the previous year's budget; information on staffing and organization charts; and such other information as is required by FERC and other Applicable Governmental Authorities having authority to approve the proposed budget.

4. NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, to allow a meaningful comparison of actual results at the NERC and Regional Entity level by the Applicable Governmental Authorities.

#### **1104. Submittal of Regional Entity Budgets to NERC**

1. Each Regional Entity shall submit its proposed annual budget for carrying out its delegated authority functions as well as all other activities and funding to NERC in accordance with a schedule developed by NERC and the Regional Entities, which shall provide for the Regional Entity to submit its final budget that has been approved by its board of directors or other governing body no later than July 1 of the prior year, in order to provide sufficient time for NERC's review and comment on the proposed budget and approval of the Regional Entity budget by the NERC Board of Trustees in time for the NERC and Regional Entity budgets to be submitted to FERC and other Applicable Governmental Authorities for approval in accordance with their regulations. The Regional Entity's budget shall include supporting materials in accordance with the budget and reporting format developed by NERC and the Regional Entities, including the Regional Entity's complete business plan and organization chart, explaining the proposed collection of all dues, fees, and charges and the proposed expenditure of funds collected in sufficient detail to justify the requested funding collection and budget expenditures.
2. NERC shall review and approve each Regional Entity's budget for meeting the requirements of its delegated authority. Concurrent with approving the NERC budget, NERC shall review and approve, or reject, each Regional Entity budget for filing.
3. NERC shall also have the right to review from time to time, in reasonable intervals but no less frequently than every three years, the financial books and records of each Regional Entity having delegated authority in order to ensure that the documentation fairly represents in all material aspects appropriate funding of delegated functions.

#### **1105. Submittal of NERC and Regional Entity Budgets to Governmental Authorities for Approval**

1. NERC shall file for approval by the Applicable Governmental Authorities at least 130 days in advance of the start of each fiscal year. The filing shall include: (1) the complete NERC and Regional Entity budgets including the business plans and organizational charts approved by the Board, (2) NERC's annual funding requirement (including Regional Entity costs for delegated functions), and (3) the



mechanism for assessing charges to recover that annual funding requirement, together with supporting materials in sufficient detail to support the requested funding requirement.

2. NERC shall seek approval from each Applicable Governmental Authority requiring such approval for the funding requirements necessary to perform ERO activities within their jurisdictions.

**1106. NERC and Regional Entity Billing and Collections**

1. NERC shall request the Regional Entities to identify all Load-Serving Entities<sup>3</sup> within each Regional Entity and the NEL assigned to each Load-Serving Entity, and the Regional Entities shall supply the requested information. The assignment of a funding requirement to an entity shall not be the basis for determining that the entity must be registered in the Compliance Registry.
2. NERC shall accumulate the NEL by Load-Serving Entities for each Applicable Governmental Authority and submit the proportional share of NERC funding requirements to each Applicable Governmental Authority for approval together with supporting materials in sufficient detail to support the requested funding requirement.
3. NEL reported by Balancing Authorities within a Region shall be used to rationalize and validate amounts allocated for collection through Regional Entity processes.
4. The billing and collection processes shall provide:
  - 4.1 A clear validation of billing and application of payments.
  - 4.2 A minimum of data requests to those being billed.
  - 4.3 Adequate controls to ensure integrity in the billing determinants including identification of entities responsible for funding NERC's activities.
  - 4.4 Consistent billing and collection terms.
5. NERC will bill and collect all budget requirements approved by Applicable Governmental Authorities (including the funds required to support those functions assigned to the Regional Entities through the delegation agreements) directly from the Load-Serving Entities or their designees or as directed by particular Applicable Governmental Authorities, except where the Regional Entity is required to collect the budget requirements for NERC, in which case the Regional Entity will collect directly from the Load-Serving Entities or as otherwise

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<sup>3</sup> A Regional Entity may allocate funding obligations using an alternative method approved by NERC and by FERC and other Applicable Governmental Authorities, as provided for in the regional delegation agreement.

provided by agreement and submit funds to NERC. Alternatively, a load-serving entity may pay its allocated ERO costs through a Regional Entity managed collection mechanism.

6. NERC shall set a minimum threshold limit on the billing of small LSEs to minimize the administrative burden of collection.
7. NERC shall pursue any non-payments and shall request assistance from Applicable Governmental Authorities as necessary to secure collection.
8. In the case where a Regional Entity performs the collection for ERO, the Regional Entity will not be responsible for non-payment in the event that a user, owner or operator of the Bulk Power System does not pay its share of dues, fees and charges in a timely manner, provided that such a Regional Entity shall use reasonably diligent efforts to collect dues, fees, and other charges from all entities obligated to pay them. However, any revenues not paid shall be recovered from others within the same Region to avoid cross-subsidization between Regions.
9. Both NERC and the Regional Entities also may bill members or others for functions and services not within statutory requirements or otherwise authorized by the Applicable Governmental Authorities. Costs and revenues associated with these functions and services shall be separately identified and not commingled with billings associated with the funding of NERC or of the Regional Entities for delegated activities.

#### **1107. Penalty Applications**

1. Where NERC or a Regional Entity initiates a compliance monitoring and enforcement process that leads to imposition of a Penalty, the entity that initiated the process shall receive any Penalty monies imposed and collected as a result of that process, unless a different disposition of the Penalty monies is provided for in the delegation agreement, or in a contract or a disposition of the violation that is approved by NERC and FERC.
2. All funds from financial Penalties assessed in the United States received by the entity initiating the compliance monitoring and enforcement process shall be applied as a general offset to the entity's budget requirements for the subsequent fiscal year, if received by July 1, or for the second subsequent fiscal year, if received on or after July 1. Funds from financial Penalties shall not be directly applied to any program maintained by the entity conducting the compliance monitoring and enforcement process. Funds from financial Penalties assessed against a Canadian entity shall be applied as specified by legislation or agreement.
3. In the event that a compliance monitoring and enforcement process is conducted jointly by NERC and a Regional Entity, the Regional Entity shall receive the Penalty monies and offset the Regional Entity's budget requirements for the subsequent fiscal year.

4. Exceptions or alternatives to the foregoing provisions will be allowed if approved by NERC and by FERC or any other Applicable Governmental Authority.

**1108. Special Assessments**

On a demonstration of unforeseen and extraordinary circumstances requiring additional funds prior to the next funding cycle, NERC shall file with the Applicable Governmental Authorities, where authorized by applicable legislation or agreement, for authorization for an amended or supplemental budget for NERC or a Regional Entity and, if necessary under the amended or supplemental budget, to collect a special or additional assessment for statutory functions of NERC or the Regional Entity. Such filing shall include supporting materials to justify the requested funding, including any departure from the approved funding formula or method.

## **SECTION 1200 — REGIONAL DELEGATION AGREEMENTS**

### **1201. Pro Forma Regional Delegation Agreement**

NERC shall develop and maintain a pro forma Regional Entity delegation agreement, which shall serve as the basis for negotiation of consistent agreements for the delegation of ERO functions to Regional Entities.

### **1202. Regional Entity Essential Requirements**

NERC shall establish the essential requirements for an entity to become qualified and maintain good standing as a Regional Entity.

### **1203. Negotiation of Regional Delegation Agreements**

NERC shall, for all areas of North America that have provided NERC with the appropriate authority, negotiate regional delegation agreements for the purpose of ensuring all areas of the North American Bulk Power Systems are within a Regional Entity Region. In the event NERC is unable to reach agreement with Regional Entities for all areas, NERC shall provide alternative means and resources for implementing NERC functions within those areas. No delegation agreement shall take effect until it has been approved by the Applicable Governmental Authority.

### **1204. Conformance to Rules and Terms of Regional Delegation Agreements**

NERC and each Regional Entity shall comply with all applicable ERO Rules of Procedure and the obligations stated in the regional delegation agreement.

### **1205. Sub-delegation**

The Regional Entity shall not sub-delegate any responsibilities and authorities delegated to it by its regional delegation agreement with NERC except with the approval of NERC and FERC and other Applicable Governmental Authorities. Responsibilities and authorities may only be sub-delegated to another Regional Entity. Regional Entities may share resources with one another so long as such arrangements do not result in cross-subsidization or in any sub-delegation of authorities.

### **1206. Nonconformance to Rules or Terms of Regional Delegation Agreement**

If a Regional Entity is unable to comply or is not in compliance with an ERO Rule of Procedure or the terms of the regional delegation agreement, the Regional Entity shall immediately notify NERC in writing, describing the area of nonconformance and the reason for not being able to conform to the Rule of Procedure. NERC shall evaluate each case and inform the affected Regional Entity of the results of the evaluation. If NERC determines that a Rule of Procedure or term of the regional delegation agreement has been violated by a Regional Entity or cannot practically be implemented by a Regional Entity, NERC shall notify the Applicable Governmental Authorities and take any actions necessary to address the situation.

**1207. Regional Entity Audits**

Approximately every five years and more frequently if necessary for cause, NERC shall audit each Regional Entity to verify that the Regional Entity continues to comply with NERC Rules of Procedure and the obligations of NERC delegation agreement. Audits of Regional Entities shall be conducted, to the extent practical, based on professional auditing standards recognized in the U.S., including Generally Accepted Auditing Standards, Generally Accepted Government Auditing Standards, and standards sanctioned by the Institute of Internal Auditors, and if applicable to the coverage of the audit, may be based on Canadian or other international standards. The audits required by this Section 1207 shall not duplicate the audits of Regional Entity Compliance Monitoring and Enforcement Programs provided for in **Appendix 4A**, Audit of Regional Compliance Programs, to these Rules of Procedure.

**1208. Process for Considering Registered Entity Requests to Transfer to Another Regional Entity**

1. A Registered Entity that is registered in the Region of one Regional Entity and believes its registration should be transferred to a different Regional Entity may submit a written request to both Regional Entities requesting that they process the proposed transfer in accordance with this section. The Registered Entity's written request shall set forth the reasons the Registered Entity believes justify the proposed transfer and shall describe any impacts of the proposed transfer on other Bulk Power System owners, operators, and users.
2. After receiving the Registered Entity's written request, the two Regional Entities shall consult with each other as to whether they agree or disagree that the requested transfer is appropriate. The Regional Entities may also consult with affected Reliability Coordinators, Balancing Authorities and Transmission Operators as appropriate. Each Regional Entity shall post the request on its website for public comment period of 21 days. In evaluating the proposed transfer, the Regional Entities shall consider the location of the Registered Entity's Bulk Power System facilities in relation to the geographic and electrical boundaries of the respective Regions; the impacts of the proposed transfer on other Bulk Power System owners, operators; and users, the impacts of the proposed transfer on the current and future staffing, resources, budgets and assessments to other Load-Serving Entities of each Regional Entity, including the sufficiency of the proposed transferee Regional Entity's staffing and resources to perform compliance monitoring and enforcement activities with respect to the Registered Entity; the Registered Entity's compliance history with its current Regional Entity; and the manner in which pending compliance monitoring and enforcement matters concerning the Registered Entity would be transitioned from the current Regional Entity to the transferee Regional Entity; along with any other reasons for the proposed transfer stated by the Registered Entity and any other reasons either Regional Entity considers relevant. The Regional Entities may

request that the Registered Entity provide additional data and information concerning the proposed transfer for the Regional Entities' use in their evaluation. The Registered Entity's current Regional Entity shall notify the Registered Entity in writing as to whether (i) the two Regional Entities agree that the requested transfer is appropriate, (ii) the two Regional Entities agree that the requested transfer is not appropriate and should not be processed further, or (iii) the two Regional Entities disagree as to whether the proposed transfer is appropriate.

3. If the two Regional Entities agree that the requested transfer is appropriate, they shall submit a joint written request to NERC requesting that the proposed transfer be approved and that the delegation agreement between NERC and each of the Regional Entities be amended accordingly. The Regional Entities' joint written submission to NERC shall describe the reasons for the proposed transfer; the location of the Registered Entity's Bulk Power System Facilities in relation to the geographic and electrical boundaries of the respective Regions; the impacts of the proposed transfer on other Bulk Power System owners, operators, and users; the impacts of the proposed transfer on the current and future staffing, resources, budgets and assessments of each Regional Entity, including the sufficiency of the proposed transferee Regional Entity's staffing and resources to perform compliance monitoring and enforcement activities with respect to the Registered Entity; the Registered Entity's compliance history with its current Regional Entity; and the manner in which pending compliance monitoring and enforcement matters concerning the Registered Entity will be transitioned from the current Regional Entity to the transferee Regional Entity. The NERC Board of Trustees shall consider the proposed transfer based on the submissions of the Regional Entities and any other information the Board considers relevant, and shall approve or disapprove the proposed transfer and the related delegation agreement amendments. The NERC Board may request that the Regional Entities provide additional information, or obtain additional information from the Registered Entity, for the use of the NERC Board in making its decision. If the NERC Board approves the proposed transfer, NERC shall file the related delegation agreements with FERC for approval.
4. If the two Regional Entities do not agree with each other that the proposed transfer is appropriate, the Regional Entity supporting the proposed transfer shall, if requested by the Registered Entity, submit a written request to NERC to approve the transfer and the related delegation agreement amendments. The Regional Entity's written request shall include the information specified in Section 1208.3. The Regional Entity that does not believe the proposed transfer is appropriate will be allowed to submit a written statement to NERC explaining why the Regional Entity believes the transfer is not appropriate and should not be approved. The NERC Board of Trustees shall consider the proposed transfer based on the submissions of the Regional Entities and any other information the Board considers relevant, and shall approve or disapprove the proposed transfer and the related delegation agreement amendments. The NERC Board may request that the Regional Entities provide additional information, or obtain additional

information from the Registered Entity, for the use of the NERC Board in making its decision. If the NERC Board approves the proposed transfer, NERC shall file the related delegation agreements with FERC for approval.

5. Prior to action by the NERC Board of Trustees on a proposed transfer of registration under Section 1208.3 or 1208.4, NERC shall post information concerning the proposed transfer, including the submissions from the Regional Entities, on its website for at least twenty-one (21) days for the purpose of receiving public comment.
6. If the NERC Board of Trustees disapproves a proposed transfer presented to it pursuant to either Section 1208.3 or 1208.4, the Regional Entity or Regional Entities that believe the transfer is appropriate may, if requested to do so by the Registered Entity, file a petition with FERC pursuant to 18 C.F.R. section 39.8(f) and (g) requesting that FERC order amendments to the delegation agreements of the two Regional Entities to effectuate the proposed transfer.
7. No transfer of a Registered Entity from one Regional Entity to another Regional Entity shall be effective (i) unless approved by FERC, and (ii) any earlier than the first day of January of the second calendar year following approval by FERC, unless an earlier effective date is agreed to by both Regional Entities and NERC and approved by FERC.

## **SECTION 1300 — COMMITTEES**

### **1301. Establishing Standing Committees**

The Board may from time to time create standing committees. In doing so, the Board shall approve the charter of each committee and assign specific authority to each committee necessary to conduct business within that charter. Each standing committee shall work within its Board-approved charter and shall be accountable to the Board for performance of its Board-assigned responsibilities. A NERC standing committee may not delegate its assigned work to a member forum, but, in its deliberations, may request the opinions of and consider the recommendations of a member forum.

### **1302. Committee Membership**

Each committee shall have a defined membership composition that is explained in its charter. Committee membership may be unique to each committee, and can provide for balanced decision-making by providing for representatives from each Sector or, where Sector representation will not bring together the necessary diversity of opinions, technical knowledge and experience in a particular subject area, by bringing together a wide diversity of opinions from industry experts with outstanding technical knowledge and experience in a particular subject area. Committee membership shall also provide the opportunity for an equitable number of members from the United States and Canada, based approximately on proportionate Net Energy for Load. All committees and other subgroups (except for those organized on other than a Sector basis because Sector representation will not bring together the necessary diversity of opinions, technical knowledge and experience in a particular subject area) must ensure that no two stakeholder Sectors are able to control the vote on any matter, and no single Sector is able to defeat a matter. With regard to committees and subgroups pertaining to development of, interpretation of, or compliance with Reliability Standards, NERC shall provide a reasonable opportunity for membership from Sectors desiring to participate. Committees and subgroups organized on other than a Sector basis shall be reported to the NERC Board and the Member Representatives Committee, along with the reasons for constituting the committee or subgroup in the manner chosen. In such cases and subject to reasonable restrictions necessary to accomplish the mission of such committee or subgroup, NERC shall provide a reasonable opportunity for additional participation, as members or official observers, for Sectors not represented on the committee or subgroup.

### **1303. Procedures for Appointing Committee Members**

Committee members shall be nominated and selected in a manner that is open, inclusive, and fair. Unless otherwise stated in these Rules of Procedure or approved by the Board, all committee member appointments shall be approved by the board, and committee officers shall be appointed by the Chairman of the Board.

### **1304. Procedures for Conduct of Committee Business**

1. Notice to the public of the dates, places, and times of meetings of all committees, and all nonconfidential material provided to committee members, shall be posted



on NERC's website at approximately the same time that notice is given to committee members. Meetings of all standing committees shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided that the meeting may be held in or adjourn to closed session to discuss matters of a confidential nature, including but not limited to personnel matters, compliance enforcement matters, litigation, or commercially sensitive or Critical Energy Infrastructure Information of any entity.

2. NERC shall maintain a set of procedures, approved by the Board, to guide the conduct of business by standing committees.

**1305. Committee Subgroups**

Standing committees may appoint subgroups using the same principles as in Section 1302.

## **SECTION 1400 — AMENDMENTS TO THE NERC RULES OF PROCEDURE**

### **1401. Proposals for Amendment or Repeal of Rules of Procedure**

In accordance with the Bylaws of NERC, requests to amend or repeal the Rules of Procedure may be submitted by (1) any ten Members of NERC, which number shall include Members from at least three membership Sectors, (2) the Member Representatives Committee, (3) a standing committee of NERC to whose function and purpose the Rule of Procedure pertains, or (4) an officer of the ERO.

### **1402. Approval of Amendment or Repeal of Rules of Procedure**

Amendment to or repeal of Rules of Procedure shall be approved by the Board after public notice and opportunity for comment in accordance with the Bylaws of NERC. In approving changes to the Rules of Procedure, the Board shall consider the inputs of the Member Representatives Committee, other ERO committees affected by the particular changes to the Rules of Procedure, and other stakeholders as appropriate. After Board approval, the amendment or repeal shall be submitted to the Applicable Governmental Authorities for approval, where authorized by legislation or agreement. No amendment to or repeal of the Rules of Procedure shall be effective until it has been approved by the Applicable Governmental Authorities.

### **1403. Alternative Procedure for Violation Risk Factors**

In the event the Reliability Standards development process fails to produce Violation Risk Factors for a particular Reliability Standard in a timely manner, the Board of Trustees may adopt Violation Risk Factors for that standard after notice and opportunity for comment. In adopting Violation Risk Factors, the Board shall consider the inputs of the Member Representatives Committee and affected stakeholders.

## **SECTION 1500 — CONFIDENTIAL INFORMATION**

### **1501. Definitions**

1. **Confidential Information** means (i) Confidential Business and Market Information; (ii) Critical Energy Infrastructure Information; (iii) personnel information that identifies or could be used to identify a specific individual, or reveals personnel, financial, medical, or other personal information; (iv) work papers, including any records produced for or created in the course of an evaluation or audit; (v) investigative files, including any records produced for or created in the course of an investigation; or (vi) Cyber Security Incident Information; provided, that public information developed or acquired by an entity shall be excluded from this definition.
2. **Confidential Business and Market Information** means any information that pertains to the interests of any entity, that was developed or acquired by that entity, and that is proprietary or competitively sensitive.
3. **Critical Energy Infrastructure Information** means specific engineering, vulnerability, or detailed design information about proposed or existing Critical Infrastructure that (i) relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person in planning an attack on Critical Infrastructure; and (iii) does not simply give the location of the Critical Infrastructure.
4. **Critical Infrastructure** means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.
5. **Cyber Security Incident Information** means any information related to, describing, or which could be used to plan or cause a Cyber Security Incident.

### **1502. Protection of Confidential Information**

1. **Identification of Confidential Information** — An owner, operator, or user of the Bulk Power System and any other party (the “Submitting Entity”) shall mark as confidential any information that it submits to NERC or a Regional Entity (the “Receiving Entity”) that it reasonably believes contains Confidential Information as defined by these Rules of Procedure, indicating the category or categories defined in Section 1501 in which the information falls. If the information is subject to a prohibition on public disclosure in the Commission-approved rules of a regional transmission organization or independent system operator or a similar prohibition in applicable federal, state, or provincial laws, the Submitting Entity shall so indicate and provide supporting references and details.
2. **Confidentiality** — Except as provided herein, a Receiving Entity shall keep in confidence and not copy, disclose, or distribute any Confidential Information or

any part thereof without the permission of the Submitting Entity, except as otherwise legally required.

3. **Information no longer Confidential** – If a Submitting Entity concludes that information for which it had sought confidential treatment no longer qualifies for that treatment, the Submitting Entity shall promptly so notify NERC or the relevant Regional Entity.

### **1503. Requests for Information**

1. **Limitation** — A Receiving Entity shall make information available only to one with a demonstrated need for access to the information from the Receiving Entity.
2. **Form of Request** — A person with such a need may request access to information by using the following procedure:
  - 2.1 The request must be in writing and clearly marked “Request for Information.”
  - 2.2 The request must identify the individual or entity that will use the information, explain the requester’s need for access to the information, explain how the requester will use the information in furtherance of that need, and state whether the information is publicly available or available from another source or through another means. If the requester seeks access to information that is subject to a prohibition on public disclosure in the Commission-approved rules of a regional transmission organization or independent system operator or a similar prohibition in applicable federal, state, or provincial laws, the requester shall describe how it qualifies to receive such information.
  - 2.3 The request must stipulate that, if the requester does not seek public disclosure, the requester will maintain as confidential any information received for which a Submitting Party has made a claim of confidentiality in accordance with NERC’s rules. As a condition to gaining access to such information, a requester shall execute a non-disclosure agreement in a form approved by NERC’s Board of Trustees.
3. **Notice and Opportunity for Comment** — Prior to any decision to disclose information marked as confidential, the Receiving Entity shall provide written notice to the Submitting Entity and an opportunity for the Submitting Entity to either waive objection to disclosure or provide comments as to why the Confidential Information should not be disclosed. Failure to provide such comments or otherwise respond is not deemed waiver of the claim of confidentiality.
4. **Determination by ERO or Regional Entity** — Based on the information provided by the requester under Rule 1503.2, any comments provided by the Submitting Entity, and any other relevant available information, the chief

executive officer or his or her designee of the Receiving Entity shall determine whether to disclose such information.

5. **Appeal** — A person whose request for information is denied in whole or part may appeal that determination to the President of NERC (or the President’s designee) within 30 days of the determination. Appeals filed pursuant to this Section must be in writing, addressed to the President of NERC (or the President’s designee), and clearly marked “Appeal of Information Request Denial.”

NERC will provide written notice of such appeal to the Submitting Entity and an opportunity for the Submitting Entity to either waive objection to disclosure or provide comments as to why the Confidential Information should not be disclosed; provided that any such comments must be received within 30 days of the notice and any failure to provide such comments or otherwise respond is not deemed a waiver of the claim of confidentiality.

The President of NERC (or the President’s designee) will make a determination with respect to any appeal within 30 days. In unusual circumstances, this time limit may be extended by the President of NERC (or the President’s designee), who will send written notice to the requester setting forth the reasons for the extension and the date on which a determination on the appeal is expected.

6. **Disclosure of Information** — In the event the Receiving Entity, after following the procedures herein, determines to disclose information designated as Confidential Information, it shall provide the Submitting Entity no fewer than 21 days’ written notice prior to releasing the Confidential Information in order to enable such Submitting Entity to (a) seek an appropriate protective order or other remedy, (b) consult with the Receiving Entity with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. Should a Receiving Entity be required to disclose Confidential Information, or should the Submitting Entity waive objection to disclosure, the Receiving Entity shall furnish only that portion of the Confidential Information which the Receiving Entity’s counsel advises is legally required.
7. **Posting of Determinations on Requests for Disclosure of Confidential Information** — Upon making its determination on a request for disclosure of Confidential Information, NERC or the Regional Entity, as applicable, shall (i) notify the requester that the request for disclosure is granted or denied, (ii) publicly post any determination to deny the request to disclose Confidential Information, including in such posting an explanation of the reasons for the denial (but without in such explanation disclosing the Confidential Information), and (iii) publicly post any determination that information claimed by the Submitting Entity to be Confidential Information is not Confidential Information (but without in such posting disclosing any information that has been determined to be Confidential Information).

**1504. Employees, Contractors and Agents**

A Receiving Entity shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

**1505. Provision of Information to FERC and Other Governmental Authorities**

1. **Request** — A request from FERC for reliability information with respect to owners, operators, and users of the Bulk Power System within the United States is authorized by Section 215 of the Federal Power Act. Other Applicable Governmental Authorities may have similar authorizing legislation that grants a right of access to such information. Unless otherwise directed by FERC or its staff or the other Applicable Governmental Authority requesting the information, upon receiving such a request, a Receiving Entity shall provide contemporaneous notice to the applicable Submitting Entity. In its response to such a request, a Receiving Entity shall preserve any mark of confidentiality and shall notify FERC or other Applicable Governmental Authorities that the Submitting Entity has marked the information as confidential.
2. **Continued Confidentiality** — Each Receiving Entity shall continue to treat as confidential all Confidential Information that it has submitted to NERC or to FERC or another Applicable Governmental Authority, until such time as FERC or the other Applicable Governmental Authority authorizes disclosure of such information.

**1506. Permitted Disclosures**

1. **Confirmed Violations** — Nothing in this Section 1500 shall prohibit the disclosure of a violation at the point when the matter is filed with an Applicable Governmental Authority as a Notice of Penalty, the “violator” admits to the violation, or the alleged violator and NERC or the Regional Entity reach a settlement regarding the violation.
2. **Compliance Information** — NERC and the Regional Entities are authorized to exchange Confidential Information related to evaluations, Compliance Audits, and Compliance Investigations in furtherance of the Compliance Monitoring and Enforcement Program, on condition they continue to maintain the confidentiality of such information.

**1507. Remedies for Improper Disclosure**

Any person engaged in NERC or Regional Entity activity under Section 215 of the Federal Power Act or the equivalent laws of other Applicable Governmental Authorities who improperly discloses information determined to be confidential may lose access to Confidential Information on a temporary or permanent basis and may be subject to adverse personnel action, including suspension or termination. Nothing in Section 1500

precludes an entity whose information was improperly disclosed from seeking a remedy in an appropriate court.

## **SECTION 1600 — REQUESTS FOR DATA OR INFORMATION**

### **1601. Scope of a NERC or Regional Entity Request for Data or Information**

Within the United States, NERC and Regional Entities may request data or information that is necessary to meet their obligations under Section 215 of the Federal Power Act, as authorized by Section 39.2(d) of the Commission’s regulations, 18 C.F.R. § 39.2(d). In other jurisdictions NERC and Regional Entities may request comparable data or information, using such authority as may exist pursuant to these Rules of Procedure and as may be granted by Applicable Governmental Authorities in those other jurisdictions. The provisions of Section 1600 shall not apply to Requirements contained in any Reliability Standard to provide data or information; the Requirements in the Reliability Standards govern. The provisions of Section 1600 shall also not apply to data or information requested in connection with a compliance or enforcement action under Section 215 of the Federal Power Act, Section 400 of these Rules of Procedure, or any procedures adopted pursuant to those authorities, in which case the Rules of Procedure applicable to the production of data or information for compliance and enforcement actions shall apply.

### **1602. Procedure for Authorizing a NERC Request for Data or Information**

1. NERC shall provide a proposed request for data or information or a proposed modification to a previously-authorized request, including the information specified in Section 1602.2.1 or 1602.2.2 as applicable, to the Commission’s Office of Electric Reliability at least twenty-one (21) days prior to initially posting the request or modification for public comment. Submission of the proposed request or modification to the Office of Electric Reliability is for the information of the Commission. NERC is not required to receive any approval from the Commission prior to posting the proposed request or modification for public comment in accordance with Section 1602.2 or issuing the request or modification to Reporting Entities following approval by the Board of Trustees.
2. NERC shall post a proposed request for data or information or a proposed modification to a previously authorized request for data or information for a forty-five (45) day public comment period.
  - 2.1. A proposed request for data or information shall contain, at a minimum, the following information: (i) a description of the data or information to be requested, how the data or information will be used, and how the availability of the data or information is necessary for NERC to meet its obligations under applicable laws and agreements; (ii) a description of how the data or information will be collected and validated; (iii) a description of the entities (by functional class and jurisdiction) that will be required to provide the data or information (“Reporting Entities”); (iv) the schedule or due date for the data or information; (v) a description of any restrictions on disseminating the data or information (e.g., “Confidential Information,” “Critical Energy Infrastructure Information,”



“aggregating” or “identity masking”); and (vi) an estimate of the relative burden imposed on the Reporting Entities to accommodate the data or information request.

- 2.2. A proposed modification to a previously authorized request for data or information shall explain (i) the nature of the modifications; (ii) an estimate of the burden imposed on the Reporting Entities to accommodate the modified data or information request, and (iii) any other items from Section 1602.2.1 that require updating as a result of the modifications.
3. After the close of the comment period, NERC shall make such revisions to the proposed request for data or information as are appropriate in light of the comments. NERC shall submit the proposed request for data or information, as revised, along with the comments received, NERC’s evaluation of the comments and recommendations, to the Board of Trustees.
4. In acting on the proposed request for data or information, the Board of Trustees may authorize NERC to issue it, modify it, or remand it for further consideration.
5. NERC may make minor changes to an authorized request for data or information without Board approval. However, if a Reporting Entity objects to NERC in writing to such changes within 21 days of issuance of the modified request, such changes shall require Board approval before they are implemented.
6. Authorization of a request for data or information shall be final unless, within thirty (30) days of the decision by the Board of Trustees, an affected party appeals the authorization under this Section 1600 to the Applicable Governmental Authority.

### **1603. Owners, Operators, and Users to Comply**

Owners, operators, and users of the Bulk Power System registered on the NERC Compliance Registry shall comply with authorized requests for data and information. In the event a Reporting Entity within the United States fails to comply with an authorized request for data or information under Section 1600, NERC may request the Commission to exercise its enforcement authority to require the Reporting Entity to comply with the request for data or information and for other appropriate enforcement action by the Commission. NERC will make any request for the Commission to enforce a request for data or information through a non-public submission to the Commission’s enforcement staff.

### **1604. Requests by Regional Entity for Data or Information**

1. A Regional Entity may request that NERC seek authorization for a request for data or information to be applicable within the Region of the Regional Entity, either as a freestanding request or as part of a proposed NERC request for data or information. Any such request must be consistent with this Section 1600.

2. A Regional Entity may also develop its own procedures for requesting data or information, but any such procedures must include at least the same procedural elements as are included in this Section 1600. Any such Regional Entity procedures or changes to such procedures shall be submitted to NERC for approval. Upon approving such procedures or changes thereto, NERC shall file the proposed procedures or proposed changes for approval by the Commission and any other Applicable Governmental Authorities applicable to the Regional Entity. The Regional Entity procedures or changes to such procedures shall not be effective in a jurisdiction until approved by, and in accordance with any revisions directed by, the Commission or other Applicable Governmental Authority.

### **1605. Confidentiality**

If the approved data or information request includes a statement under Section 1602.1.1(v) that the requested data or information will be held confidential or treated as Critical Energy Infrastructure Information, then the applicable provisions of Section 1500 will apply without further action by a Submitting Entity. A Submitting Entity may designate any other data or information as Confidential Information pursuant to the provisions of Section 1500, and NERC or the Regional Entity shall treat that data or information in accordance with Section 1500. NERC or a Regional Entity may utilize additional protective procedures for handling particular requests for data or information as may be necessary under the circumstances.

### **1606. Expedited Procedures for Requesting Time-Sensitive Data or Information**

1. In the event NERC or a Regional Entity must obtain data or information by a date or within a time period that does not permit adherence to the time periods specified in Section 1602, the procedures specified in Section 1606 may be used to obtain the data or information. Without limiting the circumstances in which the procedures in Section 1606 may be used, such circumstances include situations in which it is necessary to obtain the data or information (in order to evaluate a threat to the reliability or security of the Bulk Power System, or to comply with a directive in an order issued by the Commission or by another Applicable Governmental Authority) within a shorter time period than possible under Section 1602. The procedures specified in Section 1606 may only be used if authorized by the NERC Board of Trustees prior to activation of such procedures.
2. Prior to posting a proposed request for data or information, or a modification to a previously-authorized request, for public comment under Section 1606, NERC shall provide the proposed request or modification, including the information specified in paragraph 1602.2.1 or 1602.2.2 as applicable, to the Commission's Office of Electric Reliability. The submission to the Commission's Office of Electric Reliability shall also include an explanation of why it is necessary to use the expedited procedures of Section 1606 to obtain the data or information. The submission shall be made to the Commission's Office of Electric Reliability as far in advance, up to twenty-one (21) days, of the posting of the proposed request or modification for public comments as is

reasonably possible under the circumstances, but in no event less than two (2) days in advance of the public posting of the proposed request or modification.

3. NERC shall post the proposed request for data or information or proposed modification to a previously-authorized request for data or information for a public comment period that is reasonable in duration given the circumstances, but in no event shorter than five (5) days. The proposed request for data or information or proposed modification to a previously-authorized request for data or information shall include the information specified in Section 1602.2.1 or 1602.2.2, as applicable, and shall also include an explanation of why it is necessary to use the expedited procedures of Section 1606 to obtain the data or information.
4. The provisions of Sections 1602.3, 1602.4, 1602.5 and 1602.6 shall be applicable to a request for data or information or modification to a previously-authorized request for data or information developed and issued pursuant to Section 1606, except that (a) if NERC makes minor changes to an authorized request for data or information without Board approval, such changes shall require Board approval if a Reporting Entity objects to NERC in writing to such changes within five (5) days of issuance of the modified request; and (b) authorization of the request for data or information shall be final unless an affected party appeals the authorization of the request by the Board of Trustees to the Applicable Governmental Authority within five (5) days following the decision of the Board of Trustees authorizing the request, which decision shall be promptly posted on NERC's website.

## **SECTION 1700 — CHALLENGES TO DETERMINATIONS**

### **1701. Scope of Authority**

Section 1702 sets forth the procedures to be followed for Registered Entities to challenge determinations made by Planning Coordinators under Reliability Standard PRC-023. Section 1703 sets forth the procedures to be followed when a Submitting Entity or Owner wishes to challenge a determination by NERC to approve or to disapprove an Exception Request or to terminate an Exception under Section 509.

### **1702. Challenges to Determinations by Planning Coordinators Under Reliability Standard PRC-023**

1. This Section 1702 establishes the procedures to be followed when a Registered Entity wishes to challenge a determination by a Planning Coordinator of the sub-200 kV circuits in its Planning Coordinator area for which Transmission Owners, Generator Owners, and Distribution Providers (defined as “Registered Entities” for purposes of this Section 1702) must comply with the requirements of Reliability Standard PRC-023.
2. Planning Coordinator Procedures
  - 2.1 Each Planning Coordinator shall establish a procedure for a Registered Entity to submit a written request for an explanation of a determination made by the Planning Coordinator under PRC-023.
  - 2.2 A Registered Entity shall follow the procedure established by the Planning Coordinator for submitting the request for explanation and must submit any such request within 60 days of receiving the determination under PRC-023 from the Planning Coordinator.
  - 2.3 Within 30 days of receiving a written request from a Registered Entity, the Planning Coordinator shall provide the Registered Entity with a written explanation of the basis for its determination under PRC-023, unless the Planning Coordinator provided a written explanation of the basis for its determination when it initially informed the Registered Entity of its determination.
3. A Registered Entity may challenge the determination of the Planning Coordinator by filing with the appropriate Regional Entity, with a copy to the Planning Coordinator, within 60 days of receiving the written explanation from the Planning Coordinator. The challenge shall include the following: (a) an explanation of the technical reasons for its disagreement with the Planning Coordinator’s determination, along with any supporting documentation, and (b) a copy of the Planning Coordinator’s written explanation. Within 30 days of receipt of a challenge, the Planning Coordinator may file a response to the Regional Entity, with a copy to the Registered Entity.

4. The filing of a challenge in good faith shall toll the time period for compliance with PRC-023 with respect to the subject facility until such time as the challenge is withdrawn, settled or resolved.
5. The Regional Entity shall issue its written decision setting forth the basis of its determination within 90 days after it receives the challenge and send copies of the decision to the Registered Entity and the Planning Coordinator. The Regional Entity may convene a meeting of the involved entities and may request additional information. The Regional Entity shall affirm the determination of the Planning Coordinator if it is supported by substantial evidence.
6. A Planning Coordinator or Registered Entity affected by the decision of the Regional Entity may, within 30 days of the decision, file an appeal with NERC, with copies to the Regional Entity and the Planning Coordinator or Registered Entity. The appeal shall state the basis of the objection to the decision of the Regional Entity and shall include the Regional Entity decision, the written explanation of the Planning Coordinator's determination under PRC-023, and the documents and reasoning filed by the Registered Entity with the Regional Entity in support of its objection. The Regional Entity, Planning Coordinator or Registered Entity may file a response to the appeal within 30 days of the appeal.
7. The NERC Board of Trustees shall appoint a panel to decide appeals from Region Entity decisions under Section 1702.5. The panel, which may contain alternates, shall consist of at least three appointees, one of whom must be a member of the NERC staff, who are knowledgeable about PRC-023 and transmission planning and do not have a direct financial or business interest in the outcome of the appeal. The panel shall decide the appeal within 90 days of receiving the appeal from the decision of the Regional Entity and shall affirm the determination of the Planning Coordinator if it is supported by substantial evidence.
8. The Planning Coordinator or Registered Entity affected by the decision of the panel may request that the NERC Board of Trustees review the decision by filing its request for review and a statement of reasons with NERC's Chief Reliability Officer within 30 days of the panel decision. The Board of Trustees may, in its discretion, decline to review the decision of the panel, in which case the decision of the panel shall be the final NERC decision. Within 90 days of the request for review under this Section 1702.8, the NERC Board of Trustees may either (a) issue a decision on the merits, which shall be the final NERC decision, or (b) issue a notice declining to review the decision of the panel, in which case the decision of the panel shall be the final NERC decision. If no written decision or notice declining review is issued within 90 calendar days, the appeal shall be deemed to have been denied by the NERC Board of Trustees and this will have the same effect as a notice declining review.
9. The Registered Entity or Planning may appeal the final NERC decision to the applicable governmental authority within 30 days of receipt of the Board of

Trustees' final decision or notice declining review, or expiration of the 90-day review period without any action by NERC.

10. The Planning Coordinator and Registered Entity are encouraged, but not required, to meet to resolve any dispute, including use of mutually agreed to alternative dispute resolution procedures, at any time during the course of the matter. In the event resolution occurs after the filing of a challenge, the Registered Entity and Planning Coordinator shall jointly provide to the applicable Regional Entity a written acknowledgement of withdrawal of the challenge or appeal, including a statement that all outstanding issues have been resolved.

**1703. Challenges to NERC Determinations of BES Exception Requests Under Section 509**

1. This Section 1703 establishes the procedures to be followed when a Submitting Entity or Owner wishes to challenge a determination by NERC to approve or to disapprove an Exception Request or to terminate an Exception under Section 509.
2. A Submitting Entity (or Owner if different) aggrieved by the decision of NERC to approve or disapprove an Exception Request or to terminate an Exception with respect to any Element may, within 30 days following the date of the decision, file a written challenge to the decision with the NERC director of compliance operations, with copies to the Regional Entity and the Submitting Entity or Owner if different. The written challenge shall state the basis of the objection to the decision of NERC. The Regional Entity and the Submitting Entity or Owner if different may file a response to the challenge within 30 days following the date the challenge is filed with NERC.
3. The challenge shall be decided by the Board of Trustees Compliance Committee. Within 90 days of the date of submission of the challenge, the Board of Trustees Compliance Committee shall issue its decision on the challenge. The decision of the Board of Trustees Compliance Committee shall be the final NERC decision; provided, that the Board of Trustees Compliance Committee may extend the deadline date for its decision to a date more than 90 days following submission of the challenge, by issuing a notice to the Submitting Entity, the Owner (if different) and the Regional Entity stating the revised deadline date and the reason for the extension.
4. The Submitting Entity, or Owner if different, may appeal the final NERC decision to, or seek review of the final NERC decision by, the Applicable Governmental Authority(ies), in accordance with the legal authority and rules and procedures of the Applicable Governmental Authority(ies). Any such appeal shall be filed within thirty (30) days following the date of the decision of the Board of Trustees Compliance Committee, or within such other time period as is provided for in the legal authority, rules or procedures of the Applicable Governmental Authority.

**PETITION OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
FOR APPROVAL OF REVISIONS TO ITS RULES OF PROCEDURE  
TO ADOPT A BULK ELECTRIC SYSTEM EXCEPTION PROCEDURE**

**ATTACHMENT 2B**

**REVISED RULES OF PROCEDURE, SECTIONS 100-1700  
(INCLUDING PROPOSED NEW SECTIONS 509 AND 1703)**

**REDLINED VERSION**



**Proposed Revisions 1-9-2012**  
**[Incorporates proposed revisions filed with FERC on**  
**March 18, November 7 and November 29, 2011]**

# **Rules of Procedure**

Effective: January 10, 2012

Rules of Procedure Section 400 is subject to further revisions to comply with directives in a FERC Order issued October 7, 2011 (137 FERC ¶ 61,028).



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## **SECTION 100 — APPLICABILITY OF RULES OF PROCEDURE**

NERC and NERC Members shall comply with these Rules of Procedure. Each Regional Entity shall comply with these Rules of Procedure as applicable to functions delegated to the Regional Entity by NERC or as required by an Applicable Governmental Authority or as otherwise provided.

Each Bulk Power System owner, operator, and user shall comply with all Rules of Procedure of NERC that are made applicable to such entities by approval pursuant to applicable legislation or regulation, or pursuant to agreement.

Any entity that is unable to comply or that is not in compliance with a NERC Rule of Procedure shall immediately notify NERC in writing, stating the Rule of Procedure of concern and the reason for not being able to comply with the Rule of Procedure.

NERC shall evaluate each case and inform the entity of the results of the evaluation. If NERC determines that a Rule of Procedure has been violated, or cannot practically be complied with, NERC shall notify the Applicable Governmental Authorities and take such other actions as NERC deems appropriate to address the situation.

NERC shall comply with each approved Reliability Standard that identifies NERC or the Electric Reliability Organization as a responsible entity. Regional Entities shall comply with each approved Reliability Standard that identifies Regional Entities as responsible entities. A violation by NERC or a Regional Entity of such a Reliability Standard shall constitute a violation of these Rules of Procedure.

## **SECTION 200 — DEFINITIONS OF TERMS**

Definitions of terms used in the NERC Rules of Procedure are set forth in **Appendix 2, *Definitions Used in the Rules of Procedure.***

## **SECTION 300 — RELIABILITY STANDARDS DEVELOPMENT**

### **301. General**

NERC shall develop and maintain Reliability Standards that apply to Bulk Power System owners, operators, and users and that enable NERC and Regional Entities to measure the reliability performance of Bulk Power System owners, operators, and users; and to hold them accountable for Reliable Operation of the Bulk Power Systems. The Reliability Standards shall be technically excellent, timely, just, reasonable, not unduly discriminatory or preferential, in the public interest, and consistent with other applicable standards of governmental authorities.

### **302. Essential Attributes for Technically Excellent Reliability Standards**

1. **Applicability** — Each Reliability Standard shall clearly identify the functional classes of entities responsible for complying with the Reliability Standard, with any specific additions or exceptions noted. Such functional classes<sup>1</sup> include: Reliability Coordinators, Balancing Authorities, Transmission Operators, Transmission Owners, Generator Operators, Generator Owners, Interchange Authorities, Transmission Service Providers, market operators, Planning Authorities, Transmission Planners, Resource Planners, Load-Serving Entities, Purchasing-Selling Entities, and Distribution Providers. Each Reliability Standard shall also identify the geographic applicability of the Reliability Standard, such as the entire North American Bulk Power System, an Interconnection, or within a Region. A Reliability Standard may also identify any limitations on the applicability of the Reliability Standard based on electric Facility characteristics.
2. **Reliability Objectives** — Each Reliability Standard shall have a clear statement of purpose that shall describe how the Reliability Standard contributes to the reliability of the Bulk Power System. The following general objectives for the Bulk Power System provide a foundation for determining the specific objective(s) of each Reliability Standard:
  - 2.1 **Reliability Planning and Operating Performance**— Bulk Power Systems shall be planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions.
  - 2.2 **Frequency and Voltage Performance**— The frequency and voltage of Bulk Power Systems shall be controlled within defined limits through the

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<sup>1</sup> These functional classes of entities are derived from NERC's Reliability Functional Model. When a Reliability Standard identifies a class of entities to which it applies, that class must be defined in the Glossary of Terms Used in NERC Reliability Standards.

- balancing of [Real and Reactive Power](#) ~~real and reactive power~~ supply and demand.
- 2.3 **Reliability Information** — Information necessary for the planning and operation of reliable Bulk Power Systems shall be made available to those entities responsible for planning and operating Bulk Power Systems.
  - 2.4 **Emergency Preparation** — Plans for emergency operation and system restoration of Bulk Power Systems shall be developed, coordinated, maintained, and implemented.
  - 2.5 **Communications and Control** — Facilities for communication, monitoring, and control shall be provided, used, and maintained for the reliability of Bulk Power Systems.
  - 2.6 **Personnel** — Personnel responsible for planning and operating Bulk Power Systems shall be trained and qualified, and shall have the responsibility and authority to implement actions.
  - 2.7 **Wide-Area View** — The reliability of the Bulk Power Systems shall be assessed, monitored, and maintained on a Wide-Area basis.
  - 2.8 **Security** — Bulk Power Systems shall be protected from malicious physical or cyber attacks.
3. **Performance Requirement or Outcome**— Each Reliability Standard shall state one or more performance Requirements, which if achieved by the applicable entities, will provide for a reliable Bulk Power System, consistent with good utility practices and the public interest. Each Requirement is not a “lowest common denominator” compromise, but instead achieves an objective that is the best approach for Bulk Power System reliability, taking account of the costs and benefits of implementing the proposal.
  4. **Measurability** — Each performance Requirement shall be stated so as to be objectively measurable by a third party with knowledge or expertise in the area addressed by that Requirement. Each performance Requirement shall have one or more associated measures used to objectively evaluate compliance with the Requirement. If performance can be practically measured quantitatively, metrics shall be provided to determine satisfactory performance.
  5. **Technical Basis in Engineering and Operations**— Each Reliability Standard shall be based upon sound engineering and operating judgment, analysis, or experience, as determined by expert practitioners in that particular field.

6. **Completeness** — Reliability Standards shall be complete and self-contained. The Reliability Standards shall not depend on external information to determine the required level of performance.
7. **Consequences for Noncompliance** — In combination with guidelines for Penalties and sanctions, as well as other ERO and Regional Entity compliance documents, the consequences of violating a Reliability Standard are clearly presented to the entities responsible for complying with the Reliability Standards.
8. **Clear Language** — Each Reliability Standard shall be stated using clear and unambiguous language. Responsible entities, using reasonable judgment and in keeping with good utility practices, are able to arrive at a consistent interpretation of the required performance.
9. **Practicality** — Each Reliability Standard shall establish Requirements that can be practically implemented by the assigned responsible entities within the specified effective date and thereafter.
10. **Consistent Terminology** — To the extent possible, Reliability Standards shall use a set of standard terms and definitions that are approved through the NERC Reliability Standards development process.

### **303. Relationship between Reliability Standards and Competition**

To ensure Reliability Standards are developed with due consideration of impacts on competition, to ensure Reliability Standards are not unduly discriminatory or preferential, and recognizing that reliability is an essential requirement of a robust North American economy, each Reliability Standard shall meet all of these market-related objectives:

1. **Competition** — A Reliability Standard shall not give any market participant an unfair competitive advantage.
2. **Market Structures** — A Reliability Standard shall neither mandate nor prohibit any specific market structure.
3. **Market Solutions** — A Reliability Standard shall not preclude market solutions to achieving compliance with that Reliability Standard.
4. **Commercially Sensitive Information** — A Reliability Standard shall not require the public disclosure of commercially sensitive information or other Confidential Information. All market participants shall have equal opportunity to access commercially non-sensitive information that is required for compliance with Reliability Standards.



5. **Adequacy** — NERC shall not set Reliability Standards defining an adequate amount of, or requiring expansion of, Bulk Power System resources or delivery capability.

### **304. Essential Principles for the Development of Reliability Standards**

NERC shall develop Reliability Standards in accordance with the NERC *Standard Processes Manual*, which is incorporated into these Rules of Procedure as **Appendix 3A**. Appeals in connection with the development of a Reliability Standard shall also be conducted in accordance with the NERC *Standard Processes Manual*. Any amendments or revisions to the *Standard Processes Manual* shall be consistent with the following essential principles:

1. **Openness** — Participation shall be open to all Persons who are directly and materially affected by the reliability of the North American Bulk Power System. There shall be no undue financial barriers to participation. Participation shall not be conditional upon membership in NERC or any other organization, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements.
2. **Transparency** — The process shall be transparent to the public.
3. **Consensus-building** — The process shall build and document consensus for each Reliability Standard, both with regard to the need and justification for the Reliability Standard and the content of the Reliability Standard.
4. **Fair Balance of Interests** — The process shall fairly balance interests of all stakeholders and shall not be dominated by any single interest category.
5. **Due Process** — Development of Reliability Standards shall provide reasonable notice and opportunity for any Person with a direct and material interest to express views on a proposed Reliability Standard and the basis for those views, and to have that position considered in the development of the Reliability Standards.
6. **Timeliness** — Development of Reliability Standards shall be timely and responsive to new and changing priorities for reliability of the Bulk Power System.

### **305. Registered Ballot Body**

NERC Reliability Standards shall be approved by a Registered Ballot Body prior to submittal to the Board and then to Applicable Governmental Authorities for their approval, where authorized by applicable legislation or agreement. This Section 305 sets

forth the rules pertaining to the composition of, and eligibility to participate in, the Registered Ballot Body.

1. **Eligibility to Vote on Reliability Standards** — Any person or entity may join the Registered Ballot Body to vote on Reliability Standards, whether or not such person or entity is a Member of NERC.
2. **Inclusive Participation** — The Segment qualification guidelines are inclusive; i.e., any entity with a legitimate interest in the reliability of the Bulk Power System that can meet any one of the eligibility criteria for a Segment is entitled to belong to and vote in each Segment for which it qualifies, subject to limitations defined in Sections 305.3 and 305.5.
3. **General Criteria for Registered Ballot Body Membership** — The general criteria for membership in the Segments are:
  - 3.1 **Multiple Segments** — A corporation or other organization with integrated operations or with affiliates that qualifies to belong to more than one Segment (e.g., Transmission Owners and Load-Serving Entities) may join once in each Segment for which it qualifies, provided that each Segment constitutes a separate membership and the organization is represented in each Segment by a different representative. Affiliated entities are collectively limited to one membership in each Segment for which they are qualified.
  - 3.2 **Withdrawing from a Segment or Changing Segments** — After its initial registration in a Segment, each registered participant may elect to withdraw from a Segment or apply to change Segments at any time.
  - 3.3 **Review of Segment Criteria** — The Board shall review the qualification guidelines and rules for joining Segments at least every three years to ensure that the process continues to be fair, open, balanced, and inclusive. Public input will be solicited in the review of these guidelines.
4. **Proxies for Voting on Reliability Standards** — Any registered participant may designate an agent or proxy to vote on its behalf. There are no limits on how many proxies an agent may hold. However, for the proxy to be valid, NERC must have in its possession written documentation signed by the representative of the registered participant that the voting right by proxy has been transferred from the registered participant to the agent.
5. **Segments** — The specific criteria for membership in each Registered Ballot Body Segment are defined in the *Standard Processes Manual* in **Appendix 3A**.
6. **Review of Segment Entries** — NERC shall review all applications for joining the Registered Ballot Body, and shall make a determination of whether the

applicant's self-selection of a Segment satisfies at least one of the guidelines to belong to that Segment. The entity shall then become eligible to participate as a voting member of that Segment. The Standards Committee shall resolve disputes regarding eligibility for membership in a Segment, with the applicant having the right of appeal to the Board.

### **306. Standards Committee**

The Standards Committee shall provide oversight of the Reliability Standards development process to ensure stakeholder interests are fairly represented. The Standards Committee shall not under any circumstance change the substance of a draft or approved Reliability Standard.

1. **Membership** — The Standards Committee is a representative committee comprising representatives of two members of each of the Segments in the Registered Ballot Body.
2. **Elections** — Standards Committee members are elected for staggered (one per Segment per year) two-year terms by the respective Segments in accordance with the *Procedure for the Election of Members of the NERC Standards Committee*, which is incorporated into these Rules of Procedure as **Appendix 3B**. Segments may use their own election procedure if such a procedure is ratified by two-thirds of the members of a Segment and approved by the Board.
3. **Canadian Representation**
  - 3.1 **Provision for Sufficient Canadian Representation** — If any regular election of Standards Committee members does not result in at least two Canadian members on the Standards Committee, the Canadian nominees who were not elected but who received the next highest percentage of votes within their respective Segment(s) will be designated as additional members of the Standards Committee, as needed to achieve a total of two Canadian members.
  - 3.2 **Terms of Specially Designated Canadian Members** — Each specially designated Canadian member of the Standards Committee shall have a term ending with the next annual election.
  - 3.3 **Segment Preference** — If any Segment has an unfilled representative position on the Standards Committee following the annual election, the first preference is to assign each specially designated Canadian representative to a Segment with an unfilled representative position for which his or her organization qualifies.
  - 3.4 **Rights of Specially Designated Canadian Members** — Any specially designated Canadian members of the Standards Committee shall have the

same rights and obligations as all other members of the Standards Committee.

4. **Open Meetings** — All meetings of the Standards Committee shall be open and publicly noticed on the NERC website.

### **307. Standards Process Manager**

NERC shall assign a standards process manager to administer the development of Reliability Standards. The standards process manager shall be responsible for ensuring that the development and revision of Reliability Standards are in accordance with the NERC *Standard Processes Manual*. The standards process manager shall work to achieve the highest degree of integrity and consistency of quality and completeness of the Reliability Standards. The standards process manager shall coordinate with any Regional Entities that develop Regional Reliability Standards to ensure those Regional Reliability Standards are effectively integrated with the NERC Reliability Standards.

### **308. Steps in the Development of Reliability Standards**

1. **Procedure** — NERC shall develop Reliability Standards through the process set forth in the NERC *Standard Processes Manual* (**Appendix 3A**). The procedure includes a provision for approval of urgent action Reliability Standards that can be completed within 60 days and emergency actions that may be further expedited.
2. **Board Approval** — Reliability Standards or revisions to Reliability Standards approved by the ballot pool in accordance with the *Standard Processes Manual* shall be submitted for approval by the Board. No Reliability Standard or revision to a Reliability Standard shall be effective unless approved by the Board.
3. **Governmental Approval** — After receiving Board approval, a Reliability Standard or revision to a Reliability Standard shall be submitted to all Applicable Governmental Authorities in accordance with Section 309. No Reliability Standard or revision to a Reliability Standard shall be effective within a geographic area over which an Applicable Governmental Authority has jurisdiction unless approved by such Applicable Governmental Authority or is otherwise made effective pursuant to the laws applicable to such Applicable Governmental Authority.

### **309. Filing of Reliability Standards for Approval by Applicable Governmental Authorities**

1. **Filing of Reliability Standards for Approval** — Where authorized by applicable legislation or agreement, NERC shall file with the Applicable Governmental

Authorities each Reliability Standard, modification to a Reliability Standard, or withdrawal of a Reliability Standard that is approved by the Board. Each filing shall be in the format required by the Applicable Governmental Authority and shall include: a concise statement of the basis and purpose of the Reliability Standard; the text of the Reliability Standard; the implementation plan for the Reliability Standard; a demonstration that the Reliability Standard meets the essential attributes of Reliability Standards as stated in Section 302; the drafting team roster; the ballot pool and final ballot results; and a discussion of public comments received during the development of the Reliability Standard and the consideration of those comments.

2. **Remanded Reliability Standards and Directives to Develop Standards** — If an Applicable Governmental Authority remands a Reliability Standard to NERC or directs NERC to develop a Reliability Standard, NERC shall within five (5) business days notify all other Applicable Governmental Authorities, and shall within thirty (30) calendar days report to all Applicable Governmental Authorities a plan and timetable for modification or development of the Reliability Standard. Reliability Standards that are remanded or directed by an Applicable Governmental Authority shall be modified or developed using the *Standard Processes Manual*. NERC shall, during the development of a modification for the remanded Reliability Standard or directed Reliability Standard, consult with other Applicable Governmental Authorities to coordinate any impacts of the proposed Reliability Standards in those other jurisdictions. The expedited action procedure may be applied if necessary to meet a timetable for action required by the Applicable Governmental Authorities, respecting to the extent possible the provisions in the Reliability Standards development process for reasonable notice and opportunity for public comment, due process, openness, and a balance of interest in developing Reliability Standards. If the Board of Trustees determines that the process did not result in a Reliability Standard that addresses a specific matter that is identified in a directive issued by an Applicable Governmental Authority, then Rule 321 of these Rules of Procedure shall apply.
  
3. **Directives to Develop Reliability Standards under Extraordinary Circumstances** — An Applicable Governmental Authority may, on its own initiative, determine that extraordinary circumstances exist requiring expedited development of a Reliability Standard. In such a case, the Applicable Governmental Authority may direct the development of a Reliability Standard within a certain deadline. NERC staff shall prepare the Standards Authorization Request and seek a stakeholder sponsor for the request. If NERC is unable to find a sponsor for the proposed Reliability Standard, NERC will be designated as the requestor. The proposed Reliability Standard will then proceed through the Reliability Standards development process, using the expedited action procedures described in the *Standard Processes Manual* as necessary to meet the specified deadline. The timeline will be developed to respect, to the extent possible, the provisions in the Reliability Standards development process for reasonable notice and opportunity for public comment, due process, openness, and a balance of

interests in developing Reliability Standards. If the Board of Trustees determines that the process did not result in a Reliability Standard that addresses a specific matter that is identified in a directive issued by an Applicable Governmental Authority, then Rule 321 of these Rules of Procedure shall apply, with appropriate modification of the timeline.

- 3.1 Consistent with all Reliability Standards developed under the expedited action process, each of the three possible follow-up actions as documented in the *Standard Processes Manual* are to be completed through the Reliability Standards development process and are subject to approval by the Applicable Governmental Authorities in the U.S. and Canada.

### **310. Annual Reliability Standards Development Plan**

NERC shall develop and provide an annual Reliability Standards Development Plan for development of Reliability Standards to the Applicable Governmental Authorities. NERC shall consider the comments and priorities of the Applicable Governmental Authorities in developing and updating the annual Reliability Standards Development Plan. Each annual Reliability Standards Development Plan shall include a progress report comparing results achieved to the prior year's Reliability Standards Development Plan.

### **311. Regional Entity Standards Development Procedures**

1. **NERC Approval of Regional Entity Reliability Standards Development Procedure** — To enable a Regional Entity to develop Regional Reliability Standards that are to be recognized and made part of NERC Reliability Standards, a Regional Entity may request NERC to approve a Regional Reliability Standards development procedure.
2. **Public Notice and Comment on Regional Reliability Standards Development Procedure** — Upon receipt of such a request, NERC shall publicly notice and request comment on the proposed Regional Reliability Standards development procedure, allowing a minimum of 45 days for comment. The Regional Entity shall have an opportunity to resolve any objections identified in the comments and may choose to withdraw the request, revise the Regional Reliability Standards development procedure and request another posting for comment, or submit the Regional Reliability Standards development procedure, along with its consideration of any objections received, for approval by NERC.
3. **Evaluation of Regional Reliability Standards Development Procedure** — NERC shall evaluate whether a Regional Reliability Standards development procedure meets the criteria listed below and shall consider stakeholder comments, any unresolved stakeholder objections, and the consideration of comments provided by the Regional Entity, in making that determination. If NERC determines the Regional Reliability Standards development procedure meets these requirements, the Regional Reliability Standards development

procedure shall be submitted to the Board for approval. The Board shall consider the recommended action, stakeholder comments, any unresolved stakeholder comments, and the Regional Entity consideration of comments in determining whether to approve the Regional Reliability Standards development procedure.

3.1 **Evaluation Criteria** — The Regional Reliability Standards development procedure shall be:

3.1.1 **Open** — The Regional Reliability Standards development procedure shall provide that any person or entity who is directly and materially affected by the reliability of the Bulk Power Systems within the Regional Entity shall be able to participate in the development and approval of Reliability Standards. There shall be no undue financial barriers to participation. Participation shall not be conditional upon membership in the Regional Entity, a Regional Entity or any organization, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements.

3.1.2 **Inclusive** — The Regional Reliability Standards development procedure shall provide that any Person with a direct and material interest has a right to participate by expressing an opinion and its basis, having that position considered, and appealing through an established appeals process if adversely affected.

3.1.3 **Balanced** — The Regional Reliability Standards development procedure shall have a balance of interests and shall not permit any two interest categories to control the vote on a matter or any single interest category to defeat a matter.

3.1.4 **Due Process** — The Regional Reliability Standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the Regional Reliability Standards development procedure shall include public notice of the intent to develop a Regional Reliability Standard, a public comment period on the proposed Regional Reliability Standard, due consideration of those public comments, and a ballot of interested stakeholders.

3.1.5 **Transparent** — All actions material to the development of Regional Reliability Standards shall be transparent. All Regional Reliability Standards development meetings shall be open and publicly noticed on the Regional Entity's website.

3.1.6 **Accreditation of Regional Standards Development Procedure** — A Regional Entity's Regional Reliability Standards

development procedure that is accredited by the American National Standards Institute or the Standards Council of Canada shall be deemed to meet the criteria listed in this Section 311.3.1, although such accreditation is not a prerequisite for approval by NERC.

3.1.7 **Use of NERC Procedure** — A Regional Entity may adopt the NERC *Standard Processes Manual* as the Regional Reliability Standards development procedure, in which case the Regional Entity's Regional Reliability Standards development procedure shall be deemed to meet the criteria listed in this Section 311.3.1.

4. **Revisions of Regional Reliability Standards Development Procedures** — Any revision to a Regional Reliability Standards development procedure shall be subject to the same approval requirements set forth in Sections 311.1 through 311.3.
5. **Duration of Regional Reliability Standards Development Procedures** — The Regional Reliability Standards development procedure shall remain in effect until such time as it is replaced with a new version approved by NERC or it is withdrawn by the Regional Entity. The Regional Entity may, at its discretion, withdraw its Regional Reliability Standards development procedure at any time.

## **312. Regional Reliability Standards**

1. **Basis for Regional Reliability Standards** — Regional Entities may propose Regional Reliability Standards that set more stringent reliability requirements than the NERC Reliability Standard or cover matters not covered by an existing NERC Reliability Standard. Such Regional Reliability Standards shall in all cases be approved by NERC and made part of the NERC Reliability Standards and shall be enforceable in accordance with the delegation agreement between NERC and the Regional Entity or other instrument granting authority over enforcement to the Regional Entity. No entities other than NERC and the Regional Entity shall be permitted to develop Regional Reliability Standards that are enforceable under statutory authority delegated to NERC and the Regional Entity.
2. **Regional Reliability Standards That are Directed by a NERC Reliability Standard** — Although it is the intent of NERC to promote uniform Reliability Standards across North America, in some cases it may not be feasible to achieve a reliability objective with a Reliability Standard that is uniformly applicable across North America. In such cases, NERC may direct Regional Entities to develop Regional Reliability Standards necessary to implement a NERC Reliability Standard. Such Regional Reliability Standards that are developed pursuant to a direction by NERC shall be made part of the NERC Reliability Standards.



3. **Procedure for Developing an Interconnection-wide Regional Standard** — A Regional Entity organized on an Interconnection-wide basis may propose a Regional Reliability Standard for approval as a NERC Reliability Standard to be made mandatory for all applicable Bulk Power System owners, operators, and users within that Interconnection.
  - 3.1 **Presumption of Validity** — An Interconnection-wide Regional Reliability Standard that is determined by NERC to be just, reasonable, and not unduly discriminatory or preferential, and in the public interest, and consistent with such other applicable standards of governmental authorities, shall be adopted as a NERC Reliability Standard. NERC shall rebuttably presume that a Regional Reliability Standard developed, in accordance with a Regional Reliability Standards development process approved by NERC, by a Regional Entity organized on an Interconnection-wide basis, is just, reasonable, and not unduly discriminatory or preferential, and in the public interest, and consistent with such other applicable standards of governmental authorities.
  - 3.2 **Notice and Comment Procedure for Interconnection-wide Regional Reliability Standard** — NERC shall publicly notice and request comment on the proposed Interconnection-wide Regional Reliability Standard, allowing a minimum of 45 days for comment. NERC may publicly notice and post for comment the proposed Regional Reliability Standard concurrent with similar steps in the Regional Entity's Regional Reliability Standards development process. The Regional Entity shall have an opportunity to resolve any objections identified in the comments and may choose to comment on or withdraw the request, revise the proposed Regional Reliability Standard and request another posting for comment, or submit the proposed Regional Reliability Standard along with its consideration of any objections received, for approval by NERC.
  - 3.3 **Approval of Interconnection-wide Regional Reliability Standard by NERC** — NERC shall evaluate and recommend whether a proposed Interconnection-wide Regional Reliability Standard has been developed in accordance with all applicable procedural requirements and whether the Regional Entity has considered and resolved stakeholder objections that could serve as a basis for rebutting the presumption of validity of the Regional Reliability Standard. The Regional Entity, having been notified of the results of the evaluation and recommendation concerning NERC proposed Regional Reliability Standard, shall have the option of presenting the proposed Regional Reliability Standard to the Board for approval as a NERC Reliability Standard. The Board shall consider the Regional Entity's request, NERC's recommendation for action on the Regional Reliability Standard, any unresolved stakeholder comments, and the Regional Entity's consideration of comments, in determining whether

to approve the Regional Reliability Standard as a NERC Reliability Standard.

3.4 **Applicable Governmental Authority Approval** — An Interconnection-wide Regional Reliability Standard that has been approved by the Board shall be filed with the Applicable Governmental Authorities for approval, where authorized by applicable legislation or agreement, and shall become effective when approved by such Applicable Governmental Authorities or on a date set by the Applicable Governmental Authorities.

3.5 **Enforcement of Interconnection-wide Regional Reliability Standard** — An Interconnection-wide Regional Reliability Standard that has been approved by the Board and by the Applicable Governmental Authorities or is otherwise made effective within Canada as mandatory within a particular Region shall be applicable and enforced as a NERC Reliability Standard within the Region.

4. **Procedure for Developing Non-Interconnection-Wide Regional Reliability Standards** — Regional Entities that are not organized on an Interconnection-wide basis may propose Regional Reliability Standards to apply within their respective Regions. Such Regional Reliability Standards may be developed through the NERC Reliability Standards development procedure, or alternatively, through a Regional Reliability Standards development procedure that has been approved by NERC.

4.1 **No Presumption of Validity** — Regional Reliability Standards that are not proposed to be applied on an Interconnection-wide basis are not presumed to be valid but may be demonstrated by the proponent to be valid.

4.2 **Notice and Comment Procedure for Non-Interconnection-wide Regional Reliability Standards** — NERC shall publicly notice and request comment on the proposed Regional Reliability Standard, allowing a minimum of 45 days for comment. NERC may publicly notice and post for comment the proposed Regional Reliability Standard concurrent with similar steps in the Regional Entity's Regional Reliability Standards development process. The Regional Entity shall have an opportunity to comment on or resolve any objections identified in the comments and may choose to withdraw the request, revise the proposed Regional Reliability Standard and request another posting for comment, or submit the proposed Regional Reliability Standard along with its consideration of any objections received, for approval by NERC.

4.3 **NERC Approval of Non-Interconnection-wide Regional Reliability Standards** — NERC shall evaluate and recommend whether a proposed non-Interconnection-wide Regional Reliability Standard has been

developed in accordance with all applicable procedural requirements and whether the Regional Entity has considered and resolved stakeholder objections. The Regional Entity, having been notified of the results of the evaluation and recommendation concerning proposed Regional Reliability Standard, shall have the option of presenting the proposed Regional Reliability Standard to the Board for approval as a NERC Reliability Standard. The Board shall consider the Regional Entity's request, the recommendation for action on the Regional Reliability Standard, any unresolved stakeholder comments, and the Regional Entity's consideration of comments, in determining whether to approve the Regional Reliability Standard as a NERC Reliability Standard.

4.4 **Applicable Governmental Authority Approval** — A non-Interconnection-wide Regional Reliability Standard that has been approved by the Board shall be filed with the Applicable Governmental Authorities for approval, where authorized by applicable legislation or agreement, and shall become effective when approved by such Applicable Governmental Authorities or on a date set by the Applicable Governmental Authorities.

4.5 **Enforcement of Non-Interconnection-wide Regional Reliability Standards** — A non-Interconnection-wide Regional Reliability Standard that has been approved by the Board and by the Applicable Governmental Authorities or is otherwise made effective within Canada as mandatory within a particular Region shall be applicable and enforced as a NERC Reliability Standard within the Region.

5. **Appeals** — A Regional Entity shall have the right to appeal NERC's decision not to approve a proposed Regional Reliability Standard or Variance to the Commission or other Applicable Governmental Authority.

### **313. Other Regional Criteria, Guides, Procedures, Agreements, Etc.**

1. **Regional Criteria** — Regional Entities may develop Regional Criteria that are necessary to implement, to augment, or to comply with Reliability Standards, but which are not Reliability Standards. Regional Criteria may also address issues not within the scope of Reliability Standards, such as resource adequacy. Regional Criteria may include specific acceptable operating or planning parameters, guides, agreements, protocols or other documents used to enhance the reliability of the Bulk Power System in the Region. These documents typically provide benefits by promoting more consistent implementation of the NERC Reliability Standards within the Region. These documents are not NERC Reliability Standards, Regional Reliability Standards, or regional Variances, and therefore are not enforceable under authority delegated by NERC pursuant to delegation agreements and do not require NERC approval.

2. **Catalog of Regional Criteria** — NERC shall maintain a current catalog of Regional Criteria. Regional Entities shall provide a catalog listing of Regional Criteria to NERC and shall notify NERC of changes to the listing. Regional Entities shall provide any listed document to NERC upon written request.

### **314. Conflicts with Statutes, Regulations, and Orders**

**Notice of Potential Conflict** — If a Bulk Power System owner, operator, or user determines that a NERC or Regional Reliability Standard may conflict with a function, rule, order, tariff, rate schedule, legislative requirement or agreement that has been accepted, approved, or ordered by a governmental authority affecting that entity, the entity shall expeditiously notify the governmental authority, NERC, and the relevant Regional Entity of the conflict.

1. **Determination of Conflict** — NERC, upon request of the governmental authority, may advise the governmental authority regarding the conflict and propose a resolution of the conflict, including revision of the Reliability Standard if appropriate.
2. **Regulatory Precedence** — Unless otherwise ordered by a governmental authority, the affected Bulk Power System owner, operator, or user shall continue to follow the function, rule, order, tariff, rate schedule, legislative requirement, or agreement accepted, approved, or ordered by the governmental authority until the governmental authority finds that a conflict exists and orders a remedy and such remedy is affected.

### **315. Revisions to NERC Reliability Standards Development Procedure**

Any person or entity may submit a written request to modify NERC *Standard Processes Manual*. Consideration of the request and development of the revision shall follow the process defined in the NERC *Standard Processes Manual*. Upon approval by the Board, the revision shall be submitted to the Applicable Governmental Authorities for approval. Changes shall become effective only upon approval by the Applicable Governmental Authorities or on a date designated by the Applicable Governmental Authorities or as otherwise applicable in a particular jurisdiction.

### **316. Accreditation**

NERC shall seek continuing accreditation of the NERC Reliability Standards development process by the American National Standards Institute and the Standards Council of Canada.

**317. Five-Year Review of Reliability Standards**

NERC shall complete a review of each NERC Reliability Standard at least once every five years from the effective date of the Reliability Standard or the latest revision to the Reliability Standard, whichever is later. The review process shall be conducted in accordance with the NERC *Standard Processes Manual*. The standards process manager shall be responsible for administration of the five-year review of Reliability Standards. As a result of this review, the NERC Reliability Standard shall be reaffirmed, revised, or withdrawn. If the review indicates a need to revise or withdraw the Reliability Standard, a request for revision or withdrawal shall be prepared, submitted and addressed in accordance with the NERC *Standard Processes Manual*.

**318. Coordination with the North American Energy Standards Board**

NERC shall, through a memorandum of understanding, maintain a close working relationship with the North American Energy Standards Board and ISO/RTO Council to ensure effective coordination of wholesale electric business practice standards and market protocols with the NERC Reliability Standards.

**319. Archived Standards Information**

NERC shall maintain a historical record of Reliability Standards information that is no longer maintained on-line. For example, Reliability Standards that expired or were replaced may be removed from the on-line system. Archived information shall be retained indefinitely as practical, but in no case less than five years or one complete Reliability Standards review cycle from the date on which the Reliability Standard was no longer in effect. Archived records of Reliability Standards information shall be available electronically within 30 days following the receipt by the standards process manager of a written request.

**320. Alternate Method for Adopting Violation Risk Factors**

In the event the Reliability Standards development process fails to produce Violation Risk Factors for a particular Reliability Standard in a timely manner, the Board of Trustees may adopt Violation Risk Factors for that Reliability Standard using the procedures set out in Section 1400 of these Rules of Procedure.

**321. Special Rule to Address Certain Regulatory Directives**

In circumstances where this Rule 321 applies, the Board of Trustees shall have the authority to take one or more of the actions set out below. The Board of Trustees shall have the authority to choose which one or more of the actions are appropriate to the circumstances and need not take these actions in sequential steps.

1. The Standards Committee shall have the responsibility to ensure that standards drafting teams address specific matters that are identified in directives issued by Applicable Governmental Authorities. If the Board of Trustees is presented with a proposed Reliability Standard that fails to address such directives, the Board of Trustees has the authority to remand, with instructions (including establishing a timetable for action), the proposed Reliability Standard to the Standards Committee.
2. Upon a written finding by the Board of Trustees that a ballot pool has failed to approve a proposed Reliability Standard that contains a provision to address a specific matter identified in a directive issued by an Applicable Governmental Authority, the Board of Trustees has the authority to remand the proposed Reliability Standard to the Standards Committee, with instructions to (i) convene a public technical conference to discuss the issues surrounding the regulatory directive, including whether or not the proposed Reliability Standard is just, reasonable, not unduly discriminatory or preferential, in the public interest, helpful to reliability, practical, technically sound, technically feasible, and cost-justified; (ii) working with NERC staff, prepare a memorandum discussing the issues, an analysis of the alternatives considered and other appropriate matters; and (iii) re-ballot the proposed Reliability Standard one additional time, with such adjustments in the schedule as are necessary to meet the deadline contained in paragraph 2.1 of this Rule.
  - 2.1 Such a re-ballot shall be completed within forty-five (45) days of the remand. The Standards Committee memorandum shall be included in the materials made available to the ballot pool in connection with the re-ballot.
  - 2.2 In any such re-ballot, negative votes without comments related to the proposal shall be counted for purposes of establishing a quorum, but only affirmative votes and negative votes with comments related to the proposal shall be counted for purposes of determining the number of votes cast and whether the proposed Reliability Standard has been approved.
3. If the re-balloted proposed Reliability Standard achieves at least an affirmative two-thirds majority vote of the weighted Segment votes cast, with a quorum established, then the proposed Reliability Standard shall be deemed approved by the ballot pool and shall be considered by the Board of Trustees for approval.
4. If the re-balloted proposed Reliability Standard fails to achieve at least an affirmative two-thirds majority vote of the weighted Segment votes cast, but does achieve at least a sixty percent affirmative majority of the weighted Segment votes cast, with a quorum established, then the Board of Trustees has the authority to consider the proposed Reliability Standard for approval under the following procedures:
  - 4.1 The Board of Trustees shall issue notice of its intent to consider the proposed Reliability Standard and shall solicit written public comment

particularly focused on the technical aspects of the provisions of the proposed Reliability Standard that address the specific matter identified in the regulatory directive, including whether or not the proposed Reliability Standard is just, reasonable, not unduly discriminatory or preferential, in the public interest, helpful to reliability, practical, technically sound, technically feasible, and cost-justified.

- 4.2 The Board of Trustees may, in its discretion, convene a public technical conference to receive additional input on the matter.
  - 4.3 After considering the developmental record, the comments received during balloting and the additional input received under paragraphs 4.1 and 4.2 of this Rule, the Board of Trustees has authority to act on the proposed Reliability Standard.
    - 4.3.1 If the Board of Trustees finds that the proposed Reliability Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is helpful to reliability, practical, technically sound, technically feasible, and cost-justified, then it has authority to approve the proposed Reliability Standard and direct that it be filed with Applicable Governmental Authorities with a request that it be made effective.
    - 4.3.2 If the Board of Trustees is unable to find that the proposed Reliability Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is helpful to reliability, practical, technically sound, technically feasible, and cost-justified, then it has authority to treat the proposed Reliability Standard as a draft Reliability Standard and direct that the draft Reliability Standard and complete developmental record, including the additional input received under paragraphs 4.1 and 4.2 of this Rule, be filed with the Applicable Governmental Authorities as a compliance filing in response to the order giving rise to the regulatory directive, along with a recommendation that the Reliability Standard not be made effective and an explanation of the basis for the recommendation.
- A5. Upon a written finding by the Board of Trustees that standard drafting team has failed to develop, or a ballot pool has failed to approve, a proposed Reliability Standard that contains a provision to address a specific matter identified in a directive issued by an Applicable Governmental Authority, the Board of Trustees has the authority to direct the Standards Committee (with the assistance of stakeholders and NERC staff) to prepare a draft Reliability Standard that addresses the regulatory directive, taking account of the entire developmental record pertaining to the matter. If the Standards Committee fails to prepare such

draft Reliability Standard, the Board of Trustees may direct NERC management to prepare such draft Reliability Standard.

- 5.1 The Board of Trustees may, in its discretion, convene a public technical conference to receive input on the matter. The draft Reliability Standard shall be posted for a 45-day public comment period.
  - 5.2 If, after considering the entire developmental record (including the comments received under paragraph 5.1 of this Rule), the Board of Trustees finds that the draft Reliability Standard, with such modifications as the Board of Trustees determines are appropriate in light of the comments received, is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is practical, technically sound, technically feasible, cost-justified and serves the best interests of reliability of the Bulk Power System, then the Board of Trustees has the authority to approve the draft Reliability Standard and direct that the proposed Reliability Standard be filed with Applicable Governmental Authorities with a request that the proposed Reliability Standard be made effective.
  - 5.3 If, after considering the entire developmental record (including the comments received under paragraph 5.1 of this Rule), the Board of Trustees is unable to find that the draft Reliability Standard, even with modifications, is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is practical, technically sound, technically feasible, cost-justified and serves the best interests of reliability of the Bulk Power System, then the Board of Trustees has the authority to direct that the draft Reliability Standard and complete developmental record be filed as a compliance filing in response to the regulatory directive with the Applicable Governmental Authority issuing the regulatory directive, with a recommendation that the draft Reliability Standard not be made effective.
  - 5.4 The filing of the Reliability Standard under either paragraph 5.2 or paragraph 5.3 of this Rule shall include an explanation of the basis for the decision by the Board of Trustees.
  - 5.5 A Reliability Standard approved under paragraph 5 of this Rule shall not be eligible for submission as an American National Standard.
6. NERC shall on or before March 31<sup>st</sup> of each year file a report with Applicable Governmental Authorities on the status and timetable for addressing each outstanding directive to address a specific matter received from an Applicable Governmental Authority.



## **SECTION 400 — COMPLIANCE ENFORCEMENT**

### **401. Scope of the NERC Compliance Monitoring and Enforcement Program**

1. **Components of the NERC Compliance Monitoring and Enforcement Program** — NERC shall develop and implement a NERC Compliance Monitoring and Enforcement Program to promote the reliability of the Bulk Power System by enforcing compliance with approved Reliability Standards in those regions of North America in which NERC and/or a Regional Entity (pursuant to a delegation agreement with NERC that has been approved by the Applicable Governmental Authority) has been given enforcement authority. There are four distinct parts of the NERC Compliance Monitoring and Enforcement Program: (1) NERC's oversight of the Regional Entity Compliance Monitoring and Enforcement Programs (Section 402), (2) the definition of the required Regional Entity Compliance Monitoring and Enforcement Program attributes (Section 403), (3) NERC's monitoring of Regional Entity compliance with Reliability Standards (Section 404), and (4) the monitoring of compliance with Reliability Standards that are applicable to NERC (Sections 405–406).
2. **Who Must Comply** — Where required by applicable legislation, regulation, rule or agreement, all Bulk Power System owners, operators, and users, Regional Entities, and NERC, are required to comply with all approved NERC Reliability Standards at all times. Regional Reliability Standards and Variances approved by NERC and the Applicable Governmental Authority shall be considered NERC Reliability Standards and shall apply to all Bulk Power System owners, operators, or users responsible for meeting those Reliability Standards within the Regional Entity boundaries, whether or not the Bulk Power System owner, operator, or user is a member of the Regional Entity.
3. **Data Access** — All Bulk Power System owners, operators, and users shall provide to NERC and the applicable Regional Entity such information as is necessary to monitor compliance with the Reliability Standards. NERC and the applicable Regional Entity will define the data retention and reporting requirements in the Reliability Standards and compliance reporting procedures.
4. **Role of Regional Entities in the Compliance Monitoring and Enforcement Program** — Each Regional Entity that has been delegated authority through a delegation agreement or other legal instrument approved by the Applicable Governmental Authority shall, in accordance with the terms of the approved delegation agreement, administer a Regional Entity Compliance Monitoring and Enforcement program to meet the NERC Compliance Monitoring and Enforcement Program goals and the requirements in this Section 400.
5. **Program Continuity** — NERC will ensure continuity of compliance monitoring and enforcement within the geographic boundaries of a Regional Entity in the event that NERC does not have a delegation agreement, or the Regional Entity withdraws from the agreement or does not operate its Compliance Monitoring and Enforcement Program in accordance with the delegation agreement or other applicable requirements.

- 5.1 Should NERC not have a delegation agreement with a Regional Entity covering a geographic area, or a Regional Entity withdraws from an existing delegation agreement or the delegation agreement is otherwise terminated, NERC will directly administer the Compliance Monitoring and Enforcement Program applicable to owners, operators and users of the Bulk Power System within that geographic area.
  1. This monitoring and enforcement will be accomplished by NERC and Compliance Staff from another approved Regional Entity.
  2. If an existing delegation agreement with a Regional Entity is terminating, the Regional Entity shall promptly provide to NERC all relevant compliance information regarding Registered Entities, contacts, prior compliance information and actions, Mitigation Plans, and remedial actions for the period in which the Regional Entity was responsible for administering the Compliance Monitoring and Enforcement Program.
  3. NERC will levy and collect all Penalties directly and will utilize any Penalty monies collected to offset the expenses of administering the Compliance Monitoring and Enforcement Program for the geographic area.
- 5.2 Should a Regional Entity seek to withdraw from its delegation agreement, NERC will seek agreement from another Regional Entity to amend its delegation agreement with NERC to extend that Regional Entity's boundaries for compliance monitoring and enforcement. In the event no Regional Entity is willing to accept this responsibility, NERC will administer the Compliance Monitoring and Enforcement Program within the geographical boundaries of the Regional Entity seeking to withdraw from the delegation agreement, in accordance with Section 401.5.1.
6. **Actively Monitored Requirements** — NERC, with input from the Regional entities, stakeholders, and regulators, shall annually select a subset of the NERC Reliability Standards and Requirements to be actively monitored and audited in the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan. Compliance is required with all NERC Reliability Standards whether or not they are included in the subset of Reliability Standards and Requirements designated to be actively monitored and audited in the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan.
7. **Penalties, Sanctions, and Remedial Actions** — NERC and Regional Entities will apply Penalties, sanctions, and remedial actions that bear a reasonable relation to the seriousness of a violation and take into consideration timely remedial efforts as defined in the NERC *Sanction Guidelines*, which is incorporated into these rules as **Appendix 4B**.
8. **Multiple Enforcement Actions** – A Registered Entity shall not be subject to an enforcement action by NERC and a Regional Entity for the same violation.

9. **Records** — NERC shall maintain a record of each compliance submission, including Self-Reported, Possible, Alleged, and Confirmed Violations of approved Reliability Standards; associated Penalties, sanctions, remedial actions and settlements; and the status of mitigation actions.

10. **Confidential Information** — NERC will treat all Possible and Alleged Violations of Reliability Standards and matters related to a Compliance Monitoring and Enforcement Program process, including the status of any Compliance Investigation or other Compliance Monitoring and Enforcement Program process, as confidential in accordance with Section 1500.

The types of information that will be considered confidential and will not (subject to statutory and regulatory requirements) be disclosed in any public information reported by NERC are identified in Section 1500. Information that would jeopardize Bulk Power System reliability, including information relating to a Cyber Security Incident, will be identified and protected from public disclosure as Critical Energy Infrastructure Information in accordance with Section 1500.

The Regional Entity and NERC shall give Bulk Power System owners, operators, and users a reasonable opportunity to demonstrate that information concerning a violation is confidential before such report is disclosed to the public.

11. **Public Posting** — When the affected Bulk Power System owner, operator, or user either agrees with a Possible or Alleged Violation(s) of a Reliability Standard(s) or a report of a Compliance Audit or Compliance Investigation, or enters into a settlement agreement concerning a Possible or Alleged Violation(s), or the time for submitting an appeal is passed, or all appeals processes are complete, NERC shall, subject to the confidentiality requirements of these Rules of Procedure, publicly post each Confirmed Violation, Penalty or sanction, settlement agreement, and final Compliance Audit or Compliance Investigation report, on its website.

11.1 Each Bulk Power System owner, operator, or user may provide NERC with a statement to accompany the Confirmed Violation or report to be posted publicly. The statement must be on company letterhead and include a signature, as well as the name and title of the person submitting the information.

11.2 In accordance with Section 1500, information deemed by a Bulk Power System owner, operator, or user, Regional Entity, or NERC as Critical Energy Infrastructure Information (*NERC Security Guidelines for the Electricity Sector — Protecting Potentially Sensitive Information* may be used as a guide) or other Confidential Information shall be redacted in accordance with Section 1500 and not be released publicly.

11.3 Subject to redaction of Critical Energy Infrastructure Information or other Confidential Information, for each Confirmed Violation or settlement relating to a Possible Violation or an Alleged Violation, the public posting

shall include the name of any relevant entity, the nature, time period, and circumstances of such Possible, Alleged or Confirmed Violation, any Mitigation Plan to be implemented by the Registered Entity in connection with the Confirmed Violation or settlement, and sufficient facts to assist owners, operators and users of the Bulk Power System to evaluate whether they have engaged in or are engaging in similar activities.

12. **Violation Information Review** — NERC Compliance Staff shall periodically review and analyze all reports of Possible, Alleged and Confirmed Violations to identify trends and other pertinent reliability issues.

#### **402. NERC Oversight of the Regional Entity Compliance Monitoring and Enforcement Programs**

1. **NERC Monitoring Program** — NERC shall have a program to monitor the Compliance Monitoring and Enforcement Program of each Regional Entity that has been delegated authority. The objective of this monitoring program shall be to ensure that the Regional Entity carries out its Compliance Monitoring and Enforcement Program in accordance with these Rules of Procedure and the terms of the delegation agreement, and to ensure consistency and fairness of the Regional Entity's Compliance Monitoring and Enforcement Program. Oversight and monitoring by NERC shall be accomplished through an annual Compliance Monitoring and Enforcement Program review, program audits, and regular evaluations of Regional Entity Compliance Monitoring and Enforcement Program performance as described below.
  - 1.1 **NERC Review of Annual Regional Entity Compliance Monitoring and Enforcement Program Implementation Plans** — NERC shall require each Regional Entity to submit for review and approval an annual Regional Entity Compliance Monitoring and Enforcement Program Implementation Plan. NERC shall review each annual Regional Entity Compliance Monitoring and Enforcement Program Implementation Plan and shall accept the plan if it meets NERC requirements and the requirements of the delegation agreement.
  - 1.2 **Regional Entity Compliance Monitoring and Enforcement Program Evaluation** — NERC shall annually evaluate the goals, tools, and procedures of each Regional Entity Compliance Monitoring and Enforcement Program to determine the effectiveness of each Regional Entity Compliance Monitoring and Enforcement Program, using criteria developed by the NERC Compliance and Certification Committee.
  - 1.3 **Regional Entity Compliance Monitoring and Enforcement Program Audit** — At least once every five years, NERC shall conduct an audit to evaluate how each Regional Entity Compliance Monitoring and Enforcement Program implements the NERC Compliance Monitoring and Enforcement Program. The evaluation shall be based on these Rules of Procedure, including Appendix 4C, the delegation agreement, directives in effect pursuant to the delegation agreement, approved annual Regional

Entity Compliance Monitoring and Enforcement Program Implementation Plans, required Compliance Monitoring and Enforcement Program attributes, and the NERC Compliance Monitoring and Enforcement Program procedures. These evaluations shall be provided to the Applicable Governmental Authorities to demonstrate the effectiveness of each Regional Entity. In addition, audits of Cross-Border Regional Entities shall cover applicable requirements imposed on the Regional Entity by statute, regulation, or order of, or agreement with, provincial governmental and/or regulatory authorities for which NERC has auditing responsibilities over the Regional Entity's compliance with such requirements within Canada or Mexico. Participation of a representative of an Applicable Governmental Authority shall be subject to the limitations of sections 3.1.6 and 8.0 of Appendix 4C of these Rules of Procedure regarding disclosures of non-public compliance information related to other jurisdictions. NERC shall maintain an audit procedure containing the requirements, steps, and timelines to conduct an audit of each Regional Entity Compliance Monitoring and Enforcement Program. The current procedure is contained in the NERC Audit of Regional Entity Compliance Programs, which is incorporated into these rules as **Appendix 4A**.

1.3.1. NERC shall establish a program to audit bulk power system owners, operators, and users operating within a regional entity to verify the findings of previous compliance audits conducted by the regional entity to evaluate how well the regional entity compliance enforcement program is meeting its delegated authority and responsibility.

1.4 Applicable Governmental Authorities will be allowed to participate as an observer in any audit conducted by NERC of a Regional Entity's Compliance Monitoring and Enforcement Program. A representative of the Regional Entity being audited will be allowed to participate in the audit as an observer.

2. **Consistency Among Regional Compliance Monitoring and Enforcement Programs** — To provide for a consistent Compliance Monitoring and Enforcement Program for all Bulk Power System owners, operators, and users required to comply with approved Reliability Standards, NERC shall maintain a single, uniform Compliance Monitoring and Enforcement Program, which is incorporated into these rules of procedure as **Appendix 4C**. Any differences in Regional Entity Compliance Monitoring and Enforcement Program methods, including determination of violations and Penalty assessment, shall be justified on a case-by-case basis and fully documented in each Regional Entity delegation agreement.

2.1 NERC shall ensure that each of the Regional Entity Compliance Monitoring and Enforcement Programs meets these Rules of Procedure, including **Appendix 4C**, and follows the terms of the delegation

agreement and the approved annual Regional Entity Compliance Monitoring and Enforcement Program Implementation Plan.

- 2.2 NERC shall maintain a single, uniform Compliance Monitoring and Enforcement Program in **Appendix 4C** containing the procedures to ensure the consistency and fairness of the processes used to determine Regional Entity Compliance Monitoring and Enforcement Program findings of compliance and noncompliance, and the application of Penalties and sanctions.
- 2.3 NERC shall periodically conduct Regional Entity compliance manager forums. These forums shall use the results of Regional Entity Compliance Monitoring and Enforcement Program audits and findings of NERC Compliance Staff to identify and refine Regional Entity Compliance Monitoring and Enforcement Program differences into a set of best practices over time.
3. **Information Collection and Reporting** — NERC and the Regional Entities shall implement data management procedures that address data reporting requirements, data integrity, data retention, data security, and data confidentiality.
4. **Violation Disclosure** — NERC shall disclose all Confirmed Violations and maintain as confidential Possible Violations and Alleged Violations, according to the reporting and disclosure process in **Appendix 4C**.
5. **Authority to Determine Noncompliance, Levy Penalties and Sanctions, and Issue Remedial Action Directives** — NERC and Regional Entity Compliance Staff shall have the authority and responsibility to make initial determinations of compliance or noncompliance, and where authorized by the Applicable Governmental Authorities or where otherwise authorized, to determine Penalties and sanctions for noncompliance with a Reliability Standard, and issue Remedial Action Directives. Regional Entity boards or a compliance panel reporting directly to the Regional Entity board will be vested with the authority for the overall Regional Entity Compliance Monitoring and Enforcement Program and have the authority to impose Penalties and sanctions on behalf of NERC, where authorized by applicable legislation or agreement. Remedial Action Directives may be issued by NERC or a Regional Entity that is aware of a Bulk Power System owner, operator, or user that is about to engage in an act or practice that would result in noncompliance with a Reliability Standard, where such Remedial Action Directive is immediately necessary to protect the reliability of the Bulk Power System from an imminent threat. If, after receiving such a Remedial Action Directive, the Bulk Power System owner, operator, or user does not take appropriate action to avert a violation of a Reliability Standard, NERC may petition the Applicable Governmental Authority to issue a compliance order.
6. **Due Process** — NERC shall establish and maintain a fair, independent, and nondiscriminatory appeals process. The appeals process is set forth in Sections

408-410. The process shall allow Bulk Power System owners, operators, and users to appeal the Regional Entity's findings of noncompliance and to appeal Penalties, sanctions, and Remedial Action Directives that are levied by the Regional Entity. Appeals beyond the NERC process will be heard by the Applicable Governmental Authority.

The appeals process will also allow for appeals to NERC of any findings of noncompliance issued by NERC to a Regional Entity for Reliability Standards and Requirements where the Regional Entity is monitored for compliance to a Reliability Standard. No monetary Penalties will be levied in these matters; however sanctions, remedial actions, and directives to comply may be applied by NERC.

7. **Conflict Disclosure** — NERC shall disclose to the appropriate governmental authorities any potential conflicts between a market rule and the enforcement of a Regional Reliability Standard.
8. **Confidentiality** — To maintain the integrity of the NERC Compliance Monitoring and Enforcement Program, NERC and Regional Entity staff, Compliance Audit team members, and committee members shall maintain the confidentiality of information obtained and shared during compliance monitoring and enforcement processes including Compliance Investigations, Compliance Audits, Spot Checks, drafting of reports, appeals, and closed meetings.
  - 8.1 NERC and the Regional Entity shall have in place appropriate codes of conduct and confidentiality agreements for staff and other Compliance Monitoring and Enforcement Program participants.
  - 8.2 Individuals not bound by NERC or Regional Entity codes of conduct who serve on compliance-related committees or Compliance Audit teams shall sign a NERC confidentiality agreement prior to participating on the committee or Compliance Audit team.
  - 8.3 Information deemed by a Bulk Power System owner, operator, or user, Regional Entity, or NERC as Critical Energy Infrastructure Information shall not be distributed outside of a committee or team, nor released publicly. Other information subject to confidentiality is identified in Section 1500.
  - 8.4 In the event that a staff, committee, or Compliance Audit team member violates any of the confidentiality rules set forth above, the staff, committee, or Compliance Audit team member and any member organization with which the individual is associated may be subject to appropriate action by the Regional Entity or NERC, including prohibiting participation in future Compliance Monitoring and Enforcement Program activities.

9. **Auditor Training** — NERC shall develop and provide training in auditing skills to all people who participate in NERC and Regional Entity Compliance Audits. Training for NERC and Regional Entity personnel and others who serve as Compliance Audit team leaders shall be more comprehensive than training given to industry subject matter experts and Regional Entity members. Training for Regional Entity members may be delegated to the Regional Entity.

#### **403. Required Attributes of Regional Entity Compliance Monitoring and Enforcement Programs**

Each Regional Entity Compliance Monitoring and Enforcement Program shall promote excellence in the enforcement of Reliability Standards. To accomplish this goal, each Regional Entity Compliance Monitoring and Enforcement Program shall (i) conform to and comply with the NERC uniform Compliance Monitoring and Enforcement Program, **Appendix 4C** to these Rules of Procedure, except to the extent of any deviations that are stated in the Regional Entity's delegation agreement, and (ii) meet all of the attributes set forth in this Section 403.

##### **Program Structure**

1. **Independence** — Each Regional Entity's governance of its Compliance Monitoring and Enforcement Program shall exhibit independence, meaning the Compliance Monitoring and Enforcement Program shall be organized so that its compliance monitoring and enforcement activities are carried out separately from other activities of the Regional Entity. The Compliance Monitoring and Enforcement Program shall not be unduly influenced by the Bulk Power System owners, operators, and users being monitored or other Regional Entity activities that are required to meet the Reliability Standards. Regional Entities must include rules providing that no two industry sectors may control any decision and no single segment may veto any matter related to compliance.
2. **Exercising Authority** — Each Regional Entity Compliance Monitoring and Enforcement Program shall exercise the responsibility and authority in carrying out the delegated functions of the NERC Compliance Monitoring and Enforcement Program in accordance with delegation agreements and **Appendix 4C**. These functions include but are not limited to: data gathering, data reporting, Compliance Investigations, Compliance Audit activities, evaluating compliance and noncompliance, imposing Penalties and sanctions, and approving and tracking mitigation actions.
3. **Delegation of Authority** — To maintain independence, fairness, and consistency in the NERC Compliance Monitoring and Enforcement Program, a Regional Entity shall not sub-delegate its Compliance Monitoring and Enforcement Program duties to entities or persons other than the Regional Entity Compliance Staff, unless (i) required by statute or regulation in the applicable jurisdiction, or (ii) by agreement with express approval of NERC and of FERC or other Applicable Governmental Authority, to another Regional Entity.
4. **Hearings of Contested Findings or Sanctions** — The Regional Entity board or compliance panel reporting directly to the Regional Entity board (with appropriate



recusal procedures) will be vested with the authority for conducting compliance hearings in which any Bulk Power System owner, operator, or user provided a Notice of Alleged Violation may present facts and other information to contest a Notice of Alleged Violation or any proposed Penalty, sanction, any Remedial Action Directive, or any Mitigation Plan component. Compliance hearings shall be conducted in accordance with the Hearing Procedures set forth in Attachment 2 to **Appendix 4C**. If a stakeholder body serves as the Hearing Body, no two industry sectors may control any decision and no single segment may veto any matter related to compliance after recusals.

### **Program Resources**

5. **Regional Entity Compliance Staff** — Each Regional Entity shall have sufficient resources to meet delegated compliance monitoring and enforcement responsibilities, including the necessary professional staff to manage and implement the Regional Entity Compliance Monitoring and Enforcement Program.
6. **Regional Entity Compliance Staff Independence** — The Regional Entity Compliance Staff shall be capable of and required to make all determinations of compliance and noncompliance and determine Penalties, sanctions, and remedial actions.
  - 6.1 Regional Entity Compliance Staff shall not have a conflict of interest, real or perceived, in the outcome of compliance monitoring and enforcement processes, reports, or sanctions. The Regional Entity shall have in effect a conflict of interest policy.
  - 6.2 Regional Entity Compliance Staff shall have the authority and responsibility to carry out compliance monitoring and enforcement processes (with the input of industry subject matter experts), make determinations of compliance or noncompliance, and levy Penalties and sanctions without interference or undue influence from Regional Entity members and their representative or other industry entities.
  - 6.3 Regional Entity Compliance Staff may call upon independent technical subject matter experts who have no conflict of interest in the outcome of the compliance monitoring and enforcement process to provide technical advice or recommendations in the determination of compliance or noncompliance.
  - 6.4 Regional Entity Compliance Staff shall abide by the confidentiality requirements contained in Section 1500 and **Appendix 4C** of these Rules of Procedure, the NERC delegation agreement and other confidentiality agreements required by the NERC Compliance Monitoring and Enforcement Program.
  - 6.5 Contracting with independent consultants or others working for the Regional Entity Compliance Monitoring and Enforcement Program shall be permitted provided the individual has not received compensation from a Bulk Power System owner, operator, or user being monitored for a

period of at least the preceding six months and owns no financial interest in any Bulk Power System owner, operator, or user being monitored for compliance to the Reliability Standard, regardless of where the Bulk Power System owner, operator, or user operates. Any such individuals for the purpose of these Rules of Procedure shall be considered as augmenting Regional Entity Compliance Staff.

**7. Use of Industry Subject Matter Experts and Regional Entity Members** — Industry experts and Regional Entity members may be called upon to provide their technical expertise in Compliance Monitoring and Enforcement Program activities.

- 7.1 The Regional Entity shall have procedures defining the allowable involvement of industry subject matter experts and Regional Entity members. The procedures shall address applicable antitrust laws and conflicts of interest.
- 7.2 Industry subject matter experts and Regional Entity members shall have no conflict of interest or financial interests in the outcome of their activities.
- 7.3 Regional Entity members and industry subject matter experts, as part of teams or Regional Entity committees, may provide input to the Regional Entity Compliance Staff so long as the authority and responsibility for (i) evaluating and determining compliance or noncompliance and (ii) levying Penalties, sanctions, or remedial actions shall not be delegated to any person or entity other than the Compliance Staff of the Regional Entity. Industry subject matter experts, Regional Entity members, or Regional Entity committees shall not make determinations of noncompliance or levy Penalties, sanctions, or remedial actions. Any committee involved shall be organized so that no two industry sectors may control any decision and no single segment may veto any matter related to compliance.
- 7.4 Industry subject matter experts and Regional Entity members shall sign a confidentiality agreement appropriate for the activity being performed.
- 7.5 All industry subject matter experts and Regional Entity members participating in Compliance Audits and Compliance Investigations shall successfully complete auditor training provided by NERC or the Regional Entity prior to performing these activities

**Program Design**

- 8. Regional Entity Compliance Monitoring and Enforcement Program Content** — All approved Reliability Standards shall be included in the Regional Entity Compliance Monitoring and Enforcement Program for all Bulk Power System owners, operators, and users within the defined boundaries of the Regional Entity.

Compliance to approved Regional Reliability Standards is applicable only within the Region of the Regional Entity that submitted those particular Regional Reliability Standards for approval. NERC will identify the minimum set of Reliability Standards and Requirements to be actively monitored by the Regional Entity in a given year.

9. **Antitrust Provisions** — Each Regional Entity’s Compliance Monitoring and Enforcement Program shall be structured and administered to abide by U.S. antitrust law and Canadian competition law.
10. **Information Submittal** — All Bulk Power System owners, operators, and users within the Regional Entity responsible for complying with Reliability Standards shall submit timely and accurate information when requested by the Regional Entity or NERC. NERC and the Regional Entities shall preserve any mark of confidentiality on information submitted pursuant to Section 1502.1.
  - 10.1 Each Regional Entity has the authority to collect the necessary information to determine compliance and shall develop processes for gathering data from the Bulk Power System owners, operators, and users the Regional Entity monitors.
  - 10.2 The Regional Entity or NERC has the authority to request information from Bulk Power System owners, operators, and users pursuant to Section 401.3 or this Section 403.10 without invoking a specific compliance monitoring and enforcement process in **Appendix 4C**, for purposes of determining whether to pursue one such process in a particular case and/or validating in the enforcement phase of a matter the conclusions reached through the compliance monitoring and enforcement process(es).
  - 10.3 When required or requested, the Regional Entities shall report information to NERC promptly and in accordance with **Appendix 4C** and other NERC procedures.
  - 10.4 Regional Entities shall notify NERC of all Possible, Alleged and Confirmed Violations of NERC Reliability Standards by Registered Entities over which the Regional Entity has compliance monitoring and enforcement authority, in accordance with **Appendix 4C**.
  - 10.5 A Bulk Power System owner, operator, or user found in noncompliance with a Reliability Standard shall submit a Mitigation Plan with a timeline addressing how the noncompliance will be corrected. The Regional Entity Compliance Staff shall review and approve the Mitigation Plan in accordance with **Appendix 4C**.
  - 10.6 An officer of a Bulk Power System owner, operator, or user shall certify as accurate all compliance data Self-Reported to the Regional Entity Compliance Monitoring and Enforcement Program.

- 10.7 Regional Entities shall develop and implement procedures to verify the compliance information submitted by Bulk Power System owners, operators, and users.
11. **Compliance Audits of Bulk Power System Owners, Operators, and Users** — Each Regional Entity will maintain and implement a program of proactive Compliance Audits of Bulk Power System owners, operators, and users responsible for complying with Reliability Standards, in accordance with **Appendix 4C**. A Compliance Audit is a process in which a detailed review of the activities of a Bulk Power System owner, operator, or user is performed to determine if that Bulk Power System owner, operator, or user is complying with approved Reliability Standards.
- 11.1 For an entity registered as a Balancing Authority, Reliability Coordinator, or Transmission Operator, the Compliance Audit will be performed at least once every three years. For other Bulk Power System owners, operators, and users on the NERC Compliance Registry, Compliance Audits shall be performed on a schedule established by NERC.
- 11.2 Compliance Audits of Balancing Authorities, Reliability Coordinators, and Transmission Operators will include a component at the audited entity's site. For other Bulk Power System owners, operators, and users on the NERC Compliance Registry, the Compliance Audit may be either an on-site Compliance Audit or based on review of documents, as determined to be necessary and appropriate by NERC or Regional Entity Compliance Staff.
- 11.3 Compliance Audits must include a detailed review of the activities of the Bulk Power System owner, operator, or user to determine if the Bulk Power System owner, operator, or user is complying with all approved Reliability Standards identified for audit by NERC. The Compliance Audit shall include a review of supporting documentation and evidence used by the Bulk Power System owner, operator or user to demonstrate compliance for an appropriate period prior to the Compliance Audit.
12. **Confidentiality of Compliance Monitoring and Enforcement Processes** — All compliance monitoring and enforcement processes, and information obtained from such processes, are to be non-public and treated as confidential in accordance with Section 1500 and **Appendix 4C** of these Rules of Procedure, unless NERC, the Regional Entity or FERC or another Applicable Governmental Authority with jurisdiction determines a need to conduct a Compliance Monitoring and Enforcement Program process on a public basis, provided, that NERC and the Regional Entities shall publish (i) schedules of Compliance Audits scheduled in each year, (ii) a public report of each Compliance Audit, and (iii) Notices of Penalty and settlement agreements. Advance authorization from the Applicable Governmental Authority is required to make public any compliance monitoring and enforcement process or any information relating to a compliance

monitoring and enforcement process, or to permit interventions when determining whether to impose a Penalty. This prohibition on making public any compliance monitoring and enforcement process does not prohibit NERC or a Regional Entity from publicly disclosing (i) the initiation of or results from an analysis of a significant system event under Section 807 or of off-normal events or system performance under Section 808, or (ii) information of general applicability and usefulness to owners, operators, and users of the Bulk Power System concerning reliability and compliance matters, so long as specific allegations or conclusions regarding Possible or Alleged Violations of Reliability Standards are not included in such disclosures.

13. **Critical Energy Infrastructure Information** — Information that would jeopardize Bulk Power System reliability, including information relating to a Cyber Security Incident will be identified and protected from public disclosure as Critical Energy Infrastructure Information. In accordance with Section 1500, information deemed by a Bulk Power System owner, operator, or user, Regional Entity, or NERC as Critical Energy Infrastructure Information shall be redacted according to NERC procedures and shall not be released publicly.
14. **Penalties, Sanctions, and Remedial Action Directives** — Each Regional Entity will apply all Penalties, sanctions, and Remedial Action Directives in accordance with the approved *Sanction Guidelines*, **Appendix 4B** to these Rules of Procedure. Any changes to the *Sanction Guidelines* to be used by any Regional Entity must be approved by NERC and submitted to the Applicable Governmental Authority for approval. All Confirmed Violations, Penalties, and sanctions will be provided to NERC for review and filing with Applicable Governmental Authorities as a Notice of Penalty, in accordance with **Appendix 4C**.
15. **Regional Entity Hearing Process** — Each Regional Entity Compliance Monitoring and Enforcement Program shall establish and maintain a fair, independent, and nondiscriminatory process for hearing contested violations and any Penalties or sanctions levied, in conformance with Attachment 2 to **Appendix 4C** to these Rules of Procedure and any deviations therefrom that are set forth in the Regional Entity's delegation agreement. The hearing process shall allow Bulk Power System owners, operators, and users to contest findings of compliance violations, any Penalties and sanctions that are proposed to be levied, proposed Remedial Action Directives, and components of proposed Mitigation Plans. The Regional Entity hearing process shall be conducted before the Regional Entity board or a balanced committee established by and reporting to the Regional Entity board as the final adjudicator, provided, that Canadian provincial regulators may act as the final adjudicator in their respective jurisdictions. The Regional Entity hearing process shall (i) include provisions for recusal of any members of the Hearing Body with a potential conflict of interest, real or perceived, from all compliance matters considered by the Hearing Body for which the potential conflict of interest exists and (ii) provide that no two industry sectors may control any decision and no single segment may veto any matter brought before the Hearing Body after recusals.

Each Regional Entity will notify NERC of all hearings and NERC may observe any of the proceedings. Each Regional Entity will notify NERC of the outcome of all hearings.

If a Bulk Power System owner, operator, or user has completed the Regional Entity hearing process and desires to appeal the outcome of the hearing, the Bulk Power System owner, operator, or user shall appeal to NERC in accordance with Section 409 of these Rules of Procedure, except that a determination of violation or Penalty that has been directly adjudicated by an Applicable Governmental Authority shall be appealed with that Applicable Governmental Authority.

16. **Annual Regional Entity Compliance Monitoring and Enforcement Program Implementation Plan** — Each Regional Entity shall annually develop and submit to NERC for approval a Regional Entity Compliance Monitoring and Enforcement Implementation Plan in accordance with **Appendix 4C** that identifies the Reliability Standards and Requirements to be actively monitored (both those required by NERC and any additional Reliability Standards the Regional Entity proposes to monitor), and how each NERC and Regional Entity identified Reliability Standard will be monitored, evaluated, reported, sanctioned, and appealed. These Regional Implementation Plans will be submitted to NERC on the schedule established by NERC, generally on or about November 1 of the preceding year. In conjunction with the annual Regional Implementation Plan, each Regional Entity must report to NERC regarding how it carried out its delegated compliance monitoring and enforcement authority in the previous year, the effectiveness of the Compliance Monitoring and Enforcement Program, and changes expected to correct any deficiencies identified. Each Regional Entity will provide its annual report on the schedule established by NERC, generally on or about February 15 of the following year.

**404. NERC Monitoring of Compliance for Regional Entities or Bulk Power Owners, Operator, or Users**

NERC shall monitor Regional Entity compliance with NERC Reliability Standards and, if no there is no delegation agreement in effect with a Regional Entity for the geographic area, shall monitor Bulk Power System owners, operators, and users for compliance with NERC Reliability Standards. Industry subject matter experts may be used as appropriate in Compliance Investigations, Compliance Audits, and other Compliance Monitoring and Enforcement Program activities, subject to confidentiality, antitrust, and conflict of interest provisions.

1. **NERC Obligations** — NERC Compliance Staff shall monitor the compliance of the Regional Entity with the Reliability Standards for which the Regional Entities are responsible, in accordance with **Appendix 4C**. NERC shall actively monitor in its annual Compliance Enforcement and Monitoring Program selected Reliability Standards that apply to the Regional Entities. NERC shall evaluate compliance and noncompliance with all of the Reliability Standards that apply to the Regional Entities and shall impose sanctions, Penalties, or Remedial Action

Directives when there is a finding of noncompliance. NERC shall post all violations of Reliability Standards that apply to the Regional Entities as described in the reporting and disclosure process in **Appendix 4C**.

In addition, NERC will directly monitor Bulk Power System owners, operators, and users for compliance with NERC Reliability Standards in any geographic area for which there is not a delegation agreement in effect with a Regional Entity, in accordance with **Appendix 4C**. In such cases, NERC will serve as the Compliance Enforcement Authority described in **Appendix 4C**. Compliance matters contested by Bulk Power System owners, operators, and users in such an event will be heard by the NERC Compliance and Certification Committee.

2. **Compliance Audit of the Regional Entity** — NERC shall perform a Compliance Audit of each Regional Entity responsible for complying with Reliability Standards at least once every three years. NERC shall make an evaluation of compliance based on the information obtained through the Compliance Audit. After due process is complete, the final Compliance Audit report shall be made public in accordance with the reporting and disclosure process in **Appendix 4C**.
3. **Appeals Process** — Any Regional Entity or Bulk Power System owner, operator or user found by NERC, as opposed to a Regional Entity, to be in noncompliance with a Reliability Standard may appeal the findings of noncompliance with Reliability Standards and any sanctions or Remedial Action Directives that are issued by, or Mitigation Plan components imposed by, NERC, pursuant to the processes described in Sections 408 through 410.

#### **405. Monitoring of Reliability Standards and Other Requirements Applicable to NERC**

The NERC Compliance and Certification Committee shall establish and implement a process to monitor NERC's compliance with the Reliability Standards that apply to NERC. The process shall use independent monitors with no conflict of interest, real or perceived, in the outcomes of the process. All violations shall be made public according to the reporting and disclosure process in **Appendix 4C**. The Compliance and Certification Committee will also establish a procedure for monitoring NERC's compliance with its Rules of Procedure for the Standards Development, Compliance Monitoring and Enforcement, and Organization Registration and Certification Programs. Such procedures shall not be used to circumvent the appeals processes established for those programs.

#### **406. Independent Audits of the NERC Compliance Monitoring and Enforcement Program**

NERC shall provide for an independent audit of its Compliance Monitoring and Enforcement Program at least once every three years, or more frequently as determined by the Board. The audit shall be conducted by independent expert auditors as selected by the Board. The independent audit shall meet the following minimum requirements and any other requirements established by the NERC Board.

1. **Effectiveness** — The audit shall evaluate the success and effectiveness of the NERC Compliance Monitoring and Enforcement Program in achieving its mission.
2. **Relationship** — The audit shall evaluate the relationship between NERC and the Regional Entity Compliance Monitoring and Enforcement Programs and the effectiveness of the programs in ensuring reliability.
3. **Final Report Posting** — The final report shall be posted by NERC for public viewing in accordance with **Appendix 4C**.
4. **Response to Recommendations** — If the audit report includes recommendations to improve the NERC Compliance Monitoring and Enforcement Program, the administrators of the NERC Compliance Monitoring and Enforcement Program shall provide a written response and plan to the Board within 30 days of the release of the final audit report.

#### **407. Penalties, Sanctions, and Remedial Actions**

1. **NERC Review of Regional Entity Penalties and Sanctions** — NERC shall review all Penalties, sanctions, and remedial actions imposed by each Regional Entity for violations of Reliability Standards to determine if the Regional Entity's determination is supported by a sufficient record compiled by the Regional Entity, is consistent with the *Sanction Guidelines* incorporated into these Rules of Procedure as **Appendix 4B** and with other directives, guidance and directions issued by NERC pursuant to the delegation agreement, and is consistent with Penalties, sanctions and remedial actions imposed by the Regional Entity and by other Regional Entities for violations involving the same or similar facts and circumstances.
2. **Developing Penalties and Sanctions** — The Regional Entity Compliance Staff shall use the *Sanction Guidelines*, which are incorporated into these Rules of Procedure as **Appendix 4B**, to develop an appropriate Penalty, sanction, or remedial action for a violation, and shall notify NERC of the Penalty or sanction.
3. **Effective Date of Penalty** — Where authorized by applicable legislation or agreement, no Penalty imposed for a violation of a Reliability Standard shall take effect until the thirty-first day after NERC files, with the Applicable Governmental Authority, a "Notice of Penalty" and the record of the proceedings in which the violation and Penalty were determined, or such other date as ordered by the Applicable Governmental Authority.

#### **408. Review of NERC Decisions**

1. **Scope of Review** — A Registered Entity or a Regional Entity wishing to challenge a finding of noncompliance and the imposition of a Penalty for a compliance measure directly administered by NERC, or a Regional Entity wishing to challenge a Regional Entity Compliance Monitoring and Enforcement Program audit finding, may do so by filing a notice of the challenge with NERC's



Director of Compliance no later than 21 days after issuance of the notice of finding of violation or audit finding. Appeals by Registered Entities of decisions of Regional Entity Hearing Bodies shall be pursuant to Section 409 .

2. **Contents of Notice** — The notice of challenge shall include the full text of the decision that is being challenged, a concise statement of the error or errors contained in the decision, a clear statement of the relief being sought, and argument in sufficient detail to justify such relief.
3. **Response by NERC Compliance Monitoring and Enforcement Program** — Within 21 days after receiving a copy of the notice of challenge, the NERC Director of Compliance may file with the Hearing Panel a response to the issues raised in the notice, with a copy to the Regional Entity.
4. **Hearing by Compliance and Certification Committee** — The NERC Compliance and Certification Committee shall provide representatives of the Regional Entity or Registered Entity, and the NERC Compliance Monitoring and Enforcement Program an opportunity to be heard and shall decide the matter based upon the filings and presentations made, with a written explanation of its decision.
5. **Appeal** — The Regional Entity, or Registered Entity may appeal the decision of the Compliance and Certification Committee by filing a notice of appeal with NERC’s Director of Compliance no later than 21 days after issuance of the written decision by the Compliance and Certification Committee. The notice of appeal shall include the full text of the written decision of the Compliance and Certification Committee that is being appealed, a concise statement of the error or errors contained in the decision, a clear statement of the relief being sought, and argument in sufficient detail to justify such relief. No factual material shall be presented in the appeal that was not presented to the Compliance and Certification Committee.
6. **Response by NERC Compliance Monitoring and Enforcement Program** — Within 21 days after receiving a copy of the notice of appeal, the NERC Compliance Monitoring and Enforcement Program staff may file its response to the issues raised in the notice of appeal, with a copy to the entity filing the notice.
7. **Reply** — The entity filing the appeal may file a reply within 7 days.
8. **Decision** — The Compliance Committee of the NERC Board of Trustees shall decide the appeal, in writing, based upon the notice of appeal, the record, the response, and any reply. At its discretion, the Compliance Committee may invite representatives of the Regional Entity or Registered Entity, and the NERC Compliance Monitoring and Enforcement Program to appear before the Compliance Committee. Decisions of the Compliance Committee shall be final, except for further appeal to the Applicable Governmental Authority.

9. **Impartiality** — No member of the Compliance and Certification Committee or the Board of Trustees Compliance Committee having an actual or perceived conflict of interest in the matter may participate in any aspect of the challenge or appeal except as a party or witness.
10. **Expenses** — Each party in the challenge and appeals processes shall pay its own expenses for each step in the process.
11. **Non-Public Proceedings** — All challenges and appeals shall be closed to the public to protect Confidential Information.

#### **409. Appeals from Final Decisions of Regional Entities**

1. **Time for Appeal** — An owner, operator or user of the Bulk Power System wishing to appeal from a final decision of a Regional Entity that finds a violation of a Reliability Standard or imposes a Penalty for violation of a Reliability Standard shall file its notice of appeal with NERC's Director of Compliance, with a copy to the Regional Entity, no later than 21 days after issuance of the final decision of the Regional Entity Hearing Body. The same appeal procedures will apply regardless of whether the matter first arose in a Compliance Investigation, Compliance Audit or Self-Report, other compliance monitoring and enforcement process, or in a reliability readiness evaluation.
2. **Contents** — The notice of appeal shall include the full text of the final decision of the Regional Entity Hearing Body that is being appealed, a concise statement of the error or errors contained in the final decision, a clear statement of the relief being sought, and argument in sufficient detail to justify such relief. No factual material shall be presented in the appeal that was not first presented during the compliance hearing before the Regional Entity Hearing Body.
3. **Response by Regional Entity** — Within 21 days after receiving a copy of the notice of appeal, the Regional Entity shall file the entire record of the matter with NERC's Director of Compliance, with a copy to the Registered Entity filing the notice, together with its response to the issues raised in the notice of appeal.
4. **Reply** — The Registered Entity filing the appeal may file a reply to the Regional Entity within 7 days.
5. **Decision** — The Compliance Committee of the NERC Board of Trustees shall decide the appeal, in writing, based upon the notice of appeal, the record of the matter from the Regional Entity, the response, and any reply filed with NERC. At its discretion, the Compliance Committee may invite representatives of the Registered Entity making the appeal and the Regional Entity to appear before the Committee. Decisions of the Compliance Committee shall be final, except for further appeal to the Applicable Governmental Authority.
6. **Expenses** — Each party in the appeals process shall pay its own expenses for each step in the process.

7. **Non-Public Proceedings** — All appeals shall be closed to the public to protect Confidential Information.

**410. Hold Harmless**

A condition of invoking the challenge or appeals processes under Section 408 or 409 is that the entity requesting the challenge or appeal agrees that neither NERC (defined to include its Members, Board of Trustees, committees, subcommittees, staff and industry subject matter experts), any person assisting in the challenge or appeals processes, nor any company employing a person assisting in the challenge or appeals processes, shall be liable, and they shall be held harmless against the consequences of or any action or inaction or of any agreement reached in resolution of the dispute or any failure to reach agreement as a result of the challenge or appeals proceeding. This “hold harmless” clause does not extend to matters constituting gross negligence, intentional misconduct, or a breach of confidentiality.

**411. Requests for Technical Feasibility Exceptions to NERC Critical Infrastructure Protection Reliability Standards**

A Registered Entity that is subject to an Applicable Requirement of a NERC Critical Infrastructure Protection Standard for which Technical Feasibility Exceptions are permitted, may request a Technical Feasibility Exception to the Requirement, and the request will be reviewed, approved or disapproved, and if approved, implemented, in accordance with the NERC *Procedure for Requesting and Receiving Technical Feasibility Exceptions to NERC Critical Infrastructure Protection Standard*, Appendix 4D to these Rules of Procedure.

## SECTION 500 — ORGANIZATION REGISTRATION AND CERTIFICATION

### 501. Scope of the Organization Registration and Organization Certification Programs

The purpose of the Organization Registration Program is to clearly identify those entities that are responsible for compliance with the FERC approved Reliability Standards. Organizations that are registered are included on the NERC Compliance Registry (NCR) and are responsible for knowing the content of and for complying with all applicable Reliability Standards. Registered Entities are not and do not become Members of NERC or a Regional Entity, by virtue of being listed on the NCR. Membership in NERC is governed by Article II of NERC's Bylaws; membership in a Regional Entity or regional reliability organization is governed by that entity's bylaws or rules.

The purpose of the Organization Certification Program is to ensure that the new entity (i.e., applicant to be an RC, BA, or TOP that is not already performing the function for which it is applying to be certified as) has the tools, processes, training, and procedures to demonstrate their ability to meet the Requirements/sub-Requirements of all of the Reliability Standards applicable to the function(s) for which it is applying thereby demonstrating the ability to become certified and then operational.

Organization Registration and Organization Certification may be delegated to Regional Entities in accordance with the procedures in this Section 500; the NERC *Organization Registration and Organization Certification Manual*, which is incorporated into these Rules of Procedure as **Appendix 5A**; and, approved Regional Entity delegation agreements or other applicable agreements.

1. **NERC Compliance Registry** — NERC shall establish and maintain the NCR of the Bulk Power System owners, operators, and users that are subject to approved Reliability Standards.
  - 1.1 (a) The NCR shall set forth the identity and functions performed for each organization responsible for meeting Requirements/sub-Requirements of the Reliability Standards. Bulk Power System owners, operators, and users (i) shall provide to NERC and the applicable Regional Entity information necessary to complete the Registration, and (ii) shall provide NERC and the applicable Regional Entity with timely updates to information concerning the Registered Entity's ownership, operations, contact information, and other information that may affect the Registered Entity's Registration status or other information recorded in the Compliance Registry.
    - (b) A generation or transmission cooperative, a joint-action agency or another organization may register as a Joint Registration Organization (JRO), in lieu of each of the JRO's members or related entities being registered individually for one or more functions. Refer to Section 507.

(c) Multiple entities may each register using a Coordinated Functional Registration (CFR) for one or more Reliability Standard(s) and/or for one or more Requirements/sub-Requirements within particular Reliability Standard(s) applicable to a specific function pursuant to a written agreement for the division of compliance responsibility. Refer to Section 508.

- 1.2 In the development of the NCR, NERC and the Regional Entities shall determine which organizations should be placed on the NCR based on the criteria provided in the NERC *Statement of Compliance Registry Criteria* which is incorporated into these Rules of Procedure as **Appendix 5B**.
- 1.3 NERC and the Regional Entities shall use the following rules for establishing and maintaining the NCR based on the Registration criteria as set forth in **Appendix 5B** *Statement of Compliance Registry Criteria*:
  - 1.3.1 NERC shall notify each organization that it is on the NCR. The Registered Entity is responsible for compliance with all the Reliability Standards applicable to the functions for which it is registered from the time it receives the Registration notification from NERC.
  - 1.3.2 Any organization receiving such a notice may challenge its placement on the NCR according to the process in **Appendix 5A** *Organization Registration and Organization Certification Manual*, Section V.
  - 1.3.3 The Compliance Committee of the Board of Trustees shall promptly issue a written decision on the challenge, including the reasons for the decision.
  - 1.3.4 The decision of the Compliance Committee of the Board of Trustees shall be final unless, within 21 days of the date of the Compliance Committee of the Board of Trustees decision, the organization appeals the decision to the Applicable Governmental Authority.
  - 1.3.5 Each Registered Entity identified on the NCR shall notify its corresponding Regional Entity(s) of any corrections, revisions, deletions, changes in ownership, corporate structure, or similar matters that affect the Registered Entity's responsibilities with respect to the Reliability Standards. Failure to notify will not relieve the Registered Entity from any responsibility to comply with the Reliability Standards or shield it from any Penalties or sanctions associated with failing to comply with the Reliability Standards applicable to its associated Registration.

- 1.4 For all geographical or electrical areas of the Bulk Power System, the Registration process shall ensure that (1) no areas are lacking any entities to perform the duties and tasks identified in and required by the Reliability Standards to the fullest extent practical, and (2) there is no unnecessary duplication of such coverage or of required oversight of such coverage. In particular the process shall:
  - 1.4.1 Ensure that all areas are under the oversight of one and only one Reliability Coordinator.
  - 1.4.2 Ensure that all Balancing Authorities and Transmission Operator entities<sup>2</sup> are under the responsibility of one and only one Reliability Coordinator.
  - 1.4.3 Ensure that all transmission Facilities of the Bulk Power System are the responsibility and under the control of one and only one Transmission Planner, Planning Authority, and Transmission Operator.
  - 1.4.4 Ensure that all ~~Loads~~loads and generators are under the responsibility and control of one and only one Balancing Authority.
- 1.5 NERC shall maintain the NCR of organizations responsible for meeting the Requirements/sub-Requirements of the Reliability Standards currently in effect on its website and shall update the NCR monthly.
2. **Entity Certification** — NERC shall provide for Certification of all entities with primary reliability responsibilities requiring Certification. This includes those entities that satisfy the criteria established in the NERC provisional Certification process. The NERC programs shall:
  - 2.1 Evaluate and certify the competency of entities performing reliability functions. The entities presently expected to be certified include Reliability Coordinators, Transmission Operators, and Balancing Authorities.
  - 2.2 Evaluate and certify each applicant's ability to meet the requirements for Certification.
  - 2.3 Maintain process documentation.

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<sup>2</sup> Some organizations perform the listed functions (e.g., Balancing Authority, Transmission Operator) over areas that transcend the Footprints of more than one Reliability Coordinator. Such organizations will have multiple Registrations, with each such Registration corresponding to that portion of the organization's overall area that is within the Footprint of a particular Reliability Coordinator.

- 2.4 Maintain records of currently certified entities.
- 2.5 Issue a Certification document to the applicant that successfully demonstrates its competency to perform the evaluated functions.

**3. Delegation and Oversight**

- 3.1 NERC may delegate responsibilities for Organization Registration and Organization Certification to Regional Entities in accordance with requirements established by NERC. Delegation will be via the delegation agreement between NERC and the Regional Entity or other applicable agreement. The Regional Entity shall administer Organization Registration and Organization Certification Programs in accordance with such delegations to meet NERC's programs goals and requirements subject to NERC oversight.
- 3.2 NERC shall develop and maintain a plan to ensure the continuity of Organization Registration and Organization Certification within the geographic or electrical boundaries of a Regional Entity in the event that no entity is functioning as a Regional Entity for that Region, or the Regional Entity withdraws as a Regional Entity, or does not operate its Organization Registration and Organization Certification Programs in accordance with delegation agreements.
- 3.3 NERC shall develop and maintain a program to monitor and oversee the NERC Organization Registration and Organization Certification Programs activities that are delegated to each Regional Entity through a delegation agreement or other applicable agreement.
  - 3.3.1 This program shall monitor whether the Regional Entity carries out those delegated activities in accordance with NERC requirements, and whether there is consistency, fairness of administration, and comparability.
  - 3.3.2 Monitoring and oversight shall be accomplished through direct participation in the Organization Registration and Organization Certification Programs with periodic reviews of documents and records of both programs.

**502. Organization Registration and Organization Certification Program Requirements**

- 1. NERC shall maintain the Organization Registration and Organization Certification Programs.
  - 1.1 The roles and authority of Regional Entities in the programs are delegated from NERC pursuant to the Rules of Procedure through regional delegation agreements or other applicable agreements.

- 1.2 Processes for the programs shall be administered by NERC and the Regional Entities. Materials that each Regional Entity uses are subject to review and approval by NERC.
  - 1.3 The appeals process for the Organization Registration and Organization Certification Programs are identified in **Appendix 5A** *Organization Registration and Organization Certification Manual*, Sections V and VI, respectively.
  - 1.4 The Certification Team membership is identified in **Appendix 5A** *Organization Registration and Organization Certification Manual*, Section IV.8.d.
2. To ensure consistency and fairness of the Organization Registration and Organization Certification Programs, NERC shall develop procedures to be used by all Regional Entities and NERC in accordance with the following criteria:
- 2.1 NERC and the Regional Entities shall have data management processes and procedures that provide for confidentiality, integrity, and retention of data and information collected.
  - 2.2 Documentation used to substantiate the conclusions of the Regional Entity/ NERC related to Registration and/or Certification must be retained by the Regional Entity for (6) six years, unless a different retention period is otherwise identified, for the purposes of future audits of these programs.
  - 2.3 To maintain the integrity of the NERC Organization Registration and Organization Certification Programs, NERC, Regional Entities, Certification Team members, program audit team members (Section 506), and committee members shall maintain the confidentiality of information provided by an applicant or entities.
    - 2.2.1 NERC and the Regional Entities shall have appropriate codes of conduct and confidentiality agreements for staff, Certification Team, Certification related committees, and Certification program audit team members.
    - 2.2.2 NERC, Regional Entities, Certification Team members, program audit team members and committee members shall maintain the confidentiality of any Registration or Certification-related discussions or documents designated as confidential (see Section 1500 for types of Confidential Information).
    - 2.2.3 NERC, Regional Entities, Certification Team members, program audit team members and committee members shall treat as confidential the individual comments expressed during evaluations, program audits and report-drafting sessions.



- 2.2.4 Copies of notes, draft reports, and other interim documents developed or used during an entity Certification evaluation or program audit shall be destroyed after the public posting of a final, uncontested report.
- 2.2.5 Information deemed by an applicant, entity, a Regional Entity, or NERC as confidential, including Critical Energy Infrastructure Information, shall not be released publicly or distributed outside of a committee or team.
- 2.2.6 In the event that an individual violates any of the confidentiality rules set forth above, that individual and any member organization with which the individual is associated will be subject to immediate dismissal from the audit team and may be prohibited from future participation in Compliance Monitoring and Enforcement Program activities by the Regional Entity or NERC.
- 2.2.7 NERC shall develop and provide training in auditing skills to all individuals prior to their participation in Certification evaluations. Training for Certification Team leaders shall be more comprehensive than the training given to industry subject matter experts and Regional Entity members. Training for Regional Entity members may be delegated to the Regional Entity.
- 2.4 An applicant that is determined to be competent to perform a function after completing all Certification requirements shall be deemed certified by NERC to perform that function for which it has demonstrated full competency.

2.4.1 All NERC certified entities shall be included on the NCR.

**503. Regional Entity Implementation of Organization Registration and Organization Certification Program Requirements**

- 1. **Delegation** — Recognizing the Regional Entity’s knowledge of and experience with their members, NERC may delegate responsibility for Organization Registration and Organization Certification to the Regional Entity through a delegation agreement.
- 2. **Registration** — The following Organization Registration activities shall be managed by the Regional Entity per the NERC *Organization Registration and Organization Certification Manual*, which is incorporated into the Rules of Procedure as Appendix 5A *Organization Registration and Organization Certification Manual*:
  - 2.1 Regional Entities shall verify that all Reliability Coordinators, Balancing Authorities, and Transmission Operators meet the Registration requirements of Section 501(1.4).

3. **Certification** — The following Organization Certification activities shall be managed by the Regional Entity in accordance with an approved delegation agreement or another applicable agreement:
  - 3.1 An entity seeking Certification to perform one of the functions requiring Certification shall contact the Regional Entity for the Region(s) in which it plans to operate to apply for Certification.
  - 3.2 An entity seeking Certification and other affected entities shall provide all information and data requested by NERC or the Regional Entity to conduct the Certification process.
  - 3.3 Regional Entities shall notify NERC of all Certification applicants.
  - 3.4 NERC and/or the Regional Entity shall evaluate the competency of entities requiring Certification to meet the NERC Certification requirements.
  - 3.5 NERC or the Regional Entity shall establish Certification procedures to include evaluation processes, schedules and deadlines, expectations of the applicants and all entities participating in the evaluation and Certification processes, and requirements for Certification Team members.
    - 3.5.1 The NERC / Regional Entity Certification procedures will include provisions for on-site visits to the applicant’s facilities to review the data collected through questionnaires, interviewing the operations and management personnel, inspecting the facilities and equipment (including requesting a demonstration of all tools identified in the Certification process), reviewing all necessary documents and data (including all agreements, processes, and procedures identified in the Certification process), reviewing Certification documents and projected system operator work schedules, and reviewing any additional documentation needed to support the completed questionnaire or inquiries arising during the site visit.
    - 3.5.2 The NERC/ Regional Entity Certification procedures will provide for preparation of a written report by the Certification Team, detailing any deficiencies that must be resolved prior to granting Certification, along with any other recommendations for consideration by the applicant, the Regional Entity, or NERC.

**504. Appeals**

1. NERC shall maintain an appeals process to resolve any disputes related to Registration or Certification activities per the *Organization Registration and Organization Certification Manual*, which is incorporated in these Rules of Procedure as Appendix 5A.

2. The Regional Entity Certification appeals process shall culminate with the Regional Entity board or a committee established by and reporting to the Regional Entity board as the final adjudicator, provided that where applicable, Canadian provincial governmental authorities may act as the final adjudicator in their jurisdictions. NERC shall be notified of all appeals and may observe any proceedings (**Appendix 5A** *Organization Registration and Organization Certification Manual*).

**505. Program Maintenance**

NERC shall maintain its program materials, including such manuals or other documents as it deems necessary, of the governing policies and procedures of the Organization Registration and Organization Certification Programs.

**506. Independent Audit of NERC Organization Registration and Organization Certification Program**

1. NERC, through the Compliance and Certification Committee, shall provide for an independent audit of its Organization Registration and Organization Certification Programs at least once every three years, or more frequently, as determined by the Board. The audit shall be conducted by independent expert auditors as selected by the Board.
2. The audit shall evaluate the success, effectiveness and consistency of the NERC Organization Registration and Organization Certification Programs.
3. The final report shall be posted by NERC for public viewing.
4. If the audit report includes recommendations to improve the program, the administrators of the program shall provide a written response to the Board within 30 days of the final report, detailing the disposition of each and every recommendation, including an explanation of the reasons for rejecting a recommendation and an implementation plan for the recommendations accepted.

**507. Provisions Relating to Joint Registration Organizations (JRO)**

1. In addition to registering as the entity responsible for all functions that it performs itself, an entity may register as a JRO on behalf of one or more of its members or related entities for one or more functions for which such members or related entities would otherwise be required to register and, thereby, accept on behalf of such members or related entities all compliance responsibility for that function or those functions including all reporting requirements. Any entity seeking to register as a JRO must submit a written agreement with its members or related entities for all Requirements/sub-Requirements for the function(s) for which the entity is registering for and takes responsibility for, which would otherwise be the responsibility of one or more of its members or related entities. Neither NERC nor

the Regional Entity shall be parties to any such agreement, nor shall NERC or the Regional Entity have responsibility for reviewing or approving any such agreement, other than to verify that the agreement provides for an allocation or assignment of responsibilities consistent with the JRO Registration.

2. The JRO Registration data must include the same Registration information as a normal compliance Registration entry. The JRO is responsible for providing all of the information and data, including submitting reports, as needed by the Regional Entity for performing assessments of compliance.
3. The Regional Entity shall notify NERC of each JRO that the Regional Entity accepts. The notification will identify the point of contact and the function(s) being registered for on behalf of its members or related entities.
4. For purposes of Compliance Audits, the Regional Entity shall keep a list of all JROs. This document shall contain a list of each JRO's members or related entities and the function(s) for which the JRO is registered for that member(s) or related entity(s). It is the responsibility of the JRO to provide the Regional Entity with this information as well as the applicable JRO agreement(s).
5. The Regional Entity may request clarification of any list submitted to it that identifies the members of the JRO and may request such additional information as the Regional Entity deems appropriate.
6. The Regional Entity's acceptance of a JRO shall be a representation by the Regional Entity to NERC that the Regional Entity has concluded the JRO will meet the Registration requirements of Section 501(1.4).
7. NERC shall maintain, and post on its website, a JRO registry listing all JRO Registrations that have been reviewed and accepted by the Regional Entity. The posting shall identify the JRO entity taking compliance responsibilities for itself and its members.
8. The JRO shall inform the Regional Entity of any changes to an existing JRO. The Regional Entity shall promptly notify NERC of each such revision.
9. Nothing in Section 507 shall preclude a member of a JRO, a related entity, or any other entity from registering on its own behalf and undertaking full compliance responsibility including reporting Requirements for the Reliability Standards applicable to the function(s) for which the member or other entity is registering. A JRO member or related entity that registers as responsible for any Reliability Standard or Requirement/sub-Requirement of a Reliability Standard shall inform the JRO of its Registration.

**508. Provisions Relating to Coordinated Functional Registration (CFR) Entities**

1. In addition to registering as an entity responsible for all functions that it performs itself, multiple entities may each register using a CFR for one or more Reliability

Standard(s) and/or for one or more Requirements/sub-Requirements within particular Reliability Standard(s) applicable to a specific function. The CFR submission must include a written agreement that governs itself and clearly specifies the entities' respective compliance responsibilities. The Registration of the CFR is the complete Registration for each entity. Additionally, each entity shall take full compliance responsibility for those Reliability Standards and/or Requirements/sub-Requirements it has registered for in the CFR. Neither NERC nor the Regional Entity shall be parties to any such agreement, nor shall NERC or the Regional Entity have responsibility for reviewing or approving any such agreement, other than to verify that the agreement provides for an allocation or assignment of responsibilities consistent with the CFR.

2. Each CFR or each individual entity within a CFR must identify a point of contact that is responsible for providing information and data, including submitting reports as needed by the Regional Entity related to the CFR Registration.
3. The Regional Entity shall notify NERC of each CFR that the Regional Entity accepts.
4. NERC or the Regional Entity may request clarification of any list submitted to it that identifies the compliance responsibilities of the CFR and may request such additional information as NERC or the Regional Entity deems appropriate.
5. The Regional Entity's acceptance of that CFR shall be a representation by the Regional Entity to NERC that the Regional Entity has concluded the CFR will meet the Registration requirements of Section 501(1.4).
6. NERC shall maintain, and post on its website, a CFR registry listing all CFR Registrations that have been accepted by NERC or by a Regional Entity. The posting shall clearly list all the Reliability Standards or Requirements/sub-Requirements thereof for which each entity of the CFR is responsible for under the CFR.
7. The point of contact shall inform the Regional Entity of any changes to an existing CFR. The Regional Entity shall promptly notify NERC of each such revision.
8. In the event of a violation of a Reliability Standard or of a Requirement/sub-Requirement of a Reliability Standard for which an entity of a CFR is registered, that entity shall be identified in the Notice of Alleged Violation and shall be assessed the sanction or Penalty in accordance with the NERC Sanctions Guidelines. In the event a Regional Entity is not able to determine which entity(ies) is responsible for a particular Reliability Standard, or Requirements/sub-Requirements thereof that has been violated, the Regional Entity shall investigate the noncompliance in accordance with the NERC Rules of Procedure Section 400, *Compliance Enforcement*, to determine the entity(ies) to which the Regional Entity shall to issue the sanction or Penalty for the violation.

9. Nothing in Section 508 shall preclude an entity registered in a CFR, or any other entity from registering on its own behalf and undertaking full compliance responsibility including reporting Requirements for the Reliability Standards applicable to the function(s) for which the entity is registering. An entity registered in a CFR that registers as responsible for any Reliability Standard or Requirement/sub-Requirement of a Reliability Standard shall inform the point of contact of its Registration.

**509. Exceptions to the Definition of the Bulk Electric System**

An Element is considered to be (or not be) part of the Bulk Electric System by applying the BES Definition to the Element (including the inclusions and exclusions set forth therein). Appendix 5C sets forth the procedures by which (i) an entity may request a determination that an Element that falls within the definition of the Bulk Electric System should be exempted from being considered a part of the Bulk Electric System, or (ii) an entity may request that an Element that falls outside of the definition of the Bulk Electric System should be considered part of the Bulk Electric System.

## **SECTION 600 — PERSONNEL CERTIFICATION**

### **601. Scope of Personnel Certification**

Maintaining the reliability of the Bulk Electric System through implementation of the Reliability Standards requires skilled, trained and qualified system operators. The System Operator Certification Program provides the mechanism to ensure system operators are provided the education and training necessary to obtain the essential knowledge and skills and are therefore qualified to operate the Bulk Electric System. NERC, as the ERO, will ensure skilled, trained, and qualified system operators through the System Operator Certification Program.

NERC shall develop and maintain a personnel Certification program to evaluate individuals and to issue Credentials to individuals who demonstrate the required level of competence. A current version of such a program is the *System Operator Certification Program Manual*, which is incorporated into these Rules of Procedure as **Appendix 6**.

### **602. Structure of ERO Personnel Certification Program**

1. The NERC personnel Certification program shall be international in scope.
2. The personnel Certification program shall have a governing body that (1) is able to independently exercise decision-making for all matters pertaining to Certification, (2) includes individuals from the discipline being certified and whose composition addresses the needs of the users of the program (e.g., employers, regulators, etc.), and (3) has representation for each specialty or level within a discipline.
3. NERC shall maintain a nominating process for membership in the governing body. Nominations shall be open to all interested parties and self-nominations shall be accepted. The NERC Board of Trustees shall appoint members to the governing body from among those nominated. The members of the governing body shall serve at the pleasure of the Board.
4. The personnel Certification program governing body shall have control over the matters related to the personnel Certification and re-Certification programs listed below, without being subject to approval by any other body.
  - 4.1 Policies and procedures, including eligibility requirements and application processing.
  - 4.2 Requirements for personnel Certification, maintaining Certification, and re-Certification.
  - 4.3 Examination content, development, and administration.
  - 4.4 Examination cut score.
  - 4.5 Grievance and disciplinary processes.

- 4.6 Governing body and subgroup(s)' meeting rules including agenda, frequency, and related procedures.
  - 4.7 Subgroup(s) appointments and work assignments.
  - 4.8 Publications about personnel Certification and re-Certification.
  - 4.9 Setting fees for application, and all other services provided as a part of the personnel Certification and re-Certification activities.
  - 4.10 Program funding, spending, and budget authority. Financial matters related to the operation of the program shall be segregated from other NERC activities.
5. The personnel Certification program shall utilize written procedures for the selection of members of the governing body that prohibit the governing body from selecting a majority of its successors.
  6. The personnel Certification program shall be separate from the accreditation and education functions of NERC in related disciplines.
  7. No member of the personnel Certification program governing body or staff member working with the personnel Certification program governing body shall have or exercise any authority or responsibility for compliance matters related to Reliability Standards concerning personnel Certification.

**603. Candidate Testing Mechanisms**

1. The personnel Certification program shall utilize reliable testing mechanisms to evaluate individual competence in a manner that is objective, fair to all candidates, job-related, and based on the knowledge and skill needed to function in the discipline.
2. The personnel Certification program shall implement a formal policy of periodic review of the testing mechanisms to ensure ongoing relevance of the mechanisms to knowledge and skill needed in the discipline.
3. The personnel Certification program shall utilize policies and procedures to ensure that all test administration and development materials are secure and demonstrate that these policies and procedures are consistently implemented.
4. The personnel Certification program shall establish pass/fail levels that protect the public with a method that is based on competence and generally accepted in the psychometric community as being fair and reasonable.
5. The personnel Certification program shall conduct ongoing studies to substantiate the reliability and validity of the testing mechanisms.



6. The personnel Certification program shall utilize policies and procedures that govern how long examination records are kept in their original format.
7. The personnel Certification program shall demonstrate that different forms of the testing mechanisms assess equivalent content and that candidates are not penalized for taking forms of varying difficulty.

**604. Public Information About the Personnel Certification Program**

1. The personnel Certification program shall provide for publishing and availability of general descriptive material on the procedures used in examination construction and validation; all eligibility requirements and determination; fees; and examination administration documents, including: reporting of results, re-Certification requirements, and disciplinary and grievance procedures.
2. The personnel Certification program shall publish and make available a comprehensive summary or outline of the information, knowledge, or functions covered by the examination.
3. The personnel Certification program shall publish and make available at least annually a summary of Certification activities for the program, including at least the following information: number of examinations delivered, the number passed, the number failed, and the number certified.

**605. Responsibilities to Applicants for Certification or Re-Certification**

The personnel Certification program:

1. Shall not discriminate among applicants as to age, gender, race, religion, national origin, disability, or marital status and shall include a statement of non-discrimination in announcements of the program.
2. Shall comply with all requirements of applicable federal and state/provincial laws with respect to all Certification and re-Certification activities, and shall require compliance of all contractors and/or providers of services.
3. Shall make available to all applicants copies of formalized procedures for application for, and attainment of, personnel Certification and re-Certification and shall uniformly follow and enforce such procedures for all applicants.
4. Shall implement a formal policy for the periodic review of eligibility criteria and application procedures to ensure that they are fair and equitable.
5. Shall provide competently proctored examination sites.
6. Shall uniformly report examination results to applicants in a timely manner.
7. Shall give applicants failing the examination information on general content areas of deficiency.

8. Shall implement policies and procedures providing due process for applicants questioning eligibility determination, examination results, and Certification status, and shall publish this information. A current version of such a procedure is the *NERC System Operator Certification Dispute Resolution Process*, which is incorporated into these Rules of Procedure as part of **Appendix 6**.
9. Shall develop and maintain a program manual containing the processes and procedures for applicants for Certification and re-Certification.

**606. Responsibilities to the Public and to Employers of Certified Practitioners**

The personnel Certification program:

1. Shall demonstrate that the testing mechanisms adequately measure the knowledge and skill required for entry, maintenance, and/or advancement in the profession for each position to be certified.
2. Shall award Certification and re-Certification only after the skill and knowledge of the individual have been evaluated and determined to be acceptable.
3. Shall periodically publish or maintain, in an electronic format, a current list of those persons certified in the programs and have policies and procedures that delineate what information about a Credential holder may be made public and under what circumstances.
4. Shall have formal policies and procedures for discipline of a Credential holder, including the revocation of the certificate, for conduct deemed harmful to the public or inappropriate to the discipline (e.g., incompetence, unethical behavior, physical or mental impairment affecting performance). These procedures shall incorporate due process. The current procedure is the *NERC Certified System Operator Credential Disciplinary Action Procedure*, which is incorporated into these Rules of Procedure as part of **Appendix 6**.
5. Shall demonstrate that any title or Credential awarded accurately reflects or applies to the practitioner's daily occupational or professional duties and is not confusing to employers, consumers, regulators, related professions, and/or other interested parties.

## **SECTION 700 — RELIABILITY READINESS EVALUATION AND IMPROVEMENT AND FORMATION OF SECTOR FORUMS**

### **701. Confidentiality Requirements for Readiness Evaluations and Evaluation Team Members**

1. All information made available or created during the course of any reliability readiness evaluation including, but not limited to, data, Documents, observations and notes, shall be maintained as confidential by all evaluation team members, in accordance with the requirements of Section 1500.
2. Evaluation team members are obligated to destroy all confidential evaluation notes following the posting of the final report of the reliability readiness evaluation.
3. NERC will retain reliability readiness evaluation-related documentation, notes, and materials for a period of time as defined by NERC.
4. These confidentiality requirements shall survive the termination of the NERC Reliability Readiness Evaluation and Improvement Program.

### **702. Formation of Sector Forum**

1. NERC will form a sector forum at the request of any five members of NERC that share a common interest in the safety and reliability of the Bulk Power System. The members of sector forum may invite such others of the members of NERC to join the sector forum as the sector forum deems appropriate.
2. The request to form a sector forum must include a proposed charter for the sector forum. The Board must approve the charter.
3. NERC will provide notification of the formation of a sector forum to its membership roster. Notices and agendas of meetings shall be posted on NERC's website.
4. A sector forum may make recommendations to any of the NERC committees and may submit a Standards Authorization Request to the NERC *Reliability Standards Development Procedure*.

## **SECTION 800 — RELIABILITY ASSESSMENT AND PERFORMANCE ANALYSIS**

### **801. Objectives of the Reliability Assessment and Performance Analysis Program**

The objectives of the NERC Reliability Assessment and Performance Analysis Program are to: (1) conduct, and report the results of, an independent assessment of the overall reliability and adequacy of the interconnected North American Bulk Power Systems, both as existing and as planned; (2) analyze off-normal events on the Bulk Power System; (3) identify the root causes of events that may be precursors of potentially more serious events; (4) assess past reliability performance for lessons learned; (5) disseminate findings and lessons learned to the electric industry to improve reliability performance; and (6) develop reliability performance benchmarks. The final reliability assessment reports shall be approved by the Board for publication to the electric industry and the general public.

### **802. Scope of the Reliability Assessment Program**

1. The scope of the Reliability Assessment Program shall include:
  - 1.1 Review, assess, and report on the overall electric generation and transmission reliability (adequacy and operating reliability) of the interconnected Bulk Power Systems, both existing and as planned.
  - 1.2 Assess and report on the key issues, risks, and uncertainties that affect or have the potential to affect the reliability of existing and future electric supply and transmission.
  - 1.3 Review, analyze, and report on Regional Entity self-assessments of electric supply and bulk power transmission reliability, including reliability issues of specific regional concern.
  - 1.4 Identify, analyze, and project trends in electric customer demand, supply, and transmission and their impacts on Bulk Power System reliability.
  - 1.5 Investigate, assess, and report on the potential impacts of new and evolving electricity market practices, new or proposed regulatory procedures, and new or proposed legislation (e.g. environmental requirements) on the adequacy and operating reliability of the Bulk Power Systems.
2. The Reliability Assessment Program shall be performed in a manner consistent with the Reliability Standards of NERC including but not limited to those that specify reliability assessment Requirements.

### **803. Reliability Assessment Reports**

The number and type of periodic assessments that are to be conducted shall be at the discretion of NERC. The results of the reliability assessments shall be documented in three reports: the long-term and the annual seasonal (summer) and the annual seasonal (winter) assessment reports. NERC shall also conduct special reliability assessments from time to time as circumstances warrant. The reliability assessment reports shall be reviewed and approved for publication by the Board. The three regular reports are described below.

1. **Long-Term Reliability Assessment Report** — The annual long-term report shall cover a ten-year planning horizon. The planning horizon of the long-term reliability assessment report shall be subject to change at the discretion of NERC. Detailed generation and transmission adequacy assessments shall be conducted for the first five years of the review period. For the second five years of the review period, the assessment shall focus on the identification, analysis, and projection of trends in peak demand, electric supply, and transmission adequacy, as well as other industry trends and developments that may impact future electric system reliability. Reliability issues of concern and their potential impacts shall be presented along with any mitigation plans or alternatives. The long-term reliability assessment reports will generally be published in the fall (September) of each year. NERC will also publish electricity supply and demand data associated with the long-term reliability assessment report.
2. **Summer Assessment Report** — The annual summer seasonal assessment report typically shall cover the four-month (June–September) summer period. It shall provide an overall perspective on the adequacy of the generation resources and the transmission systems necessary to meet projected summer peak demands. It shall also identify reliability issues of interest and regional and subregional areas of concern in meeting projected customer demands and may include possible mitigation alternatives. The report will generally be published in mid-May for the upcoming summer period.
3. **Winter Assessment Report** — The annual winter seasonal assessment report shall cover the three-month (December–February) winter period. The report shall provide an overall perspective on the adequacy of the generation resources and the transmission systems necessary to meet projected winter peak demands. Similar to the summer assessment, the winter assessment shall identify reliability issues of interest and regional and subregional areas of concern in meeting projected customer demands and may also include possible mitigation alternatives. The winter assessment report will generally be published in mid-November for the upcoming winter period.
4. **Special Reliability Assessment Reports** — In addition to the long-term and seasonal reliability assessment reports, NERC shall also conduct special reliability assessments on a regional, interregional, and Interconnection basis as conditions warrant, or as requested by the Board or governmental authorities. The teams of reliability and technical experts also may initiate special assessments of key

reliability issues and their impacts on the reliability of a regions, subregions, or Interconnection (or a portion thereof). Such special reliability assessments may include, among other things, operational reliability assessments, evaluations of emergency response preparedness, adequacy of fuel supply, hydro conditions, reliability impacts of new or proposed environmental rules and regulations, and reliability impacts of new or proposed legislation that affects or has the potential to affect the reliability of the interconnected Bulk Power Systems in North America.

#### **804. Reliability Assessment Data and Information Requirements**

To carry out the reviews and assessments of the overall reliability of the interconnected Bulk Power Systems, the Regional Entities and other entities shall provide sufficient data and other information requested by NERC in support of the annual long-term and seasonal assessments and any special reliability assessments.

Some of the data provided for these reviews and assessment may be considered confidential from a competitive marketing perspective, a Critical Energy Infrastructure Information perspective, or for other purposes. Such data shall be treated in accordance with the provisions of Section 1500 – Confidential Information.

While the major sources of data and information for this program are the Regional Entities, a team of reliability and technical experts is responsible for developing and formulating its own independent conclusions about the near-term and long-term reliability of the Bulk Power Systems.

In connection with the reliability assessment reports, requests shall be submitted to each of the Regional Entities for required reliability assessment data and other information, and for each Regional Entity's self-assessment report. The timing of the requests will be governed by the schedule for the preparation of the assessment reports.

The Regional Entity self-assessments are to be conducted in compliance with NERC Reliability Standards and the respective regional planning criteria. The team(s) of reliability and technical experts shall also conduct interviews with the Regional Entities as needed. The summary of the Regional Entity self-assessments that are to be included in the assessment reports shall follow the general outline identified in NERC's request. This outline may change from time to time as key reliability issues change.

In general, the Regional Entity reliability self-assessments shall address, among other areas, the following topics: demand and Net Energy for Load; assessment of projected resource adequacy; any transmission constraints that may impact bulk transmission adequacy and plans to alleviate those constraints; any unusual operating conditions that could impact reliability for the assessment period; fuel supply adequacy; the deliverability of generation (both internal and external) to ~~Load~~[load](#); and any other reliability issues in the Region and their potential impacts on the reliability of the Bulk Power Systems.

### **805. Reliability Assessment Process**

Based on their expertise, the review of the collected data, the review of the Regional Entity self-assessment reports, and interviews with the Regional Entities, as appropriate, the teams of reliability and technical experts shall perform an independent review and assessment of the generation and transmission adequacy of each Region's existing and planned Bulk Power System. The results of the review teams shall form the basis of NERC's long-term and seasonal reliability assessment reports. The review and assessment process is briefly summarized below.

1. **Resource Adequacy Assessment** — The teams shall evaluate the regional demand and resource capacity data for completeness in the context of the overall resource capacity needs of the Region. The team shall independently evaluate the ability of the Regional Entity members to serve their obligations given the demand growth projections, the amount of existing and planned capacity, including committed and uncommitted capacity, contracted capacity, or capacity outside of the Region. If the Region relies on capacity from outside of the Region to meet its resource objectives, the ability to deliver that capacity shall be factored into the assessment. The demand and resource capacity information shall be compared to the resource adequacy requirements of the Regional Entity for the year(s) or season(s) being assessed. The assessment shall determine if the resource information submitted represents a reasonable and attainable plan for the Regional Entity and its members. For cases of inadequate capacity or reserve margin, the Regional Entity will be requested to analyze and explain any resource capacity inadequacies and its plans to mitigate the reliability impact of the potential inadequacies. The analysis may be expanded to include surrounding areas. If the expanded analysis indicates further inadequacies, then an interregional problem may exist and will be explored with the applicable Regions. The results of these analyses shall be described in the assessment report.
2. **Transmission Adequacy and Operating Reliability Assessment** — The teams shall evaluate transmission system information that relates to the adequacy and operating reliability of the regional transmission system. That information shall include: regional planning study reports, interregional planning study reports, and/or regional operational study reports. If additional information is required, another data request shall be sent to the Regional Entity. The assessment shall provide a judgment on the ability of the regional transmission system to operate reliably under the expected range of operating conditions over the assessment period as required by NERC Reliability Standards. If sub-areas of the regional system are especially critical to the Reliable Operation of the regional bulk transmission system, these Facilities or sub-areas shall be reviewed and addressed in the assessment. Any areas of concern related to the adequacy or operating reliability of the system shall be identified and reported in the assessment.
3. **Seasonal Operating Reliability Assessment** — The team(s) shall evaluate the overall operating reliability of the regional bulk transmission systems. In areas with potential resource adequacy or system operating reliability problems, operational readiness of the affected Regional Entities for the upcoming season

shall be reviewed and analyzed. The assessment may consider unusual but possible operating scenarios and how the system is expected to perform. Operating reliability shall take into account a wide range of activities, all of which should reinforce the Regional Entity's ability to deal with the situations that might occur during the upcoming season. Typical activities in the assessment may include: facility modifications and additions, new or modified operating procedures, emergency procedures enhancement, and planning and operating studies. The teams shall report the overall seasonal operating reliability of the regional transmission systems in the annual summer and winter assessment reports.

4. **Reporting of Reliability Assessment Results** — The teams of reliability and technical experts shall provide an independent assessment of the reliability of the Regional Entities and the North American interconnected Bulk Power System for the period of the assessment. While the Regional Entities are relied upon to provide the information to perform such assessments, the review team is not required to accept the conclusions provided by the Regional Entities. Instead, the review team is expected, based on their expertise, to reach their own independent conclusions about the status of the adequacy of the generation and bulk power transmission systems of North America.

The review team also shall strive to achieve consensus in their assessments. The assessments that are made are based on the best information available at the time. However, since judgment is applied to this information, legitimate differences of opinion can develop. Despite these differences, the review team shall work to achieve consensus on their findings.

In addition to providing long-term and seasonal assessments in connection with the Reliability Assessment Program, the review team of experts shall also be responsible for recommending new and revised Reliability Standards related to the reliability assessments and the reliability of the Bulk Power Systems. These proposals for new or revised Reliability Standards shall be entered into NERC's Reliability Standards development process.

Upon completion of the assessment, the team shall share the results with the Regional Entities. The Regional Entities shall be given the opportunity to review and comment on the conclusions in the assessment and to provide additional information as appropriate. The reliability assessments and their conclusions are the responsibility of NERC's technical review team and NERC.

The preparation and approval of NERC's reliability assessment reports shall follow a prescribed schedule including review, comment, and possible approval by appropriate NERC committees. The long-term and seasonal (summer and winter) reliability assessment reports shall be further reviewed for approval by the Board for publication to the electric industry.



**806. Scope of the Reliability Performance and Analysis Program**

The components of the program will include analysis of large-scale outages, disturbances, and near misses to determine root causes and lessons learned; identification and continuous monitoring of performance indices to detect emerging trends and signs of a decline in reliability performance; and communications of performance results, trends, recommendations, and initiatives to those responsible to take actions; followed with confirmation of actions to correct any deficiencies identified. Within NERC, the reliability performance program will provide performance results to the Reliability Standards Development and Compliance Monitoring and Enforcement Programs to make the necessary adjustments to preserve reliability based on a risk-based approach.

**807. Analysis of Major Events**

Responding to major blackouts and other system disturbances or emergencies can be divided into four phases: situational assessment and communications; situation tracking and communications; data collection, investigation, analysis, and reporting; and follow-up on recommendations.

- a. NERC's role following a blackout or other major Bulk Power System disturbance or emergency is to provide leadership, coordination, technical expertise, and assistance to the industry in responding to the event. Working closely with the Regional Entities and Reliability Coordinators, NERC will coordinate and facilitate efforts among industry participants, and with state, federal, and provincial governments in the United States and Canada to support the industry's response.
- b. When responding to any event where physical or cyber security is suspected as a cause or contributing factor to an event, NERC will immediately notify appropriate government agencies and coordinate its activities with them.
- c. Each user, owner, and operator of the Bulk Power System shall provide NERC and the applicable Regional Entities with such information as is necessary to enable NERC and the applicable Regional Entities to carry out their responsibilities under this section.
- d. During the conduct of some NERC analyses, assistance may be needed from government agencies. This assistance could include: authority to require data reporting from affected or involved parties; communications with other agencies of government; investigations related to possible criminal or terrorist involvement in the event; resources for initial data gathering immediately after the event; authority to call meetings of affected or involved parties; and technical and analytical resources for studies.
- e. NERC shall work with other participants to establish a clear delineation of roles, responsibilities, and coordination requirements among industry and government for the investigation and reporting of findings, conclusions, and recommendations related to major blackouts, disturbances, or other emergencies affecting the Bulk Power System with the objective of avoiding, to the extent possible, multiple

investigations of the same event. If the event is confined to a single Regional Entity, NERC representatives will participate as members of the Regional Entity analysis team.

- f. NERC and applicable entity(s) shall apply the NERC *Blackout and Disturbance Response Procedures*, which are incorporated into these Rules of Procedure as **Appendix 8**. These procedures provide a framework to guide NERC's response to events that may have multiregional, national, or international implications. Experienced industry leadership shall be applied to tailor the response to the specific circumstances of the event. In accordance with that procedure, the NERC president will determine whether the event warrants analysis at the NERC-level. A Regional Entity may request that NERC elevate any analysis to a NERC level.
- g. NERC will screen and analyze the findings and recommendations from the analysis, and those with generic applicability will be disseminated to the industry in accordance with Section 810.

**808. Analysis of Off-Normal Events, Potential System Vulnerabilities, and System Performance**

- 1. NERC and Regional Entities shall analyze system and equipment performance events that do not rise to the level of a major blackout, disturbance, or system emergency, as described in Section 807. NERC and Regional Entities shall also analyze potential vulnerabilities in the Bulk Power System brought to their attention by government agencies. The purpose of these analyses is to identify the root causes of events that may be precursors of potentially more serious events or that have the potential to cause more serious events, to assess past reliability performance for lessons learned, and to develop reliability performance benchmarks and trends.
- 2. NERC and Regional Entities will screen and analyze events and potential vulnerabilities for significance, and information from those with generic applicability will be disseminated to the industry in accordance with Section 810.
- 3. Each user, owner, and operator, of the Bulk Power System shall provide NERC and the applicable Regional Entities with such information as is necessary to enable NERC and the applicable Regional Entities to carry out their responsibilities under this section.

**809. Reliability Benchmarking**

NERC shall identify and track key reliability indicators as a means of benchmarking reliability performance and measuring reliability improvements. This program will include assessing available metrics, developing guidelines for acceptable metrics, maintaining a performance metrics “dashboard” on the NERC website, and developing appropriate reliability performance benchmarks.

**810. Information Exchange and Issuance of NERC Advisories, Recommendations and Essential Actions**

1. Members of NERC and Bulk Power System owners, operators, and users shall provide NERC with detailed and timely operating experience information and data.
2. In the normal course of operations, NERC disseminates the results of its events analysis findings, lessons learned and other analysis and information gathering to the industry. These findings, lessons learned and other information will be used to guide the Reliability Assessment Program.
3. When NERC determines it is necessary to place the industry or segments of the industry on formal notice of its findings, analyses, and recommendations, NERC will provide such notification in the form of specific operations or equipment Advisories, Recommendations or Essential Actions:
  - 3.1 Level 1 (Advisories) – purely informational, intended to advise certain segments of the owners, operators and users of the Bulk Power System of findings and lessons learned;
  - 3.2 Level 2 (Recommendations) – specific actions that NERC is recommending be considered on a particular topic by certain segments of owners, operators, and users of the Bulk Power System according to each entity’s facts and circumstances;
  - 3.3 Level 3 (Essential Actions) – specific actions that NERC has determined are essential for certain segments of owners, operators, or users of the Bulk Power System to take to ensure the reliability of the Bulk Power System. Such Essential Actions require NERC Board approval before issuance.
4. The Bulk Power System owners, operators, and users to which Level 2 (Recommendations) and Level 3 (Essential Actions) notifications apply are to evaluate and take appropriate action on such issuances by NERC. Such Bulk Power System owners, operators, and users shall also provide reports of actions taken and timely updates on progress towards resolving the issues raised in the Recommendations and Essential Actions in accordance with the reporting date(s) specified by NERC.
5. NERC will advise the Commission and other Applicable Governmental Authorities of its intent to issue all Level 1 (Advisories), Level 2 (Recommendations), and Level 3 (Essential Actions) at least five (5) business days prior to issuance, unless extraordinary circumstances exist that warrant issuance less than five (5) business days after such advice. NERC will file a report with the Commission and other Applicable Governmental Authorities no later than thirty (30) days following the date by which NERC has requested the Bulk Power System owners, operators, and users to which a Level 2

(Recommendation) or Level 3 (Essential Action) issuance applies to provide reports of actions taken in response to the notification. NERC's report to the Commission and other Applicable Governmental Authorities will describe the actions taken by the relevant owners, operators, and users of the Bulk Power System and the success of such actions taken in correcting any vulnerability or deficiency that was the subject of the notification, with appropriate protection for Confidential Information or Critical Energy Infrastructure Information.

**811. Equipment Performance Data**

Through its Generating Availability Data System (GADS), NERC shall collect operating information about the performance of electric generating equipment; provide assistance to those researching information on power plant outages stored in its database; and support equipment reliability as well as availability analyses and other decision-making processes developed by GADS subscribers. GADS data is also used in conducting assessments of generation resource adequacy.

## **SECTION 900 — TRAINING AND EDUCATION**

### **901. Scope of the Training and Education Program**

Maintaining the reliability of the Bulk Electric System through implementation of the Reliability Standards requires informed and trained personnel. The training and education program will provide the education and training necessary for Bulk Power System personnel and regulators to obtain the essential knowledge necessary to understand and operate the Bulk Electric System.

NERC shall develop and maintain training and education programs for the purpose of establishing training requirements, developing materials, and developing training activities. The target audience of the training and education programs shall be Bulk Power System operating personnel including system operations personnel, operations support personnel (engineering and information technology), supervisors and managers, training personnel, and other personnel directly responsible for complying with NERC Reliability Standards who, through their actions or inactions, may impact the real-time, or day-ahead reliability of the Bulk Power System.

NERC shall also develop and provide appropriate training and education for industry participants and regulators affected by new or changed Reliability Standards or compliance Requirements.

To accomplish those objectives:

1. NERC shall periodically conduct job task analyses for targeted Bulk Power System personnel to ensure that the training program content is properly aligned to the job tasks performed by those personnel.
2. NERC shall develop and maintain personnel training program curriculum requirements based on valid job-task analysis.
3. NERC shall periodically conduct performance surveys to determine the effectiveness of the training program and identify areas for further training development and improvement.
4. NERC shall develop training and education materials and activities to assist Bulk Power System entities implementing new or revised Reliability Standard Requirements or other NERC-related changes.
5. NERC shall develop and provide training to people who participate in NERC and Regional Entity evaluations, audits, and investigations for the Compliance Monitoring and Enforcement Program, Organization Certification Program, and the continuing education program.

### **902. Continuing Education Program**

NERC shall develop and maintain a continuing education program to foster the improvement of training and to promote quality in the training programs used by and

implemented by Bulk Power System entities. The program shall approve or accredit those activities and entities meeting NERC continuing education requirements.

1. NERC shall develop and implement continuing education program requirements that promote excellence in training programs and advance improved performance for Bulk Power System personnel identified in Section 901.
2. NERC shall develop and maintain a process to approve or accredit continuing education Providers and activities seeking approval or accreditation and meeting NERC-approved continuing education requirements.
3. NERC shall perform periodic audits on continuing education Providers and training activities to ensure that the approved or accredited Providers and training activities satisfy NERC continuing education requirements.
4. NERC shall develop and maintain an appeals process for disputed application reviews, interpretations of guidelines and standards, probation or suspension of NERC-approved Provider status, or Continuing Education Hour disputes.

## **SECTION 1000 — SITUATION AWARENESS AND INFRASTRUCTURE SECURITY**

### **1001. Situation Awareness**

NERC shall through the use of Reliability Coordinators and available tools, monitor present conditions on the Bulk Power System and provide leadership coordination, technical expertise, and assistance to the industry in responding to events as necessary. To accomplish these goals, NERC will:

1. Maintain real-time situation awareness of conditions on the Bulk Power System;
2. Notify the industry of significant Bulk Power System events that have occurred in one area, and which have the potential to impact reliability in other areas;
3. Maintain and strengthen high-level communication, coordination, and cooperation with governments and government agencies regarding real-time conditions; and
4. Enable the Reliable Operation of interconnected Bulk Power Systems by facilitating information exchange and coordination among reliability service organizations.

### **1002. Reliability Support Services**

NERC will provide tools and other support services for the benefit of Reliability Coordinators and other system operators, including the Area Control Error (ACE) and Frequency Monitoring System, NERC Hotline, Real-time Flows, System Data Exchange (SDX), Reliability Coordinator Information System (RCIS), Transmission Services Information Network (TSIN), Interchange Distribution Calculator (IDC), Interregional Security Network (ISN), and Central Repository for Security Events (CRC). To accomplish this goal, NERC will:

1. Maintain the reliability and effectiveness of all mission-critical operating reliability support systems and services;
2. Continue to support maintenance of a transmission provider curtailment report on the CRC site in response to Federal Energy Regulatory Commission Order 605;
3. Investigate and analyze the use of high-speed real-time system measurements, including phasors, in predicting the behavior and performance of the Eastern Interconnection; and
4. Facilitate real-time voice and data exchange services among Reliability Coordinators (e.g., Hotline, Interregional Security Network, NERCnet, System Data Exchange, etc.).

### **1003. Infrastructure Security Program**

NERC shall coordinate electric industry activities to promote Critical Infrastructure protection of the Bulk Power System in North America by taking a leadership role in

Critical Infrastructure protection of the electricity sector so as to reduce vulnerability and improve mitigation and protection of the electricity sector's Critical Infrastructure. To accomplish these goals, NERC shall perform the following functions.

1. Electric Sector Information Sharing and Analysis Center (ESISAC)
  - 1.1 NERC shall serve as the electricity sector's sector coordinator and operate its Information Sharing and Analysis Center to gather information and communicate security-related threats and incidents within the sector, with United States and Canadian government agencies, and with other Critical Infrastructure sectors.
  - 1.2 NERC shall improve the capability of the ESISAC to analyze security threats and incident information and provide situational assessments for the electricity sector and governments.
  - 1.3 NERC shall work closely with the United States Department of Homeland Security, Department of Energy, Natural Resources Canada, and Public Safety and Emergency Preparedness Canada.
  - 1.4 NERC shall strengthen and expand these functions and working relationships with the electricity sector, other Critical Infrastructure industries, governments, and government agencies throughout North America to ensure the protection of the infrastructure of the Bulk Power System.
  - 1.5 NERC shall fill the role of the Electricity Sector Coordinating Council and coordinate with the Government Coordinating Council.
  - 1.6 NERC shall coordinate with other Critical Infrastructure sectors through active participation with the other Sector Coordinating Councils, the other ISACs, and the National Infrastructure Advisory Committee.
  - 1.7 NERC shall encourage and participate in coordinated Critical Infrastructure protection exercises, including interdependencies with other Critical Infrastructure sectors.
2. Security Planning
  - 2.1 NERC shall take a risk management approach to Critical Infrastructure protection, considering probability and severity, and recognizing that mitigation and recovery can be practical alternatives to prevention.
  - 2.2 NERC shall keep abreast of the changing threat environment through collaboration with government agencies.
  - 2.3 NERC shall develop criteria to identify critical physical assets and Critical Cyber Assets, assess security threats, identify risk assessment



- methodologies, and assess effectiveness of physical and cyber protection measures.
- 2.4 NERC shall enhance and maintain the Bulk Power System critical spare transformer program, encourage increased participation by asset owners, and continue to assess the need to expand this program to include other critical Bulk Power System equipment.
  - 2.5 NERC shall support implementation of the Critical Infrastructure Protection Standards through education and outreach.
  - 2.6 NERC shall review and improve existing security guidelines, develop new security guidelines to meet the needs of the electricity sector, and consider whether any guidelines should be developed into Reliability Standards.
  - 2.7 NERC shall conduct education and outreach initiatives to increase awareness and respond to the needs of the electricity sector.
  - 2.8 NERC shall strengthen relationships with federal, state, and provincial government agencies on Critical Infrastructure protection matters.
  - 2.9 NERC shall maintain and improve mechanisms for the sharing of sensitive or classified information with federal, state, and provincial government agencies on Critical Infrastructure protection matters; work with DOE and DHS to implement the National Infrastructure Protection Plan, as applicable to the electricity sector; and coordinate this work with PSEPC.
  - 2.10 NERC shall improve methods to better assess the impact of a possible physical attack on the Bulk Power System and means to deter, mitigate, and respond following an attack.
  - 2.11 NERC shall assess the results of vulnerability assessments and enhance the security of system control and data acquisition (SCADA) and process control systems by developing methods to detect an emerging cyber attack and the means to mitigate impacts on the Bulk Power Systems.
  - 2.12 NERC shall work with the National SCADA Test Bed and the Process Control Systems Forum to accelerate the development of technology that will enhance the security, safety, and reliability of process control and SCADA systems.

## **SECTION 1100 — ANNUAL NERC BUSINESS PLANS AND BUDGETS**

### **1101. Scope of Business Plans and Budgets**

The Board shall determine the content of the budgets to be submitted to the Applicable Governmental Authorities with consultation from the members of the Member Representatives Committee, Regional Entities, and others in accordance with the Bylaws. The Board shall identify any activities outside the scope of NERC's statutory reliability functions, if any, and the appropriate funding mechanisms for those activities.

### **1102. NERC Funding and Cost Allocation**

1. In order that NERC's costs shall be fairly allocated among Interconnections and among Regional Entities, the NERC funding mechanism for all statutory functions shall be based on Net Energy for Load (NEL).
2. NERC's costs shall be allocated so that all ~~Load~~ (or, in the case of costs for an Interconnection or Regional Entity, all ~~Load~~ within that Interconnection or Regional Entity) bears an equitable share of such costs based on NEL.
3. Costs shall be equitably allocated between countries or Regional Entities thereof for which NERC has been designated or recognized as the Electric Reliability Organization.
4. Costs incurred to accomplish the statutory functions for one Interconnection, Regional Entity, or group of entities will be directly assigned to that Interconnection, Regional Entity, or group of entities provided that such costs are allocated equitably to end-users based on Net Energy for Load.

### **1103. NERC Budget Development**

1. The NERC annual budget process shall be scheduled and conducted for each calendar year so as to allow a sufficient amount of time for NERC to receive Member inputs, develop the budget, and receive Board and, where authorized by applicable legislation or agreement, Applicable Governmental Authority approval of the NERC budget for the following fiscal year, including timely submission of the proposed budget to FERC for approval in accordance with FERC regulations.
2. The NERC budget submittal to Applicable Governmental Authorities shall include provisions for all ERO functions, all Regional Entity delegated functions as specified in delegation agreements and reasonable reserves and contingencies.
3. The NERC annual budget submittal to Applicable Governmental Authorities shall include description and explanation of NERC's proposed ERO program activities for the year; budget component justification based on statutory or other authorities; explanation of how each budgeted activity lends itself to the accomplishment of the statutory or other authorities; sufficiency of resources

provided for in the budget to carry out the ERO program responsibilities; explanation of the calculations and budget estimates; identification and explanation of changes in budget components from the previous year's budget; information on staffing and organization charts; and such other information as is required by FERC and other Applicable Governmental Authorities having authority to approve the proposed budget.

4. NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, to allow a meaningful comparison of actual results at the NERC and Regional Entity level by the Applicable Governmental Authorities.

#### **1104. Submittal of Regional Entity Budgets to NERC**

1. Each Regional Entity shall submit its proposed annual budget for carrying out its delegated authority functions as well as all other activities and funding to NERC in accordance with a schedule developed by NERC and the Regional Entities, which shall provide for the Regional Entity to submit its final budget that has been approved by its board of directors or other governing body no later than July 1 of the prior year, in order to provide sufficient time for NERC's review and comment on the proposed budget and approval of the Regional Entity budget by the NERC Board of Trustees in time for the NERC and Regional Entity budgets to be submitted to FERC and other Applicable Governmental Authorities for approval in accordance with their regulations. The Regional Entity's budget shall include supporting materials in accordance with the budget and reporting format developed by NERC and the Regional Entities, including the Regional Entity's complete business plan and organization chart, explaining the proposed collection of all dues, fees, and charges and the proposed expenditure of funds collected in sufficient detail to justify the requested funding collection and budget expenditures.
2. NERC shall review and approve each Regional Entity's budget for meeting the requirements of its delegated authority. Concurrent with approving the NERC budget, NERC shall review and approve, or reject, each Regional Entity budget for filing.
3. NERC shall also have the right to review from time to time, in reasonable intervals but no less frequently than every three years, the financial books and records of each Regional Entity having delegated authority in order to ensure that the documentation fairly represents in all material aspects appropriate funding of delegated functions.

#### **1105. Submittal of NERC and Regional Entity Budgets to Governmental Authorities for Approval**

1. NERC shall file for approval by the Applicable Governmental Authorities at least 130 days in advance of the start of each fiscal year. The filing shall include: (1) the complete NERC and Regional Entity budgets including the business plans and organizational charts approved by the Board, (2) NERC's annual funding requirement (including Regional Entity costs for delegated functions), and (3) the

mechanism for assessing charges to recover that annual funding requirement, together with supporting materials in sufficient detail to support the requested funding requirement.

2. NERC shall seek approval from each Applicable Governmental Authority requiring such approval for the funding requirements necessary to perform ERO activities within their jurisdictions.

**1106. NERC and Regional Entity Billing and Collections**

1. NERC shall request the Regional Entities to identify all Load-Serving Entities<sup>3</sup> within each Regional Entity and the NEL assigned to each Load-Serving Entity, and the Regional Entities shall supply the requested information. The assignment of a funding requirement to an entity shall not be the basis for determining that the entity must be registered in the Compliance Registry.
2. NERC shall accumulate the NEL by Load-Serving Entities for each Applicable Governmental Authority and submit the proportional share of NERC funding requirements to each Applicable Governmental Authority for approval together with supporting materials in sufficient detail to support the requested funding requirement.
3. NEL reported by Balancing Authorities within a Region shall be used to rationalize and validate amounts allocated for collection through Regional Entity processes.
4. The billing and collection processes shall provide:
  - 4.1 A clear validation of billing and application of payments.
  - 4.2 A minimum of data requests to those being billed.
  - 4.3 Adequate controls to ensure integrity in the billing determinants including identification of entities responsible for funding NERC's activities.
  - 4.4 Consistent billing and collection terms.
5. NERC will bill and collect all budget requirements approved by Applicable Governmental Authorities (including the funds required to support those functions assigned to the Regional Entities through the delegation agreements) directly from the Load-Serving Entities or their designees or as directed by particular Applicable Governmental Authorities, except where the Regional Entity is required to collect the budget requirements for NERC, in which case the Regional Entity will collect directly from the Load-Serving Entities or as otherwise

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<sup>3</sup> A Regional Entity may allocate funding obligations using an alternative method approved by NERC and by FERC and other Applicable Governmental Authorities, as provided for in the regional delegation agreement.

provided by agreement and submit funds to NERC. Alternatively, a load-serving entity may pay its allocated ERO costs through a Regional Entity managed collection mechanism.

6. NERC shall set a minimum threshold limit on the billing of small LSEs to minimize the administrative burden of collection.
7. NERC shall pursue any non-payments and shall request assistance from Applicable Governmental Authorities as necessary to secure collection.
8. In the case where a Regional Entity performs the collection for ERO, the Regional Entity will not be responsible for non-payment in the event that a user, owner or operator of the Bulk Power System does not pay its share of dues, fees and charges in a timely manner, provided that such a Regional Entity shall use reasonably diligent efforts to collect dues, fees, and other charges from all entities obligated to pay them. However, any revenues not paid shall be recovered from others within the same Region to avoid cross-subsidization between Regions.
9. Both NERC and the Regional Entities also may bill members or others for functions and services not within statutory requirements or otherwise authorized by the Applicable Governmental Authorities. Costs and revenues associated with these functions and services shall be separately identified and not commingled with billings associated with the funding of NERC or of the Regional Entities for delegated activities.

#### **1107. Penalty Applications**

1. Where NERC or a Regional Entity initiates a compliance monitoring and enforcement process that leads to imposition of a Penalty, the entity that initiated the process shall receive any Penalty monies imposed and collected as a result of that process, unless a different disposition of the Penalty monies is provided for in the delegation agreement, or in a contract or a disposition of the violation that is approved by NERC and FERC.
2. All funds from financial Penalties assessed in the United States received by the entity initiating the compliance monitoring and enforcement process shall be applied as a general offset to the entity's budget requirements for the subsequent fiscal year, if received by July 1, or for the second subsequent fiscal year, if received on or after July 1. Funds from financial Penalties shall not be directly applied to any program maintained by the entity conducting the compliance monitoring and enforcement process. Funds from financial Penalties assessed against a Canadian entity shall be applied as specified by legislation or agreement.
3. In the event that a compliance monitoring and enforcement process is conducted jointly by NERC and a Regional Entity, the Regional Entity shall receive the Penalty monies and offset the Regional Entity's budget requirements for the subsequent fiscal year.

4. Exceptions or alternatives to the foregoing provisions will be allowed if approved by NERC and by FERC or any other Applicable Governmental Authority.

**1108. Special Assessments**

On a demonstration of unforeseen and extraordinary circumstances requiring additional funds prior to the next funding cycle, NERC shall file with the Applicable Governmental Authorities, where authorized by applicable legislation or agreement, for authorization for an amended or supplemental budget for NERC or a Regional Entity and, if necessary under the amended or supplemental budget, to collect a special or additional assessment for statutory functions of NERC or the Regional Entity. Such filing shall include supporting materials to justify the requested funding, including any departure from the approved funding formula or method.

## **SECTION 1200 — REGIONAL DELEGATION AGREEMENTS**

### **1201. Pro Forma Regional Delegation Agreement**

NERC shall develop and maintain a pro forma Regional Entity delegation agreement, which shall serve as the basis for negotiation of consistent agreements for the delegation of ERO functions to Regional Entities.

### **1202. Regional Entity Essential Requirements**

NERC shall establish the essential requirements for an entity to become qualified and maintain good standing as a Regional Entity.

### **1203. Negotiation of Regional Delegation Agreements**

NERC shall, for all areas of North America that have provided NERC with the appropriate authority, negotiate regional delegation agreements for the purpose of ensuring all areas of the North American Bulk Power Systems are within a Regional Entity Region. In the event NERC is unable to reach agreement with Regional Entities for all areas, NERC shall provide alternative means and resources for implementing NERC functions within those areas. No delegation agreement shall take effect until it has been approved by the Applicable Governmental Authority.

### **1204. Conformance to Rules and Terms of Regional Delegation Agreements**

NERC and each Regional Entity shall comply with all applicable ERO Rules of Procedure and the obligations stated in the regional delegation agreement.

### **1205. Sub-delegation**

The Regional Entity shall not sub-delegate any responsibilities and authorities delegated to it by its regional delegation agreement with NERC except with the approval of NERC and FERC and other Applicable Governmental Authorities. Responsibilities and authorities may only be sub-delegated to another Regional Entity. Regional Entities may share resources with one another so long as such arrangements do not result in cross-subsidization or in any sub-delegation of authorities.

### **1206. Nonconformance to Rules or Terms of Regional Delegation Agreement**

If a Regional Entity is unable to comply or is not in compliance with an ERO Rule of Procedure or the terms of the regional delegation agreement, the Regional Entity shall immediately notify NERC in writing, describing the area of nonconformance and the reason for not being able to conform to the Rule of Procedure. NERC shall evaluate each case and inform the affected Regional Entity of the results of the evaluation. If NERC determines that a Rule of Procedure or term of the regional delegation agreement has been violated by a Regional Entity or cannot practically be implemented by a Regional Entity, NERC shall notify the Applicable Governmental Authorities and take any actions necessary to address the situation.

**1207. Regional Entity Audits**

Approximately every five years and more frequently if necessary for cause, NERC shall audit each Regional Entity to verify that the Regional Entity continues to comply with NERC Rules of Procedure and the obligations of NERC delegation agreement. Audits of Regional Entities shall be conducted, to the extent practical, based on professional auditing standards recognized in the U.S., including Generally Accepted Auditing Standards, Generally Accepted Government Auditing Standards, and standards sanctioned by the Institute of Internal Auditors, and if applicable to the coverage of the audit, may be based on Canadian or other international standards. The audits required by this Section 1207 shall not duplicate the audits of Regional Entity Compliance Monitoring and Enforcement Programs provided for in **Appendix 4A**, Audit of Regional Compliance Programs, to these Rules of Procedure.

**1208. Process for Considering Registered Entity Requests to Transfer to Another Regional Entity**

1. A Registered Entity that is registered in the Region of one Regional Entity and believes its registration should be transferred to a different Regional Entity may submit a written request to both Regional Entities requesting that they process the proposed transfer in accordance with this section. The Registered Entity's written request shall set forth the reasons the Registered Entity believes justify the proposed transfer and shall describe any impacts of the proposed transfer on other Bulk Power System owners, operators, and users.
2. After receiving the Registered Entity's written request, the two Regional Entities shall consult with each other as to whether they agree or disagree that the requested transfer is appropriate. The Regional Entities may also consult with affected Reliability Coordinators, Balancing Authorities and Transmission Operators as appropriate. Each Regional Entity shall post the request on its website for public comment period of 21 days. In evaluating the proposed transfer, the Regional Entities shall consider the location of the Registered Entity's Bulk Power System facilities in relation to the geographic and electrical boundaries of the respective Regions; the impacts of the proposed transfer on other Bulk Power System owners, operators; and users, the impacts of the proposed transfer on the current and future staffing, resources, budgets and assessments to other Load-Serving Entities of each Regional Entity, including the sufficiency of the proposed transferee Regional Entity's staffing and resources to perform compliance monitoring and enforcement activities with respect to the Registered Entity; the Registered Entity's compliance history with its current Regional Entity; and the manner in which pending compliance monitoring and enforcement matters concerning the Registered Entity would be transitioned from the current Regional Entity to the transferee Regional Entity; along with any other reasons for the proposed transfer stated by the Registered Entity and any other reasons either Regional Entity considers relevant. The Regional Entities may



request that the Registered Entity provide additional data and information concerning the proposed transfer for the Regional Entities' use in their evaluation. The Registered Entity's current Regional Entity shall notify the Registered Entity in writing as to whether (i) the two Regional Entities agree that the requested transfer is appropriate, (ii) the two Regional Entities agree that the requested transfer is not appropriate and should not be processed further, or (iii) the two Regional Entities disagree as to whether the proposed transfer is appropriate.

3. If the two Regional Entities agree that the requested transfer is appropriate, they shall submit a joint written request to NERC requesting that the proposed transfer be approved and that the delegation agreement between NERC and each of the Regional Entities be amended accordingly. The Regional Entities' joint written submission to NERC shall describe the reasons for the proposed transfer; the location of the Registered Entity's Bulk Power System Facilities in relation to the geographic and electrical boundaries of the respective Regions; the impacts of the proposed transfer on other Bulk Power System owners, operators, and users; the impacts of the proposed transfer on the current and future staffing, resources, budgets and assessments of each Regional Entity, including the sufficiency of the proposed transferee Regional Entity's staffing and resources to perform compliance monitoring and enforcement activities with respect to the Registered Entity; the Registered Entity's compliance history with its current Regional Entity; and the manner in which pending compliance monitoring and enforcement matters concerning the Registered Entity will be transitioned from the current Regional Entity to the transferee Regional Entity. The NERC Board of Trustees shall consider the proposed transfer based on the submissions of the Regional Entities and any other information the Board considers relevant, and shall approve or disapprove the proposed transfer and the related delegation agreement amendments. The NERC Board may request that the Regional Entities provide additional information, or obtain additional information from the Registered Entity, for the use of the NERC Board in making its decision. If the NERC Board approves the proposed transfer, NERC shall file the related delegation agreements with FERC for approval.
4. If the two Regional Entities do not agree with each other that the proposed transfer is appropriate, the Regional Entity supporting the proposed transfer shall, if requested by the Registered Entity, submit a written request to NERC to approve the transfer and the related delegation agreement amendments. The Regional Entity's written request shall include the information specified in Section 1208.3. The Regional Entity that does not believe the proposed transfer is appropriate will be allowed to submit a written statement to NERC explaining why the Regional Entity believes the transfer is not appropriate and should not be approved. The NERC Board of Trustees shall consider the proposed transfer based on the submissions of the Regional Entities and any other information the Board considers relevant, and shall approve or disapprove the proposed transfer and the related delegation agreement amendments. The NERC Board may request that the Regional Entities provide additional information, or obtain additional

information from the Registered Entity, for the use of the NERC Board in making its decision. If the NERC Board approves the proposed transfer, NERC shall file the related delegation agreements with FERC for approval.

5. Prior to action by the NERC Board of Trustees on a proposed transfer of registration under Section 1208.3 or 1208.4, NERC shall post information concerning the proposed transfer, including the submissions from the Regional Entities, on its website for at least twenty-one (21) days for the purpose of receiving public comment.
6. If the NERC Board of Trustees disapproves a proposed transfer presented to it pursuant to either Section 1208.3 or 1208.4, the Regional Entity or Regional Entities that believe the transfer is appropriate may, if requested to do so by the Registered Entity, file a petition with FERC pursuant to 18 C.F.R. section 39.8(f) and (g) requesting that FERC order amendments to the delegation agreements of the two Regional Entities to effectuate the proposed transfer.
7. No transfer of a Registered Entity from one Regional Entity to another Regional Entity shall be effective (i) unless approved by FERC, and (ii) any earlier than the first day of January of the second calendar year following approval by FERC, unless an earlier effective date is agreed to by both Regional Entities and NERC and approved by FERC.

## **SECTION 1300 — COMMITTEES**

### **1301. Establishing Standing Committees**

The Board may from time to time create standing committees. In doing so, the Board shall approve the charter of each committee and assign specific authority to each committee necessary to conduct business within that charter. Each standing committee shall work within its Board-approved charter and shall be accountable to the Board for performance of its Board-assigned responsibilities. A NERC standing committee may not delegate its assigned work to a member forum, but, in its deliberations, may request the opinions of and consider the recommendations of a member forum.

### **1302. Committee Membership**

Each committee shall have a defined membership composition that is explained in its charter. Committee membership may be unique to each committee, and can provide for balanced decision-making by providing for representatives from each Sector or, where Sector representation will not bring together the necessary diversity of opinions, technical knowledge and experience in a particular subject area, by bringing together a wide diversity of opinions from industry experts with outstanding technical knowledge and experience in a particular subject area. Committee membership shall also provide the opportunity for an equitable number of members from the United States and Canada, based approximately on proportionate Net Energy for Load. All committees and other subgroups (except for those organized on other than a Sector basis because Sector representation will not bring together the necessary diversity of opinions, technical knowledge and experience in a particular subject area) must ensure that no two stakeholder Sectors are able to control the vote on any matter, and no single Sector is able to defeat a matter. With regard to committees and subgroups pertaining to development of, interpretation of, or compliance with Reliability Standards, NERC shall provide a reasonable opportunity for membership from Sectors desiring to participate. Committees and subgroups organized on other than a Sector basis shall be reported to the NERC Board and the Member Representatives Committee, along with the reasons for constituting the committee or subgroup in the manner chosen. In such cases and subject to reasonable restrictions necessary to accomplish the mission of such committee or subgroup, NERC shall provide a reasonable opportunity for additional participation, as members or official observers, for Sectors not represented on the committee or subgroup.

### **1303. Procedures for Appointing Committee Members**

Committee members shall be nominated and selected in a manner that is open, inclusive, and fair. Unless otherwise stated in these Rules of Procedure or approved by the Board, all committee member appointments shall be approved by the board, and committee officers shall be appointed by the Chairman of the Board.

### **1304. Procedures for Conduct of Committee Business**

1. Notice to the public of the dates, places, and times of meetings of all committees, and all nonconfidential material provided to committee members, shall be posted

on NERC's website at approximately the same time that notice is given to committee members. Meetings of all standing committees shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided that the meeting may be held in or adjourn to closed session to discuss matters of a confidential nature, including but not limited to personnel matters, compliance enforcement matters, litigation, or commercially sensitive or Critical Energy Infrastructure Information of any entity.

2. NERC shall maintain a set of procedures, approved by the Board, to guide the conduct of business by standing committees.

**1305. Committee Subgroups**

Standing committees may appoint subgroups using the same principles as in Section 1302.

## **SECTION 1400 — AMENDMENTS TO THE NERC RULES OF PROCEDURE**

### **1401. Proposals for Amendment or Repeal of Rules of Procedure**

In accordance with the Bylaws of NERC, requests to amend or repeal the Rules of Procedure may be submitted by (1) any ten Members of NERC, which number shall include Members from at least three membership Sectors, (2) the Member Representatives Committee, (3) a standing committee of NERC to whose function and purpose the Rule of Procedure pertains, or (4) an officer of the ERO.

### **1402. Approval of Amendment or Repeal of Rules of Procedure**

Amendment to or repeal of Rules of Procedure shall be approved by the Board after public notice and opportunity for comment in accordance with the Bylaws of NERC. In approving changes to the Rules of Procedure, the Board shall consider the inputs of the Member Representatives Committee, other ERO committees affected by the particular changes to the Rules of Procedure, and other stakeholders as appropriate. After Board approval, the amendment or repeal shall be submitted to the Applicable Governmental Authorities for approval, where authorized by legislation or agreement. No amendment to or repeal of the Rules of Procedure shall be effective until it has been approved by the Applicable Governmental Authorities.

### **1403. Alternative Procedure for Violation Risk Factors**

In the event the Reliability Standards development process fails to produce Violation Risk Factors for a particular Reliability Standard in a timely manner, the Board of Trustees may adopt Violation Risk Factors for that standard after notice and opportunity for comment. In adopting Violation Risk Factors, the Board shall consider the inputs of the Member Representatives Committee and affected stakeholders.

## **SECTION 1500 — CONFIDENTIAL INFORMATION**

### **1501. Definitions**

1. **Confidential Information** means (i) Confidential Business and Market Information; (ii) Critical Energy Infrastructure Information; (iii) personnel information that identifies or could be used to identify a specific individual, or reveals personnel, financial, medical, or other personal information; (iv) work papers, including any records produced for or created in the course of an evaluation or audit; (v) investigative files, including any records produced for or created in the course of an investigation; or (vi) Cyber Security Incident Information; provided, that public information developed or acquired by an entity shall be excluded from this definition.
2. **Confidential Business and Market Information** means any information that pertains to the interests of any entity, that was developed or acquired by that entity, and that is proprietary or competitively sensitive.
3. **Critical Energy Infrastructure Information** means specific engineering, vulnerability, or detailed design information about proposed or existing Critical Infrastructure that (i) relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person in planning an attack on Critical Infrastructure; and (iii) does not simply give the location of the Critical Infrastructure.
4. **Critical Infrastructure** means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.
5. **Cyber Security Incident Information** means any information related to, describing, or which could be used to plan or cause a Cyber Security Incident.

### **1502. Protection of Confidential Information**

1. **Identification of Confidential Information** — An owner, operator, or user of the Bulk Power System and any other party (the “Submitting Entity”) shall mark as confidential any information that it submits to NERC or a Regional Entity (the “Receiving Entity”) that it reasonably believes contains Confidential Information as defined by these Rules of Procedure, indicating the category or categories defined in Section 1501 in which the information falls. If the information is subject to a prohibition on public disclosure in the Commission-approved rules of a regional transmission organization or independent system operator or a similar prohibition in applicable federal, state, or provincial laws, the Submitting Entity shall so indicate and provide supporting references and details.
2. **Confidentiality** — Except as provided herein, a Receiving Entity shall keep in confidence and not copy, disclose, or distribute any Confidential Information or

any part thereof without the permission of the Submitting Entity, except as otherwise legally required.

3. **Information no longer Confidential** – If a Submitting Entity concludes that information for which it had sought confidential treatment no longer qualifies for that treatment, the Submitting Entity shall promptly so notify NERC or the relevant Regional Entity.

### **1503. Requests for Information**

1. **Limitation** — A Receiving Entity shall make information available only to one with a demonstrated need for access to the information from the Receiving Entity.
2. **Form of Request** — A person with such a need may request access to information by using the following procedure:
  - 2.1 The request must be in writing and clearly marked “Request for Information.”
  - 2.2 The request must identify the individual or entity that will use the information, explain the requester’s need for access to the information, explain how the requester will use the information in furtherance of that need, and state whether the information is publicly available or available from another source or through another means. If the requester seeks access to information that is subject to a prohibition on public disclosure in the Commission-approved rules of a regional transmission organization or independent system operator or a similar prohibition in applicable federal, state, or provincial laws, the requester shall describe how it qualifies to receive such information.
  - 2.3 The request must stipulate that, if the requester does not seek public disclosure, the requester will maintain as confidential any information received for which a Submitting Party has made a claim of confidentiality in accordance with NERC’s rules. As a condition to gaining access to such information, a requester shall execute a non-disclosure agreement in a form approved by NERC’s Board of Trustees.
3. **Notice and Opportunity for Comment** — Prior to any decision to disclose information marked as confidential, the Receiving Entity shall provide written notice to the Submitting Entity and an opportunity for the Submitting Entity to either waive objection to disclosure or provide comments as to why the Confidential Information should not be disclosed. Failure to provide such comments or otherwise respond is not deemed waiver of the claim of confidentiality.
4. **Determination by ERO or Regional Entity** — Based on the information provided by the requester under Rule 1503.2, any comments provided by the Submitting Entity, and any other relevant available information, the chief

executive officer or his or her designee of the Receiving Entity shall determine whether to disclose such information.

5. **Appeal** — A person whose request for information is denied in whole or part may appeal that determination to the President of NERC (or the President’s designee) within 30 days of the determination. Appeals filed pursuant to this Section must be in writing, addressed to the President of NERC (or the President’s designee), and clearly marked “Appeal of Information Request Denial.”

NERC will provide written notice of such appeal to the Submitting Entity and an opportunity for the Submitting Entity to either waive objection to disclosure or provide comments as to why the Confidential Information should not be disclosed; provided that any such comments must be received within 30 days of the notice and any failure to provide such comments or otherwise respond is not deemed a waiver of the claim of confidentiality.

The President of NERC (or the President’s designee) will make a determination with respect to any appeal within 30 days. In unusual circumstances, this time limit may be extended by the President of NERC (or the President’s designee), who will send written notice to the requester setting forth the reasons for the extension and the date on which a determination on the appeal is expected.

6. **Disclosure of Information** — In the event the Receiving Entity, after following the procedures herein, determines to disclose information designated as Confidential Information, it shall provide the Submitting Entity no fewer than 21 days’ written notice prior to releasing the Confidential Information in order to enable such Submitting Entity to (a) seek an appropriate protective order or other remedy, (b) consult with the Receiving Entity with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. Should a Receiving Entity be required to disclose Confidential Information, or should the Submitting Entity waive objection to disclosure, the Receiving Entity shall furnish only that portion of the Confidential Information which the Receiving Entity’s counsel advises is legally required.
7. **Posting of Determinations on Requests for Disclosure of Confidential Information** — Upon making its determination on a request for disclosure of Confidential Information, NERC or the Regional Entity, as applicable, shall (i) notify the requester that the request for disclosure is granted or denied, (ii) publicly post any determination to deny the request to disclose Confidential Information, including in such posting an explanation of the reasons for the denial (but without in such explanation disclosing the Confidential Information), and (iii) publicly post any determination that information claimed by the Submitting Entity to be Confidential Information is not Confidential Information (but without in such posting disclosing any information that has been determined to be Confidential Information).



**1504. Employees, Contractors and Agents**

A Receiving Entity shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

**1505. Provision of Information to FERC and Other Governmental Authorities**

1. **Request** — A request from FERC for reliability information with respect to owners, operators, and users of the Bulk Power System within the United States is authorized by Section 215 of the Federal Power Act. Other Applicable Governmental Authorities may have similar authorizing legislation that grants a right of access to such information. Unless otherwise directed by FERC or its staff or the other Applicable Governmental Authority requesting the information, upon receiving such a request, a Receiving Entity shall provide contemporaneous notice to the applicable Submitting Entity. In its response to such a request, a Receiving Entity shall preserve any mark of confidentiality and shall notify FERC or other Applicable Governmental Authorities that the Submitting Entity has marked the information as confidential.
2. **Continued Confidentiality** — Each Receiving Entity shall continue to treat as confidential all Confidential Information that it has submitted to NERC or to FERC or another Applicable Governmental Authority, until such time as FERC or the other Applicable Governmental Authority authorizes disclosure of such information.

**1506. Permitted Disclosures**

1. **Confirmed Violations** — Nothing in this Section 1500 shall prohibit the disclosure of a violation at the point when the matter is filed with an Applicable Governmental Authority as a Notice of Penalty, the “violator” admits to the violation, or the alleged violator and NERC or the Regional Entity reach a settlement regarding the violation.
2. **Compliance Information** — NERC and the Regional Entities are authorized to exchange Confidential Information related to evaluations, Compliance Audits, and Compliance Investigations in furtherance of the Compliance Monitoring and Enforcement Program, on condition they continue to maintain the confidentiality of such information.

**1507. Remedies for Improper Disclosure**

Any person engaged in NERC or Regional Entity activity under Section 215 of the Federal Power Act or the equivalent laws of other Applicable Governmental Authorities who improperly discloses information determined to be confidential may lose access to Confidential Information on a temporary or permanent basis and may be subject to adverse personnel action, including suspension or termination. Nothing in Section 1500

precludes an entity whose information was improperly disclosed from seeking a remedy in an appropriate court.

## **SECTION 1600 — REQUESTS FOR DATA OR INFORMATION**

### **1601. Scope of a NERC or Regional Entity Request for Data or Information**

Within the United States, NERC and Regional Entities may request data or information that is necessary to meet their obligations under Section 215 of the Federal Power Act, as authorized by Section 39.2(d) of the Commission's regulations, 18 C.F.R. § 39.2(d). In other jurisdictions NERC and Regional Entities may request comparable data or information, using such authority as may exist pursuant to these Rules of Procedure and as may be granted by Applicable Governmental Authorities in those other jurisdictions. The provisions of Section 1600 shall not apply to Requirements contained in any Reliability Standard to provide data or information; the Requirements in the Reliability Standards govern. The provisions of Section 1600 shall also not apply to data or information requested in connection with a compliance or enforcement action under Section 215 of the Federal Power Act, Section 400 of these Rules of Procedure, or any procedures adopted pursuant to those authorities, in which case the Rules of Procedure applicable to the production of data or information for compliance and enforcement actions shall apply.

### **1602. Procedure for Authorizing a NERC Request for Data or Information**

1. NERC shall provide a proposed request for data or information or a proposed modification to a previously-authorized request, including the information specified in Section 1602.2.1 or 1602.2.2 as applicable, to the Commission's Office of Electric Reliability at least twenty-one (21) days prior to initially posting the request or modification for public comment. Submission of the proposed request or modification to the Office of Electric Reliability is for the information of the Commission. NERC is not required to receive any approval from the Commission prior to posting the proposed request or modification for public comment in accordance with Section 1602.2 or issuing the request or modification to Reporting Entities following approval by the Board of Trustees.
2. NERC shall post a proposed request for data or information or a proposed modification to a previously authorized request for data or information for a forty-five (45) day public comment period.
  - 2.1. A proposed request for data or information shall contain, at a minimum, the following information: (i) a description of the data or information to be requested, how the data or information will be used, and how the availability of the data or information is necessary for NERC to meet its obligations under applicable laws and agreements; (ii) a description of how the data or information will be collected and validated; (iii) a description of the entities (by functional class and jurisdiction) that will be required to provide the data or information ("Reporting Entities"); (iv) the schedule or due date for the data or information; (v) a description of any restrictions on disseminating the data or information (e.g., "Confidential Information," "Critical Energy Infrastructure Information,"

“aggregating” or “identity masking”); and (vi) an estimate of the relative burden imposed on the Reporting Entities to accommodate the data or information request.

- 2.2. A proposed modification to a previously authorized request for data or information shall explain (i) the nature of the modifications; (ii) an estimate of the burden imposed on the Reporting Entities to accommodate the modified data or information request, and (iii) any other items from Section 1602.2.1 that require updating as a result of the modifications.
3. After the close of the comment period, NERC shall make such revisions to the proposed request for data or information as are appropriate in light of the comments. NERC shall submit the proposed request for data or information, as revised, along with the comments received, NERC’s evaluation of the comments and recommendations, to the Board of Trustees.
4. In acting on the proposed request for data or information, the Board of Trustees may authorize NERC to issue it, modify it, or remand it for further consideration.
5. NERC may make minor changes to an authorized request for data or information without Board approval. However, if a Reporting Entity objects to NERC in writing to such changes within 21 days of issuance of the modified request, such changes shall require Board approval before they are implemented.
6. Authorization of a request for data or information shall be final unless, within thirty (30) days of the decision by the Board of Trustees, an affected party appeals the authorization under this Section 1600 to the Applicable Governmental Authority.

### **1603. Owners, Operators, and Users to Comply**

Owners, operators, and users of the Bulk Power System registered on the NERC Compliance Registry shall comply with authorized requests for data and information. In the event a Reporting Entity within the United States fails to comply with an authorized request for data or information under Section 1600, NERC may request the Commission to exercise its enforcement authority to require the Reporting Entity to comply with the request for data or information and for other appropriate enforcement action by the Commission. NERC will make any request for the Commission to enforce a request for data or information through a non-public submission to the Commission’s enforcement staff.

### **1604. Requests by Regional Entity for Data or Information**

1. A Regional Entity may request that NERC seek authorization for a request for data or information to be applicable within the Region of the Regional Entity, either as a freestanding request or as part of a proposed NERC request for data or information. Any such request must be consistent with this Section 1600.

2. A Regional Entity may also develop its own procedures for requesting data or information, but any such procedures must include at least the same procedural elements as are included in this Section 1600. Any such Regional Entity procedures or changes to such procedures shall be submitted to NERC for approval. Upon approving such procedures or changes thereto, NERC shall file the proposed procedures or proposed changes for approval by the Commission and any other Applicable Governmental Authorities applicable to the Regional Entity. The Regional Entity procedures or changes to such procedures shall not be effective in a jurisdiction until approved by, and in accordance with any revisions directed by, the Commission or other Applicable Governmental Authority.

### **1605. Confidentiality**

If the approved data or information request includes a statement under Section 1602.1.1(v) that the requested data or information will be held confidential or treated as Critical Energy Infrastructure Information, then the applicable provisions of Section 1500 will apply without further action by a Submitting Entity. A Submitting Entity may designate any other data or information as Confidential Information pursuant to the provisions of Section 1500, and NERC or the Regional Entity shall treat that data or information in accordance with Section 1500. NERC or a Regional Entity may utilize additional protective procedures for handling particular requests for data or information as may be necessary under the circumstances.

### **1606. Expedited Procedures for Requesting Time-Sensitive Data or Information**

1. In the event NERC or a Regional Entity must obtain data or information by a date or within a time period that does not permit adherence to the time periods specified in Section 1602, the procedures specified in Section 1606 may be used to obtain the data or information. Without limiting the circumstances in which the procedures in Section 1606 may be used, such circumstances include situations in which it is necessary to obtain the data or information (in order to evaluate a threat to the reliability or security of the Bulk Power System, or to comply with a directive in an order issued by the Commission or by another Applicable Governmental Authority) within a shorter time period than possible under Section 1602. The procedures specified in Section 1606 may only be used if authorized by the NERC Board of Trustees prior to activation of such procedures.
2. Prior to posting a proposed request for data or information, or a modification to a previously-authorized request, for public comment under Section 1606, NERC shall provide the proposed request or modification, including the information specified in paragraph 1602.2.1 or 1602.2.2 as applicable, to the Commission's Office of Electric Reliability. The submission to the Commission's Office of Electric Reliability shall also include an explanation of why it is necessary to use the expedited procedures of Section 1606 to obtain the data or information. The submission shall be made to the Commission's Office of Electric Reliability as far in advance, up to twenty-one (21) days, of the posting of the proposed request or modification for public comments as is

- reasonably possible under the circumstances, but in no event less than two (2) days in advance of the public posting of the proposed request or modification.
3. NERC shall post the proposed request for data or information or proposed modification to a previously-authorized request for data or information for a public comment period that is reasonable in duration given the circumstances, but in no event shorter than five (5) days. The proposed request for data or information or proposed modification to a previously-authorized request for data or information shall include the information specified in Section 1602.2.1 or 1602.2.2, as applicable, and shall also include an explanation of why it is necessary to use the expedited procedures of Section 1606 to obtain the data or information.
  4. The provisions of Sections 1602.3, 1602.4, 1602.5 and 1602.6 shall be applicable to a request for data or information or modification to a previously-authorized request for data or information developed and issued pursuant to Section 1606, except that (a) if NERC makes minor changes to an authorized request for data or information without Board approval, such changes shall require Board approval if a Reporting Entity objects to NERC in writing to such changes within five (5) days of issuance of the modified request; and (b) authorization of the request for data or information shall be final unless an affected party appeals the authorization of the request by the Board of Trustees to the Applicable Governmental Authority within five (5) days following the decision of the Board of Trustees authorizing the request, which decision shall be promptly posted on NERC's website.

## SECTION 1700 — CHALLENGES TO DETERMINATIONS

### 1701. Scope of Authority

Section ~~1700~~1702 sets forth the procedures to be followed for Registered Entities to challenge determinations made by Planning Coordinators under ~~various~~ Reliability Standards PRC-023 or terms defined in the Glossary of Terms Used in NERC Reliability Standards. Section 1703 sets forth the procedures to be followed when a Submitting Entity or Owner wishes to challenge a determination by NERC to approve or to disapprove an Exception Request or to terminate an Exception under Section 509.

### 1702. Challenges to Determinations by Planning Coordinators Under Reliability Standard PRC-023

1. This Section 1702 establishes the procedures to be followed when a Registered Entity wishes to challenge a determination by a Planning Coordinator of the sub-200 kV circuits in its Planning Coordinator area for which Transmission Owners, Generator Owners, and Distribution Providers (defined as “Registered Entities” for purposes of this Section 1702) must comply with the requirements of Reliability Standard PRC-023.
2. Planning Coordinator Procedures
  - 2.1 Each Planning Coordinator shall establish a procedure for a Registered Entity to submit a written request for an explanation of a determination made by the Planning Coordinator under PRC-023.
  - 2.2 A Registered Entity shall follow the procedure established by the Planning Coordinator for submitting the request for explanation and must submit any such request within 60 days of receiving the determination under PRC-023 from the Planning Coordinator.
  - 2.3 Within 30 days of receiving a written request from a Registered Entity, the Planning Coordinator shall provide the Registered Entity with a written explanation of the basis for its determination under PRC-023, unless the Planning Coordinator provided a written explanation of the basis for its determination when it initially informed the Registered Entity of its determination.
3. A Registered Entity may challenge the determination of the Planning Coordinator by filing with the appropriate Regional Entity, with a copy to the Planning Coordinator, within 60 days of receiving the written explanation from the Planning Coordinator. The challenge shall include the following: (a) an explanation of the technical reasons for its disagreement with the Planning Coordinator’s determination, along with any supporting documentation, and (b) a copy of the Planning Coordinator’s written explanation. Within 30 days of

receipt of a challenge, the Planning Coordinator may file a response to the Regional Entity, with a copy to the Registered Entity.

4. The filing of a challenge in good faith shall toll the time period for compliance with PRC-023 with respect to the subject facility until such time as the challenge is withdrawn, settled or resolved.
5. The Regional Entity shall issue its written decision setting forth the basis of its determination within 90 days after it receives the challenge and send copies of the decision to the Registered Entity and the Planning Coordinator. The Regional Entity may convene a meeting of the involved entities and may request additional information. The Regional Entity shall affirm the determination of the Planning Coordinator if it is supported by substantial evidence.
6. A Planning Coordinator or Registered Entity affected by the decision of the Regional Entity may, within 30 days of the decision, file an appeal with NERC, with copies to the Regional Entity and the Planning Coordinator or Registered Entity. The appeal shall state the basis of the objection to the decision of the Regional Entity and shall include the Regional Entity decision, the written explanation of the Planning Coordinator's determination under PRC-023, and the documents and reasoning filed by the Registered Entity with the Regional Entity in support of its objection. The Regional Entity, Planning Coordinator or Registered Entity may file a response to the appeal within 30 days of the appeal.
7. The NERC Board of Trustees shall appoint a panel to decide appeals from Region Entity decisions under Section 1702.5. The panel, which may contain alternates, shall consist of at least three appointees, one of whom must be a member of the NERC staff, who are knowledgeable about PRC-023 and transmission planning and do not have a direct financial or business interest in the outcome of the appeal. The panel shall decide the appeal within 90 days of receiving the appeal from the decision of the Regional Entity and shall affirm the determination of the Planning Coordinator if it is supported by substantial evidence.
8. The Planning Coordinator or Registered Entity affected by the decision of the panel may request that the NERC Board of Trustees review the decision by filing its request for review and a statement of reasons with NERC's Chief Reliability Officer within 30 days of the panel decision. The Board of Trustees may, in its discretion, decline to review the decision of the panel, in which case the decision of the panel shall be the final NERC decision. Within 90 days of the request for review under this Section 1702.8, the NERC Board of Trustees may either (a) issue a decision on the merits, which shall be the final NERC decision, or (b) issue a notice declining to review the decision of the panel, in which case the decision of the panel shall be the final NERC decision. If no written decision or notice declining review is issued within 90 calendar days, the appeal shall be deemed to have been denied by the NERC Board of Trustees and this will have the same effect as a notice declining review.



9. The Registered Entity or Planning may appeal the final NERC decision to the applicable governmental authority within 30 days of receipt of the Board of Trustees' final decision or notice declining review, or expiration of the 90-day review period without any action by NERC.
10. The Planning Coordinator and Registered Entity are encouraged, but not required, to meet to resolve any dispute, including use of mutually agreed to alternative dispute resolution procedures, at any time during the course of the matter. In the event resolution occurs after the filing of a challenge, the Registered Entity and Planning Coordinator shall jointly provide to the applicable Regional Entity a written acknowledgement of withdrawal of the challenge or appeal, including a statement that all outstanding issues have been resolved.

### **1703. Challenges to NERC Determinations of BES Exception Requests Under Section 509**

1. This Section 1703 establishes the procedures to be followed when a Submitting Entity or Owner wishes to challenge a determination by NERC to approve or to disapprove an Exception Request or to terminate an Exception under Section 509.
2. A Submitting Entity (or Owner if different) aggrieved by the decision of NERC to approve or disapprove an Exception Request or to terminate an Exception with respect to any Element may, within 30 days following the date of the decision, file a written challenge to the decision with the NERC director of compliance operations, with copies to the Regional Entity and the Submitting Entity or Owner if different. The written challenge shall state the basis of the objection to the decision of NERC. The Regional Entity and the Submitting Entity or Owner if different may file a response to the challenge within 30 days following the date the challenge is filed with NERC.
3. The challenge shall be decided by the Board of Trustees Compliance Committee. Within 90 days of the date of submission of the challenge, the Board of Trustees Compliance Committee shall issue its decision on the challenge. The decision of the Board of Trustees Compliance Committee shall be the final NERC decision; provided, that the Board of Trustees Compliance Committee may extend the deadline date for its decision to a date more than 90 days following submission of the challenge, by issuing a notice to the Submitting Entity, the Owner (if different) and the Regional Entity stating the revised deadline date and the reason for the extension.
4. The Submitting Entity, or Owner if different, may appeal the final NERC decision to, or seek review of the final NERC decision by, the Applicable Governmental Authority(ies), in accordance with the legal authority and rules and procedures of the Applicable Governmental Authority(ies). Any such appeal shall be filed within thirty (30) days following the date of the decision of the Board of Trustees Compliance Committee, or within such other time period as is provided for in the legal authority, rules or procedures of the Applicable Governmental Authority.

**PETITION OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
FOR APPROVAL OF REVISIONS TO ITS RULES OF PROCEDURE  
TO ADOPT A BULK ELECTRIC SYSTEM EXCEPTION PROCEDURE**

**ATTACHMENT 3A**

**REVISED APPENDIX 2 OF THE RULES OF PROCEDURE,**

***DEFINITIONS USED IN THE RULES OF PROCEDURE***

**CLEAN VERSION**

**Proposed revisions 1-9-2012**

**NORTH AMERICAN ELECTRIC RELIABILITY  
CORPORATION**

**DEFINITIONS USED IN THE RULES OF PROCEDURE**

**APPENDIX 2 TO THE RULES OF PROCEDURE**

**Effective: [DATE], 2012**

## General

For purposes of the NERC Rules of Procedure, including all Appendices, the terms defined in this Appendix shall have the meanings set forth herein. For convenience of reference to the user, definitions of terms that are used in a particular Appendix may be repeated in that Appendix.

Where used in the Rules of Procedure, a defined term will be capitalized. Where a term defined in this Appendix appears in the Rules of Procedure but is not capitalized, the term is there being used in its ordinary and commonly understood meaning and not as defined in this Appendix (if different). Other terms that are not defined terms, such as the names of entities, organizations, committees, or programs; position titles; titles of documents or forms; section headings; geographic locations; and other terms commonly presented as proper nouns, may also be capitalized in the Rules of Procedure without being defined in this Appendix.

Definitions of terms in this Appendix that are marked with asterisks (\*\*) are taken from the NERC *Glossary of Terms Used in Reliability Standards*. Definitions of terms in this Appendix that are marked with “pluses” (++) are taken from Section 215 of the Federal Power Act or the Commission’s regulations at 18 C.F.R. Part 39 or Part 388.

Other terms used in the Rules of Procedure but not defined in this Appendix that have commonly understood and used technical meanings in the electric power industry, including applicable codes and standards, shall be construed in accordance with such commonly understood and used technical meanings.

## Specific Definitions

“Acceptance of the Exception Request” or “Acceptance” means the determination that an eligible Exception Request (i.e., a Request permitted by section 4.1 of Appendix 5C) contains all the Required Information so that it can undergo substantive review.

“Adjacent Balancing Authority” means a Balancing Authority Area that is interconnected to another Balancing Authority Area either directly or via a multi-party agreement or transmission tariff.\*\*

“Adjusted Penalty Amount” means the proposed Penalty for a violation of a Reliability Standard as determined based on application of the adjustment factors identified in Section 4.3 of the *Sanction Guidelines* to the Base Penalty Amount.

“Advisories” or “Level 1 (Advisories)” is a notification issued by NERC in accordance with Section 810.3.1 of the Rules of Procedure.

“Alleged Violation” means a Possible Violation for which the Compliance Enforcement Authority has determined, based on an assessment of the facts and circumstances surrounding the Possible Violation, that evidence exists to indicate a Registered Entity has violated a Reliability Standard.

“Annual Audit Plan” means a plan developed annually by the Compliance Enforcement Authority that includes the Reliability Standards and Registered Entities to be audited, the schedule of Compliance Audits, and Compliance Audit Participant requirements for the calendar year.

“Annual Report” means the annual report to be filed by NERC with FERC and other Applicable Governmental Authorities in accordance with Section 13.0 of Appendix 4D.

“Applicable Governmental Authority” means the FERC within the United States and the appropriate governmental authority with subject matter jurisdiction over reliability in Canada and Mexico.

“Applicable Requirement” means a Requirement of a CIP Standard that (i) expressly provides either (A) that compliance with the terms of the Requirement is required where or as technically feasible, or (B) that technical limitations may preclude compliance with the terms of the Requirement; or (ii) is subject to Appendix 4D by FERC directive.

“Approval of the Exception Request” or “Approval” means the determination by NERC that an Exception Request meets the criteria to receive the requested Exception.

“Balancing Authority” means the responsible entity that integrates resource plans ahead of time, maintains Load-interchange-generation balance within a Balancing Authority Area, and supports Interconnection frequency in real time.\*\*

“Balancing Authority Area” means the collection of generation, transmission, and Loads within the metered boundaries of the Balancing Authority. The Balancing Authority maintains Load-resource balance within this area.\*\*

“Base Penalty Amount” means the proposed Penalty for a violation of a Reliability Standard as initially determined pursuant to Sections 4.1 and 4.2 of the NERC *Sanction Guidelines*, before application of any adjustment factors.

“BES Definition” means the NERC definition of the Bulk Electric System as set forth in the NERC *Glossary of Terms Used in Reliability Standards*.

“Blackstart Resource” means a generating unit(s) and its associated set of equipment which has the ability to be started without support from the System or is designed to remain energized without connection to the remainder of the System, with the ability to energize a bus, meeting the Transmission Operator’s restoration plan needs for Real and Reactive Power capability, frequency and voltage control, and that has been included in the Transmission Operator’s restoration plan.\*\*

“Board” or “Board of Trustees” means the Board of Trustees of NERC.

“Board of Trustees Compliance Committee,” “BOTCC” or “Compliance Committee” means the Compliance Committee of the NERC Board of Trustees.

“Bulk Electric System” or “BES” means unless modified by the lists shown below, all Transmission Elements operated at 100 kV or higher and Real Power and Reactive Power resources connected at 100 kV or higher. This does not include facilities used in the local distribution of electric energy.

**Inclusions:**

- **I1** - Transformers with the primary terminal and at least one secondary terminal operated at 100 kV or higher unless excluded under Exclusion E1 or E3.
- **I2** - Generating resource(s) with gross individual nameplate rating greater than 20 MVA or gross plant/facility aggregate nameplate rating greater than 75 MVA including the generator terminals through the high-side of the step-up transformer(s) connected at a voltage of 100 kV or above.
- **I3** - Blackstart Resources identified in the Transmission Operator’s restoration plan.
- **I4** - Dispersed power producing resources with aggregate capacity greater than 75 MVA (gross aggregate nameplate rating) utilizing a system designed primarily for aggregating capacity, connected at a common point at a voltage of 100 kV or above.
- **I5** –Static or dynamic devices (excluding generators) dedicated to supplying or absorbing Reactive Power that are connected at 100 kV or higher, or through a dedicated transformer with a high-side voltage of 100 kV or higher, or through a transformer that is designated in Inclusion I1.

**Exclusions:**

- **E1** - Radial systems: A group of contiguous transmission Elements that emanates from a single point of connection of 100 kV or higher and:
  - a) Only serves Load. Or,
  - b) Only includes generation resources, not identified in Inclusion I3, with an aggregate capacity less than or equal to 75 MVA (gross nameplate rating). Or,
  - c) Where the radial system serves Load and includes generation resources, not identified in Inclusion I3, with an aggregate capacity of non-retail generation less than or equal to 75 MVA (gross nameplate rating).Note – A normally open switching device between radial systems, as depicted on prints or one-line diagrams for example, does not affect this exclusion.
- **E2** - A generating unit or multiple generating units on the customer’s side of the retail meter that serve all or part of the retail Load with electric energy if: (i) the net capacity provided to the BES does not exceed 75 MVA, and (ii) standby, back-up, and maintenance power services are provided to the generating unit or multiple generating units or to the retail Load by a Balancing Authority, or provided pursuant to a binding

obligation with a Generator Owner or Generator Operator, or under terms approved by the applicable regulatory authority.

- **E3** - Local networks (LN): A group of contiguous transmission Elements operated at or above 100 kV but less than 300 kV that distribute power to Load rather than transfer bulk power across the interconnected system. LN's emanate from multiple points of connection at 100 kV or higher to improve the level of service to retail customer Load and not to accommodate bulk power transfer across the interconnected system. The LN is characterized by all of the following:
  - a) Limits on connected generation: The LN and its underlying Elements do not include generation resources identified in Inclusion I3 and do not have an aggregate capacity of non-retail generation greater than 75 MVA (gross nameplate rating);
  - b) Power flows only into the LN and the LN does not transfer energy originating outside the LN for delivery through the LN; and
  - c) Not part of a Flowgate or transfer path: The LN does not contain a monitored Facility of a permanent Flowgate in the Eastern Interconnection, a major transfer path within the Western Interconnection, or a comparable monitored Facility in the ERCOT or Quebec Interconnections, and is not a monitored Facility included in an Interconnection Reliability Operating Limit (IROL).
- **E4** – Reactive Power devices owned and operated by the retail customer solely for its own use.

Note - Elements may be included or excluded on a case-by-case basis through the Rules of Procedure exception process.\*\*

“Bulk Power System” means, depending on the context: (i) Facilities and control systems necessary for operating an interconnected electric energy supply and transmission network (or any portion thereof), and electric energy from generating facilities needed to maintain transmission system reliability. The term does not include facilities used in the local distribution of electric energy [++]. (ii) Solely for purposes of Appendix 4E, Bulk Electric System.

“Canadian” means one of the following: (a) a company or association incorporated or organized under the laws of Canada, or its designated representative(s) irrespective of nationality; (b) an agency of a federal, provincial, or local government in Canada, or its designated representative(s) irrespective of nationality; or (c) a self-representing individual who is a Canadian citizen residing in Canada.

“Canadian Entity” means a Registered Entity (or, solely for purposes of Appendix 4D, a Responsible Entity) that is organized under Canadian federal or provincial law.

“Cascading” means the uncontrolled successive loss of System Elements triggered by an incident at any location. Cascading results in widespread electric service interruption that cannot be restrained from sequentially spreading beyond an area predetermined by studies.\*\*

“CCC” means the NERC Compliance and Certification Committee.

“Certification” means, depending on the context, (i) the process undertaken by NERC and a Regional Entity to verify that an entity is capable of responsibilities for tasks associated with a particular function such as a Balancing Authority, Transmission Operator and/or Reliability Coordinator; such Certification activities are further described in Section 500 and Appendix 5A of the NERC Rules of Procedure; or (ii) for purposes of Appendix 6, an official recognition that indicates the recipient has passed a NERC exam or completed a specified number of Continuing Education Hours.

“Certification Staff” means individuals employed or contracted by NERC who have the authority to make initial determinations of Certification of entities performing reliability functions.

“Certification Team” means a team assembled by a Regional Entity that will be responsible for performing the activities included in the Certification process for an entity pursuant to Appendix 5A.

“Classified National Security Information” means Required Information that has been determined to be protected from unauthorized disclosure pursuant to Executive Order No. 12958, as amended, and/or the regulations of the NRC at 10 C.F.R. §95.35; or pursuant to any comparable provision of Canadian federal or provincial law.

“Clerk” means an individual as assigned by the Compliance Enforcement Authority to perform duties described in Attachment 2, Hearing Procedures, to Appendix 4C.

“Commission” means the Federal Energy Regulatory Commission or FERC.

“Complaint” means an allegation that a Registered Entity violated a Reliability Standard.

“Compliance and Certification Manager” means individual/individuals within the Regional Entity that is/are responsible for monitoring compliance of entities with applicable NERC Reliability Standards.

“Compliance Audit” means a systematic, objective review and examination of records and activities to determine whether a Registered Entity meets the Requirements of applicable Reliability Standards.

“Compliance Audit Participants” means Registered Entities scheduled to be audited and the audit team members.

“Compliance Enforcement Authority” means NERC or the Regional Entity in their respective roles of monitoring and enforcing compliance with the NERC Reliability Standards.



“Compliance Enforcement Authority’s Area of Responsibility” means the Compliance Enforcement Authority’s Region. If a Regional Entity is the Compliance Enforcement Authority, the Compliance Enforcement Authority’s Area of Responsibility is shown in Exhibit A to the delegation agreement between the Regional Entity and NERC.

“Compliance Investigation” means a comprehensive investigation, which may include an on-site visit with interviews of the appropriate personnel, to determine if a violation of a Reliability Standard has occurred.

“Compliance Monitoring and Enforcement Program” or “CMEP” means, depending on the context (1) the NERC *Uniform Compliance Monitoring and Enforcement Program* (Appendix 4C to the NERC Rules of Procedure) or the Commission-approved program of a Regional Entity, as applicable, or (2) the program, department or organization within NERC or a Regional Entity that is responsible for performing compliance monitoring and enforcement activities with respect to Registered Entities’ compliance with Reliability Standards.

“Compliant Date” means the date by which a Responsible Entity is required to be in compliance with an Applicable Requirement of a CIP Standard.

“Confidential Business and Market Information” means any information that pertains to the interests of any entity, that was developed or acquired by that entity, and that is proprietary or competitively sensitive.

“Confidential Information” means (i) Confidential Business and Market Information; (ii) Critical Energy Infrastructure Information; (iii) personnel information that identifies or could be used to identify a specific individual, or reveals personnel, financial, medical, or other personal information; (iv) work papers, including any records produced for or created in the course of an evaluation or audit; (v) investigative files, including any records produced for or created in the course of an investigation; or (vi) Cyber Security Incident Information; provided, that public information developed or acquired by an entity shall be excluded from this definition; or (vii) for purposes of Appendix 4D, any other information that is designated as Confidential Information in Section 11.0 of Appendix 4D.

“Confirmed Violation” means an Alleged Violation for which an entity has: (1) accepted the finding of the violation by a Regional Entity or NERC and will not seek an appeal, or (2) completed the hearing and appeals process within NERC, or (3) allowed the time for requesting a hearing or submitting an appeal to expire, or (4) admitted to the violation in a settlement agreement.

“Continuing Education Hour” or “CE Hour” means sixty minutes of participation in a group, independent study, or self-study learning activity as approved by the NERC Continuing Education Program.

“Continuing Education Program Provider” or “Provider” means the individual or organization offering a learning activity to participants and maintaining documentation required by Appendix 6.

“Coordinated Functional Registration” means where two or more entities (parties) agree in writing upon a division of compliance responsibility among the parties for one or more Reliability Standard(s) applicable to a particular function, and/or for one or more Requirement(s)/sub-Requirement(s) within particular Reliability Standard(s).

“Covered Asset” means a Cyber Asset or Critical Cyber Asset that is subject to an Applicable Requirement.

“Credential” means a NERC designation that indicates the level of qualification achieved (i.e., reliability operator; balancing, interchange, and transmission operator; balancing and interchange operator; and transmission operator).

“Credential Maintenance” means to meet NERC CE Hours’ requirements to maintain a valid NERC-issued system operator Credential.

“Critical Assets” means Facilities, systems, and equipment which, if destroyed, degraded, or otherwise rendered unavailable, would affect the reliability or operability of the Bulk Electric System.\*\*

“Critical Cyber Assets” means Cyber Assets critical to the reliable operation of Critical Assets.\*\*

“Critical Energy Infrastructure Information” means specific engineering, vulnerability, or detailed design information about proposed or existing Critical Infrastructure that (i) relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person in planning an attack on Critical Infrastructure; and (iii) does not simply give the location of the Critical Infrastructure.++

“Critical Infrastructure” means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.++

“Critical Infrastructure Protection Standard” or “CIP Standard” means any of NERC Reliability Standards CIP-002 through CIP-009.

“Cross-Border Regional Entity” means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.++

“Cyber Assets” means programmable electronic devices and communication networks including hardware, software, and data.\*\*

“Cyber Security Incident” means any malicious or suspicious event that disrupts, or was an attempt to disrupt, the operation of those programmable electronic devices and communications networks including hardware, software and data that are essential to the Reliable Operation of the Bulk Power System.++

“Cyber Security Incident Information” means any information related to, describing, or which could be used to plan or cause a Cyber Security Incident.

“Days”, as used in Appendix 5A with respect to the Registration and Certification processes, means calendar days.

“Delegate” means a person to whom the Senior Manager of a Responsible Entity has delegated authority pursuant to Requirement R2.3 of CIP Standard CIP-003-1 (or any successor provision).

“Director of Compliance” means the Director of Compliance of NERC or of the Compliance Enforcement Authority, as applicable, who is responsible for the management and supervision of Compliance Staff, or his or her designee.

“Disapproval of the Exception Request” or “Disapproval” means the determination by NERC that an Exception Request does not meet the criteria to receive the requested Exception.

“Distribution Factor” means the portion of an Interchange Transaction, typically expressed in per unit that flows across a transmission facility (Flowgate).\*\*

“Distribution Provider” means the entity that provides and operates the “wires” between the transmission system and the end-use customer. For those end-use customers who are served at transmission voltages, the Transmission Owner also serves as the Distribution Provider. Thus, the Distribution Provider is not defined by a specific voltage, but rather as performing the distribution function at any voltage.\*\*

“Document” means, in addition to the commonly understood meaning of the term as information written or printed on paper, any electronically stored information, including writings, drawings, graphs, charts, photographs, sound recordings, images and other data or data compilations stored in any medium from which information can be obtained, and shall be translated by the producing party into reasonably usable form.

“Effective Date” means the date, as specified in a notice rejecting or disapproving a TFE Request or terminating an approved TFE, on which the rejection, disapproval or termination becomes effective.

“Electric Reliability Organization” or “ERO” means the organization that is certified by the Commission under Section 39.3 of its regulations, the purpose of which is to establish and enforce Reliability Standards for the Bulk Power System in the United States, subject to Commission review. The organization may also have received recognition by Applicable Governmental Authorities in Canada and Mexico to establish and enforce Reliability Standards for the Bulk Power Systems of the respective countries.

“Element” means any electrical device with terminals that may be connected to other electrical devices such as a generator, transformer, circuit breaker, bus section, or transmission line. An Element may be comprised of one or more components.\*\*

“Eligible Reviewer” means a person who has the required security clearances or other qualifications, or who otherwise meets the applicable criteria, to have access to Confidential Information, Classified National Security Information, NRC Safeguards Information or Protected FOIA Information, as applicable to the particular information to be reviewed.

“End Date” means the last date of the period to be covered in a Compliance Audit.

“Essential Actions” or “Level 3 (Essential Actions)” is a notification issued by NERC in accordance with Section 810.3.3 of the Rules of Procedure.

“Exception” means either an Inclusion Exception or an Exclusion Exception.

“Exception Procedure” means the procedure set forth in Appendix 5C.

“Exception Reporting” means information provided to the Compliance Enforcement Authority by a Registered Entity indicating that a violation of a Reliability Standard has occurred (e.g., a System Operating Limit has been exceeded) or enabling the Compliance Enforcement Authority to ascertain the Registered Entity’s compliance.

“Exception Request” means a request made by a Submitting Entity in accordance with Appendix 5C for an Exception.

“Exception Request Form” means the form adopted by each Regional Entity, in accordance with a template provided by NERC, for use by Submitting Entities in submitting Exception Requests; provided, that the Exception Request Form must include Section III.B as adopted by NERC.

“Exclusion Exception” means a determination that an Element that falls within the BES Definition should be excluded from the BES.

“Expiration Date” means the date on which an approved TFE expires.

“Facility” means a set of electrical equipment that operates as a single Bulk Electric System Element (e.g., a line, a generator, a shunt compensator, transformer, etc.)\*\*

“FERC” means the United States Federal Energy Regulatory Commission.

“Final Penalty Amount” means the final, proposed Penalty for violation of a Reliability Standard, determined in accordance with the *Sanction Guidelines*.

“Flowgate” means 1.) A portion of the transmission system through which the Interchange Distribution Calculator calculates the power flow from Interchange Transactions. 2.) A mathematical construct, comprised of one or more monitored transmission Facilities and optionally one or more contingency Facilities, used to analyze the impact of power flows upon the Bulk Electric System.\*\*

“FOIA” means the U.S. Freedom of Information Act, 5 U.S.C. §552.

“Footprint” means the geographical or electric area served by an entity.

“Functional Entity” means an entity responsible for a function that is required to ensure the Reliable Operation of the electric grid as identified in the NERC Reliability Standards.

“Generator Operator” means the entity that operates generating unit(s) and performs the functions of supplying energy and Interconnected Operations Services.\*\*

“Generator Owner” means an entity that owns and maintains generating units.\*\*

“Hearing Body” or “Regional Entity Hearing Body” means the body established by a Regional Entity to conduct hearings pursuant to the Hearing Procedures.

“Hearing Officer” means, depending on the context, (i) an individual employed or contracted by the Compliance Enforcement Authority and designated by the Compliance Enforcement Authority to preside over hearings conducted pursuant to Attachment 2, Hearing Procedures, of Appendix 4C, or (ii) solely for hearings conducted pursuant to Appendix 4E, (A) a CCC member or (B) an individual employed or contracted by NERC, as designated and approved by the CCC to preside over hearings conducted pursuant to the Hearing Procedures in Appendix E; the Hearing Officer shall not be a member of the Hearing Panel.

“Hearing Panel” means the five person hearing body established as set forth in the CCC Charter on a case by case basis and that is responsible for adjudicating a matter as set forth in Appendix 4E.

“Hearing Procedures” means, depending on the context, (i) Attachment 2 to the NERC or a Regional Entity CMEP, as applicable, or (ii) the hearing procedures of the NERC Compliance and Certification Committee in Appendix 4E.

“Inclusion Exception” means a determination that an Element that falls outside the BES Definition should be included in the BES.

“Interchange” means energy transfers that cross Balancing Authority boundaries.\*\*

“Interchange Authority” means the responsible entity that authorizes the implementation of valid and balanced Interchange Schedules between Balancing Authority Areas, and ensures communications of Interchange information for reliability assessment purposes.\*\*

“Interchange Distribution Calculator” means the mechanism used by Reliability Coordinators in the Eastern Interconnection to calculate the distribution of Interchange Transactions over specific Flowgates. It includes a database of all Interchange Transactions and a matrix of the Distribution Factors for the Eastern Interconnection.\*\*

“Interchange Schedule” means an agreed-upon Interchange Transaction size (megawatts), start and end time, beginning and ending ramp times and rate, and type required for delivery and

receipt of power and energy between the Source and Sink Balancing Authorities involved in the transaction.\*\*

“Interchange Transaction” means an agreement to transfer energy from a seller to a buyer that crosses one or more Balancing Authority Area boundaries.\*\*

“Interconnected Operations Service” means a service (exclusive of basic energy and Transmission Services) that is required to support the Reliable Operation of interconnected Bulk Electric Systems.\*\*

“Interconnection” means a geographic area in which the operation of Bulk Power System components is synchronized such that the failure of one or more of such components may adversely affect the ability of the operators of other components within the system to maintain Reliable Operation of the Facilities within their control.++

“Interconnection Reliability Operating Limit” means a System Operating Limit that, if violated, could lead to instability, uncontrolled separation, or Cascading outages that adversely impact the reliability of the Bulk Electric System.\*\*

“Interpretation” means an addendum to a Reliability Standard, developed in accordance with the NERC *Standard Processes Manual* and approved by the Applicable Governmental Authority(ies), that provides additional clarity about one or more Requirements in the Reliability Standard.

“Joint Registration Organization” means an entity that registers in the Compliance Registry to perform reliability functions for itself and on behalf of one or more of its members or related entities for which such members or related entities would otherwise be required to register.

“Lead Entity” means the entity that submits Exception Request information that is common to a group of Submitting Entities that are submitting Exception Requests jointly.

“Lead Mediator” means a member of a mediation team formed pursuant to Appendix 4E who is selected by the members to coordinate the mediation process and serve as the mediation team’s primary contact with the Parties.

“Load” means an end-user device or customer that receives power from the electric system.\*\*

“Load-Serving Entity” means an entity that secures energy and Transmission Service (and related Interconnected Operations Services) to serve the electrical demand and energy requirements of its end-use customers.\*\*

“Mapping” means the process of determining whether a Regional Entity’s Footprint is being served by Registered Entities.

“Mediation Settlement Agreement” means a written agreement entered into by the Parties to a mediation pursuant to Appendix 4E that resolves the dispute.

“Member” means a member of NERC pursuant to Article II of its Bylaws.

“Member Representatives Committee” or “MRC” means the body established pursuant to Article VIII of the NERC Bylaws.

“Mexican Entity” means a Registered Entity that is organized under Mexican law.

“Mitigation Plan” means an action plan, required when a Registered Entity violates a Reliability Standard as determined by any means including Compliance Enforcement Authority decision, settlement agreement, or otherwise, that is developed by the Registered Entity to (1) correct a violation of a Reliability Standard and (2) prevent re-occurrence of the violation.

“NERC-Approved Learning Activity” means training that maintains or improves professional competence and has been approved by NERC for use in its Continuing Education Program.

“NERC Compliance Monitoring and Enforcement Program Implementation Plan” or “NERC Implementation Plan” means the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan that specifies the Reliability Standards that are subject to reporting by Registered Entities to the Compliance Enforcement Authority in order to verify compliance and identifies the appropriate monitoring procedures and reporting schedules for each such Reliability Standard.

“NERC Compliance Registry,” “Compliance Registry” or “NCR” means a list, maintained by NERC pursuant to Section 500 of the NERC Rules of Procedure and Appendix 5B, the NERC *Statement of Compliance Registry Criteria*, of the owners, operators and users of the Bulk Power System, and the entities registered as their designees, that perform one or more functions in support of reliability of the Bulk Power System and are required to comply with one or more Requirements of Reliability Standards.

“NERC Identification Number” or “NERC ID” means a number given to NERC Registered Entities that will be used to identify the entity for certain NERC activities. Corporate entities may have multiple NERC IDs to show different corporate involvement in NERC activities.

“NERC Organization Certification” or “Organization Certification” means the process undertaken by NERC and a Regional Entity to verify that a new entity is capable of responsibilities for tasks associated with a particular function such as a Balancing Authority, Transmission Operator, and/or Reliability Coordinator; such certification activities are further described in Section 500 and Appendix 5A of the NERC Rules of Procedure.

“Net Energy for Load” or “NEL” means net generation of an electric system plus energy received from others less energy delivered to others through interchange. It includes system losses but excludes energy required for the storage of energy at energy storage facilities.

“Notice of Alleged Violation” means a notice issued by the Compliance Enforcement Authority to a Registered Entity pursuant to Section 5.3 of Appendix 4C.

“Notice of Completion of Enforcement Action” means a notice issued by the Compliance Enforcement Authority to a Registered Entity, pursuant to Section 5.10 of Appendix 4C, stating that an enforcement action is closed.

“Notice of Confirmed Violation” means a notice issued by the Compliance Enforcement Authority to a Registered Entity confirming the violation of one or more Reliability Standards, as a result of (1) the Registered Entity accepting a Notice of Alleged Violation and the proposed Penalty or sanction, or (2) the finding of a violation through a hearing and appeal, or (3) the expiration of the period for requesting a hearing or an appeal, or (4) the Registered Entity admitting the violation as part of an executed settlement agreement.

“Notice of Penalty” means a notice prepared by NERC and filed with FERC, following approval by NERC of a Notice of Confirmed Violation or a settlement agreement, stating the Penalty or sanction imposed or agreed to for the Confirmed Violation or as part of the settlement.

“Notice of Possible Violation” means a notice issued by the Compliance Enforcement Authority to a Registered Entity that (1) states a Possible Violation has been identified, (2) provides a brief description of the Possible Violation, including the Reliability Standard Requirement(s) and the date(s) involved, and (3) instructs the Registered Entity to retain and preserve all data and records relating to the Possible Violation.

“NRC” means the United States Nuclear Regulatory Commission.

“NRC Safeguards Information” means Required Information that is subject to restrictions on disclosure pursuant to 42 U.S.C. §2167 and the regulations of the NRC at 10 C.F.R. §73.21-73.23; or pursuant to comparable provisions of Canadian federal or provincial law.

“Open Access Transmission Tariff” means an electronic transmission tariff accepted by the U.S. Federal Energy Regulatory Commission requiring the Transmission Service Provider to furnish to all shippers with non-discriminating service comparable to that provided by Transmission Owners to themselves.\*\*

“Owner” means the owner(s) of an Element or Elements that is or may be determined to be part of the BES as a result of either the application of the BES Definition or an Exception, or another entity, such as an operator, authorized to act on behalf of the owner of the Element or Elements in the context of an Exception Request.

“Part A Required Information” means Required Information that is to be provided in Part A of a Responsible Entity’s TFE Request.

“Part B Required Information” means Required Information that is to be provided in Part B of a Responsible Entity’s TFE Request.

“Participant” means a Respondent and any other Person who is allowed or required by FERC to participate as an intervenor in a proceeding conducted pursuant to the Hearing Procedures, and as used in the Hearing Procedures shall include, depending on the context, the members of the



Compliance Staff that participate in a proceeding or the members of the Certification Staff that participate in a proceeding pursuant to Appendix 4E.

“Party” or “Parties” means a Person or the Persons participating in a mediation pursuant to Appendix 4E.

“Penalty” means and includes all penalties and sanctions, including but not limited to a monetary or non-monetary penalty; a limitation on an activity, function, operation or other appropriate sanction; or the addition of the Registered Entity or Respondent to a reliability watch list composed of major violators. Penalties must be within the range set forth in the NERC *Sanction Guidelines* approved by FERC pursuant to 18 C.F.R. Section 39.7(g)(2), and shall bear a reasonable relation to the seriousness of a Registered Entity’s or Respondent’s violation and take into consideration any timely efforts made by the Registered Entity or Respondent to remedy the violation.

“Periodic Data Submittals” means modeling, studies, analyses, documents, procedures, methodologies, operating data, process information or other information to demonstrate compliance with Reliability Standards and provided by Registered Entities to the Compliance Enforcement Authority on a time frame required by a Reliability Standard or an ad hoc basis.

“Person” means any individual, partnership, corporation, limited liability company, governmental body, association, joint stock company, public trust, organized group of persons, whether incorporated or not, or any other legal entity.

“Planning Authority” means the responsible entity that coordinates and integrates transmission Facilities and service plans, resource plans, and Protection Systems.\*\*

“Point of Delivery” means a location that a Transmission Service Provider specifies on its transmission system where an Interchange Transaction leaves or a Load-Serving Entity receives its energy.\*\*

“Point of Receipt” means a location that the Transmission Service Provider specifies on its transmission system where an Interchange Transaction enters or a generator delivers its output.

“Possible Violation” means the identification, by the Compliance Enforcement Authority, using one of the compliance monitoring and enforcement processes in Section 3.0 of Appendix 4C, of a possible failure by a Registered Entity to comply with a Reliability Standard that is applicable to the Registered Entity.

“Preliminary Screen” means an initial evaluation of evidence indicating potential noncompliance with a Reliability Standard has occurred or is occurring, conducted by the Compliance Enforcement Authority for the purpose of determining whether a Possible Violation exists, and consisting of an evaluation of whether (1) the entity allegedly involved in the potential noncompliance is registered, and (2) the Reliability Standard Requirement to which the evidence of potential noncompliance relates is applicable to a reliability function for which the entity is registered.

“Probation” means a step in the disciplinary process pursuant to Appendix 6 during which the certificate is still valid. During the probationary period, a subsequent offense of misconduct, as determined through the same process as described above, may be cause for more serious consequences.

“Protected FOIA Information” means Required Information, held by a governmental entity, that is subject to an exemption from disclosure under FOIA (5 U.S.C. §552(e)), under any similar state or local statutory provision, or under any comparable provision of Canadian federal or provincial law, which would be lost were the Required Information to be placed into the public domain.

“Protection System” means protective relays which respond to electrical quantities, communications systems necessary for correct operation of protective functions, voltage and current sensing devices providing inputs to protective relays, station dc supply associated with protective functions (including batteries, battery chargers, and non-battery-based dc supply), and control circuitry associated with protective functions through the trip coil(s) of the circuit breakers or other interrupting devices.\*\*

“Purchasing-Selling Entity” means the entity that purchases, or sells, and takes title to, energy, capacity, and Interconnected Operations Services. Purchasing-Selling Entities may be affiliated or unaffiliated merchants and may or may not own generating facilities.\*\*

“Reactive Power” means the portion of electricity that establishes and sustains the electric and magnetic fields of alternating-current equipment. Reactive Power must be supplied to most types of magnetic equipment, such as motors and transformers. It also must supply the reactive losses on transmission facilities. Reactive Power is provided by generators, synchronous condensers, or electrostatic equipment such as capacitors and directly influences electric system voltage. It is usually expressed in kilovars (kvar) or megavars (Mvar).\*\*

“Real Power” means the portion of electricity that supplies energy to the Load.\*\*

“Receiving Entity” means NERC or a Regional Entity receiving Confidential Information from an owner, operator, or user of the Bulk Power System or from any other party.

“Recommendation” for purposes of Appendix 5C means the report to NERC containing the evaluation prepared in accordance with section 5.2 of Appendix 5C concerning whether or to what extent an Exception Request should be approved.

“Recommendations” or “Level 2 (Recommendations)” is a notification issued by NERC in accordance with Section 810.3.2 of the Rules of Procedure.

“Region” means the geographic area, as specified in a Regional Entity’s delegation agreement with NERC, within which the Regional Entity is responsible for performing delegated functions.

“Regional Criteria” means reliability requirements developed by a Regional Entity that are necessary to implement, to augment, or to comply with Reliability Standards, but which are not

Reliability Standards. Such Regional Criteria may be necessary to account for physical differences in the Bulk Power System but are not inconsistent with Reliability Standards nor do they result in lesser reliability. Such Regional Criteria are not enforceable pursuant to NERC-delegated authorities, but may be enforced through other available mechanisms. Regional Criteria may include specific acceptable operating or planning parameters, guides, agreements, protocols or other documents.

“Regional Entity” means an entity having enforcement authority pursuant to 18 C.F.R. § 39.8.++

“Regional Entity Compliance Monitoring and Enforcement Program Implementation Plan” or “Regional Implementation Plan” means an annual plan, submitted by November 1 of each year to NERC for approval that, in accordance with NERC Rule of Procedure Section 401.6 and the NERC Compliance Monitoring and Enforcement Program Implementation Plan, identifies (1) all Reliability Standards identified by NERC to be actively monitored during each year, (2) other Reliability Standards proposed for active monitoring by the Regional Entity, (3) the methods to be used by the Regional Entity for reporting, monitoring, evaluation, and assessment of performance criteria with each Reliability Standard, and (4) the Regional Entity’s Annual Audit Plan.

“Regional Reliability Standard” means a type of Reliability Standard that is applicable only within a particular Regional Entity or group of Regional Entities. A Regional Reliability Standard may augment, add detail to, or implement another Reliability Standard or cover matters not addressed by other Reliability Standards. Regional Reliability Standards, upon adoption by NERC and approval by the Applicable Governmental Authority(ies), shall be Reliability Standards and shall be enforced within the applicable Regional Entity or Regional Entities pursuant to delegated authorities or to procedures prescribed by the Applicable Governmental Authority.

“Registered Ballot Body” means that aggregation of all entities or individuals that qualify for one of the Segments approved by the Board of Trustees, and are registered with NERC as potential ballot participants in the voting on proposed Reliability Standards.

“Registered Entity” means an owner, operator, or user of the Bulk Power System, or the entity registered as its designee for the purpose of compliance, that is included in the NERC Compliance Registry.

“Registration” or “Organization Registration” means the processes undertaken by NERC and Regional Entities to identify which entities are responsible for reliability functions within the Regional Entity’s Region.

“Rejection of the Exception Request” or “Rejection” means the determination that an Exception Request is not an eligible Exception Request (i.e., a Request permitted by section 4.1 of Appendix 5C) or does not contain all the Required Information in accordance with section 4.5 of Appendix 5C in order to be reviewed for substance.

“Reliability Coordinator” means the entity that is the highest level of authority who is responsible for the Reliable Operation of the Bulk Electric System, has the Wide Area view of the Bulk Electric System, and has the operating tools, processes and procedures, including the authority to prevent or mitigate emergency operating situations in both next-day analysis and real-time operations. The Reliability Coordinator has the purview that is broad enough to enable the calculation of Interconnection Reliability Operating Limits, which may be based on the operating parameters of transmission systems beyond any Transmission Operator’s vision.\*\*

“Reliability Coordinator Area” means the collection of generation, transmission and loads within the boundaries of the Reliability Coordinator. Its boundary coincides with one or more Balancing Authority Areas.\*\*

“Reliability Standard” means a requirement to provide for Reliable Operation of the Bulk Power System, including without limiting the foregoing, requirements for the operation of existing Bulk Power System Facilities, including cyber security protection, and including the design of planned additions or modifications to such Facilities to the extent necessary for Reliable Operation of the Bulk Power System, but the term does not include any requirement to enlarge Bulk Power System Facilities or to construct new transmission capacity or generation capacity. A Reliability Standard shall not be effective in the United States until approved by the Federal Energy Regulatory Commission and shall not be effective in other jurisdictions until made or allowed to become effective by the Applicable Governmental Authority.

“Reliability Standards Development Plan” means the forward-looking plan developed by NERC on an annual basis setting forth the Reliability Standards development projects that are scheduled to be worked on during the ensuing three-year period, as specified in Section 310 of the Rules of Procedure.

“Reliable Operation” means operating the Elements of the Bulk Power System within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or Cascading failures of such system will not occur as a result of a sudden disturbance, including a Cyber Security Incident, or unanticipated failure of system Elements.++

“Remedial Action Directive” means an action (other than a Penalty or sanction) required by a Compliance Enforcement Authority that (1) is to bring a Registered Entity into compliance with a Reliability Standard or to avoid a Reliability Standard violation, and (2) is immediately necessary to protect the reliability of the Bulk Power System from an imminent threat.

“Reporting Entity” means an entity required to provide data or information requested by NERC or a Regional Entity in a request for data or information pursuant to Section 1600 of the Rules of Procedure.

“Requirement” means an explicit statement in a Reliability Standard that identifies the functional entity responsible, the action or outcome that must be achieved, any conditions achieving the action or outcome, and the reliability-related benefit of the action or outcome. Each Requirement shall be a statement with which compliance is mandatory.

“Required Date” means the date given a Registered Entity in a notice from the Compliance Enforcement Authority by which some action by the Registered Entity is required.

“Required Information” means, as applicable, either (i) the information required to be provided in a TFE Request, as specified in Section 4.0 of Appendix 4D; or (ii) the information required to be provided in an Exception Request, as specified in section 4.0 of Appendix 5C.

“Reserve Sharing Group” means a group whose members consist of two or more Balancing Authorities that collectively maintain, allocate, and supply operating reserves required for each Balancing Authority’s use in recovering from contingencies within the group. Scheduling energy from an Adjacent Balancing Authority to aid recovery need not constitute reserve sharing provided the transaction is ramped in over a period the supplying party could reasonably be expected to load generation in (e.g. ten minutes). If the transaction is ramped in quicker, (e.g., between zero and ten minutes), then, for the purposes of disturbance control performance, the areas become a Reserve Sharing Group.\*\*

“Resource Planner” means the entity that develops a long-term (generally one year and beyond) plan for the resource adequacy of specific loads (customer demand and energy requirements) within a Planning Authority area.\*\*

“Respondent” means, depending on the context, the Registered Entity, who is the subject of the Notice of Alleged Violation, contested Mitigation Plan or contested Remedial Action Directive that is the basis for the proceeding, whichever is applicable, or the Registered Entity that is the subject of the Certification decision that is the basis for a proceeding under Appendix 4E.

“Responsible Entity” means an entity that is registered for a reliability function in the NERC Compliance Registry and is responsible for complying with an Applicable Requirement, as specified in the “Applicability” section of the CIP Standard.

“Revoked” means a NERC certificate that has been suspended for more than twelve months. While in this state, a certificate holder can not perform any task that requires an operator to be NERC-certified. The certificate holder will be required to pass an exam to be certified again. Any CE Hours accumulated prior to or during the revocation period will not be counted towards Credential Maintenance.

“Revoke for Cause” means a step in the disciplinary process pursuant to Appendix 6 during which the certificate is no longer valid and requiring successfully passing an exam to become certified. However, an exam will not be authorized until the revocation period expires. CE Hours earned before or during this revocation period will not be counted for maintaining a Credential.

“Scope of Responsibility” means the registered functions of a Planning Authority, Reliability Coordinator, Transmission Operator, Transmission Planner or Balancing Authority and the geographical or electric region in which the Planning Authority, Reliability Coordinator, Transmission Operator, Transmission Planner or Balancing Authority operates to perform its registered functions, or with respect to a Regional Entity, its Regional Entity Region.

“Section I Required Information” means Required Information that is to be provided in Section I of a Submitting Entity’s Exception Request.

“Section II Required Information” means Required Information that is to be provided in Section II of a Submitting Entity’s Exception Request.

“Section III Required Information” means Required Information that is to be provided in Section III of a Submitting Entity’s Exception Request.

“Sector” means a group of Members of NERC that are Bulk Power System owners, operators, or users or other persons and entities with substantially similar interests, including governmental entities, as pertinent to the purposes and operations of NERC and the operation of the Bulk Power System, as defined in Article II, Section 4 of the NERC Bylaws. Each Sector shall constitute a class of Members for purposes of the New Jersey Nonprofit Corporation Act.

“Segment” means one of the subsets of the Registered Ballot Body whose members meet the qualification criteria for the subset.

“Self-Certification” means attestation by a Registered Entity of compliance or non-compliance with a Reliability Standard for which Self-Certification is required by the Compliance Enforcement Authority and that is included for monitoring in the Regional Implementation Plan.

“Self-Reporting” means a report by a Registered Entity stating (1) that the Registered Entity believes it has violated a Reliability Standard, and (2) the actions that have been taken or will be taken to resolve the violation.

“Senior Manager” means the person assigned by the Responsible Entity, in accordance with CIP Standard CIP-003-1 Requirement R2 (or subsequent versions), to have overall responsibility for leading and managing the Responsible Entity’s implementation of, and adherence to, the CIP Standards.

“Sink Balancing Authority” means the Balancing Authority in which the Load (sink) is located for an Interchange Transaction.\*\*

“Source Balancing Authority” means the Balancing Authority in which the generation (source) is located for an Interchange Transaction.\*\*

“Special Protection System” means an automatic protection system designed to detect abnormal or predetermined system conditions, and take corrective actions other than and/or in addition to the isolation of faulted components to maintain system reliability. Such action may include changes in demand, generation (MW and Mvar), or system configuration to maintain system stability, acceptable voltage, or power flows. A Special Protection System does not include (a) underfrequency or undervoltage Load shedding or (b) fault conditions that must be isolated, or (c) out-of-step relaying (not designed as an integral part of a Special Protection System).\*\*

“Spot Checking” means a process in which the Compliance Enforcement Authority requests a Registered Entity to provide information (1) to support the Registered Entity’s Self-Certification,

Self-Reporting, or Periodic Data Submittal and to assess whether the Registered Entity complies with Reliability Standards, or (2) as a random check, or (3) in response to events, as described in the Reliability Standards or based on operating problems or system events.

“Staff” or “Compliance Staff” means individuals employed or contracted by NERC or the Compliance Enforcement Authority who have the authority to make initial determinations of compliance or violation with Reliability Standards by Registered Entities and associated Penalties and Mitigation Plans.

“Strict Compliance” means compliance with the terms of an Applicable Requirement without reliance on a Technical Feasibility Exception.

“Submitting Entity” means (i) an owner, operator, or user of the Bulk Power System or any other party that submits information to NERC or a Regional Entity that it reasonably believes contains Confidential Information or, (ii) solely for purposes of Appendix 5C, the entity that submits an Exception Request in accordance with section 4.0 of Appendix 5C.

“Suspended” means certificate status due to an insufficient number of CE Hours being submitted prior to the expiration of a certificate. While in this state, a certificate holder can not perform any task that requires an operator to be NERC-certified.

“System” means a combination of generation, transmission and distribution components.\*\*

“System Operating Limit” means the value (such as MW, Mvar, amperes, frequency or volts) that satisfies the most limiting of the prescribed operating criteria for a specified system configuration to ensure operation within acceptable reliability criteria.\*\*

“Technical Advisor” means any Staff member, third-party contractor, or industry stakeholder who satisfies NERC’s or the Compliance Enforcement Authority’s (as applicable) conflict of interest policy and is selected to assist in a proceeding by providing technical advice to the Hearing Officer and/or the Hearing Body or Hearing Panel.

“Technical Feasibility Exception” or “TFE” means an exception from Strict Compliance with the terms of an Applicable Requirement on grounds of technical feasibility or technical limitations in accordance with one or more of the criteria in section 3.0 of Appendix 4D.

“Technical Review Panel” means a panel established pursuant to section 5.3 of Appendix 5C.

“Termination of Credential” means a step in the disciplinary process pursuant to Appendix 6 whereby a Credential is permanently Revoked.

“TFE Request” means a request submitted by a Responsible Entity in accordance with Appendix 4D for an exception from Strict Compliance with an Applicable Requirement.

“Transmission Customer” means 1. any eligible customer (or its designated agent) that can or does execute a Transmission Service agreement or can and does receive Transmission Service.

2. Any of the following responsible entities: Generator Owner, Load-Serving Entity, or Purchasing-Selling Entity.\*\*

“Transmission Operator” means the entity responsible for the reliability of its “local” transmission system, and that operates or directs the operations of the transmission Facilities.\*\*

“Transmission Owner” means the entity that owns and maintains transmission Facilities.\*\*

“Transmission Planner” means the entity that develops a long-term (generally one year and beyond) plan for the reliability (adequacy) of the interconnected bulk electric transmission systems within its portion of the Planning Authority area.\*\*

“Transmission Service” means services provided to the Transmission Customer by the Transmission Service Provider to move energy from a Point of Receipt to a Point of Delivery.\*\*

“Transmission Service Provider” means the entity that administers the transmission tariff and provides Transmission Service to Transmission Customers under applicable Transmission Service agreements.\*\*

“Type of CE Hours” means NERC-Approved Learning Activity covering topics from Appendix A to Appendix 6, NERC Reliability Standards and/or simulations for which there is a minimum requirement for Credential Maintenance.

“Variance” means an aspect or element of a Reliability Standard that applies only within a particular Regional Entity or group of Regional Entities, or to a particular entity or class of entities. A Variance allows an alternative approach to meeting the same reliability objective as the Reliability Standard, and is typically necessitated by a physical difference. A Variance is embodied within a Reliability Standard and as such, if adopted by NERC and approved by the Applicable Governmental Authority(ies), shall be enforced within the applicable Regional Entity or Regional Entities pursuant to delegated authorities or to procedures prescribed by the Applicable Governmental Authority.

“Violation Risk Factor” or “VRF” means a factor (lower, medium or high) assigned to each Requirement of a Reliability Standard to identify the potential reliability significance of noncompliance with the Requirement.

“Violation Severity Level” or “VSL” means a measure (lower, moderate, high or severe) of the degree to which compliance with a Requirement was not achieved.

“Wide Area” means the entire Reliability Coordinator Area as well as the critical flow and status information from adjacent Reliability Coordinator Areas as determined by detailed system studies to allow the calculation of Interconnected Reliability Operating Limits.\*\*



**PETITION OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
FOR APPROVAL OF REVISIONS TO ITS RULES OF PROCEDURE  
TO ADOPT A BULK ELECTRIC SYSTEM EXCEPTION PROCEDURE**

**ATTACHMENT 3B**

**REVISED APPENDIX 2 OF THE RULES OF PROCEDURE,**

***DEFINITIONS USED IN THE RULES OF PROCEDURE***

**REDLINED VERSION**

**Proposed revisions 1-9-2012**

**NORTH AMERICAN ELECTRIC RELIABILITY  
CORPORATION**

**DEFINITIONS USED IN THE RULES OF PROCEDURE**

**APPENDIX 2 TO THE RULES OF PROCEDURE**

**Effective: [DATE], 2012**

## General

For purposes of the NERC Rules of Procedure, including all Appendices, the terms defined in this Appendix shall have the meanings set forth herein. For convenience of reference to the user, definitions of terms that are used in a particular Appendix may be repeated in that Appendix.

Where used in the Rules of Procedure, a defined term will be capitalized. Where a term defined in this Appendix appears in the Rules of Procedure but is not capitalized, the term is there being used in its ordinary and commonly understood meaning and not as defined in this Appendix (if different). Other terms that are not defined terms, such as the names of entities, organizations, committees, or programs; position titles; titles of documents or forms; section headings; geographic locations; and other terms commonly presented as proper nouns, may also be capitalized in the Rules of Procedure without being defined in this Appendix.

Definitions of terms in this Appendix that are marked with asterisks (\*\*) are taken from the NERC *Glossary of Terms Used in Reliability Standards*. Definitions of terms in this Appendix that are marked with “pluses” (++) are taken from Section 215 of the Federal Power Act or the Commission’s regulations at 18 C.F.R. Part 39 or Part 388.

Other terms used in the Rules of Procedure but not defined in this Appendix that have commonly understood and used technical meanings in the electric power industry, including applicable codes and standards, shall be construed in accordance with such commonly understood and used technical meanings.

## Specific Definitions

[“Acceptance of the Exception Request” or “Acceptance” means the determination that an eligible Exception Request \(i.e., a Request permitted by section 4.1 of Appendix 5C\) contains all the Required Information so that it can undergo substantive review.](#)

“Adjacent Balancing Authority” means a Balancing Authority Area that is interconnected to another Balancing Authority Area either directly or via a multi-party agreement or transmission tariff.\*\*

“Adjusted Penalty Amount” means the proposed Penalty for a violation of a Reliability Standard as determined based on application of the adjustment factors identified in Section 4.3 of the *Sanction Guidelines* to the Base Penalty Amount.

“Advisories” or “Level 1 (Advisories)” is a notification issued by NERC in accordance with Section 810.3.1 of the Rules of Procedure.

“Alleged Violation” means a Possible Violation for which the Compliance Enforcement Authority has determined, based on an assessment of the facts and circumstances surrounding the Possible Violation, that evidence exists to indicate a Registered Entity has violated a Reliability Standard.

“Annual Audit Plan” means a plan developed annually by the Compliance Enforcement Authority that includes the Reliability Standards and Registered Entities to be audited, the schedule of Compliance Audits, and Compliance Audit Participant requirements for the calendar year.

“Annual Report” means the annual report to be filed by NERC with FERC and other Applicable Governmental Authorities in accordance with Section 13.0 of Appendix 4D.

“Applicable Governmental Authority” means the FERC within the United States and the appropriate governmental authority with subject matter jurisdiction over reliability in Canada and Mexico.

“Applicable Requirement” means a Requirement of a CIP Standard that (i) expressly provides either (A) that compliance with the terms of the Requirement is required where or as technically feasible, or (B) that technical limitations may preclude compliance with the terms of the Requirement; or (ii) is subject to Appendix 4D by FERC directive.

“Approval of the Exception Request” or “Approval” means the determination by NERC that an Exception Request meets the criteria to receive the requested Exception.

“Balancing Authority” means the responsible entity that integrates resource plans ahead of time, maintains Hload-interchange-generation balance within a Balancing Authority Area, and supports Interconnection frequency in real time.\*\*

“Balancing Authority Area” means the collection of generation, transmission, and Hloads within the metered boundaries of the Balancing Authority. The Balancing Authority maintains Hload-resource balance within this area.\*\*

“Base Penalty Amount” means the proposed Penalty for a violation of a Reliability Standard as initially determined pursuant to Sections 4.1 and 4.2 of the NERC *Sanction Guidelines*, before application of any adjustment factors.

“BES Definition” means the NERC definition of the Bulk Electric System as set forth in the NERC Glossary of Terms Used in Reliability Standards.

“Blackstart Resource” means a generating unit(s) and its associated set of equipment which has the ability to be started without support from the System or is designed to remain energized without connection to the remainder of the System, with the ability to energize a bus, meeting the Transmission Operator’s restoration plan needs for rReal and rReactive pPower capability, frequency and voltage control, and that has been included in the Transmission Operator’s restoration plan.\*\*

“Board” or “Board of Trustees” means the Board of Trustees of NERC.

“Board of Trustees Compliance Committee,” “BOTCC” or “Compliance Committee” means the Compliance Committee of the NERC Board of Trustees.

“Bulk Electric System” or “BES” means unless modified by the lists shown below, all Transmission Elements operated at 100 kV or higher and Real Power and Reactive Power resources connected at 100 kV or higher. This does not include facilities used in the local distribution of electric energy.

**Inclusions:**

- I1 - Transformers with the primary terminal and at least one secondary terminal operated at 100 kV or higher unless excluded under Exclusion E1 or E3.
- I2 - Generating resource(s) with gross individual nameplate rating greater than 20 MVA or gross plant/facility aggregate nameplate rating greater than 75 MVA including the generator terminals through the high-side of the step-up transformer(s) connected at a voltage of 100 kV or above.
- I3 - Blackstart Resources identified in the Transmission Operator’s restoration plan.
- I4 - Dispersed power producing resources with aggregate capacity greater than 75 MVA (gross aggregate nameplate rating) utilizing a system designed primarily for aggregating capacity, connected at a common point at a voltage of 100 kV or above.
- I5 –Static or dynamic devices (excluding generators) dedicated to supplying or absorbing Reactive Power that are connected at 100 kV or higher, or through a dedicated transformer with a high-side voltage of 100 kV or higher, or through a transformer that is designated in Inclusion I1.

**Exclusions:**

- E1 - Radial systems: A group of contiguous transmission Elements that emanates from a single point of connection of 100 kV or higher and:
  - a) Only serves Load. Or,
  - b) Only includes generation resources, not identified in Inclusion I3, with an aggregate capacity less than or equal to 75 MVA (gross nameplate rating). Or,
  - c) Where the radial system serves Load and includes generation resources, not identified in Inclusion I3, with an aggregate capacity of non-retail generation less than or equal to 75 MVA (gross nameplate rating).

Note – A normally open switching device between radial systems, as depicted on prints or one-line diagrams for example, does not affect this exclusion.
- E2 - A generating unit or multiple generating units on the customer’s side of the retail meter that serve all or part of the retail Load with electric energy if: (i) the net capacity provided to the BES does not exceed 75 MVA, and (ii) standby, back-up, and maintenance power services are provided to the generating unit or multiple generating units or to the retail Load by a Balancing Authority, or provided pursuant to a binding

obligation with a Generator Owner or Generator Operator, or under terms approved by the applicable regulatory authority.

- E3 - Local networks (LN): A group of contiguous transmission Elements operated at or above 100 kV but less than 300 kV that distribute power to Load rather than transfer bulk power across the interconnected system. LN's emanate from multiple points of connection at 100 kV or higher to improve the level of service to retail customer Load and not to accommodate bulk power transfer across the interconnected system. The LN is characterized by all of the following:
  - a) Limits on connected generation: The LN and its underlying Elements do not include generation resources identified in Inclusion I3 and do not have an aggregate capacity of non-retail generation greater than 75 MVA (gross nameplate rating);
  - b) Power flows only into the LN and the LN does not transfer energy originating outside the LN for delivery through the LN; and
  - c) Not part of a Flowgate or transfer path: The LN does not contain a monitored Facility of a permanent Flowgate in the Eastern Interconnection, a major transfer path within the Western Interconnection, or a comparable monitored Facility in the ERCOT or Quebec Interconnections, and is not a monitored Facility included in an Interconnection Reliability Operating Limit (IROL).
- E4 – Reactive Power devices owned and operated by the retail customer solely for its own use.

Note - Elements may be included or excluded on a case-by-case basis through the Rules of Procedure exception process., as defined by the Regional Entity, the electrical generation resources, transmission lines, interconnections with neighboring systems, and associated equipment, generally operated at voltages of 100 kV or higher. Radial transmission facilities serving only load with one transmission source are generally not included in this definition.\*\*

“Bulk Power System” means, depending on the context: (i) Facilities and control systems necessary for operating an interconnected electric energy supply and transmission network (or any portion thereof), and electric energy from generating facilities needed to maintain transmission system reliability. The term does not include facilities used in the local distribution of electric energy [++]. (ii) Solely for purposes of Appendix 4E, Bulk Electric System.

“Canadian” means one of the following: (a) a company or association incorporated or organized under the laws of Canada, or its designated representative(s) irrespective of nationality; (b) an agency of a federal, provincial, or local government in Canada, or its designated representative(s) irrespective of nationality; or (c) a self-representing individual who is a Canadian citizen residing in Canada.

“Canadian Entity” means a Responsible registered Entity (or, solely for purposes of Appendix 4D, a Responsible Entity) that is organized under Canadian federal or provincial law.

“Cascading” means the uncontrolled successive loss of System Elements triggered by an incident at any location. Cascading results in widespread electric service interruption that cannot be restrained from sequentially spreading beyond an area predetermined by studies.\*\*

“CCC” means the NERC Compliance and Certification Committee.

“Certification” means, depending on the context, (i) the process undertaken by NERC and a Regional Entity to verify that an entity is capable of responsibilities for tasks associated with a particular function such as a Balancing Authority, Transmission Operator and/or Reliability Coordinator; such Certification activities are further described in Section 500 and Appendix 5A of the NERC Rules of Procedure; or (ii) for purposes of Appendix 6, an official recognition that indicates the recipient has passed a NERC exam or completed a specified number of Continuing Education Hours.

“Certification Staff” means individuals employed or contracted by NERC who have the authority to make initial determinations of Certification of entities performing reliability functions.

“Certification Team” means a team assembled by a Regional Entity that will be responsible for performing the activities included in the Certification process for an entity pursuant to Appendix 5A.

“Classified National Security Information” means Required Information that has been determined to be protected from unauthorized disclosure pursuant to Executive Order No. 12958, as amended, and/or the regulations of the NRC at 10 C.F.R. §95.35; or pursuant to any comparable provision of Canadian federal or provincial law.

“Clerk” means an individual as assigned by the Compliance Enforcement Authority to perform duties described in Attachment 2, Hearing Procedures, to Appendix 4C.

“Commission” means the Federal Energy Regulatory Commission or FERC.

“Complaint” means an allegation that a Registered Entity violated a Reliability Standard.

“Compliance and Certification Manager” means individual/individuals within the Regional Entity that is/are responsible for monitoring compliance of entities with applicable NERC Reliability Standards.

“Compliance Audit” means a systematic, objective review and examination of records and activities to determine whether a Registered Entity meets the Requirements of applicable Reliability Standards.

“Compliance Audit Participants” means Registered Entities scheduled to be audited and the audit team members.

“Compliance Enforcement Authority” means NERC or the Regional Entity in their respective roles of monitoring and enforcing compliance with the NERC Reliability Standards.

“Compliance Enforcement Authority’s Area of Responsibility” means the Compliance Enforcement Authority’s Region. If a Regional Entity is the Compliance Enforcement Authority, the Compliance Enforcement Authority’s Area of Responsibility is shown in Exhibit A to the delegation agreement between the Regional Entity and NERC.

“Compliance Investigation” means a comprehensive investigation, which may include an on-site visit with interviews of the appropriate personnel, to determine if a violation of a Reliability Standard has occurred.

“Compliance Monitoring and Enforcement Program” or “CMEP” means, depending on the context (1) the NERC *Uniform Compliance Monitoring and Enforcement Program* (Appendix 4C to the NERC Rules of Procedure) or the Commission-approved program of a Regional Entity, as applicable, or (2) the program, department or organization within NERC or a Regional Entity that is responsible for performing compliance monitoring and enforcement activities with respect to Registered Entities’ compliance with Reliability Standards.

“Compliant Date” means the date by which a Responsible Entity is required to be in compliance with an Applicable Requirement of a CIP Standard.

“Confidential Business and Market Information” means any information that pertains to the interests of any entity, that was developed or acquired by that entity, and that is proprietary or competitively sensitive.

“Confidential Information” means (i) Confidential Business and Market Information; (ii) Critical Energy Infrastructure Information; (iii) personnel information that identifies or could be used to identify a specific individual, or reveals personnel, financial, medical, or other personal information; (iv) work papers, including any records produced for or created in the course of an evaluation or audit; (v) investigative files, including any records produced for or created in the course of an investigation; or (vi) Cyber Security Incident Information; provided, that public information developed or acquired by an entity shall be excluded from this definition; or (vii) for purposes of Appendix 4D, any other information that is designated as Confidential Information in Section 11.0 of Appendix 4D.

“Confirmed Violation” means an Alleged Violation for which an entity has: (1) accepted the finding of the violation by a Regional Entity or NERC and will not seek an appeal, or (2) completed the hearing and appeals process within NERC, or (3) allowed the time for requesting a hearing or submitting an appeal to expire, or (4) admitted to the violation in a settlement agreement.

“Continuing Education Hour” or “CE Hour” means sixty minutes of participation in a group, independent study, or self-study learning activity as approved by the NERC Continuing Education Program.



“Continuing Education Program Provider” or “Provider” means the individual or organization offering a learning activity to participants and maintaining documentation required by Appendix 6.

“Coordinated Functional Registration” means where two or more entities (parties) agree in writing upon a division of compliance responsibility among the parties for one or more Reliability Standard(s) applicable to a particular function, and/or for one or more Requirement(s)/sub-Requirement(s) within particular Reliability Standard(s).

“Covered Asset” means a Cyber Asset or Critical Cyber Asset that is subject to an Applicable Requirement.

“Credential” means a NERC designation that indicates the level of qualification achieved (i.e., reliability operator; balancing, interchange, and transmission operator; balancing and interchange operator; and transmission operator).

“Credential Maintenance” means to meet NERC CE Hours’ requirements to maintain a valid NERC-issued system operator Credential.

“Critical Assets” means Facilities, systems, and equipment which, if destroyed, degraded, or otherwise rendered unavailable, would affect the reliability or operability of the Bulk Electric System.\*\*

“Critical Cyber Assets” means Cyber Assets critical to the reliable operation of Critical Assets.\*\*

“Critical Energy Infrastructure Information” means specific engineering, vulnerability, or detailed design information about proposed or existing Critical Infrastructure that (i) relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person in planning an attack on Critical Infrastructure; and (iii) does not simply give the location of the Critical Infrastructure.++

“Critical Infrastructure” means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.++

“Critical Infrastructure Protection Standard” or “CIP Standard” means any of NERC Reliability Standards CIP-002 through CIP-009.

“Cross-Border Regional Entity” means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.++

“Cyber Assets” means programmable electronic devices and communication networks including hardware, software, and data.\*\*

“Cyber Security Incident” means any malicious or suspicious event that disrupts, or was an attempt to disrupt, the operation of those programmable electronic devices and communications networks including hardware, software and data that are essential to the Reliable Operation of the Bulk Power System.++

“Cyber Security Incident Information” means any information related to, describing, or which could be used to plan or cause a Cyber Security Incident.

“Days”, as used in Appendix 5A with respect to the Registration and Certification processes, means calendar days.

“Delegate” means a person to whom the Senior Manager of a Responsible Entity has delegated authority pursuant to Requirement R2.3 of CIP Standard CIP-003-1 (or any successor provision).

“Director of Compliance” means the Director of Compliance of NERC or of the Compliance Enforcement Authority, as applicable, who is responsible for the management and supervision of Compliance Staff, or his or her designee.

“Disapproval of the Exception Request” or “Disapproval” means the determination by NERC that an Exception Request does not meet the criteria to receive the requested Exception.

“Distribution Factor” means the portion of an Interchange Transaction, typically expressed in per unit that flows across a transmission facility (Flowgate).\*\*

“Distribution Provider” means the entity that provides and operates the “wires” between the transmission system and the end-use customer. For those end-use customers who are served at transmission voltages, the Transmission Owner also serves as the Distribution Provider. Thus, the Distribution Provider is not defined by a specific voltage, but rather as performing the distribution function at any voltage.\*\*

“Document” means, in addition to the commonly understood meaning of the term as information written or printed on paper, any electronically stored information, including writings, drawings, graphs, charts, photographs, sound recordings, images and other data or data compilations stored in any medium from which information can be obtained, and shall be translated by the producing party into reasonably usable form.

“Effective Date” means the date, as specified in a notice rejecting or disapproving a TFE Request or terminating an approved TFE, on which the rejection, disapproval or termination becomes effective.

“Electric Reliability Organization” or “ERO” means the organization that is certified by the Commission under Section 39.3 of its regulations, the purpose of which is to establish and enforce Reliability Standards for the Bulk Power System in the United States, subject to Commission review. The organization may also have received recognition by Applicable Governmental Authorities in Canada and Mexico to establish and enforce Reliability Standards for the Bulk Power Systems of the respective countries.

“Element” means any electrical device with terminals that may be connected to other electrical devices such as a generator, transformer, circuit breaker, bus section, or transmission line. An Element may be comprised of one or more components.\*\*

“Eligible Reviewer” means a person who has the required security clearances or other qualifications, or who otherwise meets the applicable criteria, to have access to Confidential Information, Classified National Security Information, NRC Safeguards Information or Protected FOIA Information, as applicable to the particular information to be reviewed.

“End Date” means the last date of the period to be covered in a Compliance Audit.

“Essential Actions” or “Level 3 (Essential Actions)” is a notification issued by NERC in accordance with Section 810.3.3 of the Rules of Procedure.

“Exception” means either an Inclusion Exception or an Exclusion Exception.

“Exception Procedure” means the procedure set forth in Appendix 5C.

“Exception Reporting” means information provided to the Compliance Enforcement Authority by a Registered Entity indicating that a violation of a Reliability Standard has occurred (e.g., a System Operating Limit has been exceeded) or enabling the Compliance Enforcement Authority to ascertain the Registered Entity’s compliance.

“Exception Request” means a request made by a Submitting Entity in accordance with Appendix 5C for an Exception.

“Exception Request Form” means the form adopted by each Regional Entity, in accordance with a template provided by NERC, for use by Submitting Entities in submitting Exception Requests; provided, that the Exception Request Form must include Section III.B as adopted by NERC.

“Exclusion Exception” means a determination that an Element that falls within the BES Definition should be excluded from the BES.

“Expiration Date” means the date on which an approved TFE expires.

“Facility” means a set of electrical equipment that operates as a single Bulk Electric System Element (e.g., a line, a generator, a shunt compensator, transformer, etc.)\*\*

“FERC” means the United States Federal Energy Regulatory Commission.

“Final Penalty Amount” means the final, proposed Penalty for violation of a Reliability Standard, determined in accordance with the *Sanction Guidelines*.

“Flowgate” means 1.) A portion of the transmission system through which the Interchange Distribution Calculator calculates the power flow from Interchange Transactions. 2.) A mathematical construct, comprised of one or more monitored transmission Facilities and

optionally one or more contingency Facilities, used to analyze the impact of power flows upon the Bulk Electric System.\*\*

“FOIA” means the U.S. Freedom of Information Act, 5 U.S.C. §552.

“Footprint” means the geographical or electric area served by an entity.

“Functional Entity” means an entity responsible for a function that is required to ensure the Reliable Operation of the electric grid as identified in the NERC Reliability Standards.

“Generator Operator” means the entity that operates generating unit(s) and performs the functions of supplying energy and Interconnected Operations Services.\*\*

“Generator Owner” means an entity that owns and maintains generating units.\*\*

“Hearing Body” or “Regional Entity Hearing Body” means the body established by a Regional Entity to conduct hearings pursuant to the Hearing Procedures.

“Hearing Officer” means, depending on the context, (i) an individual employed or contracted by the Compliance Enforcement Authority and designated by the Compliance Enforcement Authority to preside over hearings conducted pursuant to Attachment 2, Hearing Procedures, of Appendix 4C, or (ii) solely for hearings conducted pursuant to Appendix 4E, (A) a CCC member or (B) an individual employed or contracted by NERC, as designated and approved by the CCC to preside over hearings conducted pursuant to the Hearing Procedures in Appendix E; the Hearing Officer shall not be a member of the Hearing Panel.

“Hearing Panel” means the five person hearing body established as set forth in the CCC Charter on a case by case basis and that is responsible for adjudicating a matter as set forth in Appendix 4E.

“Hearing Procedures” means, depending on the context, (i) Attachment 2 to the NERC or a Regional Entity CMEP, as applicable, or (ii) the hearing procedures of the NERC Compliance and Certification Committee in Appendix 4E.

“Inclusion Exception” means a determination that an Element that falls outside the BES Definition should be included in the BES.

“Interchange” means energy transfers that cross Balancing Authority boundaries.\*\*

“Interchange Authority” means the responsible entity that authorizes the implementation of valid and balanced Interchange Schedules between Balancing Authority Areas, and ensures communications of Interchange information for reliability assessment purposes.\*\*

“Interchange Distribution Calculator” means the mechanism used by Reliability Coordinators in the Eastern Interconnection to calculate the distribution of Interchange Transactions over specific Flowgates. It includes a database of all Interchange Transactions and a matrix of the Distribution Factors for the Eastern Interconnection.\*\*

“Interchange Schedule” means an agreed-upon Interchange Transaction size (megawatts), start and end time, beginning and ending ramp times and rate, and type required for delivery and receipt of power and energy between the Source and Sink Balancing Authorities involved in the transaction.\*\*

“Interchange Transaction” means an agreement to transfer energy from a seller to a buyer that crosses one or more Balancing Authority Area boundaries.\*\*

“Interconnected Operations Service” means a service (exclusive of basic energy and Transmission Services) that is required to support the Reliable Operation of interconnected Bulk Electric Systems.\*\*

“Interconnection” means a geographic area in which the operation of Bulk Power System components is synchronized such that the failure of one or more of such components may adversely affect the ability of the operators of other components within the system to maintain Reliable Operation of the Facilities within their control.++

“Interconnection Reliability Operating Limit” means a System Operating Limit that, if violated, could lead to instability, uncontrolled separation, or Cascading outages that adversely impact the reliability of the Bulk Electric System.\*\*

“Interpretation” means an addendum to a Reliability Standard, developed in accordance with the NERC *Standard Processes Manual* and approved by the Applicable Governmental Authority(ies), that provides additional clarity about one or more Requirements in the Reliability Standard.

“Joint Registration Organization” means an entity that registers in the Compliance Registry to perform reliability functions for itself and on behalf of one or more of its members or related entities for which such members or related entities would otherwise be required to register.

“Lead Entity” means the entity that submits Exception Request information that is common to a group of Submitting Entities that are submitting Exception Requests jointly.

“Lead Mediator” means a member of a mediation team formed pursuant to Appendix 4E who is selected by the members to coordinate the mediation process and serve as the mediation team’s primary contact with the Parties.

“Load” means an end-user device or customer that receives power from the electric system.\*\*

“Load-Serving Entity” means an entity that secures energy and Transmission Service (and related Interconnected Operations Services) to serve the electrical demand and energy requirements of its end-use customers.\*\*

“Mapping” means the process of determining whether a Regional Entity’s Footprint is being served by Registered Entities.

“Mediation Settlement Agreement” means a written agreement entered into by the Parties to a mediation pursuant to Appendix 4E that resolves the dispute.

“Member” means a member of NERC pursuant to Article II of its Bylaws.

“Member Representatives Committee” or “MRC” means the body established pursuant to Article VIII of the NERC Bylaws.

“Mexican Entity” means a Registered Entity that is organized under Mexican law.

“Mitigation Plan” means an action plan, required when a Registered Entity violates a Reliability Standard as determined by any means including Compliance Enforcement Authority decision, settlement agreement, or otherwise, that is developed by the Registered Entity to (1) correct a violation of a Reliability Standard and (2) prevent re-occurrence of the violation.

“NERC-Approved Learning Activity” means training that maintains or improves professional competence and has been approved by NERC for use in its Continuing Education Program.

“NERC Compliance Monitoring and Enforcement Program Implementation Plan” or “NERC Implementation Plan” means the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan that specifies the Reliability Standards that are subject to reporting by Registered Entities to the Compliance Enforcement Authority in order to verify compliance and identifies the appropriate monitoring procedures and reporting schedules for each such Reliability Standard.

“NERC Compliance Registry,” “Compliance Registry” or “NCR” means a list, maintained by NERC pursuant to Section 500 of the NERC Rules of Procedure and Appendix 5B, the NERC *Statement of Compliance Registry Criteria*, of the owners, operators and users of the Bulk Power System, and the entities registered as their designees, that perform one or more functions in support of reliability of the Bulk Power System and are required to comply with one or more Requirements of Reliability Standards.

“NERC Identification Number” or “NERC ID” means a number given to NERC Registered Entities that will be used to identify the entity for certain NERC activities. Corporate entities may have multiple NERC IDs to show different corporate involvement in NERC activities.

“NERC Organization Certification” or “Organization Certification” means the process undertaken by NERC and a Regional Entity to verify that a new entity is capable of responsibilities for tasks associated with a particular function such as a Balancing Authority, Transmission Operator, and/or Reliability Coordinator; such certification activities are further described in Section 500 and Appendix 5A of the NERC Rules of Procedure.

“Net Energy for Load” or “NEL” means net generation of an electric system plus energy received from others less energy delivered to others through interchange. It includes system losses but excludes energy required for the storage of energy at energy storage facilities.

“Notice of Alleged Violation” means a notice issued by the Compliance Enforcement Authority to a Registered Entity pursuant to Section 5.3 of Appendix 4C.

“Notice of Completion of Enforcement Action” means a notice issued by the Compliance Enforcement Authority to a Registered Entity, pursuant to Section 5.10 of Appendix 4C, stating that an enforcement action is closed.

“Notice of Confirmed Violation” means a notice issued by the Compliance Enforcement Authority to a Registered Entity confirming the violation of one or more Reliability Standards, as a result of (1) the Registered Entity accepting a Notice of Alleged Violation and the proposed Penalty or sanction, or (2) the finding of a violation through a hearing and appeal, or (3) the expiration of the period for requesting a hearing or an appeal, or (4) the Registered Entity admitting the violation as part of an executed settlement agreement.

“Notice of Penalty” means a notice prepared by NERC and filed with FERC, following approval by NERC of a Notice of Confirmed Violation or a settlement agreement, stating the Penalty or sanction imposed or agreed to for the Confirmed Violation or as part of the settlement.

“Notice of Possible Violation” means a notice issued by the Compliance Enforcement Authority to a Registered Entity that (1) states a Possible Violation has been identified, (2) provides a brief description of the Possible Violation, including the Reliability Standard Requirement(s) and the date(s) involved, and (3) instructs the Registered Entity to retain and preserve all data and records relating to the Possible Violation.

“NRC” means the United States Nuclear Regulatory Commission.

“NRC Safeguards Information” means Required Information that is subject to restrictions on disclosure pursuant to 42 U.S.C. §2167 and the regulations of the NRC at 10 C.F.R. §73.21-73.23; or pursuant to comparable provisions of Canadian federal or provincial law.

“Open Access Transmission Tariff” means an electronic transmission tariff accepted by the U.S. Federal Energy Regulatory Commission requiring the Transmission Service Provider to furnish to all shippers with non-discriminating service comparable to that provided by Transmission Owners to themselves.\*\*

“Owner” means the owner(s) of an Element or Elements that is or may be determined to be part of the BES as a result of either the application of the BES Definition or an Exception, or another entity, such as an operator, authorized to act on behalf of the owner of the Element or Elements in the context of an Exception Request.

“Part A Required Information” means Required Information that is to be provided in Part A of a Responsible Entity’s TFE Request.

“Part B Required Information” means Required Information that is to be provided in Part B of a Responsible Entity’s TFE Request.

“Participant” means a Respondent and any other Person who is allowed or required by FERC to participate as an intervenor in a proceeding conducted pursuant to the Hearing Procedures, and as used in the Hearing Procedures shall include, depending on the context, the members of the Compliance Staff that participate in a proceeding or the members of the Certification Staff that participate in a proceeding pursuant to Appendix 4E.

“Party” or “Parties” means a Person or the Persons participating in a mediation pursuant to Appendix 4E.

“Penalty” means and includes all penalties and sanctions, including but not limited to a monetary or non-monetary penalty; a limitation on an activity, function, operation or other appropriate sanction; or the addition of the Registered Entity or Respondent to a reliability watch list composed of major violators. Penalties must be within the range set forth in the NERC *Sanction Guidelines* approved by FERC pursuant to 18 C.F.R. Section 39.7(g)(2), and shall bear a reasonable relation to the seriousness of a Registered Entity’s or Respondent’s violation and take into consideration any timely efforts made by the Registered Entity or Respondent to remedy the violation.

“Periodic Data Submittals” means modeling, studies, analyses, documents, procedures, methodologies, operating data, process information or other information to demonstrate compliance with Reliability Standards and provided by Registered Entities to the Compliance Enforcement Authority on a time frame required by a Reliability Standard or an ad hoc basis.

“Person” means any individual, partnership, corporation, limited liability company, governmental body, association, joint stock company, public trust, organized group of persons, whether incorporated or not, or any other legal entity.

“Planning Authority” means the responsible entity that coordinates and integrates transmission Facilities and service plans, resource plans, and Protection Systems.\*\*

“Point of Delivery” means a location that a Transmission Service Provider specifies on its transmission system where an Interchange Transaction leaves or a Load-Serving Entity receives its energy.\*\*

“Point of Receipt” means a location that the Transmission Service Provider specifies on its transmission system where an Interchange Transaction enters or a generator delivers its output.

“Possible Violation” means the identification, by the Compliance Enforcement Authority, using one of the compliance monitoring and enforcement processes in Section 3.0 of Appendix 4C, of a possible failure by a Registered Entity to comply with a Reliability Standard that is applicable to the Registered Entity.

“Preliminary Screen” means an initial evaluation of evidence indicating potential noncompliance with a Reliability Standard has occurred or is occurring, conducted by the Compliance Enforcement Authority for the purpose of determining whether a Possible Violation exists, and consisting of an evaluation of whether (1) the entity allegedly involved in the potential



noncompliance is registered, and (2) the Reliability Standard Requirement to which the evidence of potential noncompliance relates is applicable to a reliability function for which the entity is registered.

“Probation” means a step in the disciplinary process pursuant to Appendix 6 during which the certificate is still valid. During the probationary period, a subsequent offense of misconduct, as determined through the same process as described above, may be cause for more serious consequences.

“Protected FOIA Information” means Required Information, held by a governmental entity, that is subject to an exemption from disclosure under FOIA (5 U.S.C. §552(e)), under any similar state or local statutory provision, or under any comparable provision of Canadian federal or provincial law, which would be lost were the Required Information to be placed into the public domain.

“Protection System” means protective relays which respond to electrical quantities, communications systems necessary for correct operation of protective functions, voltage and current sensing devices providing inputs to protective relays, station dc supply associated with protective functions (including batteries, battery chargers, and non-battery-based dc supply), and control circuitry associated with protective functions through the trip coil(s) of the circuit breakers or other interrupting devices.\*\*

“Purchasing-Selling Entity” means the entity that purchases, or sells, and takes title to, energy, capacity, and Interconnected Operations Services. Purchasing-Selling Entities may be affiliated or unaffiliated merchants and may or may not own generating facilities.\*\*

“Reactive Power” means the portion of electricity that establishes and sustains the electric and magnetic fields of alternating-current equipment. Reactive Power must be supplied to most types of magnetic equipment, such as motors and transformers. It also must supply the reactive losses on transmission facilities. Reactive Power is provided by generators, synchronous condensers, or electrostatic equipment such as capacitors and directly influences electric system voltage. It is usually expressed in kilovars (kvar) or megavars (Mvar).\*\*

“Real Power” means the portion of electricity that supplies energy to the Load.\*\*

“Receiving Entity” means NERC or a Regional Entity receiving Confidential Information from an owner, operator, or user of the Bulk Power System or from any other party.

“Recommendation” for purposes of Appendix 5C means the report to NERC containing the evaluation prepared in accordance with section 5.2 of Appendix 5C concerning whether or to what extent an Exception Request should be approved.

“Recommendations” or “Level 2 (Recommendations)” is a notification issued by NERC in accordance with Section 810.3.2 of the Rules of Procedure.

“Region” means the geographic area, as specified in a Regional Entity’s delegation agreement with NERC, within which the Regional Entity is responsible for performing delegated functions.

“Regional Criteria” means reliability requirements developed by a Regional Entity that are necessary to implement, to augment, or to comply with Reliability Standards, but which are not Reliability Standards. Such Regional Criteria may be necessary to account for physical differences in the Bulk Power System but are not inconsistent with Reliability Standards nor do they result in lesser reliability. Such Regional Criteria are not enforceable pursuant to NERC-delegated authorities, but may be enforced through other available mechanisms. Regional Criteria may include specific acceptable operating or planning parameters, guides, agreements, protocols or other documents.

“Regional Entity” means an entity having enforcement authority pursuant to 18 C.F.R. § 39.8.++

“Regional Entity Compliance Monitoring and Enforcement Program Implementation Plan” or “Regional Implementation Plan” means an annual plan, submitted by November 1 of each year to NERC for approval that, in accordance with NERC Rule of Procedure Section 401.6 and the NERC Compliance Monitoring and Enforcement Program Implementation Plan, identifies (1) all Reliability Standards identified by NERC to be actively monitored during each year, (2) other Reliability Standards proposed for active monitoring by the Regional Entity, (3) the methods to be used by the Regional Entity for reporting, monitoring, evaluation, and assessment of performance criteria with each Reliability Standard, and (4) the Regional Entity’s Annual Audit Plan.

“Regional Reliability Standard” means a type of Reliability Standard that is applicable only within a particular Regional Entity or group of Regional Entities. A Regional Reliability Standard may augment, add detail to, or implement another Reliability Standard or cover matters not addressed by other Reliability Standards. Regional Reliability Standards, upon adoption by NERC and approval by the Applicable Governmental Authority(ies), shall be Reliability Standards and shall be enforced within the applicable Regional Entity or Regional Entities pursuant to delegated authorities or to procedures prescribed by the Applicable Governmental Authority.

“Registered Ballot Body” means that aggregation of all entities or individuals that qualify for one of the Segments approved by the Board of Trustees, and are registered with NERC as potential ballot participants in the voting on proposed Reliability Standards.

“Registered Entity” means an owner, operator, or user of the Bulk Power System, or the entity registered as its designee for the purpose of compliance, that is included in the NERC Compliance Registry.

“Registration” or “Organization Registration” means the processes undertaken by NERC and Regional Entities to identify which entities are responsible for reliability functions within the Regional Entity’s Region.

“Rejection of the Exception Request” or “Rejection” means the determination that an Exception Request is not an eligible Exception Request (i.e., a Request permitted by section 4.1 of Appendix 5C) or does not contain all the Required Information in accordance with section 4.5 of Appendix 5C in order to be reviewed for substance.

“Reliability Coordinator” means the entity that is the highest level of authority who is responsible for the Reliable Operation of the Bulk Electric System, has the Wide Area view of the Bulk Electric System, and has the operating tools, processes and procedures, including the authority to prevent or mitigate emergency operating situations in both next-day analysis and real-time operations. The Reliability Coordinator has the purview that is broad enough to enable the calculation of Interconnection Reliability Operating Limits, which may be based on the operating parameters of transmission systems beyond any Transmission Operator’s vision.\*\*

“Reliability Coordinator Area” means the collection of generation, transmission and loads within the boundaries of the Reliability Coordinator. Its boundary coincides with one or more Balancing Authority Areas.\*\*

“Reliability Standard” means a requirement to provide for Reliable Operation of the Bulk Power System, including without limiting the foregoing, requirements for the operation of existing Bulk Power System Facilities, including cyber security protection, and including the design of planned additions or modifications to such Facilities to the extent necessary for Reliable Operation of the Bulk Power System, but the term does not include any requirement to enlarge Bulk Power System Facilities or to construct new transmission capacity or generation capacity. A Reliability Standard shall not be effective in the United States until approved by the Federal Energy Regulatory Commission and shall not be effective in other jurisdictions until made or allowed to become effective by the Applicable Governmental Authority.

“Reliability Standards Development Plan” means the forward-looking plan developed by NERC on an annual basis setting forth the Reliability Standards development projects that are scheduled to be worked on during the ensuing three-year period, as specified in Section 310 of the Rules of Procedure.

“Reliable Operation” means operating the Elements of the Bulk Power System within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or Cascading failures of such system will not occur as a result of a sudden disturbance, including a Cyber Security Incident, or unanticipated failure of system Elements.++

“Remedial Action Directive” means an action (other than a Penalty or sanction) required by a Compliance Enforcement Authority that (1) is to bring a Registered Entity into compliance with a Reliability Standard or to avoid a Reliability Standard violation, and (2) is immediately necessary to protect the reliability of the Bulk Power System from an imminent threat.

“Reporting Entity” means an entity required to provide data or information requested by NERC or a Regional Entity in a request for data or information pursuant to Section 1600 of the Rules of Procedure.

“Requirement” means an explicit statement in a Reliability Standard that identifies the functional entity responsible, the action or outcome that must be achieved, any conditions achieving the action or outcome, and the reliability-related benefit of the action or outcome. Each Requirement shall be a statement with which compliance is mandatory.

“Required Date” means the date given a Registered Entity in a notice from the Compliance Enforcement Authority by which some action by the Registered Entity is required.

“Required Information” means, as applicable, either (i) the information required to be provided in a TFE Request, as specified in Section 4.0 of Appendix 4D; or (ii) the information required to be provided in an Exception Request, as specified in section 4.0 of Appendix 5C.

“Reserve Sharing Group” means a group whose members consist of two or more Balancing Authorities that collectively maintain, allocate, and supply operating reserves required for each Balancing Authority’s use in recovering from contingencies within the group. Scheduling energy from an Adjacent Balancing Authority to aid recovery need not constitute reserve sharing provided the transaction is ramped in over a period the supplying party could reasonably be expected to load generation in (e.g. ten minutes). If the transaction is ramped in quicker, (e.g., between zero and ten minutes), then, for the purposes of disturbance control performance, the areas become a Reserve Sharing Group.\*\*

“Resource Planner” means the entity that develops a long-term (generally one year and beyond) plan for the resource adequacy of specific loads (customer demand and energy requirements) within a Planning Authority area.\*\*

“Respondent” means, depending on the context, the Registered Entity, who is the subject of the Notice of Alleged Violation, contested Mitigation Plan or contested Remedial Action Directive that is the basis for the proceeding, whichever is applicable, or the Registered Entity that is the subject of the Certification decision that is the basis for a proceeding under Appendix 4E.

“Responsible Entity” means an entity that is registered for a reliability function in the NERC Compliance Registry and is responsible for complying with an Applicable Requirement, as specified in the “Applicability” section of the CIP Standard.

“Revoked” means a NERC certificate that has been suspended for more than twelve months. While in this state, a certificate holder can not perform any task that requires an operator to be NERC-certified. The certificate holder will be required to pass an exam to be certified again. Any CE Hours accumulated prior to or during the revocation period will not be counted towards Credential Maintenance.

“Revoke for Cause” means a step in the disciplinary process pursuant to Appendix 6 during which the certificate is no longer valid and requiring successfully passing an exam to become certified. However, an exam will not be authorized until the revocation period expires. CE Hours earned before or during this revocation period will not be counted for maintaining a Credential.

“Scope of Responsibility” means the registered functions of a Planning Authority, Reliability Coordinator, Transmission Operator, Transmission Planner or Balancing Authority and the geographical or electric region in which the Planning Authority, Reliability Coordinator, Transmission Operator, Transmission Planner or Balancing Authority operates to perform its registered functions, or with respect to a Regional Entity, its Regional Entity Region.

“Section I Required Information” means Required Information that is to be provided in Section I of a Submitting Entity’s Exception Request.

“Section II Required Information” means Required Information that is to be provided in Section II of a Submitting Entity’s Exception Request.

“Section III Required Information” means Required Information that is to be provided in Section III of a Submitting Entity’s Exception Request.

“Sector” means a group of Members of NERC that are Bulk Power System owners, operators, or users or other persons and entities with substantially similar interests, including governmental entities, as pertinent to the purposes and operations of NERC and the operation of the Bulk Power System, as defined in Article II, Section 4 of the NERC Bylaws. Each Sector shall constitute a class of Members for purposes of the New Jersey Nonprofit Corporation Act.

“Segment” means one of the subsets of the Registered Ballot Body whose members meet the qualification criteria for the subset.

“Self-Certification” means attestation by a Registered Entity of compliance or non-compliance with a Reliability Standard for which Self-Certification is required by the Compliance Enforcement Authority and that is included for monitoring in the Regional Implementation Plan.

“Self-Reporting” means a report by a Registered Entity stating (1) that the Registered Entity believes it has violated a Reliability Standard, and (2) the actions that have been taken or will be taken to resolve the violation.

“Senior Manager” means the person assigned by the Responsible Entity, in accordance with CIP Standard CIP-003-1 Requirement R2 (or subsequent versions), to have overall responsibility for leading and managing the Responsible Entity’s implementation of, and adherence to, the CIP Standards.

“Sink Balancing Authority” means the Balancing Authority in which the Hload (sink) is located for an Interchange Transaction.\*\*

“Source Balancing Authority” means the Balancing Authority in which the generation (source) is located for an Interchange Transaction.\*\*

“Special Protection System” means an automatic protection system designed to detect abnormal or predetermined system conditions, and take corrective actions other than and/or in addition to the isolation of faulted components to maintain system reliability. Such action may include changes in demand, generation (MW and Mvar), or system configuration to maintain system

stability, acceptable voltage, or power flows. A Special Protection System does not include (a) underfrequency or undervoltage load shedding or (b) fault conditions that must be isolated, or (c) out-of-step relaying (not designed as an integral part of a Special Protection System).\*\*

“Spot Checking” means a process in which the Compliance Enforcement Authority requests a Registered Entity to provide information (1) to support the Registered Entity’s Self-Certification, Self-Reporting, or Periodic Data Submittal and to assess whether the Registered Entity complies with Reliability Standards, or (2) as a random check, or (3) in response to events, as described in the Reliability Standards or based on operating problems or system events.

“Staff” or “Compliance Staff” means individuals employed or contracted by NERC or the Compliance Enforcement Authority who have the authority to make initial determinations of compliance or violation with Reliability Standards by Registered Entities and associated Penalties and Mitigation Plans.

“Strict Compliance” means compliance with the terms of an Applicable Requirement without reliance on a Technical Feasibility Exception.

“Submitting Entity” means [\(i\) an owner, operator, or user of the Bulk Power System or any other party that submits information to NERC or a Regional Entity that it reasonably believes contains Confidential Information or, \(ii\) solely for purposes of Appendix 5C, the entity that submits an Exception Request in accordance with section 4.0 of Appendix 5C.](#)

“Suspended” means certificate status due to an insufficient number of CE Hours being submitted prior to the expiration of a certificate. While in this state, a certificate holder can not perform any task that requires an operator to be NERC-certified.

“System” means a combination of generation, transmission and distribution components.\*\*

“System Operating Limit” means the value (such as MW, Mvar, amperes, frequency or volts) that satisfies the most limiting of the prescribed operating criteria for a specified system configuration to ensure operation within acceptable reliability criteria.\*\*

“Technical Advisor” means any Staff member, third-party contractor, or industry stakeholder who satisfies NERC’s or the Compliance Enforcement Authority’s (as applicable) conflict of interest policy and is selected to assist in a proceeding by providing technical advice to the Hearing Officer and/or the Hearing Body or Hearing Panel.

“Technical Feasibility Exception” or “TFE” means an exception from Strict Compliance with the terms of an Applicable Requirement on grounds of technical feasibility or technical limitations in accordance with one or more of the criteria in section 3.0 of Appendix 4D.

[“Technical Review Panel” means a panel established pursuant to section 5.3 of Appendix 5C.](#)

“Termination of Credential” means a step in the disciplinary process pursuant to Appendix 6 whereby a Credential is permanently Revoked.

“TFE Request” means a request submitted by a Responsible Entity in accordance with Appendix 4D for an exception from Strict Compliance with an Applicable Requirement.

“Transmission Customer” means 1. any eligible customer (or its designated agent) that can or does execute a Transmission Service agreement or can and does receive Transmission Service. 2. Any of the following responsible entities: Generator Owner, Load-Serving Entity, or Purchasing-Selling Entity.\*\*

“Transmission Operator” means the entity responsible for the reliability of its “local” transmission system, and that operates or directs the operations of the transmission Facilities.\*\*

“Transmission Owner” means the entity that owns and maintains transmission Facilities.\*\*

“Transmission Planner” means the entity that develops a long-term (generally one year and beyond) plan for the reliability (adequacy) of the interconnected bulk electric transmission systems within its portion of the Planning Authority area.\*\*

“Transmission Service” means services provided to the Transmission Customer by the Transmission Service Provider to move energy from a Point of Receipt to a Point of Delivery.\*\*

“Transmission Service Provider” means the entity that administers the transmission tariff and provides Transmission Service to Transmission Customers under applicable Transmission Service agreements.\*\*

“Type of CE Hours” means NERC-Approved Learning Activity covering topics from Appendix A to Appendix 6, NERC Reliability Standards and/or simulations for which there is a minimum requirement for Credential Maintenance.

“Variance” means an aspect or element of a Reliability Standard that applies only within a particular Regional Entity or group of Regional Entities, or to a particular entity or class of entities. A Variance allows an alternative approach to meeting the same reliability objective as the Reliability Standard, and is typically necessitated by a physical difference. A Variance is embodied within a Reliability Standard and as such, if adopted by NERC and approved by the Applicable Governmental Authority(ies), shall be enforced within the applicable Regional Entity or Regional Entities pursuant to delegated authorities or to procedures prescribed by the Applicable Governmental Authority.

“Violation Risk Factor” or “VRF” means a factor (lower, medium or high) assigned to each Requirement of a Reliability Standard to identify the potential reliability significance of noncompliance with the Requirement.

“Violation Severity Level” or “VSL” means a measure (lower, moderate, high or severe) of the degree to which compliance with a Requirement was not achieved.

“Wide Area” means the entire Reliability Coordinator Area as well as the critical flow and status information from adjacent Reliability Coordinator Areas as determined by detailed system studies to allow the calculation of Interconnected Reliability Operating Limits.\*\*



**PETITION OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
FOR APPROVAL OF REVISIONS TO ITS RULES OF PROCEDURE  
TO ADOPT A BULK ELECTRIC SYSTEM EXCEPTION PROCEDURE**

**ATTACHMENT 4A**

**REVISED APPENDIX 3D OF THE RULES OF PROCEDURE,**

***REGISTERED BALLOT BODY CRITERIA***

**CLEAN VERSION**



**Proposed Revisions 1-9-2012**  
**[Incorporates revisions filed with**  
**FERC on November 29, 2012]**

## **Appendix 3D**

# **Registered Ballot Body Criteria**

**Effective: November 17, 2011**

# Appendix 3D — Development of the Registered Ballot Body<sup>1</sup>

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## ***Registration Procedures***

The Registered Ballot Body comprises all organizations, entities, and individuals that:

1. Qualify for one of the Segments, and
2. Are registered with NERC as potential ballot participants in the voting on Reliability Standards, and
3. Are current with any designated fees.

Each participant, when initially registering to join the Registered Ballot Body, and annually thereafter, shall self-select to belong to one of the Segments described below.

NERC general counsel will review all applications for joining the Registered Ballot Body, and make a determination of whether the self-selection satisfies at least one of the guidelines to belong to that Segment. The entity or individual will then be “credentialed” to participate as a voting member of that Segment. The Standards Committee will decide disputes, with an appeal to the Board of Trustees.

All registrations will be done electronically.

## ***Segment Qualification Guidelines***

1. Except as set forth below, the Segment qualification guidelines are inclusive; i.e., any entity or individual with a legitimate interest in the reliability of the Bulk Power System that can meet any one of the guidelines for a Segment is entitled to belong to and vote in that Segment.
2. Corporations or organizations with integrated operations or with affiliates that qualify to belong to more than one Segment (e.g., transmission owners and Load Serving Entities) may belong to each of the Segments in which they qualify, provided that each Segment constitutes a separate membership and is represented by a different representative. Individuals or entities that elect to participate in Segment 8 are not eligible to participate in multiple Segments.
3. At any given time, affiliated entities may collectively be registered only once within a Segment.
4. Any individual or entity, such as a consultant or vendor, providing products or services related to Bulk Power System reliability within the previous 12 months to another entity eligible to join Segments 1 through 7 shall be qualified to join any one Segment for which one of the entities receiving those products or services is qualified to join.
5. Corporations, organizations, entities, and individuals may participate freely in all subgroups.
6. After their initial selection, registered participants may apply to change Segments annually, on a schedule determined by the Standards Committee.

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<sup>1</sup> The Segment qualification guidelines were proposed in the final report of the NERC Standing Committees Representation Task Force on February 7, 2002. The Board of Trustees endorsed the industry Segments and weighted Segment voting model on February 20, 2002 and may change the model from time to time.

7. The qualification guidelines and rules for joining Segments will be reviewed periodically to ensure that the process continues to be fair, open, balanced, and inclusive. Public input will be solicited in the review of these guidelines.
8. Since all balloting of Reliability Standards will be done electronically, any registered participant may designate a proxy to vote on its behalf. There are no limits on how many proxies a person may hold. However, NERC must have in its possession, either in writing or by email, documentation that the voting right by proxy has been transferred.

## **Segments**

### **Segment 1. Transmission Owners**

- a. Any entity that owns or controls at least 200 circuit miles of integrated transmission facilities, or has an Open Access Transmission Tariff or equivalent on file with a regulatory authority.
- b. Transmission owners that have placed their transmission under the operational control of an RTO or ISO.
- c. Independent transmission companies or organizations, merchant transmission developers, and transcos that are not RTOs or ISOs.
- d. Excludes RTOs and ISOs that are eligible to join to Segment 2.

### **Segment 2. Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs)**

- a. Any entity authorized by appropriate governmental authority to operate as an RTO or ISO.

### **Segment 3. Load-Serving Entities (LSEs)**

- a. Entities serving end-use customers under a regulated tariff, a contract governed by a regulatory tariff, or other legal obligation to serve.
- b. A member of a generation and transmission (G&T) cooperative or a joint-action agency is permitted to designate the G&T or joint-action agency to represent it in this Segment; such designation does not preclude the G&T or joint-action agency from participation and voting in another Segment representing its direct interests.
- c. Agents or associations can represent groups of LSEs

### **Segment 4. Transmission Dependent Utilities (TDUs)**

- a. Entities with a regulatory, contractual, or other legal obligation to serve wholesale aggregators or customers or end-use customers and that depend primarily on the transmission systems of third parties to provide this service.
- b. Agents or associations can represent groups of TDUs.

### **Segment 5. Electric Generators**

- a. Affiliated and independent generators, including variable and other renewable resources.
- b. A corporation that sets up separate corporate entities for each one or more generating plants in which it is involved may only have one vote in this Segment regardless of how many single-plant or multiple-plant corporations the parent corporation has established or is involved in.

- c. Agents or associations can represent groups of electrical generators.

**Segment 6. Electricity Brokers, Aggregators, and Marketers**

- a. Entities serving end-use customers under a power marketing agreement or other authorization not classified as a regulated tariff.
- b. An entity that buys, sells, or brokers energy and related services for resale in wholesale or retail markets, whether a non-jurisdictional entity operating within its charter or an entity licensed by a jurisdictional regulator.
- c. G&T cooperatives and joint-action agencies that perform an electricity broker, aggregator, or marketer function are permitted to belong to this Segment.
- d. Agents or associations can represent groups of electricity brokers, aggregators, or marketers.
- e. This Segment also includes demand-side management providers.

**Segment 7. Large Electricity End Users**

- a. At least one service delivery taken at 50 kV (radial supply or facilities dedicated to serve customers) that is not purchased for resale.
- b. A single customer with an average aggregated service Load (not purchased for resale) of at least 50,000 MWh annually, excluding cogeneration or other back feed to the serving utility.
- c. Agents or associations can represent groups of large end users.

**Segment 8. Small Electricity Users**

- a. Service taken at below 50 kV.
- b. A single customer with an average aggregated service Load (not purchased for resale) of less than 50,000 MWh annually, excluding cogeneration or other back feed to the serving utility.
- c. Agents, state consumer advocates, or other advocate groups can represent groups of small customers.
- d. Any entity or individual currently employed by an entity that is eligible to join one or more of the other nine Segments, shall not be qualified to join Segment 8.
- e. Any individual or entity, such as a consultant, employee or vendor, providing products or services related to Bulk Power System reliability within the previous 12 months to another entity eligible to join Segments 1 through 7, including trade associations representing such Segments, shall be qualified to join any one Segment for which one of the entities receiving those products or services is qualified to join and shall not be eligible to join Segment 8.

**Segment 9. Federal, State, and Provincial Regulatory or other Government Entities**

- a. Does not include federal power management agencies or the Tennessee Valley Authority.
- b. May include public utility commissions.

**Segment 10. Regional Entities**

- a. Any entity that is a Regional Entity. It is recognized that there may be instances in which an entity is both an RTO or ISO and a Regional Entity. In such a case, the two functions must be sufficiently independent to meet NERC's Rules of Procedure and applicable regulatory

requirements, as evidenced by the approval of a Regional Entity delegation agreement. Without such an approval, the entity shall be limited to choosing to enter one Segment or the other, but not both.

**PETITION OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
FOR APPROVAL OF REVISIONS TO ITS RULES OF PROCEDURE  
TO ADOPT A BULK ELECTRIC SYSTEM EXCEPTION PROCEDURE**

**ATTACHMENT 4B**

**REVISED APPENDIX 3D OF THE RULES OF PROCEDURE,**

***REGISTERED BALLOT BODY CRITERIA***

**REDLINED VERSION**



**Proposed Revisions 1-9-2012**  
**[Incorporates revisions filed with**  
**FERC on November 29, 2012]**

## **Appendix 3D**

# **Registered Ballot Body Criteria**

**Effective: November 17, 2011**



# Appendix 3D — Development of the Registered Ballot Body<sup>1</sup>

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## ***Registration Procedures***

The Registered Ballot Body comprises all organizations, entities, and individuals that:

1. Qualify for one of the Segments, and
2. Are registered with NERC as potential ballot participants in the voting on Reliability Standards, and
3. Are current with any designated fees.

Each participant, when initially registering to join the Registered Ballot Body, and annually thereafter, shall self-select to belong to one of the Segments described below.

NERC general counsel will review all applications for joining the Registered Ballot Body, and make a determination of whether the self-selection satisfies at least one of the guidelines to belong to that Segment. The entity or individual will then be “credentialed” to participate as a voting member of that Segment. The Standards Committee will decide disputes, with an appeal to the Board of Trustees.

All registrations will be done electronically.

## ***Segment Qualification Guidelines***

1. Except as set forth below, the Segment qualification guidelines are inclusive; i.e., any entity or individual with a legitimate interest in the reliability of the Bulk Power System that can meet any one of the guidelines for a Segment is entitled to belong to and vote in that Segment.
2. Corporations or organizations with integrated operations or with affiliates that qualify to belong to more than one Segment (e.g., transmission owners and Load Serving Entities) may belong to each of the Segments in which they qualify, provided that each Segment constitutes a separate membership and is represented by a different representative. Individuals or entities that elect to participate in Segment 8 are not eligible to participate in multiple Segments.
3. At any given time, affiliated entities may collectively be registered only once within a Segment.
4. Any individual or entity, such as a consultant or vendor, providing products or services related to Bulk Power System reliability within the previous 12 months to another entity eligible to join Segments 1 through 7 shall be qualified to join any one Segment for which one of the entities receiving those products or services is qualified to join.
5. Corporations, organizations, entities, and individuals may participate freely in all subgroups.
6. After their initial selection, registered participants may apply to change Segments annually, on a schedule determined by the Standards Committee.

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<sup>1</sup> The Segment qualification guidelines were proposed in the final report of the NERC Standing Committees Representation Task Force on February 7, 2002. The Board of Trustees endorsed the industry Segments and weighted Segment voting model on February 20, 2002 and may change the model from time to time.

7. The qualification guidelines and rules for joining Segments will be reviewed periodically to ensure that the process continues to be fair, open, balanced, and inclusive. Public input will be solicited in the review of these guidelines.
8. Since all balloting of Reliability Standards will be done electronically, any registered participant may designate a proxy to vote on its behalf. There are no limits on how many proxies a person may hold. However, NERC must have in its possession, either in writing or by email, documentation that the voting right by proxy has been transferred.

## **Segments**

### **Segment 1. Transmission Owners**

- a. Any entity that owns or controls at least 200 circuit miles of integrated transmission facilities, or has an Open Access Transmission Tariff or equivalent on file with a regulatory authority.
- b. Transmission owners that have placed their transmission under the operational control of an RTO or ISO.
- c. Independent transmission companies or organizations, merchant transmission developers, and transcos that are not RTOs or ISOs.
- d. Excludes RTOs and ISOs that are eligible to join to Segment 2.

### **Segment 2. Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs)**

- a. Any entity authorized by appropriate governmental authority to operate as an RTO or ISO.

### **Segment 3. Load-Serving Entities (LSEs)**

- a. Entities serving end-use customers under a regulated tariff, a contract governed by a regulatory tariff, or other legal obligation to serve.
- b. A member of a generation and transmission (G&T) cooperative or a joint-action agency is permitted to designate the G&T or joint-action agency to represent it in this Segment; such designation does not preclude the G&T or joint-action agency from participation and voting in another Segment representing its direct interests.
- c. Agents or associations can represent groups of LSEs

### **Segment 4. Transmission Dependent Utilities (TDUs)**

- a. Entities with a regulatory, contractual, or other legal obligation to serve wholesale aggregators or customers or end-use customers and that depend primarily on the transmission systems of third parties to provide this service.
- b. Agents or associations can represent groups of TDUs.

### **Segment 5. Electric Generators**

- a. Affiliated and independent generators, including variable and other renewable resources.
- b. A corporation that sets up separate corporate entities for each one or more generating plants in which it is involved may only have one vote in this Segment regardless of how many single-plant or multiple-plant corporations the parent corporation has established or is involved in.

- c. Agents or associations can represent groups of electrical generators.

**Segment 6. Electricity Brokers, Aggregators, and Marketers**

- a. Entities serving end-use customers under a power marketing agreement or other authorization not classified as a regulated tariff.
- b. An entity that buys, sells, or brokers energy and related services for resale in wholesale or retail markets, whether a non-jurisdictional entity operating within its charter or an entity licensed by a jurisdictional regulator.
- c. G&T cooperatives and joint-action agencies that perform an electricity broker, aggregator, or marketer function are permitted to belong to this Segment.
- d. Agents or associations can represent groups of electricity brokers, aggregators, or marketers.
- e. This Segment also includes demand-side management providers.

**Segment 7. Large Electricity End Users**

- a. At least one service delivery taken at 50 kV (radial supply or facilities dedicated to serve customers) that is not purchased for resale.
- b. A single customer with an average aggregated service [Loadload](#) (not purchased for resale) of at least 50,000 MWh annually, excluding cogeneration or other back feed to the serving utility.
- c. Agents or associations can represent groups of large end users.

**Segment 8. Small Electricity Users**

- a. Service taken at below 50 kV.
- b. A single customer with an average aggregated service [Loadload](#) (not purchased for resale) of less than 50,000 MWh annually, excluding cogeneration or other back feed to the serving utility.
- c. Agents, state consumer advocates, or other advocate groups can represent groups of small customers.
- d. Any entity or individual currently employed by an entity that is eligible to join one or more of the other nine Segments, shall not be qualified to join Segment 8.
- e. Any individual or entity, such as a consultant, employee or vendor, providing products or services related to Bulk Power System reliability within the previous 12 months to another entity eligible to join Segments 1 through 7, including trade associations representing such Segments, shall be qualified to join any one Segment for which one of the entities receiving those products or services is qualified to join and shall not be eligible to join Segment 8.

**Segment 9. Federal, State, and Provincial Regulatory or other Government Entities**

- a. Does not include federal power management agencies or the Tennessee Valley Authority.
- b. May include public utility commissions.

**Segment 10. Regional Entities**

- a. Any entity that is a Regional Entity. It is recognized that there may be instances in which an entity is both an RTO or ISO and a Regional Entity. In such a case, the two functions must be sufficiently independent to meet NERC's Rules of Procedure and applicable regulatory

requirements, as evidenced by the approval of a Regional Entity delegation agreement. Without such an approval, the entity shall be limited to choosing to enter one Segment or the other, but not both.

**PETITION OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
FOR APPROVAL OF REVISIONS TO ITS RULES OF PROCEDURE  
TO ADOPT A BULK ELECTRIC SYSTEM EXCEPTION PROCEDURE**

**ATTACHMENT 5A**

**REVISED APPENDIX 4B OF THE RULES OF PROCEDURE,  
*SANCTION GUIDELINES OF THE*  
*NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION*  
CLEAN VERSION**



**Appendix 4B**

**Proposed Revisions 1-9-2012  
[Incorporates revisions filed with  
FERC on November 29, 2011]**

**Sanction Guidelines  
of the  
North American  
Electric Reliability Corporation**

**Effective: January 1, 2011**

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## **1. Preamble and Overview**

The North American Electric Reliability Corporation, as the Electric Reliability Organization (ERO), and Regional Entities to whom NERC has delegated authority (hereinafter referred to collectively as “Regional Entities” or individually as a “Regional Entity”) shall determine and may levy monetary Penalties and non-monetary sanctions and remedial actions against owners, operators, and users of the Bulk Power System for violations of the Requirements of NERC Reliability Standards approved by the Federal Energy Regulatory Commission (FERC) and Applicable Governmental Authorities in Canada and/or Mexico. This document sets out the processes and principles to be followed, and factors that will be considered when determining Penalties, sanctions, or remedial actions for violations. Collectively these processes, principles and factors are NERC’s Penalties, sanctions, and remedial action guidelines.

NERC and the Regional Entities will exclusively follow the directives, principles and processes in these Sanction Guidelines when determining Penalties, sanctions, or remedial action for a violation. However, adjustment factors are also provided to afford NERC or the Regional Entity the flexibility needed to accommodate the facts surrounding each violation. In this manner, rigid prescription of specific Penalty formulae can be avoided at the same time that appropriate limitations on the degree of discretion and flexibility available to address each violation on its merits is maintained. The outcome will be remedies that are commensurate and fair compared to the reliability impact of the violation and to remedies levied for similar violations, yet appropriately reflective of any unique facts and circumstances regarding the specific violation and violator.

The adjustment factors established in this document are generally consistent with those listed in the FERC Policy Statement on Enforcement issued on October 20, 2005. However, discussion of the factors presented in this document is not exhaustive as other facets of these factors, or other additional factors not discussed herein, may also be considered to determine a given Penalty, sanction, or remedial action, as NERC or the Regional Entity deems appropriate under the circumstances.

Regional Entities shall follow these guidelines to determine Penalties, sanctions, or remedial actions. NERC shall oversee the Regional Entities’ application of the guidelines to ensure that acceptable levels of consistency are achieved. NERC’s oversight will also ensure comparable outcomes; i.e. that there is acceptable similarity in the degree and type of sanction for violations constituting comparable levels of threat to reliability of the Bulk Power System. In order to facilitate this oversight, Regional Entities’ reporting to NERC of Penalties and sanctions they have determined will be thorough and in sufficient detail that NERC can understand and reasonably replicate the outcomes reached; NERC may develop reporting requirements or a standard reporting form for use by the Regional Entities for this purpose, as NERC deems necessary or appropriate.

As experience is gained by NERC and the Regional Entities through the use and application of these guidelines, NERC will review the guidelines and may modify them as NERC deems appropriate or necessary. Authority delegated by NERC to the Regional Entities with respect to Penalties, sanctions, or remedial actions does not include the authority to modify these guidelines.

Any revision to this document or to the principles and factors identified or addressed within it must first be approved by the NERC Board, then by FERC, Applicable Governmental Authorities in Canada or Applicable Governmental Authorities in Mexico prior to becoming effective and applicable within the United States or these Applicable Governmental Authorities’ respective jurisdictions.

## **2. Document Scope and Exclusions**

This document identifies and discusses the processes and principles to be followed, and factors that will be considered to determine Penalties, sanctions, or remedial actions for violations of the Reliability Standards.

This document notes but does not otherwise address the progression of actions and steps that NERC or the Regional Entity will follow to process a violation from its initial incoming status upon discovery as a Possible Violation, through to its possible final determination as a Confirmed Violation. This is set out in the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure.

This document notes but does not otherwise address how a Possible Violation or Alleged Violation is reviewed in order to confirm or dismiss it. NERC's process and requirements for this review are set out in the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure. Regional Entities will undertake such reviews using the processes and requirements set out in the NERC Compliance Monitoring and Enforcement Program.

This document notes but does not otherwise address the processes and procedural steps by which a Confirmed Violation can be appealed, or by which a Penalty, sanction, or remedial action determined and levied for a violation can be appealed. These procedures are set out in the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, and applicable Regional Entity program documents.

The NERC Compliance Monitoring and Enforcement Program provides for the possibility of settlements within NERC or Regional Entity Compliance Monitoring and Enforcement Programs. This document makes reference to settlements too, but does not address them further.

### **3. Basic Principles**

The following paragraphs identify and discuss the basic principles underpinning why and how NERC and the Regional Entities will determine Penalties, sanctions, and remedial actions for violations of the Requirements of the Reliability Standards.

The principles are unique and complimentary; the order in which they are presented does not set or indicate order of precedence.

#### **3.1 Necessary Element of NERC Compliance Program**

Primary objectives of NERC as the ERO include the promotion and enforcement of compliance with the Reliability Standards by owners, operators, and users of the Bulk Power System; Reliability Standards made mandatory by duly-authorized legislative bodies in the U.S and Canada, and designed to maintain and promote the reliability of the two countries' shared power grids. Consistent with these objectives, NERC and the Regional Entities will monitor and act to verify compliance with Reliability Standards' Requirements; however, beyond monitoring and acting only to verify compliance, NERC and the Regional Entities will also hold Bulk Power System owners, operators, and users — or their delegates — accountable for Confirmed Violations. This accountability will include determination and the possible levying of Penalties, sanctions, or remedial actions.

Penalties, sanctions, and remedial actions are valid and necessary mechanisms to NERC and the Regional Entities for the enforcement and promotion of compliance to the Reliability Standards, in part because they can:

- a. promote compliance behavior;
- b. provide deterrence to future incidents, actions or situations of noncompliance by the violator or others;
- c. implement actions that will promptly correct behavior;
- d. disgorge benefits that may or may have accrued to a violator as a consequence of violating;
- e. visit upon a violator some portion of any damage their violation may or may have visited upon others.

Accordingly, the determination and potential levying of appropriate Penalties, sanctions, or remedial actions by NERC or the Regional Entity upon those responsible for violations shall be a required step within the NERC and Regional Entity Compliance Monitoring and Enforcement Programs.

#### **3.2 Settlement of Compliance Violations**

NERC and the Regional Entities shall maintain the reliability of the Bulk Power System by enforcing compliance with NERC and Regional Reliability Standards. NERC and Regional Entity Compliance Monitoring and Enforcements Programs will lay out how NERC and the Regional Entities will do this. In particular and by necessity, elements of these programs regarding the confirmation of violations, the determination and levying of Penalties, sanctions, or remedial actions, and appeals are rigid and legalistic in form and nature in order to respect the basic tenets of due process and natural justice inherent within United States and Canadian justice systems, respectively, upon which they are being based. However, absolute adherence to the Compliance Monitoring and Enforcement Programs, to the exclusion of other options, may not be the most appropriate, efficient or desirable means by which to achieve the end goal in all circumstances, to all entities party to a violation.

As set out in the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, violations of the Reliability Standards may be dealt with through settlements reached between NERC, Regional Entity and the Registered Entity or Entities to whom a Possible, Alleged, or Confirmed Violation is attributed to by NERC or the Regional Entity. Any provisions made within a settlement regarding Penalties, sanctions, or remedial actions can supersede

any corresponding Penalties, sanctions that would otherwise be determined pursuant to these guidelines.

### **3.3 Settlement Request**

Any Registered Entity found in or being investigated for a violation may request settlement negotiations at any time, including prior to issuance of a Notice of Alleged Violation; however, NERC or the Regional Entity may decline to enter into or continue settlement negotiations after the Possible Violation or Alleged Violation becomes a Confirmed Violation.

### **3.4 Settlement Effect on Continuation of Determination of Penalties, Sanctions, or Remedial Actions**

Until a settlement is finalized or parties to that settlement agree otherwise, NERC or the Regional Entity may continue activities and actions towards the determination and levying of a Penalty, sanction, or remedial action that would otherwise be applicable pursuant to these guidelines, or that will be applicable if the settlement is not finalized.

### **3.5 Timing of Determination of Penalty, Sanction or Remedial Action**

All Possible Violations and Alleged Violations will be reviewed by NERC or the Regional Entity with the outcome that either the violation will be confirmed or the violation will be dismissed.

The Penalty, sanction, or other remedial action for a violation will be determined when the violation becomes a Confirmed Violation or is resolved as part of a settlement agreement.

At any time during confirmation review, hearing, or appeals NERC or the Regional Entity may determine that remedial action is warranted by the subject Registered Entity of the review, hearing, or appeals. NERC or the Regional Entity may direct that such remedial actions be undertaken by the subject Registered Entity at any time, including prior to confirmation of a violation, and without regulatory approval.

### **3.6 Determining Party**

The determination of Penalty, sanction or other remedial action for a violation will generally be undertaken by the same entity determining the violation to be a Confirmed Violation, but subject to review by NERC if the determination is made by a Regional Entity.

### **3.7 No Influence of Penalty, Sanction or Remedial Action upon Violation Confirmation Process**

The Penalty, sanction, or remedial action determined for a violation will not influence the outcome of the Regional Entity' or NERC's confirmation review of the violation. In particular, if the determination of Penalty, sanction, or remedial action for a probable violation is being undertaken by the same entity undertaking the confirmation review, the entity will insure that there is sufficient separation, in such terms as time, process, personnel or the like, to preclude that the Penalty, sanction, or remedial action determined influences the outcome of the confirmation review.

### **3.8 Reasonable Relationship to Violation**

Penalties, sanctions, and remedial actions levied or applied for the violation of a Reliability Standard shall bear a reasonable relation to the seriousness of the violation while also reflecting consideration of the factors that these guidelines direct to take into account. In the United States, the legislation establishing mandatory enforceable Reliability Standards and the ERO requires that "Any penalty imposed ... shall; (A) bear a reasonable relation to the seriousness of the violation; and (B) take into consideration the efforts of the user, owner, or operator to remedy the violation in a timely manner<sup>1</sup>."

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<sup>1</sup> H.R.6, Energy Policy Act of 2005, Section 215, Paragraph e, subparagraph 6.  
*NERC Sanction Guidelines*  
Effective: January 1, 2011

### **3.9 Use and Facets of Factors to Determine Penalties**

Penalties levied for a given violation will be based on all facts and other information relevant to the incident or situation. To that end, these guidelines include factors which NERC and the Regional Entities will consider while determining the Penalty or sanction to be levied.

NERC considers, and these guidelines direct, that the presence of some factors within a violation aggravates the seriousness of that violation and should cause an increase or expansion of the Penalty to be levied. Conversely, the presence of some other factors mitigates that seriousness and should cause a decrease or reduction of the Penalty to be levied. Also, some factors may mitigate or aggravate, and should have commensurate impact. NERC considers, and these guidelines direct, that the absence of an aggravating or mitigating factor will have no impact, as opposed to a mitigating or aggravating impact, respectively, to a Penalty.

This document presents many of the relevant facets of the factors included in these guidelines. However, additional facets of these factors, or additional factors not discussed herein, may also be considered to determine a given Penalty, sanction, or remedial action, as NERC or the Regional Entity deems appropriate under the circumstances. Where additional factors or facets are used they will be identified and their use will be justified. The effect of using these factors or facets on the Penalty, sanction, or remedial action determined will also be fully and clearly disclosed.

### **3.10 Multiple Violations**

A violation is a failure or inadequacy to meet a Requirement of a Reliability Standard by a party responsible to comply with that Requirement.

The failure or inadequacy of a violator to comply may involve more than one Reliability Standard or several Requirements of a single Reliability Standard; as such, multiple individual violations may be in play when Penalties, sanctions, or remedial actions for an incident or situation of noncompliance are being determined.

Strictly speaking, NERC or the Regional Entity can determine and levy a separate Penalty or sanction, or direct remedial action, upon a violator for each individual violation. However, in instances of multiple violations related to a single act or common incidence of noncompliance, NERC or the Regional Entity will generally determine and issue a single aggregate Penalty, sanction, or Remedial Action Directive bearing reasonable relationship to the aggregate of the related violations. The Penalty, sanction, or remedial action will not be that determined individually for the least serious of the violations; it will generally be at least as large or expansive as what would be called for individually for the most serious of the violations.

Some entities may be registered as being responsible for more than one function (e.g., Transmission Owner, Transmission Operator, Balancing Authority, Generation Operator), and a single Requirement in some Reliability Standards may apply to the responsible entity for several functions. Where several functions are performed by the same Registered Entity, a violation will be assessed against the Registered Entity, not against each function.

### **3.11 Relation of the Penalty to the Seriousness of the Violation and Violator's Ability to Pay**

As discussed in Section 3.8, above, Penalties levied for the violation of a Reliability Standard shall bear a reasonable relation to the seriousness of the violation. The seriousness of a given violation by a given violator shall be assessed by review of the applicability of the Violation Risk Factors<sup>2</sup> associated with the violation to the characteristics of the violator's operation or power system. Size is a characteristic of a violator's operation or system. The size of the violator can be considered in the assessment but shall not be the only characteristic considered. Where size is considered in such a

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<sup>2</sup> See Section 4 Part 4.11 for a discussion of these factors  
*NERC Sanction Guidelines*  
Effective: January 1, 2011

review the facts relating to the violation in question will be reviewed such that the “actual” size of the violator is properly discerned and appropriately considered; the following are provided as illustrative examples:

- If the violator belongs to a generation and transmission cooperative or joint-action agency, size will be attributed to the particular violator, rather than to that generation and transmission cooperative or joint-action agency.
- If the violator constitutes part of a corporate family the size of the violator will be attributed to that violator alone, in the absence of any facts indicating involvement of the whole corporation or corporate affiliates of the violator.
- If the violator is an entity established solely as a shell to register as subject to one or more Reliability Standards the size of the entity will be disregarded in favor of consideration of the size of parent entity or any affiliates that NERC or the Regional Entity deems involved and constituting the “actual” size of the violator.

At the request of the violator, NERC or the Regional Entity may review the Penalty in light of the violator’s financial ability to pay the Penalty. Financial ability shall include both the financial strength of the Registered Entity as well as its structure (e.g., for-profit versus non-profit). Where Penalties are reduced or eliminated NERC or the Regional Entity shall consider non-monetary sanctions or remedial action as alternatives or substitutes to the Penalty, pursuant to Sections 3.17, 3.18 and 3.19, below, of this document.

The above actions will: (i) promote that violators are penalized or sanctioned commensurate with the risk or effect that their specific violation of the Reliability Standards had or is having to the reliability of the Bulk Power System while also; (ii) mitigating overly burdensome Penalties to less consequential or financially-limited entities concurrent with; (iii) promoting that no Penalty is inconsequential to the violator to whom it is assessed. This will promote that Penalties levied for violations of Reliability Standards bear a reasonable relation to the seriousness of the violation while also addressing violators’ ability to pay the Penalties they are assessed.

### **3.12 Violation Time Horizon**

Reliability Standards involving longer and broader time horizons, such as long-term planning activities, may have a lesser immediate impact and pose less immediate risk to the reliability of the Bulk Power System than Reliability Standards addressing shorter and narrower timeframes, such as Registered Entities’ conduct in real time. Similarly, Reliability Standards involving longer and broader time horizons typically will provide a longer time period over which to discover and remedy a violation when compared to Reliability Standards addressing more immediate activities such as next-day planning, same-day operations or real-time operations. Using a time horizon element in the determination of Penalties for violations provides for recognition of the “more immediate” nature — and hence higher risk — of the threat of some violations as opposed to the lesser-risk “future threat if not corrected” nature of other violations.

Penalties levied for the violation of a Reliability Standard shall consider the time horizon of the Reliability Standard violated; violations of Reliability Standards involving more immediate or real-time activities will generally incur larger Penalties than violations of Reliability Standards with longer or broader horizons.

Time horizons inherent in Reliability Standard Requirements are not reflected in their assigned Violation Risk Factors or Violation Severity Levels<sup>3</sup>. Accordingly, the time horizon element of a violation will be considered when determining the Base Penalty Amount<sup>4</sup> for the violation.

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<sup>3</sup> See Section 4 Part 4.1.1 for a discussion of these factors.

<sup>4</sup> See Section 4 Part 4.2

The time horizon considered and its impact on the selection of the Base Penalty Amount for the violation will be decided upon by NERC or the Regional Entity based upon judgment and the facts of the violation. The rationale for the time horizon used and its impact on the setting of the Base Penalty Amount will be documented by NERC or the Regional Entity and provided within the Notice of Penalty issued for the violation.

### **3.13 Extenuating Circumstances**

In unique extenuating circumstances, such as significant natural disasters, Penalties may be significantly reduced or eliminated.

### **3.14 Concealment or Intentional Violation**

Penalties levied for the violation of a Reliability Standard shall always take into consideration any attempt by a violator to conceal the violation from NERC or the Regional Entity, or any intentional violation incurred for purposes other than a demonstrably good faith effort to avoid a significant and greater threat to the immediate reliability of the Bulk Power System.

### **3.15 Economic Choice to Violate**

Owners, operators, and users of the Bulk Power System may be presented with situations or circumstances where compliance with the Reliability Standards preclude or reduce an economic gain that could be realized by violating the Reliability Standards. Penalties shall be sufficient to assure that entities responsible for complying with Reliability Standards do not find it attractive to make economic choices that cause or unduly risk violations to Reliability Standards, or risk or cause incidents resulting from violations of the Reliability Standards. Penalties levied to violators who have made such a choice shall reflect this aspect of the violation.

### **3.16 No Influence by Outcome of Economic Choice to Violate**

Economic choices to violate are generally made for the violator's own potential gain, but making such a choice does not always result in all potential gains being realized or may result in damage or loss. However, irrespective of the outcome to the Registered Entity making an economic choice to violate, such decisions risk others' reliability, commonly without either their knowledge or consent. Penalties levied to violators making an economic choice to violate shall reflect only that the choice was made at all; the lack of or reduced magnitude of any actual benefit received, or any damage suffered, by the violator as a consequence of making this choice will have no influence on the determination of the Penalty to be levied.

### **3.17 Non-Monetary Sanctions or Remedial Actions**

Enforcement actions taken by NERC or a Regional Entity are not limited to monetary Penalties; at the discretion of NERC or the Regional Entity, sanctions or remedial actions may also be applied and can include limitations on activities, functions, operations, or other appropriate sanctions, including the establishment of a reliability watch list composed of major violators.

### **3.18 Non-Exclusiveness of Monetary Penalties or Non-Monetary Sanctions**

A non-monetary sanction may be imposed either in lieu of or in addition to a monetary Penalty imposed for the same Confirmed Violation, and vice versa. Imposition of a monetary Penalty or non-monetary sanction for a violation does not preclude the imposition of the other as long as, in combination, the aggregate Penalty continues to bear a reasonable relation to the seriousness of the violation.

### **3.19 Monetization of the Value of Sanctions**

A significant element of NERC's oversight of Penalties, sanctions, and remedial action determined and levied by Regional Entities is ensuring acceptable similarity in the degree and type of sanction for violations constituting comparable levels of threat to the reliability of the Bulk Power System. It is also a requirement and a commitment of NERC and its designees that Penalties, sanctions, or

remedial actions levied or applied for the violation of a Reliability Standard bear reasonable relation to the seriousness of the violation. Specifically with respect to Penalties and sanctions, it is intuitive that it will be easier, more objective, and more transparent to monitor and test for acceptable similarity if (monetary) Penalties or monetized values of sanctions determined for violations are used as the primary basis of comparison, versus comparisons made on the basis of other (non-monetized) considerations. Similarly, there will be strong intuitiveness and transparency, particularly to those interested but not strongly familiar with the power industry, that the seriousness of a violation has been reasonably addressed if the consequences for it to the violator are determined and can be expressed clearly and quantifiably in monetary terms.

Penalties determined and levied by NERC or Regional Entities will by definition be valued in monetary terms: U.S or Canadian dollars. It will be the preference of NERC that (non-monetary) sanctions imposed either in lieu of or in addition to a Penalty include disclosure of the monetary value that the sanctions represent to the violator. It is intuitive that defensible monetary values for those sanctions will be most easily determined if the Penalty for the violation pursuant to these guidelines is first determined and then the sanctions to be levied are introduced and justified as appropriate alternatives to that Penalty or additions to a lesser Penalty. However, sanctions may be determined directly (e.g. without first determining a Penalty amount) and monetized using other methods.

NERC does not have a preference between Penalties and sanctions for violations. The preference expressed here will support ensuring comparability of outcomes regarding application of these guidelines and the promotion of reasonable relationship between the seriousness of a violation and the sanctions, or Penalties and sanctions, levied for it.

### **3.20 Maximum Limitations on Penalties**

Penalties are direct, monetary judgments levied against a violator by NERC or the Regional Entity for the violation of Requirements of the Reliability Standards. In contrast, sanctions will impose limitations or restrictions of some kind that may result in economic or other impacts to the violator, and remedial actions are directives by NERC or a Regional Entity to the violator regarding the correction of conditions, practices or any other relevant action or activity underlying the noncompliance(s) involved.

***In the United States, the Federal Power Act allows for the imposition of civil penalties of up to \$1,000,000 per day per violation.*** NERC and the Regional Entities draw their authority to levy Penalties from the Federal Power Act; accordingly this figure is and can be understood as the maximum monetary Penalty that NERC or Regional Entities are authorized to levy. However, as this legislation also requires that “[a]ny penalty imposed ... shall; (A) bear a reasonable relation to the seriousness of the violation; and (B) take into consideration the efforts of the user, owner, or operator to remedy the violation in a timely manner<sup>5</sup>” ***entities required to comply with the Reliability Standards must also understand that NERC and the Regional Entities will be obligated to assess Penalties amounts up to and including the maximum amount for violations where warranted pursuant to these guidelines.***

In Canadian jurisdictions, the maximum monetary Penalty potentially assessable for a Reliability Standard violation is significantly less than the amount allowed in the United States under the Federal Power Act. Also, legislation presently governing some Canadian jurisdictions does not accommodate the levying of such a Penalty under some circumstances, may not accommodate the levying of such a Penalty for all violations, or does not accommodate the levying of any monetary Penalties.

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<sup>5</sup> H.R.6, Energy Policy Act of 2005, Section 215, Paragraph e, subparagraph 6.  
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When a Penalty may be levied, or proposed to Applicable Governmental Authorities with jurisdiction to be levied, the following steps will be followed:

- a. NERC or the Regional Entity will initially disregard the Penalty limitations of the Applicable Governmental Authorities with jurisdiction, and determine what the Penalties or sanctions would be pursuant to these sanction guidelines only.
- b. NERC or the Regional Entity will review the maximum Penalty allowed by the Applicable Governmental Authorities with jurisdiction.
- c. NERC or the Regional Entity will set the actual Penalty to be levied, or proposed to the Applicable Governmental Authorities with jurisdiction to be levied, as the lesser of that determined pursuant to these guidelines and the maximum Penalty or sanction allowed by the Applicable Governmental Authorities.
- d. If the lesser Penalty is the maximum Penalty allowed by the Applicable Governmental Authorities, the Notice of Penalty or similar document issued by NERC or the Regional Entity regarding the violation will also list the Penalty that was determined pursuant to these guidelines.

Adhering to the above steps will insure that the result of the determination of any Penalty for any violation will produce output that can be directly compared (i.e. without influence of local Applicable Governmental Authorities' Penalty limitations or restrictions) with the Penalty determined for any other violation, assisting efforts of NERC and others to ensure that these guidelines are uniformly applied and that there is an acceptable level of consistency in the application of these sanction guidelines across North America. Applicable Governmental Authorities with jurisdiction may also find such information useful for their determination of the appropriateness of any Penalty or sanction proposed to them to be levied. Similarly, policy and legislative bodies may find such information of value to the review or development of arrangements addressing such matters.

### **3.21 Frequency and Duration of Violations**

Section 316A of the Federal Power Act [16 U.S.C. § 825o-1(b)], as amended by the Energy Policy Act of 2005, provides that “any person who violates any provision of Part II of this title or any provision of any rule or order thereunder shall be subject to a civil penalty of not more than \$1,000,000 for each day that such violation continues.”

FERC Order No. 672 interprets this statement as setting a cap on the monetary Penalties that the Commission, NERC and Regional Entities can impose under FPA section 215. FERC has referred to this statutory provision as imposing a maximum \$1,000,000 “per day, per violation” Penalty and has directed that the ERO must ensure that in the U.S. such a Penalty amount (\$1,000,000), in such a manner (“per day, per violation”), can be imposed for a violation of the Reliability Standards should the conduct at issue so warrant.

Some Reliability Standards may not support the assessment of Penalties on a “per day, per violation” basis, but instead should have Penalties calculated based on an alternative Penalty frequency or duration. Where NERC or the Regional Entity deems that a monetary Penalty is warranted, or where NERC or the Regional Entity is monetizing (Section 3.19) the value of a non-monetary sanction, for the violation of such a Reliability Standard NERC or the Regional Entity shall determine the Penalty or monetized amount consistent with the following:

#### Multiple Instances of Violation on One Day

The nature of some Reliability Standards includes the possibility that a Registered Entity could violate the same Requirement two or more times on the same day. In this instance NERC or the Regional Entity is not limited to penalizing the violator a maximum of \$1,000,000 per day. As NERC or the Regional Entity deems appropriate NERC or the Regional Entity may deem that there have

been multiple violations that occurred on the same day, each of which is subject to the maximum potential Penalty of \$1,000,000 per violation, per day. Also, NERC or the Regional Entity is not constrained to assessing the same Penalty amount for each of the multiple violations, irrespective of their proximity in time.

#### Cumulative Over Time

Certain Requirements of the Reliability Standards are measured not on the basis of discrete acts, but of cumulative acts over time. Reliability Standards that fall into this category are generally those involving measurements based on averages over a given period. Where a violation of such a Reliability Standard has occurred the element of averaging performance over a period of time introduces the difficulty to NERC or the Regional Entity of reasonably identifying (i) what date the violation should be deemed to have occurred and (ii) its duration.

If a Reliability Standard Requirement measured by an average over time can only be violated once per applicable period, then there is risk that a disproportionately mild Penalty might be levied in a situation where the violation was serious and the effects on the Bulk Power System severe. In the future, each Reliability Standard Requirement that is based on an average over time will specify the minimum period in which a violation could occur and how to determine when a violation arises, which may be other than once per applicable period<sup>6</sup>. In the interim until relevant Reliability Standards are so modified, any ambiguity on this point will be construed conservatively, meaning that where a Registered Entity has not complied with such a Reliability Standard NERC or the Regional Entity will generally consider that only one violation occurred per measurement period. However, notwithstanding this general principle of one violation per measurement period, if an average must be measured by a span of time greater than a month, each month of that span shall constitute at a minimum one violation.

#### Periodically Monitored Discrete Violation

Some Reliability Standards may involve discrete events which are only monitored periodically or which are reported by exception. If a Requirement of such a Reliability Standard states that a discrete event constitutes a violation, then (i) a violation arises when that event occurs and (ii) that violation continues until remedied; furthermore, (iii) the violation is deemed to have occurred at the point that the Registered Entity entered into noncompliance with the Reliability Standard regardless of the monitoring period for the activity or its date of discovery or reporting. For example, if a task required by a Reliability Standard Requirement has not been done by the required date, it is irrelevant that monitoring for compliance for the Requirement occurs only on a yearly or other periodic basis; NERC or the Regional Entity will deem a violation to have occurred on the first day of noncompliance and each day thereafter until compliance is effectuated. Similarly, if a discrete event occurs and is not remedied on the date of occurrence, then NERC or the Regional Entity will deem a violation to have occurred on the day of the first instance of the noncompliance and each day, or portion thereof thereafter until compliance is effectuated.

Non-compliance with a Reliability Standard of this type will subject the violator to the potential maximum monetary Penalty of \$1,000,000 per violation per day in violation.

NERC or the Regional Entity is not constrained to assessing the same Penalty amount for each day that the Registered Entity was in violation of the Reliability Standard Requirement in question.

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<sup>6</sup> Para. 41; FERC Order on Clarification and Rehearing [Docket No. RR06-1-006]  
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## **4. Determination of Monetary Penalties**

The following describes the steps that NERC or the Regional Entity will follow to determine the monetary Penalty for a violation<sup>7</sup>. The determination of non-monetary sanctions is discussed in Section 5 of this document; Section 6 discusses remedial action.

- Step 1. The Base Penalty Amount for the violation will be set as discussed in Sections 4.1 and 4.2, below.
- Step 2. The Base Penalty Amount set in Step 1 will be reviewed pursuant to Section 4.3, below. This will result in the Adjusted Penalty Amount.
- Step 3. The Adjusted Penalty Amount determined in Step 2 may be reviewed in light of the violator's financial ability to pay the Penalty. Also, where applicable NERC or the Regional Entity will reconfirm that the Penalty set will disgorge unjust profits or economic benefits associated with an economic choice to violate<sup>8</sup>. At the conclusion of this review the Final Penalty Amount will be set.

Unless NERC or the Regional Entity deems alternative frequency or duration is warranted Penalties shall be assessed on a per violation per day basis. Where NERC or the Regional Entity deems that alternative Penalty frequency or duration is warranted the Notice of Penalty associated with the violation will clearly identify this and provide the rationale for it. Where NERC or the Regional Entity deems that alternative Penalty frequency or duration is warranted, Penalties shall be determined in accordance with section 3.21 of the Sanction Guidelines.

### **4.1 Initial Value Range of the Base Penalty Amount**

NERC or the Regional Entity will determine an initial value range for the Base Penalty Amount by considering two factors regarding the violation: the Violation Risk Factor (VRF) of the Requirement violated and the Violation Severity Level (VSL) assessed for the violation. Using the Base Penalty Amount Table provided in Appendix A NERC or the Regional Entity will look up the initial value range for the Base Penalty Amount by finding the intersection of the violation's VRF and VSL on the table<sup>9</sup>.

#### **4.1.1 Violation Risk Factor**

Each Requirement set out within NERC's Reliability Standards has been assigned a Violation Risk Factor (VRF) through the NERC Reliability Standards development process. The factors have been defined and approved through the Reliability Standards development process and are assigned to Requirements to provide clear, concise and comparative association between the violation of a Requirement and the expected or potential impact of the violation to the reliability of the Bulk Power System. One of three defined levels of risk is assigned to each Reliability Standards Requirement: lower Violation Risk Factor, or; medium Violation Risk Factor, or; high Violation Risk Factor. Definitions of the factors can be found in appropriate Reliability Standards development process documentation.

#### **4.1.2 Violation Severity Level**

Violation Severity Levels (VSLs) are defined measurements of the degree to which a violator violated a Requirement of a Reliability Standard. Whereas Violation Risk Factors are determined pre-violation and indicate the relative potential impacts that violations of each

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<sup>7</sup> The text in this section discusses the determination of a single Penalty for an individual violation; however, the process laid out is also applicable to determining the individual Penalties, or a single aggregate Penalty, for multiple violations that are associated with each other as discussed in Section 3 Part 3.1 of this document.

<sup>8</sup> Reference: Section 3 Parts 3.15 and 3.16.

<sup>9</sup> As discussed in Section 3 Part 3.1 of this document where there is more than one violation in play, but the violations are sufficiently associated, NERC or the Regional Entity may set a single initial value range that is appropriate in light of the individual VRF/VSL combinations of the violations.

Reliability Standard could pose to the reliability of the Bulk Power System, the Violation Severity Level is assessed post-violation and is an indicator of how severely the violator actually violated the Reliability Standard(s) Requirement(s) in question.

These guidelines utilize the Violation Severity Levels that have been established<sup>10</sup> by NERC for Requirements of the Reliability Standards. Up to four levels can be defined for each Requirement; the levels have been designated as: lower, moderate, high, and severe.

#### **4.2 Setting of the Base Penalty Amount**

NERC or the Regional Entity will set the Base Penalty Amount for the violation. The Base Penalty Amount set for the violation may be set at the highest figure of the initial value range determined pursuant to Section 4.1, above. However, NERC or the Regional Entity may set the Base Penalty Amount at or below the lowest figure of the initial value range in light of two specific circumstances regarding the violation and the violator, specifically:

- a. The applicability of the Violation Risk Factor of the violation to the specific circumstances<sup>11</sup> of violator.
- b. Whether this is an inconsequential first violation by the violator of the Reliability Standard(s) in question.

As noted in Section 3.12 NERC or the Regional Entity will consider the time horizon involved with the violation when setting the Base Penalty Amount for the violation. As also noted in Section 3.12 this consideration will be documented for inclusion in the Notice of Penalty issued for the violation.

The Penalty amount resulting from this review will be the Base Penalty Amount that is used as the basis for further adjustment pursuant to the factors discussed in the next section (4.3) of this document.

##### **4.2.1 Applicability of the Violation Risk Factor**

Violation Risk Factors are assigned to Reliability Standards' Requirements as indicators of the expected risk or harm to the Bulk Power System posed by the violation of a Requirement by a typical or median Registered Entity that is required to comply. NERC or the Regional Entity may consider the specific circumstances of the violator to determine if the violation of the Requirement in question actually produced the degree of risk or harm anticipated by the Violation Risk Factor. If that expected risk or harm was not or would not have been produced, NERC or the Regional Entity may set the Base Penalty Amount to a value it (i) deems appropriate and (ii) is within the initial value range set above pursuant to Section 4.1.

##### **4.2.2 First Violation**

If the actual or foreseen impact of the violation is judged to be inconsequential by NERC or the Regional Entity and the violation is the first incidence of violation of the Requirement in question by the violator, NERC or the Regional Entity may at its discretion: (i) set the Base Penalty Amount to a value it deems appropriate within the initial value range set above pursuant to Section 4.1, or (ii) excuse the Penalty for the violation (i.e. set the Base Penalty Amount to 0\$).

This relief will generally not be afforded to the violator if NERC or the Regional Entity determines that the violator has a poor compliance record; e.g. the circumstances discussed in

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<sup>10</sup> Assignment of these levels will be complete and filed with the Commission by March 1, 2008 in accordance with FERC Order on Compliance Filing dated June 7, 2007 [Docket No. RR06-1-007] .

<sup>11</sup> The circumstances of the violator will include but not be limited to, as appropriate: the violator's aggregate and net Load; interconnections characteristics such as voltage class and transfer ratings.

Section 4.3.1 have been an aggravating factor in one or more previous Penalties assessed to the violator.

This relief will not be available for consideration in instances where the violator has concealed or attempted to conceal the violation, failed or refused to comply with compliance directives from NERC or the Regional Entity, or intentionally violated for purposes other than a demonstrably good faith effort to avoid a significant and greater threat to the immediate reliability of the Bulk Power System.

### **4.3 Application of Adjustment Factors**

Adjustment factors provide the opportunity to NERC or the Regional Entity to adjust the Base Penalty Amount to reflect the specific facts and circumstances material to each violation and violator.

These guidelines recognize and require that, as a minimum, NERC or the Regional Entity consider the following:

- a. Repetitive violations and the violator's compliance history
- b. Failure of the violator to comply with compliance directives
- c. Self-disclosure and voluntary corrective action by the violator
- d. Degree and quality of cooperation by the violator in the violation investigation and in any remedial action directed for the violation
- e. The presence and quality of the violator's compliance program quality
- f. Any attempt by the violator to conceal the violation
- g. Intentional violations
- h. Extenuating circumstances

Two documents issued by United States regulatory agencies will be instructive to NERC and the Regional Entities when they are determining Penalties for violations of the Reliability Standards: the FERC's Policy Statement on Enforcement issued on October 20, 2005 under Docket No. PL06-00, and; U.S Securities and Exchange Commission (SEC) Release No. 44969 under the Securities and Exchange Act of 1934, issued on October 23 2001, also concurrently issued by the SEC as Release No. 1470 under Accounting and Auditing Enforcement.

NERC or the Regional Entity may also consider other additional factors it deems appropriate under the circumstances as long as their use is clearly identified and adequately justified. The effect of using these factors will also be fully and clearly disclosed.

#### **4.3.1 Repetitive Violations and Compliance History**

A bulleted point under Paragraph 20 of the FERC Policy Statement on Enforcement highlights repeat offenses by a violator. If a violator has had repetitive infractions of the same or a closely-related Reliability Standard Requirement, particularly within a time frame defined within the Reliability Standard(s) or deemed appropriate by NERC or the Regional Entity in the absence of the Reliability Standard(s) defining the time frame, NERC or the Regional Entity shall consider some increase to the Penalty.

The term "violation reset time period" of a Reliability Standards Requirement may be defined or implied within a given Reliability Standard to describe the period of time generally required for a violator to continue operations without incidence of further violation(s) of the Reliability Standards, particularly of the initial or a similar Reliability Standard violated, in order to avoid or minimize consideration of the violator's previous violation history for sanctioning purposes in the event of a subsequent violation(s). NERC and the Regional

Entities shall exercise appropriate judgment and discretion in this regard as warranted, particularly where no reset time period is specifically set within the Reliability Standard violated. Repeat violations within violation reset time periods are aggravating factors in the determination of sanctioning. Accordingly, a violation history of no violations will produce no mitigation of the Penalty otherwise determined; a violation history of infrequent minor violations of lesser risk Requirements assessed lower Violation Severity Levels may result in small or no increase; a history of more frequent violations or previous violations of higher risk Requirements assessed more severe Violation Severity Levels will generally incur commensurately larger increases.

#### **4.3.2 Failure to Comply with Compliance Directives**

If the violator has violated Reliability Standard Requirements notwithstanding having received related compliance directives, such as for remedial action from NERC or the Regional Entity, NERC or the Regional Entity shall consider some increase to the Penalty.

#### **4.3.3 Self-Disclosure and Voluntary Corrective Action**

NERC or the Regional Entity shall consider whether a violator self-disclosed the violation prior to detection or intervention by NERC or the Regional Entity, and any action undertaken by the violator to correct the situation. NERC or the Regional Entity will be instructed in their consideration of these factors by the text of Paragraphs 24 and 25 of the FERC Policy Statement on Enforcement. As they deem warranted, NERC or the Regional Entity may reduce the violator's Penalty consistent with the cited sections of the FERC policy.

#### **4.3.4 Degree and Quality of Cooperation in Violation Investigation and Remedial Action**

NERC or the Regional Entity shall consider the degree and quality of the violator's cooperation with NERC or the Regional Entity in the investigation of the violation and any remedial action arising from it. NERC or the Regional Entity will be instructed in making their determination on this by the text of Paragraphs 26 and 27 of the FERC Policy Statement on Enforcement. NERC or the Regional Entity may adjust the violator's Penalty as they deem warranted commensurate with the cited sections of the FERC policy statement. This may result in an increase, a decrease or no change to the Penalty.

#### **4.3.5 Presence and Quality of Compliance Program**

NERC or the Regional Entity shall consider the presence and quality of the violator's compliance program. NERC or the Regional Entity will be instructed in making their determination on this factor by the text of Paragraphs 22 and 23 of the FERC Policy Statement on Enforcement. As they deem warranted, NERC or the Regional Entity may reduce the violator's Penalty consistent with the cited sections of the FERC policy. Consistent with the FERC policy NERC or the Regional Entity may not increase a violator's Penalty specifically on the grounds that the violator has no program or a poor quality program.

#### **4.3.6 Violation Concealment**

Two bulleted points under Paragraph 20 of the FERC Policy Statement on Enforcement highlight misrepresentation of material facts and resistance or impediment to inquiry of a violation. When determining a Penalty NERC or the Regional Entity shall consider any concealment or attempt to conceal the violation, or information needed to investigate the violation, on the part of the violator. If the violator concealed or attempted to conceal, some significant increase to the Penalty shall be considered; doubling of the Penalty otherwise determined is suggested. Conduct of this nature on more than one occasion regarding one violation, or with respect to more than one violation, should incur an even larger increase to the Penalty otherwise determined.

#### **4.3.7 Intentional Violation**

Another bulleted point under Paragraph 20 of the FERC Policy Statement on Enforcement highlights offenses as willful action by a violator. When determining a Penalty NERC or the Regional Entity shall consider if the violator intentionally violated without just cause; i.e., for purposes other than a demonstrably good faith effort to avoid a significant and greater threat to the immediate reliability of the Bulk Power System. If the violator engaged in such conduct, some significant increase to the Penalty shall be considered; doubling of the Penalty otherwise determined is suggested. If conduct of this nature has been detected on more than one occasion, NERC or the Regional Entity should assess an even larger increase to the Penalty otherwise determined.

NERC or the Regional Entity will consider violations attributable to an economic choice to violate as intentional violations. Consistent with the FERC Policy Statement on Enforcement any Penalty issued involving conduct of this manner shall as a minimum disgorge any profits or economic benefits acquired as a consequence of the behavior, whenever and to the extent that they can be determined or reasonably estimated.

#### **4.3.8 Extenuating Circumstances**

NERC or the Regional Entity will consider if there are extenuating circumstances regarding the violation that justify reduction or elimination of the Penalty otherwise determined.

Consideration of adjusting a Penalty for this factor would be inconsistent with NERC or the Regional Entity increasing a Penalty after consideration of any other factor included in this section of these guidelines, such as intentional violation without justifiable cause or concealment or attempt to conceal.

### **4.4 Setting of the Final Penalty Amount**

The Adjusted Penalty Amount determined in Step 2 may be reviewed in light of the violator's financial ability to pay the Penalty. Also, if the violation was an economic choice, NERC or the Regional Entity will reconfirm that the Penalty set will disgorge any unjust profits or economic benefits. At the conclusion of this review the Final Penalty Amount will be set.

#### **4.4.1 Violator's Financial Ability to Pay<sup>12</sup>**

At the written request of the violator NERC or the Regional Entity will review the Penalty determined in Step 2 in light of relevant, verifiable information that the violator provides regarding their financial ability to pay. At the conclusion of this review NERC or the Regional Entity may:

1. Reduce the Penalty payable to an amount that NERC or the Regional Entity, as applicable, deems the violator has the financial ability to pay, or;
2. Excuse the Penalty amount payable, or;
3. Sustain the Penalty amount determined in Step 2.

Where the Penalty amount has been reduced or excused, NERC or the Regional Entity shall consider the assessment of appropriate non-monetary sanction(s) as a substitute or an alternative for the Penalty amount that has been excused or by which the Penalty has been reduced.

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<sup>12</sup> NERC anticipates that this will be the primary vehicle for addressing the ability to pay of "not-for-profit" and other similar organizations.

**4.4.2 Reconfirmation of Disgorgement of Unjust Profit or Gain**

Notwithstanding the application of any other consideration or factor applicable to the determination of a just and reasonable Penalty for the violation, if the violation in question involved an economic choice to violate NERC or the Regional Entity shall reconfirm that the Penalty set meets the requirements set forth in Parts 3.15 and 3.16 of Section 3 of this document.



## **5. Determination of Non-Monetary Sanctions**

The imposition of sanctions is not bounded to monetary Penalties. Non-monetary sanctions applied must be applied with the objective of promoting reliability and compliance with the Reliability Standards. Non-monetary sanctions may include, but not be limited to, the following:

- a. Limitations on activities, functions, or operations
- b. Placing an entity on a reliability watch list composed of major violators

## **6. Remedial Action Directives**

### **6.1 Definition and Anticipated Use**

Remedial Action Directives are directives that may be issued to a Bulk Power System owner, operator, or user to resolve an Alleged Violation of a Reliability Standard by addressing conditions, practices, or any other relevant action or activity that is immediately necessary to terminate or correct to protect the reliability of the Bulk Power System from an imminent threat. A Remedial Action Directive will be issued when NERC or the Regional Entity identifies an Alleged Violation of a Reliability Standard that must be corrected immediately to protect the reliability of the Bulk Power System from the imminent threat that NERC or the Regional Entity has identified.

NERC or the Regional Entity will generally employ Remedial Action Directives where they deem it necessary to clearly specify minimum corrective actions that the subject of the Remedial Action Directive must take; additionally or alternatively a Remedial Action Directive may clearly specify timelines within which the Registered Entity must take specified actions, complete specified tasks, or achieve specified outcomes. Also, to the extent NERC or the Regional Entity is authorized to do so, a Remedial Action Directive may communicate Penalties, sanctions, or further Remedial Action Directives that may be imposed should the specific Remedial Action Directive not be complied with by those to whom it has been issued. As a rule of thumb, Remedial Action Directives will be of use to NERC or the Regional Entity whenever any significant combination of specificity, clarity, or time is of the essence to address a threat to the reliability of the Bulk Power System brought on by lack of or inadequate compliance to the Reliability Standards.

### **6.2 Compliance Requirements**

In the United States, the Commission has concluded that owners, operators, or users of the Bulk Power System must comply with Remedial Action Directives issued to them by NERC or a Regional Entity. Noncompliance with a Remedial Action Directive may result in a substantially increased Penalty or sanction.

Remedial Action Directives issued by NERC or the Regional Entity will include a deadline by which time the owner, operator, or user must complete requirements set out in the Remedial Action Directive, and by which time the Registered Entity must demonstrate compliance to the Remedial Action Directive to NERC or the Regional Entity that issued it. Failure or refusal to meet the requirements or deadlines set out in a Remedial Action Directive may itself result in further Remedial Action Directives or significantly increased Penalties or sanctions by NERC or the Regional Entity.

### **6.3 No Obligation to Issue**

NERC or the Regional Entity may, but is not obligated, to issue Remedial Action Directives. Lack of being issued a Remedial Action Directive does not relieve a Bulk Power System owner, operator, or user from any responsibilities they otherwise have to comply or maintain compliance with Requirements of the Reliability Standards. Remedial Action Directives will be used by NERC or the Regional Entities only as they deem warranted, when they deem warranted.

### **6.4 Scope of Application**

The scope of Remedial Action Directives issued by NERC or the Regional Entity will be limited to conditions, practices, or any other relevant actions or activities resulting in noncompliance, or that NERC or the Regional Entity considers at significant risk of becoming noncompliant, to Requirements of the Reliability Standards, and that present an imminent threat to the reliability of the Bulk Power System. However, beyond merely directing compliance or improved compliance with Reliability Standards' Requirements, where NERC or the Regional Entity is authorized to do so, the Remedial Action Directive may also stipulate how compliance or the improvement to compliance is to be achieved.

## **6.5 Availability**

In the United States, the Commission has interpreted the Federal Power Act to authorize the NERC or the Regional Entity can issue a Remedial Action Directive prior to completion of the confirmation review of a probable violation, or prior to the determination of a Penalty or sanction for that violation. The Commission also concluded it is not necessary for NERC or the Regional Entity to acquire the Commission's or other regulators' approval prior to issuing Remedial Action Directives. Accordingly, NERC or the Regional Entity may issue Remedial Action Directives to Registered Entities in the United States whenever they deem it necessary or otherwise warranted to do so. Also, NERC or the Regional Entity may issue Remedial Action Directives to Registered Entities in the United States regarding a violation that is immediately necessary to terminate or correct to protect the reliability of the Bulk Power System from an imminent threat, irrespective of whether that violation is ultimately verified or dismissed by NERC or the Regional Entity's investigation of the violation.

## **6.6 No Impact on Confirmation of Violation, or Penalties or Sanctions**

Remedial Action Directives issued regarding a violation, in particular any costs incurred by the violator to comply with any such Remedial Action Directive, will not be considered when reviewing whether the aggregate of any Penalties and sanctions levied for that violation bear a reasonable relation to the seriousness of the violation. Also, any Remedial Action Directives issued with respect to a violation will not influence the outcome of the confirmation review of that violation nor the determination of Penalties or sanctions for that violation; ordering a violator to correct what needs correcting anyway is no grounds for dispelling a violation nor reducing or eliminating a Penalty or sanction that would otherwise be determined appropriate for the violator for that violation.

## **6.7 Types of Remedial Actions**

NERC or the Regional Entities may issue Remedial Action Directives to correct compliance with NERC or Regional Reliability Standards and reduce or eliminate imminent threats to the reliability of the Bulk Power System. Examples of Remedial Action Directives include:

- a. Specifying operating or planning criteria, limits, or limitations
- b. Requiring specific system studies
- c. Defining operating practices or guidelines
- d. Requiring confirmation of data, practices, or procedures through inspection testing or other methods
- e. Requiring specific training for personnel
- f. Requiring development of specific operating plans

## Appendix A: Base Penalty Amount Table

The following lists the Base Penalty amounts corresponding to combinations of Violation Risk Factor and Violation Severity Level.

Violation Risk Factor	Violation Severity Level							
	Lower		Moderate		High		Severe	
	Range Limits		Range Limits		Range Limits		Range Limits	
	Low	High	Low	High	Low	High	Low	High
<b>Lower</b>	\$1,000	\$3,000	\$2,000	\$7,500	\$3,000	\$15,000	\$5,000	\$25,000
<b>Medium</b>	\$2,000	\$30,000	\$4,000	\$100,000	\$6,000	\$200,000	\$10,000	\$335,000
<b>High</b>	\$4,000	\$125,000	\$8,000	\$300,000	\$12,000	\$625,000	\$20,000	\$1,000,000

NOTE: This table describes the amount of Penalty that could be applied for each day that a violation continues, subject to the considerations of Section 3.21 regarding frequency and duration of violations.

**PETITION OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
FOR APPROVAL OF REVISIONS TO ITS RULES OF PROCEDURE  
TO ADOPT A BULK ELECTRIC SYSTEM EXCEPTION PROCEDURE**

**ATTACHMENT 5B**

**REVISED APPENDIX 4B OF THE RULES OF PROCEDURE,  
*SANCTION GUIDELINES OF THE*  
*NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION*  
**REDLINED VERSION****



**Appendix 4B**

**Proposed Revisions 1-9-2012  
[Incorporates revisions filed with  
FERC on November 29, 2011]**

**Sanction Guidelines  
of the  
North American  
Electric Reliability Corporation**

**Effective: January 1, 2011**

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## **1. Preamble and Overview**

The North American Electric Reliability Corporation, as the Electric Reliability Organization (ERO), and Regional Entities to whom NERC has delegated authority (hereinafter referred to collectively as “Regional Entities” or individually as a “Regional Entity”) shall determine and may levy monetary Penalties and non-monetary sanctions and remedial actions against owners, operators, and users of the Bulk Power System for violations of the Requirements of NERC Reliability Standards approved by the Federal Energy Regulatory Commission (FERC) and Applicable Governmental Authorities in Canada and/or Mexico. This document sets out the processes and principles to be followed, and factors that will be considered when determining Penalties, sanctions, or remedial actions for violations. Collectively these processes, principles and factors are NERC’s Penalties, sanctions, and remedial action guidelines.

NERC and the Regional Entities will exclusively follow the directives, principles and processes in these Sanction Guidelines when determining Penalties, sanctions, or remedial action for a violation. However, adjustment factors are also provided to afford NERC or the Regional Entity the flexibility needed to accommodate the facts surrounding each violation. In this manner, rigid prescription of specific Penalty formulae can be avoided at the same time that appropriate limitations on the degree of discretion and flexibility available to address each violation on its merits is maintained. The outcome will be remedies that are commensurate and fair compared to the reliability impact of the violation and to remedies levied for similar violations, yet appropriately reflective of any unique facts and circumstances regarding the specific violation and violator.

The adjustment factors established in this document are generally consistent with those listed in the FERC Policy Statement on Enforcement issued on October 20, 2005. However, discussion of the factors presented in this document is not exhaustive as other facets of these factors, or other additional factors not discussed herein, may also be considered to determine a given Penalty, sanction, or remedial action, as NERC or the Regional Entity deems appropriate under the circumstances.

Regional Entities shall follow these guidelines to determine Penalties, sanctions, or remedial actions. NERC shall oversee the Regional Entities’ application of the guidelines to ensure that acceptable levels of consistency are achieved. NERC’s oversight will also ensure comparable outcomes; i.e. that there is acceptable similarity in the degree and type of sanction for violations constituting comparable levels of threat to reliability of the Bulk Power System. In order to facilitate this oversight, Regional Entities’ reporting to NERC of Penalties and sanctions they have determined will be thorough and in sufficient detail that NERC can understand and reasonably replicate the outcomes reached; NERC may develop reporting requirements or a standard reporting form for use by the Regional Entities for this purpose, as NERC deems necessary or appropriate.

As experience is gained by NERC and the Regional Entities through the use and application of these guidelines, NERC will review the guidelines and may modify them as NERC deems appropriate or necessary. Authority delegated by NERC to the Regional Entities with respect to Penalties, sanctions, or remedial actions does not include the authority to modify these guidelines.

Any revision to this document or to the principles and factors identified or addressed within it must first be approved by the NERC Board, then by FERC, Applicable Governmental Authorities in Canada or Applicable Governmental Authorities in Mexico prior to becoming effective and applicable within the United States or these Applicable Governmental Authorities’ respective jurisdictions.

## **2. Document Scope and Exclusions**

This document identifies and discusses the processes and principles to be followed, and factors that will be considered to determine Penalties, sanctions, or remedial actions for violations of the Reliability Standards.

This document notes but does not otherwise address the progression of actions and steps that NERC or the Regional Entity will follow to process a violation from its initial incoming status upon discovery as a Possible Violation, through to its possible final determination as a Confirmed Violation. This is set out in the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure.

This document notes but does not otherwise address how a Possible Violation or Alleged Violation is reviewed in order to confirm or dismiss it. NERC's process and requirements for this review are set out in the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure. Regional Entities will undertake such reviews using the processes and requirements set out in the NERC Compliance Monitoring and Enforcement Program.

This document notes but does not otherwise address the processes and procedural steps by which a Confirmed Violation can be appealed, or by which a Penalty, sanction, or remedial action determined and levied for a violation can be appealed. These procedures are set out in the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, and applicable Regional Entity program documents.

The NERC Compliance Monitoring and Enforcement Program provides for the possibility of settlements within NERC or Regional Entity Compliance Monitoring and Enforcement Programs. This document makes reference to settlements too, but does not address them further.

### **3. Basic Principles**

The following paragraphs identify and discuss the basic principles underpinning why and how NERC and the Regional Entities will determine Penalties, sanctions, and remedial actions for violations of the Requirements of the Reliability Standards.

The principles are unique and complimentary; the order in which they are presented does not set or indicate order of precedence.

#### **3.1 Necessary Element of NERC Compliance Program**

Primary objectives of NERC as the ERO include the promotion and enforcement of compliance with the Reliability Standards by owners, operators, and users of the Bulk Power System; Reliability Standards made mandatory by duly-authorized legislative bodies in the U.S and Canada, and designed to maintain and promote the reliability of the two countries' shared power grids. Consistent with these objectives, NERC and the Regional Entities will monitor and act to verify compliance with Reliability Standards' Requirements; however, beyond monitoring and acting only to verify compliance, NERC and the Regional Entities will also hold Bulk Power System owners, operators, and users — or their delegates — accountable for Confirmed Violations. This accountability will include determination and the possible levying of Penalties, sanctions, or remedial actions.

Penalties, sanctions, and remedial actions are valid and necessary mechanisms to NERC and the Regional Entities for the enforcement and promotion of compliance to the Reliability Standards, in part because they can:

- a. promote compliance behavior;
- b. provide deterrence to future incidents, actions or situations of noncompliance by the violator or others;
- c. implement actions that will promptly correct behavior;
- d. disgorge benefits that may or may have accrued to a violator as a consequence of violating;
- e. visit upon a violator some portion of any damage their violation may or may have visited upon others.

Accordingly, the determination and potential levying of appropriate Penalties, sanctions, or remedial actions by NERC or the Regional Entity upon those responsible for violations shall be a required step within the NERC and Regional Entity Compliance Monitoring and Enforcement Programs.

#### **3.2 Settlement of Compliance Violations**

NERC and the Regional Entities shall maintain the reliability of the Bulk Power System by enforcing compliance with NERC and Regional Reliability Standards. NERC and Regional Entity Compliance Monitoring and Enforcements Programs will lay out how NERC and the Regional Entities will do this. In particular and by necessity, elements of these programs regarding the confirmation of violations, the determination and levying of Penalties, sanctions, or remedial actions, and appeals are rigid and legalistic in form and nature in order to respect the basic tenets of due process and natural justice inherent within United States and Canadian justice systems, respectively, upon which they are being based. However, absolute adherence to the Compliance Monitoring and Enforcement Programs, to the exclusion of other options, may not be the most appropriate, efficient or desirable means by which to achieve the end goal in all circumstances, to all entities party to a violation.

As set out in the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, violations of the Reliability Standards may be dealt with through settlements reached between NERC, Regional Entity and the Registered Entity or Entities to whom a Possible, Alleged, or Confirmed Violation is attributed to by NERC or the Regional Entity. Any provisions made within a settlement regarding Penalties, sanctions, or remedial actions can supersede

any corresponding Penalties, sanctions that would otherwise be determined pursuant to these guidelines.

### **3.3 Settlement Request**

Any Registered Entity found in or being investigated for a violation may request settlement negotiations at any time, including prior to issuance of a Notice of Alleged Violation; however, NERC or the Regional Entity may decline to enter into or continue settlement negotiations after the Possible Violation or Alleged Violation becomes a Confirmed Violation.

### **3.4 Settlement Effect on Continuation of Determination of Penalties, Sanctions, or Remedial Actions**

Until a settlement is finalized or parties to that settlement agree otherwise, NERC or the Regional Entity may continue activities and actions towards the determination and levying of a Penalty, sanction, or remedial action that would otherwise be applicable pursuant to these guidelines, or that will be applicable if the settlement is not finalized.

### **3.5 Timing of Determination of Penalty, Sanction or Remedial Action**

All Possible Violations and Alleged Violations will be reviewed by NERC or the Regional Entity with the outcome that either the violation will be confirmed or the violation will be dismissed.

The Penalty, sanction, or other remedial action for a violation will be determined when the violation becomes a Confirmed Violation or is resolved as part of a settlement agreement.

At any time during confirmation review, hearing, or appeals NERC or the Regional Entity may determine that remedial action is warranted by the subject Registered Entity of the review, hearing, or appeals. NERC or the Regional Entity may direct that such remedial actions be undertaken by the subject Registered Entity at any time, including prior to confirmation of a violation, and without regulatory approval.

### **3.6 Determining Party**

The determination of Penalty, sanction or other remedial action for a violation will generally be undertaken by the same entity determining the violation to be a Confirmed Violation, but subject to review by NERC if the determination is made by a Regional Entity.

### **3.7 No Influence of Penalty, Sanction or Remedial Action upon Violation Confirmation Process**

The Penalty, sanction, or remedial action determined for a violation will not influence the outcome of the Regional Entity' or NERC's confirmation review of the violation. In particular, if the determination of Penalty, sanction, or remedial action for a probable violation is being undertaken by the same entity undertaking the confirmation review, the entity will insure that there is sufficient separation, in such terms as time, process, personnel or the like, to preclude that the Penalty, sanction, or remedial action determined influences the outcome of the confirmation review.

### **3.8 Reasonable Relationship to Violation**

Penalties, sanctions, and remedial actions levied or applied for the violation of a Reliability Standard shall bear a reasonable relation to the seriousness of the violation while also reflecting consideration of the factors that these guidelines direct to take into account. In the United States, the legislation establishing mandatory enforceable Reliability Standards and the ERO requires that "Any penalty imposed ... shall; (A) bear a reasonable relation to the seriousness of the violation; and (B) take into consideration the efforts of the user, owner, or operator to remedy the violation in a timely manner<sup>1</sup>."

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<sup>1</sup> H.R.6, Energy Policy Act of 2005, Section 215, Paragraph e, subparagraph 6.  
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### **3.9 Use and Facets of Factors to Determine Penalties**

Penalties levied for a given violation will be based on all facts and other information relevant to the incident or situation. To that end, these guidelines include factors which NERC and the Regional Entities will consider while determining the Penalty or sanction to be levied.

NERC considers, and these guidelines direct, that the presence of some factors within a violation aggravates the seriousness of that violation and should cause an increase or expansion of the Penalty to be levied. Conversely, the presence of some other factors mitigates that seriousness and should cause a decrease or reduction of the Penalty to be levied. Also, some factors may mitigate or aggravate, and should have commensurate impact. NERC considers, and these guidelines direct, that the absence of an aggravating or mitigating factor will have no impact, as opposed to a mitigating or aggravating impact, respectively, to a Penalty.

This document presents many of the relevant facets of the factors included in these guidelines. However, additional facets of these factors, or additional factors not discussed herein, may also be considered to determine a given Penalty, sanction, or remedial action, as NERC or the Regional Entity deems appropriate under the circumstances. Where additional factors or facets are used they will be identified and their use will be justified. The effect of using these factors or facets on the Penalty, sanction, or remedial action determined will also be fully and clearly disclosed.

### **3.10 Multiple Violations**

A violation is a failure or inadequacy to meet a Requirement of a Reliability Standard by a party responsible to comply with that Requirement.

The failure or inadequacy of a violator to comply may involve more than one Reliability Standard or several Requirements of a single Reliability Standard; as such, multiple individual violations may be in play when Penalties, sanctions, or remedial actions for an incident or situation of noncompliance are being determined.

Strictly speaking, NERC or the Regional Entity can determine and levy a separate Penalty or sanction, or direct remedial action, upon a violator for each individual violation. However, in instances of multiple violations related to a single act or common incidence of noncompliance, NERC or the Regional Entity will generally determine and issue a single aggregate Penalty, sanction, or Remedial Action Directive bearing reasonable relationship to the aggregate of the related violations. The Penalty, sanction, or remedial action will not be that determined individually for the least serious of the violations; it will generally be at least as large or expansive as what would be called for individually for the most serious of the violations.

Some entities may be registered as being responsible for more than one function (e.g., Transmission Owner, Transmission Operator, Balancing Authority, Generation Operator), and a single Requirement in some Reliability Standards may apply to the responsible entity for several functions. Where several functions are performed by the same Registered Entity, a violation will be assessed against the Registered Entity, not against each function.

### **3.11 Relation of the Penalty to the Seriousness of the Violation and Violator's Ability to Pay**

As discussed in Section 3.8, above, Penalties levied for the violation of a Reliability Standard shall bear a reasonable relation to the seriousness of the violation. The seriousness of a given violation by a given violator shall be assessed by review of the applicability of the Violation Risk Factors<sup>2</sup> associated with the violation to the characteristics of the violator's operation or power system. Size is a characteristic of a violator's operation or system. The size of the violator can be considered in the assessment but shall not be the only characteristic considered. Where size is considered in such a

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<sup>2</sup> See Section 4 Part 4.11 for a discussion of these factors  
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review the facts relating to the violation in question will be reviewed such that the “actual” size of the violator is properly discerned and appropriately considered; the following are provided as illustrative examples:

- If the violator belongs to a generation and transmission cooperative or joint-action agency, size will be attributed to the particular violator, rather than to that generation and transmission cooperative or joint-action agency.
- If the violator constitutes part of a corporate family the size of the violator will be attributed to that violator alone, in the absence of any facts indicating involvement of the whole corporation or corporate affiliates of the violator.
- If the violator is an entity established solely as a shell to register as subject to one or more Reliability Standards the size of the entity will be disregarded in favor of consideration of the size of parent entity or any affiliates that NERC or the Regional Entity deems involved and constituting the “actual” size of the violator.

At the request of the violator, NERC or the Regional Entity may review the Penalty in light of the violator’s financial ability to pay the Penalty. Financial ability shall include both the financial strength of the Registered Entity as well as its structure (e.g., for-profit versus non-profit). Where Penalties are reduced or eliminated NERC or the Regional Entity shall consider non-monetary sanctions or remedial action as alternatives or substitutes to the Penalty, pursuant to Sections 3.17, 3.18 and 3.19, below, of this document.

The above actions will: (i) promote that violators are penalized or sanctioned commensurate with the risk or effect that their specific violation of the Reliability Standards had or is having to the reliability of the Bulk Power System while also; (ii) mitigating overly burdensome Penalties to less consequential or financially-limited entities concurrent with; (iii) promoting that no Penalty is inconsequential to the violator to whom it is assessed. This will promote that Penalties levied for violations of Reliability Standards bear a reasonable relation to the seriousness of the violation while also addressing violators’ ability to pay the Penalties they are assessed.

### **3.12 Violation Time Horizon**

Reliability Standards involving longer and broader time horizons, such as long-term planning activities, may have a lesser immediate impact and pose less immediate risk to the reliability of the Bulk Power System than Reliability Standards addressing shorter and narrower timeframes, such as Registered Entities’ conduct in real time. Similarly, Reliability Standards involving longer and broader time horizons typically will provide a longer time period over which to discover and remedy a violation when compared to Reliability Standards addressing more immediate activities such as next-day planning, same-day operations or real-time operations. Using a time horizon element in the determination of Penalties for violations provides for recognition of the “more immediate” nature — and hence higher risk — of the threat of some violations as opposed to the lesser-risk “future threat if not corrected” nature of other violations.

Penalties levied for the violation of a Reliability Standard shall consider the time horizon of the Reliability Standard violated; violations of Reliability Standards involving more immediate or real-time activities will generally incur larger Penalties than violations of Reliability Standards with longer or broader horizons.

Time horizons inherent in Reliability Standard Requirements are not reflected in their assigned Violation Risk Factors or Violation Severity Levels<sup>3</sup>. Accordingly, the time horizon element of a violation will be considered when determining the Base Penalty Amount<sup>4</sup> for the violation.

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<sup>3</sup> See Section 4 Part 4.1.1 for a discussion of these factors.

<sup>4</sup> See Section 4 Part 4.2

The time horizon considered and its impact on the selection of the Base Penalty Amount for the violation will be decided upon by NERC or the Regional Entity based upon judgment and the facts of the violation. The rationale for the time horizon used and its impact on the setting of the Base Penalty Amount will be documented by NERC or the Regional Entity and provided within the Notice of Penalty issued for the violation.

### **3.13 Extenuating Circumstances**

In unique extenuating circumstances, such as significant natural disasters, Penalties may be significantly reduced or eliminated.

### **3.14 Concealment or Intentional Violation**

Penalties levied for the violation of a Reliability Standard shall always take into consideration any attempt by a violator to conceal the violation from NERC or the Regional Entity, or any intentional violation incurred for purposes other than a demonstrably good faith effort to avoid a significant and greater threat to the immediate reliability of the Bulk Power System.

### **3.15 Economic Choice to Violate**

Owners, operators, and users of the Bulk Power System may be presented with situations or circumstances where compliance with the Reliability Standards preclude or reduce an economic gain that could be realized by violating the Reliability Standards. Penalties shall be sufficient to assure that entities responsible for complying with Reliability Standards do not find it attractive to make economic choices that cause or unduly risk violations to Reliability Standards, or risk or cause incidents resulting from violations of the Reliability Standards. Penalties levied to violators who have made such a choice shall reflect this aspect of the violation.

### **3.16 No Influence by Outcome of Economic Choice to Violate**

Economic choices to violate are generally made for the violator's own potential gain, but making such a choice does not always result in all potential gains being realized or may result in damage or loss. However, irrespective of the outcome to the Registered Entity making an economic choice to violate, such decisions risk others' reliability, commonly without either their knowledge or consent. Penalties levied to violators making an economic choice to violate shall reflect only that the choice was made at all; the lack of or reduced magnitude of any actual benefit received, or any damage suffered, by the violator as a consequence of making this choice will have no influence on the determination of the Penalty to be levied.

### **3.17 Non-Monetary Sanctions or Remedial Actions**

Enforcement actions taken by NERC or a Regional Entity are not limited to monetary Penalties; at the discretion of NERC or the Regional Entity, sanctions or remedial actions may also be applied and can include limitations on activities, functions, operations, or other appropriate sanctions, including the establishment of a reliability watch list composed of major violators.

### **3.18 Non-Exclusiveness of Monetary Penalties or Non-Monetary Sanctions**

A non-monetary sanction may be imposed either in lieu of or in addition to a monetary Penalty imposed for the same Confirmed Violation, and vice versa. Imposition of a monetary Penalty or non-monetary sanction for a violation does not preclude the imposition of the other as long as, in combination, the aggregate Penalty continues to bear a reasonable relation to the seriousness of the violation.

### **3.19 Monetization of the Value of Sanctions**

A significant element of NERC's oversight of Penalties, sanctions, and remedial action determined and levied by Regional Entities is ensuring acceptable similarity in the degree and type of sanction for violations constituting comparable levels of threat to the reliability of the Bulk Power System. It is also a requirement and a commitment of NERC and its designees that Penalties, sanctions, or

remedial actions levied or applied for the violation of a Reliability Standard bear reasonable relation to the seriousness of the violation. Specifically with respect to Penalties and sanctions, it is intuitive that it will be easier, more objective, and more transparent to monitor and test for acceptable similarity if (monetary) Penalties or monetized values of sanctions determined for violations are used as the primary basis of comparison, versus comparisons made on the basis of other (non-monetized) considerations. Similarly, there will be strong intuitiveness and transparency, particularly to those interested but not strongly familiar with the power industry, that the seriousness of a violation has been reasonably addressed if the consequences for it to the violator are determined and can be expressed clearly and quantifiably in monetary terms.

Penalties determined and levied by NERC or Regional Entities will by definition be valued in monetary terms: U.S or Canadian dollars. It will be the preference of NERC that (non-monetary) sanctions imposed either in lieu of or in addition to a Penalty include disclosure of the monetary value that the sanctions represent to the violator. It is intuitive that defensible monetary values for those sanctions will be most easily determined if the Penalty for the violation pursuant to these guidelines is first determined and then the sanctions to be levied are introduced and justified as appropriate alternatives to that Penalty or additions to a lesser Penalty. However, sanctions may be determined directly (e.g. without first determining a Penalty amount) and monetized using other methods.

NERC does not have a preference between Penalties and sanctions for violations. The preference expressed here will support ensuring comparability of outcomes regarding application of these guidelines and the promotion of reasonable relationship between the seriousness of a violation and the sanctions, or Penalties and sanctions, levied for it.

### **3.20 Maximum Limitations on Penalties**

Penalties are direct, monetary judgments levied against a violator by NERC or the Regional Entity for the violation of Requirements of the Reliability Standards. In contrast, sanctions will impose limitations or restrictions of some kind that may result in economic or other impacts to the violator, and remedial actions are directives by NERC or a Regional Entity to the violator regarding the correction of conditions, practices or any other relevant action or activity underlying the noncompliance(s) involved.

***In the United States, the Federal Power Act allows for the imposition of civil penalties of up to \$1,000,000 per day per violation.*** NERC and the Regional Entities draw their authority to levy Penalties from the Federal Power Act; accordingly this figure is and can be understood as the maximum monetary Penalty that NERC or Regional Entities are authorized to levy. However, as this legislation also requires that “[a]ny penalty imposed ... shall; (A) bear a reasonable relation to the seriousness of the violation; and (B) take into consideration the efforts of the user, owner, or operator to remedy the violation in a timely manner<sup>5</sup>” ***entities required to comply with the Reliability Standards must also understand that NERC and the Regional Entities will be obligated to assess Penalties amounts up to and including the maximum amount for violations where warranted pursuant to these guidelines.***

In Canadian jurisdictions, the maximum monetary Penalty potentially assessable for a Reliability Standard violation is significantly less than the amount allowed in the United States under the Federal Power Act. Also, legislation presently governing some Canadian jurisdictions does not accommodate the levying of such a Penalty under some circumstances, may not accommodate the levying of such a Penalty for all violations, or does not accommodate the levying of any monetary Penalties.

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<sup>5</sup> H.R.6, Energy Policy Act of 2005, Section 215, Paragraph e, subparagraph 6.  
*NERC Sanction Guidelines*  
Effective: January 1, 2011



When a Penalty may be levied, or proposed to Applicable Governmental Authorities with jurisdiction to be levied, the following steps will be followed:

- a. NERC or the Regional Entity will initially disregard the Penalty limitations of the Applicable Governmental Authorities with jurisdiction, and determine what the Penalties or sanctions would be pursuant to these sanction guidelines only.
- b. NERC or the Regional Entity will review the maximum Penalty allowed by the Applicable Governmental Authorities with jurisdiction.
- c. NERC or the Regional Entity will set the actual Penalty to be levied, or proposed to the Applicable Governmental Authorities with jurisdiction to be levied, as the lesser of that determined pursuant to these guidelines and the maximum Penalty or sanction allowed by the Applicable Governmental Authorities.
- d. If the lesser Penalty is the maximum Penalty allowed by the Applicable Governmental Authorities, the Notice of Penalty or similar document issued by NERC or the Regional Entity regarding the violation will also list the Penalty that was determined pursuant to these guidelines.

Adhering to the above steps will insure that the result of the determination of any Penalty for any violation will produce output that can be directly compared (i.e. without influence of local Applicable Governmental Authorities' Penalty limitations or restrictions) with the Penalty determined for any other violation, assisting efforts of NERC and others to ensure that these guidelines are uniformly applied and that there is an acceptable level of consistency in the application of these sanction guidelines across North America. Applicable Governmental Authorities with jurisdiction may also find such information useful for their determination of the appropriateness of any Penalty or sanction proposed to them to be levied. Similarly, policy and legislative bodies may find such information of value to the review or development of arrangements addressing such matters.

### **3.21 Frequency and Duration of Violations**

Section 316A of the Federal Power Act [16 U.S.C. § 825o-1(b)], as amended by the Energy Policy Act of 2005, provides that “any person who violates any provision of Part II of this title or any provision of any rule or order thereunder shall be subject to a civil penalty of not more than \$1,000,000 for each day that such violation continues.”

FERC Order No. 672 interprets this statement as setting a cap on the monetary Penalties that the Commission, NERC and Regional Entities can impose under FPA section 215. FERC has referred to this statutory provision as imposing a maximum \$1,000,000 “per day, per violation” Penalty and has directed that the ERO must ensure that in the U.S. such a Penalty amount (\$1,000,000), in such a manner (“per day, per violation”), can be imposed for a violation of the Reliability Standards should the conduct at issue so warrant.

Some Reliability Standards may not support the assessment of Penalties on a “per day, per violation” basis, but instead should have Penalties calculated based on an alternative Penalty frequency or duration. Where NERC or the Regional Entity deems that a monetary Penalty is warranted, or where NERC or the Regional Entity is monetizing (Section 3.19) the value of a non-monetary sanction, for the violation of such a Reliability Standard NERC or the Regional Entity shall determine the Penalty or monetized amount consistent with the following:

#### Multiple Instances of Violation on One Day

The nature of some Reliability Standards includes the possibility that a Registered Entity could violate the same Requirement two or more times on the same day. In this instance NERC or the Regional Entity is not limited to penalizing the violator a maximum of \$1,000,000 per day. As NERC or the Regional Entity deems appropriate NERC or the Regional Entity may deem that there have

been multiple violations that occurred on the same day, each of which is subject to the maximum potential Penalty of \$1,000,000 per violation, per day. Also, NERC or the Regional Entity is not constrained to assessing the same Penalty amount for each of the multiple violations, irrespective of their proximity in time.

#### Cumulative Over Time

Certain Requirements of the Reliability Standards are measured not on the basis of discrete acts, but of cumulative acts over time. Reliability Standards that fall into this category are generally those involving measurements based on averages over a given period. Where a violation of such a Reliability Standard has occurred the element of averaging performance over a period of time introduces the difficulty to NERC or the Regional Entity of reasonably identifying (i) what date the violation should be deemed to have occurred and (ii) its duration.

If a Reliability Standard Requirement measured by an average over time can only be violated once per applicable period, then there is risk that a disproportionately mild Penalty might be levied in a situation where the violation was serious and the effects on the Bulk Power System severe. In the future, each Reliability Standard Requirement that is based on an average over time will specify the minimum period in which a violation could occur and how to determine when a violation arises, which may be other than once per applicable period<sup>6</sup>. In the interim until relevant Reliability Standards are so modified, any ambiguity on this point will be construed conservatively, meaning that where a Registered Entity has not complied with such a Reliability Standard NERC or the Regional Entity will generally consider that only one violation occurred per measurement period. However, notwithstanding this general principle of one violation per measurement period, if an average must be measured by a span of time greater than a month, each month of that span shall constitute at a minimum one violation.

#### Periodically Monitored Discrete Violation

Some Reliability Standards may involve discrete events which are only monitored periodically or which are reported by exception. If a Requirement of such a Reliability Standard states that a discrete event constitutes a violation, then (i) a violation arises when that event occurs and (ii) that violation continues until remedied; furthermore, (iii) the violation is deemed to have occurred at the point that the Registered Entity entered into noncompliance with the Reliability Standard regardless of the monitoring period for the activity or its date of discovery or reporting. For example, if a task required by a Reliability Standard Requirement has not been done by the required date, it is irrelevant that monitoring for compliance for the Requirement occurs only on a yearly or other periodic basis; NERC or the Regional Entity will deem a violation to have occurred on the first day of noncompliance and each day thereafter until compliance is effectuated. Similarly, if a discrete event occurs and is not remedied on the date of occurrence, then NERC or the Regional Entity will deem a violation to have occurred on the day of the first instance of the noncompliance and each day, or portion thereof thereafter until compliance is effectuated.

Non-compliance with a Reliability Standard of this type will subject the violator to the potential maximum monetary Penalty of \$1,000,000 per violation per day in violation.

NERC or the Regional Entity is not constrained to assessing the same Penalty amount for each day that the Registered Entity was in violation of the Reliability Standard Requirement in question.

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<sup>6</sup> Para. 41; FERC Order on Clarification and Rehearing [Docket No. RR06-1-006]  
*NERC Sanction Guidelines*  
Effective: January 1, 2011

## **4. Determination of Monetary Penalties**

The following describes the steps that NERC or the Regional Entity will follow to determine the monetary Penalty for a violation<sup>7</sup>. The determination of non-monetary sanctions is discussed in Section 5 of this document; Section 6 discusses remedial action.

- Step 1. The Base Penalty Amount for the violation will be set as discussed in Sections 4.1 and 4.2, below.
- Step 2. The Base Penalty Amount set in Step 1 will be reviewed pursuant to Section 4.3, below. This will result in the Adjusted Penalty Amount.
- Step 3. The Adjusted Penalty Amount determined in Step 2 may be reviewed in light of the violator's financial ability to pay the Penalty. Also, where applicable NERC or the Regional Entity will reconfirm that the Penalty set will disgorge unjust profits or economic benefits associated with an economic choice to violate<sup>8</sup>. At the conclusion of this review the Final Penalty Amount will be set.

Unless NERC or the Regional Entity deems alternative frequency or duration is warranted Penalties shall be assessed on a per violation per day basis. Where NERC or the Regional Entity deems that alternative Penalty frequency or duration is warranted the Notice of Penalty associated with the violation will clearly identify this and provide the rationale for it. Where NERC or the Regional Entity deems that alternative Penalty frequency or duration is warranted, Penalties shall be determined in accordance with section 3.21 of the Sanction Guidelines.

### **4.1 Initial Value Range of the Base Penalty Amount**

NERC or the Regional Entity will determine an initial value range for the Base Penalty Amount by considering two factors regarding the violation: the Violation Risk Factor (VRF) of the Requirement violated and the Violation Severity Level (VSL) assessed for the violation. Using the Base Penalty Amount Table provided in Appendix A NERC or the Regional Entity will look up the initial value range for the Base Penalty Amount by finding the intersection of the violation's VRF and VSL on the table<sup>9</sup>.

#### **4.1.1 Violation Risk Factor**

Each Requirement set out within NERC's Reliability Standards has been assigned a Violation Risk Factor (VRF) through the NERC Reliability Standards development process. The factors have been defined and approved through the Reliability Standards development process and are assigned to Requirements to provide clear, concise and comparative association between the violation of a Requirement and the expected or potential impact of the violation to the reliability of the Bulk Power System. One of three defined levels of risk is assigned to each Reliability Standards Requirement: lower Violation Risk Factor, or; medium Violation Risk Factor, or; high Violation Risk Factor. Definitions of the factors can be found in appropriate Reliability Standards development process documentation.

#### **4.1.2 Violation Severity Level**

Violation Severity Levels (VSLs) are defined measurements of the degree to which a violator violated a Requirement of a Reliability Standard. Whereas Violation Risk Factors are determined pre-violation and indicate the relative potential impacts that violations of each

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<sup>7</sup> The text in this section discusses the determination of a single Penalty for an individual violation; however, the process laid out is also applicable to determining the individual Penalties, or a single aggregate Penalty, for multiple violations that are associated with each other as discussed in Section 3 Part 3.1 of this document.

<sup>8</sup> Reference: Section 3 Parts 3.15 and 3.16.

<sup>9</sup> As discussed in Section 3 Part 3.1 of this document where there is more than one violation in play, but the violations are sufficiently associated, NERC or the Regional Entity may set a single initial value range that is appropriate in light of the individual VRF/VSL combinations of the violations.

Reliability Standard could pose to the reliability of the Bulk Power System, the Violation Severity Level is assessed post-violation and is an indicator of how severely the violator actually violated the Reliability Standard(s) Requirement(s) in question.

These guidelines utilize the Violation Severity Levels that have been established<sup>10</sup> by NERC for Requirements of the Reliability Standards. Up to four levels can be defined for each Requirement; the levels have been designated as: lower, moderate, high, and severe.

#### **4.2 Setting of the Base Penalty Amount**

NERC or the Regional Entity will set the Base Penalty Amount for the violation. The Base Penalty Amount set for the violation may be set at the highest figure of the initial value range determined pursuant to Section 4.1, above. However, NERC or the Regional Entity may set the Base Penalty Amount at or below the lowest figure of the initial value range in light of two specific circumstances regarding the violation and the violator, specifically:

- a. The applicability of the Violation Risk Factor of the violation to the specific circumstances<sup>11</sup> of violator.
- b. Whether this is an inconsequential first violation by the violator of the Reliability Standard(s) in question.

As noted in Section 3.12 NERC or the Regional Entity will consider the time horizon involved with the violation when setting the Base Penalty Amount for the violation. As also noted in Section 3.12 this consideration will be documented for inclusion in the Notice of Penalty issued for the violation.

The Penalty amount resulting from this review will be the Base Penalty Amount that is used as the basis for further adjustment pursuant to the factors discussed in the next section (4.3) of this document.

##### **4.2.1 Applicability of the Violation Risk Factor**

Violation Risk Factors are assigned to Reliability Standards' Requirements as indicators of the expected risk or harm to the Bulk Power System posed by the violation of a Requirement by a typical or median Registered Entity that is required to comply. NERC or the Regional Entity may consider the specific circumstances of the violator to determine if the violation of the Requirement in question actually produced the degree of risk or harm anticipated by the Violation Risk Factor. If that expected risk or harm was not or would not have been produced, NERC or the Regional Entity may set the Base Penalty Amount to a value it (i) deems appropriate and (ii) is within the initial value range set above pursuant to Section 4.1.

##### **4.2.2 First Violation**

If the actual or foreseen impact of the violation is judged to be inconsequential by NERC or the Regional Entity and the violation is the first incidence of violation of the Requirement in question by the violator, NERC or the Regional Entity may at its discretion: (i) set the Base Penalty Amount to a value it deems appropriate within the initial value range set above pursuant to Section 4.1, or (ii) excuse the Penalty for the violation (i.e. set the Base Penalty Amount to 0\$).

This relief will generally not be afforded to the violator if NERC or the Regional Entity determines that the violator has a poor compliance record; e.g. the circumstances discussed in

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<sup>10</sup> Assignment of these levels will be complete and filed with the Commission by March 1, 2008 in accordance with FERC Order on Compliance Filing dated June 7, 2007 [Docket No. RR06-1-007] .

<sup>11</sup> The circumstances of the violator will include but not be limited to, as appropriate: the violator's aggregate and net [Loadload](#); interconnections characteristics such as voltage class and transfer ratings.

Section 4.3.1 have been an aggravating factor in one or more previous Penalties assessed to the violator.

This relief will not be available for consideration in instances where the violator has concealed or attempted to conceal the violation, failed or refused to comply with compliance directives from NERC or the Regional Entity, or intentionally violated for purposes other than a demonstrably good faith effort to avoid a significant and greater threat to the immediate reliability of the Bulk Power System.

### **4.3 Application of Adjustment Factors**

Adjustment factors provide the opportunity to NERC or the Regional Entity to adjust the Base Penalty Amount to reflect the specific facts and circumstances material to each violation and violator.

These guidelines recognize and require that, as a minimum, NERC or the Regional Entity consider the following:

- a. Repetitive violations and the violator's compliance history
- b. Failure of the violator to comply with compliance directives
- c. Self-disclosure and voluntary corrective action by the violator
- d. Degree and quality of cooperation by the violator in the violation investigation and in any remedial action directed for the violation
- e. The presence and quality of the violator's compliance program quality
- f. Any attempt by the violator to conceal the violation
- g. Intentional violations
- h. Extenuating circumstances

Two documents issued by United States regulatory agencies will be instructive to NERC and the Regional Entities when they are determining Penalties for violations of the Reliability Standards: the FERC's Policy Statement on Enforcement issued on October 20, 2005 under Docket No. PL06-00, and; U.S Securities and Exchange Commission (SEC) Release No. 44969 under the Securities and Exchange Act of 1934, issued on October 23 2001, also concurrently issued by the SEC as Release No. 1470 under Accounting and Auditing Enforcement.

NERC or the Regional Entity may also consider other additional factors it deems appropriate under the circumstances as long as their use is clearly identified and adequately justified. The effect of using these factors will also be fully and clearly disclosed.

#### **4.3.1 Repetitive Violations and Compliance History**

A bulleted point under Paragraph 20 of the FERC Policy Statement on Enforcement highlights repeat offenses by a violator. If a violator has had repetitive infractions of the same or a closely-related Reliability Standard Requirement, particularly within a time frame defined within the Reliability Standard(s) or deemed appropriate by NERC or the Regional Entity in the absence of the Reliability Standard(s) defining the time frame, NERC or the Regional Entity shall consider some increase to the Penalty.

The term "violation reset time period" of a Reliability Standards Requirement may be defined or implied within a given Reliability Standard to describe the period of time generally required for a violator to continue operations without incidence of further violation(s) of the Reliability Standards, particularly of the initial or a similar Reliability Standard violated, in order to avoid or minimize consideration of the violator's previous violation history for sanctioning purposes in the event of a subsequent violation(s). NERC and the Regional

Entities shall exercise appropriate judgment and discretion in this regard as warranted, particularly where no reset time period is specifically set within the Reliability Standard violated. Repeat violations within violation reset time periods are aggravating factors in the determination of sanctioning. Accordingly, a violation history of no violations will produce no mitigation of the Penalty otherwise determined; a violation history of infrequent minor violations of lesser risk Requirements assessed lower Violation Severity Levels may result in small or no increase; a history of more frequent violations or previous violations of higher risk Requirements assessed more severe Violation Severity Levels will generally incur commensurately larger increases.

#### **4.3.2 Failure to Comply with Compliance Directives**

If the violator has violated Reliability Standard Requirements notwithstanding having received related compliance directives, such as for remedial action from NERC or the Regional Entity, NERC or the Regional Entity shall consider some increase to the Penalty.

#### **4.3.3 Self-Disclosure and Voluntary Corrective Action**

NERC or the Regional Entity shall consider whether a violator self-disclosed the violation prior to detection or intervention by NERC or the Regional Entity, and any action undertaken by the violator to correct the situation. NERC or the Regional Entity will be instructed in their consideration of these factors by the text of Paragraphs 24 and 25 of the FERC Policy Statement on Enforcement. As they deem warranted, NERC or the Regional Entity may reduce the violator's Penalty consistent with the cited sections of the FERC policy.

#### **4.3.4 Degree and Quality of Cooperation in Violation Investigation and Remedial Action**

NERC or the Regional Entity shall consider the degree and quality of the violator's cooperation with NERC or the Regional Entity in the investigation of the violation and any remedial action arising from it. NERC or the Regional Entity will be instructed in making their determination on this by the text of Paragraphs 26 and 27 of the FERC Policy Statement on Enforcement. NERC or the Regional Entity may adjust the violator's Penalty as they deem warranted commensurate with the cited sections of the FERC policy statement. This may result in an increase, a decrease or no change to the Penalty.

#### **4.3.5 Presence and Quality of Compliance Program**

NERC or the Regional Entity shall consider the presence and quality of the violator's compliance program. NERC or the Regional Entity will be instructed in making their determination on this factor by the text of Paragraphs 22 and 23 of the FERC Policy Statement on Enforcement. As they deem warranted, NERC or the Regional Entity may reduce the violator's Penalty consistent with the cited sections of the FERC policy. Consistent with the FERC policy NERC or the Regional Entity may not increase a violator's Penalty specifically on the grounds that the violator has no program or a poor quality program.

#### **4.3.6 Violation Concealment**

Two bulleted points under Paragraph 20 of the FERC Policy Statement on Enforcement highlight misrepresentation of material facts and resistance or impediment to inquiry of a violation. When determining a Penalty NERC or the Regional Entity shall consider any concealment or attempt to conceal the violation, or information needed to investigate the violation, on the part of the violator. If the violator concealed or attempted to conceal, some significant increase to the Penalty shall be considered; doubling of the Penalty otherwise determined is suggested. Conduct of this nature on more than one occasion regarding one violation, or with respect to more than one violation, should incur an even larger increase to the Penalty otherwise determined.

#### **4.3.7 Intentional Violation**

Another bulleted point under Paragraph 20 of the FERC Policy Statement on Enforcement highlights offenses as willful action by a violator. When determining a Penalty NERC or the Regional Entity shall consider if the violator intentionally violated without just cause; i.e., for purposes other than a demonstrably good faith effort to avoid a significant and greater threat to the immediate reliability of the Bulk Power System. If the violator engaged in such conduct, some significant increase to the Penalty shall be considered; doubling of the Penalty otherwise determined is suggested. If conduct of this nature has been detected on more than one occasion, NERC or the Regional Entity should assess an even larger increase to the Penalty otherwise determined.

NERC or the Regional Entity will consider violations attributable to an economic choice to violate as intentional violations. Consistent with the FERC Policy Statement on Enforcement any Penalty issued involving conduct of this manner shall as a minimum disgorge any profits or economic benefits acquired as a consequence of the behavior, whenever and to the extent that they can be determined or reasonably estimated.

#### **4.3.8 Extenuating Circumstances**

NERC or the Regional Entity will consider if there are extenuating circumstances regarding the violation that justify reduction or elimination of the Penalty otherwise determined.

Consideration of adjusting a Penalty for this factor would be inconsistent with NERC or the Regional Entity increasing a Penalty after consideration of any other factor included in this section of these guidelines, such as intentional violation without justifiable cause or concealment or attempt to conceal.

### **4.4 Setting of the Final Penalty Amount**

The Adjusted Penalty Amount determined in Step 2 may be reviewed in light of the violator's financial ability to pay the Penalty. Also, if the violation was an economic choice, NERC or the Regional Entity will reconfirm that the Penalty set will disgorge any unjust profits or economic benefits. At the conclusion of this review the Final Penalty Amount will be set.

#### **4.4.1 Violator's Financial Ability to Pay<sup>12</sup>**

At the written request of the violator NERC or the Regional Entity will review the Penalty determined in Step 2 in light of relevant, verifiable information that the violator provides regarding their financial ability to pay. At the conclusion of this review NERC or the Regional Entity may:

1. Reduce the Penalty payable to an amount that NERC or the Regional Entity, as applicable, deems the violator has the financial ability to pay, or;
2. Excuse the Penalty amount payable, or;
3. Sustain the Penalty amount determined in Step 2.

Where the Penalty amount has been reduced or excused, NERC or the Regional Entity shall consider the assessment of appropriate non-monetary sanction(s) as a substitute or an alternative for the Penalty amount that has been excused or by which the Penalty has been reduced.

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<sup>12</sup> NERC anticipates that this will be the primary vehicle for addressing the ability to pay of "not-for-profit" and other similar organizations.

**4.4.2 Reconfirmation of Disgorgement of Unjust Profit or Gain**

Notwithstanding the application of any other consideration or factor applicable to the determination of a just and reasonable Penalty for the violation, if the violation in question involved an economic choice to violate NERC or the Regional Entity shall reconfirm that the Penalty set meets the requirements set forth in Parts 3.15 and 3.16 of Section 3 of this document.



## **5. Determination of Non-Monetary Sanctions**

The imposition of sanctions is not bounded to monetary Penalties. Non-monetary sanctions applied must be applied with the objective of promoting reliability and compliance with the Reliability Standards. Non-monetary sanctions may include, but not be limited to, the following:

- a. Limitations on activities, functions, or operations
- b. Placing an entity on a reliability watch list composed of major violators

## 6. Remedial Action Directives

### 6.1 Definition and Anticipated Use

Remedial Action Directives are directives that may be issued to a Bulk Power System owner, operator, or user to resolve an Alleged Violation of a Reliability Standard by addressing conditions, practices, or any other relevant action or activity that is immediately necessary to terminate or correct to protect the reliability of the Bulk Power System from an imminent threat. A Remedial Action Directive will be issued when NERC or the Regional Entity identifies an Alleged Violation of a Reliability Standard that must be corrected immediately to protect the reliability of the Bulk Power System from the imminent threat that NERC or the Regional Entity has identified.

NERC or the Regional Entity will generally employ Remedial Action Directives where they deem it necessary to clearly specify minimum corrective actions that the subject of the Remedial Action Directive must take; additionally or alternatively a Remedial Action Directive may clearly specify timelines within which the Registered Entity must take specified actions, complete specified tasks, or achieve specified outcomes. Also, to the extent NERC or the Regional Entity is authorized to do so, a Remedial Action Directive may communicate Penalties, sanctions, or further Remedial Action Directives that may be imposed should the specific Remedial Action Directive not be complied with by those to whom it has been issued. As a rule of thumb, Remedial Action Directives will be of use to NERC or the Regional Entity whenever any significant combination of specificity, clarity, or time is of the essence to address a threat to the reliability of the Bulk Power System brought on by lack of or inadequate compliance to the Reliability Standards.

### 6.2 Compliance Requirements

In the United States, the Commission has concluded that owners, operators, or users of the Bulk Power System must comply with Remedial Action Directives issued to them by NERC or a Regional Entity. Noncompliance with a Remedial Action Directive may result in a substantially increased Penalty or sanction.

Remedial Action Directives issued by NERC or the Regional Entity will include a deadline by which time the owner, operator, or user must complete requirements set out in the Remedial Action Directive, and by which time the Registered Entity must demonstrate compliance to the Remedial Action Directive to NERC or the Regional Entity that issued it. Failure or refusal to meet the requirements or deadlines set out in a Remedial Action Directive may itself result in further Remedial Action Directives or significantly increased Penalties or sanctions by NERC or the Regional Entity.

### 6.3 No Obligation to Issue

NERC or the Regional Entity may, but is not obligated, to issue Remedial Action Directives. Lack of being issued a Remedial Action Directive does not relieve a Bulk Power System owner, operator, or user from any responsibilities they otherwise have to comply or maintain compliance with Requirements of the Reliability Standards. Remedial Action Directives will be used by NERC or the Regional Entities only as they deem warranted, when they deem warranted.

### 6.4 Scope of Application

The scope of Remedial Action Directives issued by NERC or the Regional Entity will be limited to conditions, practices, or any other relevant actions or activities resulting in noncompliance, or that NERC or the Regional Entity considers at significant risk of becoming noncompliant, to Requirements of the Reliability Standards, and that present an imminent threat to the reliability of the Bulk Power System. However, beyond merely directing compliance or improved compliance with Reliability Standards' Requirements, where NERC or the Regional Entity is authorized to do so, the Remedial Action Directive may also stipulate how compliance or the improvement to compliance is to be achieved.

## **6.5 Availability**

In the United States, the Commission has interpreted the Federal Power Act to authorize the NERC or the Regional Entity can issue a Remedial Action Directive prior to completion of the confirmation review of a probable violation, or prior to the determination of a Penalty or sanction for that violation. The Commission also concluded it is not necessary for NERC or the Regional Entity to acquire the Commission's or other regulators' approval prior to issuing Remedial Action Directives.

Accordingly, NERC or the Regional Entity may issue Remedial Action Directives to Registered Entities in the United States whenever they deem it necessary or otherwise warranted to do so. Also, NERC or the Regional Entity may issue Remedial Action Directives to Registered Entities in the United States regarding a violation that is immediately necessary to terminate or correct to protect the reliability of the Bulk Power System from an imminent threat, irrespective of whether that violation is ultimately verified or dismissed by NERC or the Regional Entity's investigation of the violation.

## **6.6 No Impact on Confirmation of Violation, or Penalties or Sanctions**

Remedial Action Directives issued regarding a violation, in particular any costs incurred by the violator to comply with any such Remedial Action Directive, will not be considered when reviewing whether the aggregate of any Penalties and sanctions levied for that violation bear a reasonable relation to the seriousness of the violation. Also, any Remedial Action Directives issued with respect to a violation will not influence the outcome of the confirmation review of that violation nor the determination of Penalties or sanctions for that violation; ordering a violator to correct what needs correcting anyway is no grounds for dispelling a violation nor reducing or eliminating a Penalty or sanction that would otherwise be determined appropriate for the violator for that violation.

## **6.7 Types of Remedial Actions**

NERC or the Regional Entities may issue Remedial Action Directives to correct compliance with NERC or Regional Reliability Standards and reduce or eliminate imminent threats to the reliability of the Bulk Power System. Examples of Remedial Action Directives include:

- a. Specifying operating or planning criteria, limits, or limitations
- b. Requiring specific system studies
- c. Defining operating practices or guidelines
- d. Requiring confirmation of data, practices, or procedures through inspection testing or other methods
- e. Requiring specific training for personnel
- f. Requiring development of specific operating plans

## Appendix A: Base Penalty Amount Table

The following lists the Base Penalty amounts corresponding to combinations of Violation Risk Factor and Violation Severity Level.

Violation Risk Factor	Violation Severity Level							
	Lower		Moderate		High		Severe	
	Range Limits		Range Limits		Range Limits		Range Limits	
	Low	High	Low	High	Low	High	Low	High
<b>Lower</b>	\$1,000	\$3,000	\$2,000	\$7,500	\$3,000	\$15,000	\$5,000	\$25,000
<b>Medium</b>	\$2,000	\$30,000	\$4,000	\$100,000	\$6,000	\$200,000	\$10,000	\$335,000
<b>High</b>	\$4,000	\$125,000	\$8,000	\$300,000	\$12,000	\$625,000	\$20,000	\$1,000,000

NOTE: This table describes the amount of Penalty that could be applied for each day that a violation continues, subject to the considerations of Section 3.21 regarding frequency and duration of violations.

**PETITION OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
FOR APPROVAL OF REVISIONS TO ITS RULES OF PROCEDURE  
TO ADOPT A BULK ELECTRIC SYSTEM EXCEPTION PROCEDURE**

**ATTACHMENT 6A**

**REVISED APPENDIX 5B OF THE RULES OF PROCEDURE,**

***STATEMENT OF COMPLIANCE REGISTRY CRITERIA***

**CLEAN VERSION**

**Proposed Revisions 1-9-2012  
[Incorporates revisions filed with  
FERC on November 29, 2011]**

## **Appendix 5B**

### **Statement of Compliance Registry Criteria**

**Revision 5.0 — Approved: NERC Board of Trustees July 30, 2008**

**Effective: October 16, 2008**

# Statement of Compliance Registry Criteria (Revision 5.0)

## Summary

Since becoming the Electric Reliability Organization (ERO), NERC has initiated a program to identify candidate organizations for its Compliance Registry. The program, conducted by NERC and the Regional Entities<sup>1</sup>, will also confirm the functions and information now on file for currently-registered organizations. NERC and the Regional Entities have the obligation to identify and register all entities that meet the criteria for inclusion in the Compliance Registry, as further explained in the balance of this document.

This document describes how NERC will identify organizations that may be candidates for Registration and assign them to the Compliance Registry.

Organizations will be responsible to register and to comply with approved Reliability Standards to the extent that they are owners, operators, and users of the Bulk Power System, perform a function listed in the functional types identified in Section II of this document, and are material to the Reliable Operation of the interconnected Bulk Power System as defined by the criteria and notes set forth in this document. NERC will apply the following principles to the Compliance Registry:

- In order to carry out its responsibilities related to enforcement of Reliability Standards, NERC must identify the owners, operators, and users of the Bulk Power System who have a material impact<sup>2</sup> on the Bulk Power System through a Compliance Registry. NERC and the Regional Entities will make their best efforts to identify all owners, users and operators who have a material reliability impact on the Bulk Power System in order to develop a complete and current Compliance Registry list. The Compliance Registry will be updated as required and maintained on an on-going basis.
- Organizations listed in the Compliance Registry are responsible and will be monitored for compliance with applicable mandatory Reliability Standards. They will be subject to NERC's and the Regional Entities' Compliance Monitoring and Enforcement Programs.

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<sup>1</sup> The term "Regional Entities" includes Cross-Border Regional Entities.

<sup>2</sup> The criteria for determining whether an entity will be placed on the Compliance Registry are set forth in the balance of this document. At any time a person may recommend in writing, with supporting reasons, to the Director of Compliance that an organization be added to or removed from the Compliance Registry, pursuant to NERC ROP 501.1.3.5.

- NERC and Regional Entities will not monitor nor hold those not in the Compliance Registry responsible for compliance with the Reliability Standards. An entity which is not initially placed on the Compliance Registry, but which is identified subsequently as having a material reliability impact, will be added to the Compliance Registry. Such entity will not be subject to a sanction or Penalty by NERC or the Regional Entity for actions or inactions prior to being placed on the Compliance Registry, but may be required to comply with a Remedial Action Directive or Mitigation Plan in order to become compliant with applicable Reliability Standards. After such entity has been placed on the Compliance Registry, it shall be responsible for complying with Reliability Standards and may be subject to sanctions or Penalties as well as any Remedial Action Directives and Mitigation Plans required by the Regional Entities or NERC for future violations, including any failure to follow a Remedial Action Directive or Mitigation Plan to become compliant with Reliability Standards.
- Required compliance by a given organization with the Reliability Standards will begin the later of (i) inclusion of that organization in the Compliance Registry and (ii) approval by the Applicable Governmental Authority of mandatory Reliability Standards applicable to the Registered Entity.

Entities responsible for funding NERC and the Regional Entities have been identified in the budget documents filed with FERC. Presence on or absence from the Compliance Registry has no bearing on an entity's independent responsibility for funding NERC and the Regional Entities.

## **Background**

In 2005, NERC and the Regional Entities conducted a voluntary organization registration program limited to Balancing Authorities, Planning Authorities, regional reliability organizations, Reliability Coordinators, Transmission Operators, and Transmission Planners. The list of the entities that were registered constitutes what NERC considered at that time as its Compliance Registry.

NERC has recently initiated a broader program to identify additional organizations potentially eligible to be included in the Compliance Registry and to confirm the information of organizations currently on file. NERC believes this is a prudent activity at this time because:

- As of July 20, 2006, NERC was certified as the ERO created for the U.S. by the Energy Policy Act of 2005 (EPAct) and FERC Order 672. NERC has also filed with Canadian authorities for similar recognition in their respective jurisdictions.
- FERC's Order 672 directs that owners, operators and users of the Bulk Power System shall be registered with the ERO and the appropriate Regional Entities.
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- NERC’s Reliability Standards include compliance Requirements for additional reliability function types beyond the six types registered by earlier registration programs.
- Based on selection as the ERO, the extension and expansion of NERC’s current Registration program<sup>3</sup> is the means by which NERC and the Regional Entities will plan, manage and execute Reliability Standard compliance oversight of owners, operators, and users of the Bulk Power System.
- Organizations listed in the Compliance Registry are subject to NERC’s and the Regional Entities’ Compliance Monitoring and Enforcement Programs.

### **Statement of Issue**

As the ERO, NERC intends to comprehensively and thoroughly protect the reliability of the grid. To support this goal NERC will include in its Compliance Registry each entity that NERC concludes can materially impact the reliability of the Bulk Power System. However, the potential costs and effort of ensuring that every organization potentially within the scope of “owner, operator, and user of the Bulk Power System” becomes registered while ignoring their impact upon reliability, would be disproportionate to the improvement in reliability that would reasonably be anticipated from doing so.

NERC wishes to identify as many organizations as possible that may need to be listed in its Compliance Registry. Identifying these organizations is necessary and prudent at this time for the purpose of determining resource needs, both at the NERC and Regional Entity level, and to begin the process of communication with these entities regarding their potential responsibilities and obligations. NERC and the Regional Entities believe that primary candidate entities can be identified at this time, while other entities can be identified later, as and when needed. Selection principles and criteria for the identification of these initial entities are required. This list will become the “Initial Non-binding Organization Registration List”. With FERC having made the approved Reliability Standards enforceable, this list becomes the NERC Compliance Registry.

### **Resolution**

NERC and the Regional Entities have identified two principles they believe are key to the entity selection process. These are:

1. There needs to be consistency between Regions and across the continent with respect to which entities are registered, and;
2. Any entity reasonably deemed material to the reliability of the Bulk Bower System will be registered, irrespective of other considerations.

To address the second principle the Regional Entities, working with NERC, will identify and register any entity they deem material to the reliability of the Bulk Power System.

In order to promote consistency, NERC and the Regional Entities intend to use the following criteria as the basis for determining whether particular entities should be identified as candidates

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<sup>3</sup> See: NERC ERO Application; Exhibit C; Section 500 – Organization Registration and Certification.

for Registration. All organizations meeting or exceeding the criteria will be identified as candidates.

The following four groups of criteria (Sections I-IV) plus the statements in Section V will provide guidance regarding an entity's Registration status:

- Section I determines if the entity is an owner, operator, or user of the Bulk Power System and, hence, a candidate for organization Registration.
- Section II uses NERC's current functional type definitions to provide an initial determination of the functional types for which the entities identified in Section I should be considered for Registration.
- Section III lists the criteria regarding smaller entities; these criteria can be used to forego the Registration of entities that were selected to be considered for Registration pursuant to Sections I and II and, if circumstances change, for later removing entities from the Registration list that no longer meet the relevant criteria.
- Section IV — additional criteria for joint Registration. Joint Registration criteria may be used by joint action agencies, generation and transmission cooperatives and other entities which agree upon a clear division of compliance responsibility for Reliability Standards by written agreement. Pursuant to FERC's directive in paragraph 107 of Order No. 693, rules pertaining to joint Registration and Joint Registration Organizations will now be found in Sections 501 and 507 of the NERC Rules of Procedure.

I. Entities that use, own or operate Elements of the Bulk Electric System as established by NERC's approved definition of Bulk Electric System below are (i) owners, operators, and users of the Bulk Power System and (ii) candidates for Registration:

*“Bulk Electric System” or “BES” means unless modified by the lists shown below, all Transmission Elements operated at 100 kV or higher and Real Power and Reactive Power resources connected at 100 kV or higher. This does not include facilities used in the local distribution of electric energy.*

***Inclusions:***

- ***I1*** - Transformers with the primary terminal and at least one secondary terminal operated at 100 kV or higher unless excluded under Exclusion E1 or E3.
- ***I2*** - Generating resource(s) with gross individual nameplate rating greater than 20 MVA or gross plant/facility aggregate nameplate rating greater than 75 MVA including the generator terminals through the high-side of the step-up transformer(s) connected at a voltage of 100 kV or above.
- ***I3*** - Blackstart Resources identified in the Transmission Operator's restoration plan.
- ***I4*** - Dispersed power producing resources with aggregate capacity greater than 75 MVA (gross aggregate nameplate rating) utilizing a system designed primarily for aggregating capacity, connected at a common point at a voltage of 100 kV or above.
- ***I5*** - Static or dynamic devices (excluding generators) dedicated to supplying or absorbing Reactive Power that are connected at 100 kV or higher, or through a

*dedicated transformer with a high-side voltage of 100 kV or higher, or through a transformer that is designated in Inclusion II.*

**Exclusions:**

- **E1 - Radial systems:** *A group of contiguous transmission Elements that emanates from a single point of connection of 100 kV or higher and:*
  - a) *Only serves Load. Or,*
  - b) *Only includes generation resources, not identified in Inclusion I3, with an aggregate capacity less than or equal to 75 MVA (gross nameplate rating). Or,*
  - c) *Where the radial system serves Load and includes generation resources, not identified in Inclusion I3, with an aggregate capacity of non-retail generation less than or equal to 75 MVA (gross nameplate rating).*

*Note – A normally open switching device between radial systems, as depicted on prints or one-line diagrams for example, does not affect this exclusion.*
- **E2 - A generating unit or multiple generating units on the customer's side of the retail meter that serve all or part of the retail Load with electric energy if:** *(i) the net capacity provided to the BES does not exceed 75 MVA, and (ii) standby, back-up, and maintenance power services are provided to the generating unit or multiple generating units or to the retail Load by a Balancing Authority, or provided pursuant to a binding obligation with a Generator Owner or Generator Operator, or under terms approved by the applicable regulatory authority.*
- **E3 - Local networks (LN):** *A group of contiguous transmission Elements operated at or above 100 kV but less than 300 kV that distribute power to Load rather than transfer bulk power across the interconnected system. LN's emanate from multiple points of connection at 100 kV or higher to improve the level of service to retail customer Load and not to accommodate bulk power transfer across the interconnected system. The LN is characterized by all of the following:*
  - a) *Limits on connected generation: The LN and its underlying Elements do not include generation resources identified in Inclusion I3 and do not have an aggregate capacity of non-retail generation greater than 75 MVA (gross nameplate rating);*
  - b) *Power flows only into the LN and the LN does not transfer energy originating outside the LN for delivery through the LN; and*
  - c) *Not part of a Flowgate or transfer path: The LN does not contain a monitored Facility of a permanent Flowgate in the Eastern Interconnection, a major transfer path within the Western Interconnection, or a comparable monitored Facility in the ERCOT or Quebec Interconnections, and is not a monitored Facility included in an Interconnection Reliability Operating Limit (IROL).*
- **E4 – Reactive Power devices owned and operated by the retail customer solely for its own use.**

*Note - Elements may be included or excluded on a case-by-case basis through the Rules of Procedure exception process.*

- II. Entities identified in Part I above will be categorized as Registration candidates who may be subject to Registration under one or more appropriate Functional Entity types based on a comparison of the functions the entity normally performs against the following function type definitions:

<b>Function Type</b>	<b>Acronym</b>	<b>Definition/Discussion</b>
Balancing Authority	BA	The responsible entity that integrates resource plans ahead of time, maintains Load-interchange-generation balance within a Balancing Authority Area, and supports Interconnection frequency in real-time.
Distribution Provider	DP	Provides and operates the “wires” between the transmission system and the end-use customer. For those end-use customers who are served at transmission voltages, the Transmission Owner also serves as the Distribution Provider. Thus, the Distribution Provider is not defined by a specific voltage, but rather as performing the distribution function at any voltage.
Generator Operator	GOP	The entity that operates generating unit(s) and performs the functions of supplying energy and Interconnected Operations Services.
Generator Owner	GO	Entity that owns and maintains generating units.
Interchange Authority	IA	The responsible entity that authorizes implementation of valid and balanced Interchange Schedules between Balancing Authority Areas, and ensures communication of Interchange information for reliability assessment purposes.
Load-Serving Entity	LSE	Secures energy and Transmission Service (and related Interconnected Operations Services) to serve the electrical demand and energy requirements of its end-use customers.
Planning Authority	PA	The responsible entity that coordinates and integrates transmission Facilities and service plans, resource plans, and Protection Systems.
Purchasing-Selling Entity	PSE	The entity that purchases, or sells, and takes title to, energy, capacity, and Interconnected Operations Services. PSE may be affiliated or unaffiliated merchants and may or may not own generating Facilities.

<b>Function Type</b>	<b>Acronym</b>	<b>Definition/Discussion</b>
Reliability Coordinator	RC	The entity that is the highest level of authority who is responsible for the Reliable Operation of the Bulk Electric System, has the Wide Area view of the Bulk Electric System, and has the operating tools, processes and procedures, including the authority to prevent or mitigate emergency operating situations in both next-day analysis and real-time operations. The Reliability Coordinator has the purview that is broad enough to enable the calculation of Interconnection Reliability Operating Limits, which may be based on the operating parameters of transmission systems beyond any Transmission Operator's vision.
Reserve Sharing Group	RSG	A group whose members consist of two or more Balancing Authorities that collectively maintain, allocate, and supply operating reserves required for each Balancing Authority's use in recovering from contingencies within the group. Scheduling energy from an Adjacent Balancing Authority to aid recovery need not constitute reserve sharing provided the transaction is ramped in over a period the supplying party could reasonably be expected to load generation in (e.g., ten minutes). If the transaction is ramped in quicker, (e.g., between zero and ten minutes), then, for the purposes of disturbance control performance, the areas become a Reserve Sharing Group.
Resource Planner	RP	The entity that develops a long-term (generally one year and beyond) plan for the resource adequacy of specific Loads (customer demand and energy requirements) within a Planning Authority area.
Transmission Owner	TO	The entity that owns and maintains transmission Facilities.
Transmission Operator	TOP	The entity responsible for the reliability of its local transmission system and operates or directs the operations of the transmission Facilities.
Transmission Planner	TP	The entity that develops a long-term (generally one year and beyond) plan for the reliability (adequacy) of the interconnected bulk electric transmission systems within its portion of the Planning Authority area.

Function Type	Acronym	Definition/Discussion
Transmission Service Provider	TSP	The entity that administers the transmission tariff and provides Transmission Service to Transmission Customers under applicable Transmission Service agreements.

III. Entities identified in Part II above as being subject to Registration as an LSE, DP, GO, GOP, TO, or TOP should be excluded from the Compliance Registry for these functions if they do not meet any of the criteria listed below:

III (a) Load-Serving Entity:

- III.a.1 Load-Serving Entity peak Load is > 25 MW and is directly connected to the Bulk Power (>100 kV) System, or;
- III.a.2 Load-Serving Entity is designated as the responsible entity for Facilities that are part of a required underfrequency Load shedding (UFLS) program designed, installed, and operated for the protection of the Bulk Power System, or;
- III.a.3 Load-Serving Entity is designated as the responsible entity for Facilities that are part of a required undervoltage Load shedding (UVLS) program designed, installed, and operated for the protection of the Bulk Power System.

*[Exclusion: A Load-Serving Entity will not be registered based on these criteria if responsibilities for compliance with approved NERC Reliability Standards or associated Requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a Load-Serving Entity, Balancing Authority, Transmission Operator, generation and transmission cooperative or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.]*

- III.a.4 Distribution Providers registered under the criteria in III.b.1 or III.b.2 will be registered as a Load Serving Entity (LSE) for all Load directly connected to their distribution facilities.

*[Exclusion: A Distribution Provider will not be registered based on this criterion if responsibilities for compliance with approved NERC Reliability Standards or associated Requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a Load-Serving Entity, Balancing Authority, Transmission Operator, generation and transmission cooperative, or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.]*

III(b) Distribution Provider:

- III.b.1 Distribution Provider system serving >25 MW of peak Load that is directly connected to the Bulk Power System.

*[Exclusion: A Distribution Provider will not be registered based on this criterion if responsibilities for compliance with approved NERC Reliability Standards or associated Requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a Load-Serving Entity, Balancing Authority, Transmission Operator, generation and transmission cooperative, or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.] or;*

- III.b.2 Distribution Provider is the responsible entity that owns, controls, or operates Facilities that are part of any of the following Protection Systems or programs designed, installed, and operated for the protection of the Bulk Power System:

- a required UFLS program.
- a required UVLS program.
- a required Special Protection System.
- a required transmission Protection System.

*[Exclusion: A Distribution Provider will not be registered based on these criteria if responsibilities for compliance with approved NERC Reliability Standards or associated Requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a Load-Serving Entity, Balancing Authority, Transmission Operator, generation and transmission cooperative, or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.]*

III(c) Generator Owner/Operator:

- III.c.1 Individual generating unit > 20 MVA (gross nameplate rating) and is directly connected to the Bulk Power System, or;
- III.c.2 Generating plant/facility > 75 MVA (gross aggregate nameplate rating) or when the entity has responsibility for any facility consisting of one or more units that are connected to the Bulk Power System at a common bus with total generation above 75 MVA gross nameplate rating, or;
- III.c.3 Any generator, regardless of size, that is a Blackstart Resource material to and designated as part of a Transmission Operator entity's restoration plan, or;
- III.c.4 Any generator, regardless of size, that is material to the reliability of the Bulk Power System.

*[Exclusions:*

*A Generator Owner/Operator will not be registered based on these criteria if responsibilities for compliance with approved NERC Reliability Standards or associated Requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a Load-Serving Entity, generation and transmission cooperative or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.*

*As a general matter, a customer-owned or operated generator/generation that serves all or part of retail Load with electric energy on the customer's side of the retail meter may be excluded as a candidate for Registration based on these criteria if (i) the net capacity provided to the Bulk Power System does not exceed the criteria above or the Regional Entity otherwise determines the generator is not material to the Bulk Power System and (ii) standby, back-up and maintenance power services are provided to the generator or to the retail Load pursuant to a binding obligation with another Generator Owner/Operator or under terms approved by the local regulatory authority or the Federal Energy Regulatory Commission, as applicable.]*

III(d) Transmission Owner/Operator:

III.d.1 An entity that owns/operates an integrated transmission Element associated with the Bulk Power System 100 kV and above, or lower voltage as defined by the Regional Entity necessary to provide for the Reliable Operation of the interconnected transmission grid; or

III.d.2 An entity that owns/operates a transmission Element below 100 kV associated with a Facility that is included on a critical Facilities list that is defined by the Regional Entity.

*[Exclusion: A Transmission Owner/Operator will not be registered based on these criteria if responsibilities for compliance with approved NERC Reliability Standards or associated Requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a Load-Serving Entity, generation and transmission cooperative or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.*

IV. Joint Registration Organization and applicable Member Registration.

Pursuant to FERC's directive in paragraph 107 of Order No. 693, NERC's rules pertaining to joint Registrations and Joint Registration Organizations are now found in Section 501 and 507 of the NERC Rules of Procedure.

V. If NERC or a Regional Entity encounters an organization that is not listed in the Compliance Registry, but which should be subject to the Reliability Standards, NERC or



the Regional Entity is obligated and will add that organization to the Compliance Registry, subject to that organization's right to challenge as provided in Section 500 of NERC's Rules of Procedure and as described in Note 3 below.

### Notes to the above Criteria

1. The above are general criteria only. The Regional Entity considering Registration of an organization not meeting (e.g., smaller in size than) the criteria may propose Registration of that organization if the Regional Entity believes and can reasonably demonstrate<sup>4</sup> that the organization is a Bulk Power System owner, or operates, or uses Bulk Power System assets, and is material to the reliability of the Bulk Power System. Similarly, the Regional Entity may exclude an organization that meets the criteria described above as a candidate for Registration if it believes and can reasonably demonstrate to NERC that the Bulk Power System owner, operator, or user does not have a material impact on the reliability of the Bulk Power System.
2. An organization not identified using the criteria, but wishing to be registered, may request that it be registered. For further information refer to: NERC Rules of Procedure, Section 500 – Organization Registration and Certification; Part 1.3.
3. An organization may challenge its Registration within the Compliance Registry. NERC or the Regional Entity will provide the organization with all information necessary to timely challenge that determination including notice of the deadline for contesting the determination and the relevant procedures to be followed as described in the NERC Rules of Procedure; Section 500 – Organization Registration and Certification.
4. If an entity is part of a class of entities excluded based on the criteria above as individually being unlikely to have a material impact on the reliability of the Bulk Power System, but that in aggregate have been demonstrated to have such an impact it may be registered for applicable Reliability Standards and Requirements irrespective of other considerations.

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<sup>4</sup> The reasonableness of any such demonstration will be subject to review and remand by NERC itself, or by any Applicable Governmental Authority.

**PETITION OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
FOR APPROVAL OF REVISIONS TO ITS RULES OF PROCEDURE  
TO ADOPT A BULK ELECTRIC SYSTEM EXCEPTION PROCEDURE**

**ATTACHMENT 6B**

**REVISED APPENDIX 5B OF THE RULES OF PROCEDURE,**

***STATEMENT OF COMPLIANCE REGISTRY CRITERIA***

**REDLINED VERSION**

**Proposed Revisions 1-9-2012  
[Incorporates revisions filed with  
FERC on November 29, 2011]**

## **Appendix 5B**

### **Statement of Compliance Registry Criteria**

**Revision 5.0 — Approved: NERC Board of Trustees July 30, 2008**

**Effective: October 16, 2008**

# Statement of Compliance Registry Criteria (Revision 5.0)

## Summary

Since becoming the Electric Reliability Organization (ERO), NERC has initiated a program to identify candidate organizations for its Compliance Registry. The program, conducted by NERC and the Regional Entities<sup>1</sup>, will also confirm the functions and information now on file for currently-registered organizations. NERC and the Regional Entities have the obligation to identify and register all entities that meet the criteria for inclusion in the Compliance Registry, as further explained in the balance of this document.

This document describes how NERC will identify organizations that may be candidates for Registration and assign them to the Compliance Registry.

Organizations will be responsible to register and to comply with approved Reliability Standards to the extent that they are owners, operators, and users of the Bulk Power System, perform a function listed in the functional types identified in Section II of this document, and are material to the Reliable Operation of the interconnected Bulk Power System as defined by the criteria and notes set forth in this document. NERC will apply the following principles to the Compliance Registry:

- In order to carry out its responsibilities related to enforcement of Reliability Standards, NERC must identify the owners, operators, and users of the Bulk Power System who have a material impact<sup>2</sup> on the Bulk Power System through a Compliance Registry. NERC and the Regional Entities will make their best efforts to identify all owners, users and operators who have a material reliability impact on the Bulk Power System in order to develop a complete and current Compliance Registry list. The Compliance Registry will be updated as required and maintained on an on-going basis.
- Organizations listed in the Compliance Registry are responsible and will be monitored for compliance with applicable mandatory Reliability Standards. They will be subject to NERC's and the Regional Entities' Compliance Monitoring and Enforcement Programs.

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<sup>1</sup> The term "Regional Entities" includes Cross-Border Regional Entities.

<sup>2</sup> The criteria for determining whether an entity will be placed on the Compliance Registry are set forth in the balance of this document. At any time a person may recommend in writing, with supporting reasons, to the Director of Compliance that an organization be added to or removed from the Compliance Registry, pursuant to NERC ROP 501.1.3.5.

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- Required compliance by a given organization with the Reliability Standards will begin the later of (i) inclusion of that organization in the Compliance Registry and (ii) approval by the Applicable Governmental Authority of mandatory Reliability Standards applicable to the Registered Entity.

Entities responsible for funding NERC and the Regional Entities have been identified in the budget documents filed with FERC. Presence on or absence from the Compliance Registry has no bearing on an entity's independent responsibility for funding NERC and the Regional Entities.

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- Organizations listed in the Compliance Registry are subject to NERC’s and the Regional Entities’ Compliance Monitoring and Enforcement Programs.

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NERC and the Regional Entities have identified two principles they believe are key to the entity selection process. These are:

1. There needs to be consistency between Regions and across the continent with respect to which entities are registered, and;
2. Any entity reasonably deemed material to the reliability of the Bulk Bower System will be registered, irrespective of other considerations.

To address the second principle the Regional Entities, working with NERC, will identify and register any entity they deem material to the reliability of the Bulk Power System.

In order to promote consistency, NERC and the Regional Entities intend to use the following criteria as the basis for determining whether particular entities should be identified as candidates

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<sup>3</sup> See: NERC ERO Application; Exhibit C; Section 500 – Organization Registration and Certification.

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The following four groups of criteria (Sections I-IV) plus the statements in Section V will provide guidance regarding an entity's Registration status:

- Section I determines if the entity is an owner, operator, or user of the Bulk Power System and, hence, a candidate for organization Registration.
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- Section III lists the criteria regarding smaller entities; these criteria can be used to forego the Registration of entities that were selected to be considered for Registration pursuant to Sections I and II and, if circumstances change, for later removing entities from the Registration list that no longer meet the relevant criteria.
- Section IV — additional criteria for joint Registration. Joint Registration criteria may be used by joint action agencies, generation and transmission cooperatives and other entities which agree upon a clear division of compliance responsibility for Reliability Standards by written agreement. Pursuant to FERC's directive in paragraph 107 of Order No. 693, rules pertaining to joint Registration and Joint Registration Organizations will now be found in Sections 501 and 507 of the NERC Rules of Procedure.

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*“Bulk Electric System” or “BES” means unless modified by the lists shown below, all Transmission Elements operated at 100 kV or higher and Real Power and Reactive Power resources connected at 100 kV or higher. This does not include facilities used in the local distribution of electric energy.*

**Inclusions:**

- ***II** - Transformers with the primary terminal and at least one secondary terminal operated at 100 kV or higher unless excluded under Exclusion E1 or E3.*
- ***I2** - Generating resource(s) with gross individual nameplate rating greater than 20 MVA or gross plant/facility aggregate nameplate rating greater than 75 MVA including the generator terminals through the high-side of the step-up transformer(s) connected at a voltage of 100 kV or above.*
- ***I3** - Blackstart Resources identified in the Transmission Operator's restoration plan.*
- ***I4** - Dispersed power producing resources with aggregate capacity greater than 75 MVA (gross aggregate nameplate rating) utilizing a system designed primarily for aggregating capacity, connected at a common point at a voltage of 100 kV or above.*
- ***I5** -Static or dynamic devices (excluding generators) dedicated to supplying or absorbing Reactive Power that are connected at 100 kV or higher, or through a*

dedicated transformer with a high-side voltage of 100 kV or higher, or through a transformer that is designated in Inclusion II.

**Exclusions:**

- E1 - Radial systems: A group of contiguous transmission Elements that emanates from a single point of connection of 100 kV or higher and:
  - a) Only serves Load. Or,
  - b) Only includes generation resources, not identified in Inclusion I3, with an aggregate capacity less than or equal to 75 MVA (gross nameplate rating). Or,
  - c) Where the radial system serves Load and includes generation resources, not identified in Inclusion I3, with an aggregate capacity of non-retail generation less than or equal to 75 MVA (gross nameplate rating).

Note – A normally open switching device between radial systems, as depicted on prints or one-line diagrams for example, does not affect this exclusion.
- E2 - A generating unit or multiple generating units on the customer's side of the retail meter that serve all or part of the retail Load with electric energy if: (i) the net capacity provided to the BES does not exceed 75 MVA, and (ii) standby, back-up, and maintenance power services are provided to the generating unit or multiple generating units or to the retail Load by a Balancing Authority, or provided pursuant to a binding obligation with a Generator Owner or Generator Operator, or under terms approved by the applicable regulatory authority.
- E3 - Local networks (LN): A group of contiguous transmission Elements operated at or above 100 kV but less than 300 kV that distribute power to Load rather than transfer bulk power across the interconnected system. LN's emanate from multiple points of connection at 100 kV or higher to improve the level of service to retail customer Load and not to accommodate bulk power transfer across the interconnected system. The LN is characterized by all of the following:
  - a) Limits on connected generation: The LN and its underlying Elements do not include generation resources identified in Inclusion I3 and do not have an aggregate capacity of non-retail generation greater than 75 MVA (gross nameplate rating);
  - b) Power flows only into the LN and the LN does not transfer energy originating outside the LN for delivery through the LN; and
  - c) Not part of a Flowgate or transfer path: The LN does not contain a monitored Facility of a permanent Flowgate in the Eastern Interconnection, a major transfer path within the Western Interconnection, or a comparable monitored Facility in the ERCOT or Quebec Interconnections, and is not a monitored Facility included in an Interconnection Reliability Operating Limit (IROL).
- E4 – Reactive Power devices owned and operated by the retail customer solely for its own use.

Note - Elements may be included or excluded on a case-by-case basis through the Rules of Procedure exception process. "As defined by the Regional Entity, the electrical generation resources, transmission lines, interconnections with neighboring systems, and associated



*equipment, generally operated at voltages of 100 kV or higher. Radial transmission facilities serving only load with one transmission source are generally not included in this definition.<sup>4</sup>*

- II. Entities identified in Part I above will be categorized as Registration candidates who may be subject to Registration under one or more appropriate Functional Entity types based on a comparison of the functions the entity normally performs against the following function type definitions:

Function Type	Acronym	Definition/Discussion
Balancing Authority	BA	The responsible entity that integrates resource plans ahead of time, maintains <del>Load</del> interchange-generation balance within a Balancing Authority Area, and supports Interconnection frequency in real-time.
Distribution Provider	DP	Provides and operates the “wires” between the transmission system and the end-use customer. For those end-use customers who are served at transmission voltages, the Transmission Owner also serves as the Distribution Provider. Thus, the Distribution Provider is not defined by a specific voltage, but rather as performing the distribution function at any voltage.
Generator Operator	GOP	The entity that operates generating unit(s) and performs the functions of supplying energy and Interconnected Operations Services.
Generator Owner	GO	Entity that owns and maintains generating units.
Interchange Authority	IA	The responsible entity that authorizes implementation of valid and balanced Interchange Schedules between Balancing Authority Areas, and ensures communication of Interchange information for reliability assessment purposes.
Load-Serving Entity	LSE	Secures energy and Transmission Service (and related Interconnected Operations Services) to serve the electrical demand and energy requirements of its end-use customers.

<sup>4</sup> ~~However, ownership of radial transmission Facilities intended to be covered by the vegetation management standard (applicable to transmission lines 200 kV and above) would be included in this definition.~~

Function Type	Acronym	Definition/Discussion
Planning Authority	PA	The responsible entity that coordinates and integrates transmission Facilities and service plans, resource plans, and Protection Systems.
Purchasing-Selling Entity	PSE	The entity that purchases, or sells, and takes title to, energy, capacity, and Interconnected Operations Services. PSE may be affiliated or unaffiliated merchants and may or may not own generating Facilities.
Reliability Coordinator	RC	The entity that is the highest level of authority who is responsible for the Reliable Operation of the Bulk Electric System, has the Wide Area view of the Bulk Electric System, and has the operating tools, processes and procedures, including the authority to prevent or mitigate emergency operating situations in both next-day analysis and real-time operations. The Reliability Coordinator has the purview that is broad enough to enable the calculation of Interconnection Reliability Operating Limits, which may be based on the operating parameters of transmission systems beyond any Transmission Operator's vision.
Reserve Sharing Group	RSG	A group whose members consist of two or more Balancing Authorities that collectively maintain, allocate, and supply operating reserves required for each Balancing Authority's use in recovering from contingencies within the group. Scheduling energy from an Adjacent Balancing Authority to aid recovery need not constitute reserve sharing provided the transaction is ramped in over a period the supplying party could reasonably be expected to load generation in (e.g., ten minutes). If the transaction is ramped in quicker, (e.g., between zero and ten minutes), then, for the purposes of disturbance control performance, the areas become a Reserve Sharing Group.
Resource Planner	RP	The entity that develops a long-term (generally one year and beyond) plan for the resource adequacy of specific <a href="#">Loads</a> (customer demand and energy requirements) within a Planning Authority area.
Transmission Owner	TO	The entity that owns and maintains transmission Facilities.

Function Type	Acronym	Definition/Discussion
Transmission Operator	TOP	The entity responsible for the reliability of its local transmission system and operates or directs the operations of the transmission Facilities.
Transmission Planner	TP	The entity that develops a long-term (generally one year and beyond) plan for the reliability (adequacy) of the interconnected bulk electric transmission systems within its portion of the Planning Authority area.
Transmission Service Provider	TSP	The entity that administers the transmission tariff and provides Transmission Service to Transmission Customers under applicable Transmission Service agreements.

III. Entities identified in Part II above as being subject to Registration as an LSE, DP, GO, GOP, TO, or TOP should be excluded from the Compliance Registry for these functions if they do not meet any of the criteria listed below:

III (a) Load-Serving Entity:

III.a.1 Load-Serving Entity peak Loadload is > 25 MW and is directly connected to the Bulk Power (>100 kV) System, or;

III.a.2 Load-Serving Entity is designated as the responsible entity for Facilities that are part of a required underfrequency Loadload shedding (UFLS) program designed, installed, and operated for the protection of the Bulk Power System, or;

III.a.3 Load-Serving Entity is designated as the responsible entity for Facilities that are part of a required undervoltage Loadload shedding (UVLS) program designed, installed, and operated for the protection of the Bulk Power System.

*[Exclusion: A Load-Serving Entity will not be registered based on these criteria if responsibilities for compliance with approved NERC Reliability Standards or associated Requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a Load-Serving Entity, Balancing Authority, Transmission Operator, generation and transmission cooperative or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.]*

III.a.4 Distribution Providers registered under the criteria in III.b.1 or III.b.2 will be registered as a Load Serving Entity (LSE) for all Loadload directly connected to their distribution facilities.

*[Exclusion: A Distribution Provider will not be registered based on this criterion if responsibilities for compliance with approved NERC Reliability Standards or associated Requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a Load-Serving Entity, Balancing Authority, Transmission Operator, generation and transmission cooperative, or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.]*

III(b) Distribution Provider:

- III.b.1 Distribution Provider system serving >25 MW of peak ~~Load~~load that is directly connected to the Bulk Power System.

*[Exclusion: A Distribution Provider will not be registered based on this criterion if responsibilities for compliance with approved NERC Reliability Standards or associated Requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a Load-Serving Entity, Balancing Authority, Transmission Operator, generation and transmission cooperative, or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.]* or;

- III.b.2 Distribution Provider is the responsible entity that owns, controls, or operates Facilities that are part of any of the following Protection Systems or programs designed, installed, and operated for the protection of the Bulk Power System:

- a required UFLS program.
- a required UVLS program.
- a required Special Protection System.
- a required transmission Protection System.

*[Exclusion: A Distribution Provider will not be registered based on these criteria if responsibilities for compliance with approved NERC Reliability Standards or associated Requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a Load-Serving Entity, Balancing Authority, Transmission Operator, generation and transmission cooperative, or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.]*

III(c) Generator Owner/Operator:

- III.c.1 Individual generating unit > 20 MVA (gross nameplate rating) and is directly connected to the Bulk Power System, or;

- III.c.2 Generating plant/facility > 75 MVA (gross aggregate nameplate rating) or when the entity has responsibility for any facility consisting of one or

more units that are connected to the Bulk Power System at a common bus with total generation above 75 MVA gross nameplate rating, or;

III.c.3 Any generator, regardless of size, that is a Blackstart Resource material to and designated as part of a Transmission Operator entity's restoration plan, or;

III.c.4 Any generator, regardless of size, that is material to the reliability of the Bulk Power System.

*[Exclusions:*

*A Generator Owner/Operator will not be registered based on these criteria if responsibilities for compliance with approved NERC Reliability Standards or associated Requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a Load-Serving Entity, generation and transmission cooperative or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.*

*As a general matter, a customer-owned or operated generator/generation that serves all or part of retail ~~Load-load~~ with electric energy on the customer's side of the retail meter may be excluded as a candidate for Registration based on these criteria if (i) the net capacity provided to the Bulk Power System does not exceed the criteria above or the Regional Entity otherwise determines the generator is not material to the Bulk Power System and (ii) standby, back-up and maintenance power services are provided to the generator or to the retail ~~Load-load~~ pursuant to a binding obligation with another Generator Owner/Operator or under terms approved by the local regulatory authority or the Federal Energy Regulatory Commission, as applicable.]*

III(d) Transmission Owner/Operator:

III.d.1 An entity that owns/operates an integrated transmission Element associated with the Bulk Power System 100 kV and above, or lower voltage as defined by the Regional Entity necessary to provide for the Reliable Operation of the interconnected transmission grid; or

III.d.2 An entity that owns/operates a transmission Element below 100 kV associated with a Facility that is included on a critical Facilities list that is defined by the Regional Entity.

*[Exclusion: A Transmission Owner/Operator will not be registered based on these criteria if responsibilities for compliance with approved NERC Reliability Standards or associated Requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a Load-Serving Entity, generation and transmission cooperative*

*or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.*

IV. Joint Registration Organization and applicable Member Registration.

Pursuant to FERC's directive in paragraph 107 of Order No. 693, NERC's rules pertaining to joint Registrations and Joint Registration Organizations are now found in Section 501 and 507 of the NERC Rules of Procedure.

V. If NERC or a Regional Entity encounters an organization that is not listed in the Compliance Registry, but which should be subject to the Reliability Standards, NERC or the Regional Entity is obligated and will add that organization to the Compliance Registry, subject to that organization's right to challenge as provided in Section 500 of NERC's Rules of Procedure and as described in Note 3 below.

**Notes to the above Criteria**

1. The above are general criteria only. The Regional Entity considering Registration of an organization not meeting (e.g., smaller in size than) the criteria may propose Registration of that organization if the Regional Entity believes and can reasonably demonstrate<sup>5</sup> that the organization is a Bulk Power System owner, or operates, or uses Bulk Power System assets, and is material to the reliability of the Bulk Power System. Similarly, the Regional Entity may exclude an organization that meets the criteria described above as a candidate for Registration if it believes and can reasonably demonstrate to NERC that the Bulk Power System owner, operator, or user does not have a material impact on the reliability of the Bulk Power System.
2. An organization not identified using the criteria, but wishing to be registered, may request that it be registered. For further information refer to: NERC Rules of Procedure, Section 500 – Organization Registration and Certification; Part 1.3.
3. An organization may challenge its Registration within the Compliance Registry. NERC or the Regional Entity will provide the organization with all information necessary to timely challenge that determination including notice of the deadline for contesting the determination and the relevant procedures to be followed as described in the NERC Rules of Procedure; Section 500 – Organization Registration and Certification.
4. If an entity is part of a class of entities excluded based on the criteria above as individually being unlikely to have a material impact on the reliability of the Bulk Power System, but that in aggregate have been demonstrated to have such an impact it may be registered for applicable Reliability Standards and Requirements irrespective of other considerations.

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<sup>5</sup> The reasonableness of any such demonstration will be subject to review and remand by NERC itself, or by any Applicable Governmental Authority.

**PETITION OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
FOR APPROVAL OF REVISIONS TO ITS RULES OF PROCEDURE  
TO ADOPT A BULK ELECTRIC SYSTEM EXCEPTION PROCEDURE**

**ATTACHMENT 7A**

**REVISED APPENDIX 6 OF THE RULES OF PROCEDURE,  
*SYSTEM OPERATOR CERTIFICATION PROGRAM MANUAL*  
CLEAN VERSION**

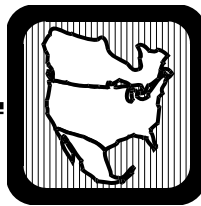
**Proposed Revisions 1-9-2012  
[Incorporates revisions filed with  
FERC on November 29, 2011]**

# **System Operator Certification**

# **Program Manual**

August 2006

Approved by the Personnel Certification Governance Committee  
Approved by the NERC Board of Trustees  
May 2006



**North American Electric Reliability Council**  
Updated: August 14, 2006



## Program Manual Changes

No.	Date	Section	Page	Description	Version
1	05/2005	All	All	Initial white paper expanded SOC Program to include CE hours	0
2	02/2006	All	All	Program Manual	1
3	06/2006	I and II	4, 17	Fees	1.1
4	06/2006	All	All	CEH to CE hours	1.1
5	08/2006	III	16	Training Providers retaining documentation	1

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## Executive Summary

Maintaining the reliability of the Bulk Electric System through implementation of the Reliability Standards requires skilled, trained and qualified system operators. The System Operator Certification Program provides the mechanism to ensure system operators are provided the education and training necessary to obtain the essential knowledge and skills and are therefore qualified to operate the Bulk Electric System.

The System Operator Certification Program provides the framework for the examinations used to obtain initial Certification in one of four NERC Credentials: transmission operator, balancing and interchange operator, balancing, interchange and transmission operator, and reliability operator. A system operator Credential is a personal Credential issued to a person for successfully passing a NERC system operator Certification exam. The Credential is maintained by accumulating a specified number of Continuing Education Hours within a specified period of time. The program will allow system operators to maintain their Credential through continuing education rather than to recertify by retaking an examination.

The NERC Personnel Certification Governance Committee (PCGC) is the governing body that establishes the policies, sets fees, and monitors the performance of the System Operator Certification Program. As program administrator, NERC maintains databases, records, and applications, collects fees, maintains contracts with vendors, and provides reports on system operator Certification related activities. The PCGC is responsible for ensuring the program is not-for-profit and financially sound, and annually reviews the program to ensure that it is adequately funded.

## Section I — Certification Examinations

### Overview

The System Operator Certification Program awards Certification Credentials to those individuals who demonstrate that they have attained sufficient knowledge relating to NERC Reliability Standards as well as the basic principles of Bulk Power System operations by passing one of four specialty examinations. A certificate is issued to a candidate who successfully completes an examination. Certificates issued prior to the implementation of the new Continuing Education Hours requirement will be valid for five years. Certificates issued after the implementation of this requirement will be valid for three years.

The members of the Examination Working Group (EWG) represent each of the specialty areas tested in the examinations. The EWG develops the examinations under the guidance of a psychometric consultant. The examinations are based on content outlines that were developed through a job analysis. Prior to being used in the scoring process, each question is ‘piloted’ (not scored) for one full examination cycle (eighteen months), and the performance of each question is continually tracked. The direct involvement of system operators, supervisors, and trainers in the examination development process will remain a primary requirement of future NERC system operator Certification examinations.

### Earning a Credential

#### Examinations

There are four specialty examinations: reliability operator, balancing and interchange operator, transmission operator, and balancing, interchange, and transmission operator. Each of the examinations has its own content outline that can be accessed from the Program’s web page. The specifics of the individual examinations can be obtained from the table below. The individual content outlines for each of the specialty examinations can be obtained by clicking on the name of the exam.

Examination Title	Total Questions	Scored Questions	Passing Score (# of answers correct)	Passing Score (% of answers correct)
Reliability operator Certification examination	150	125	93	74.4
Balancing, interchange, and transmission operator Certification examination	150	125	93	74.4
Transmission operator Certification examination	125	100	76	76
Balancing and interchange operator Certification examination	125	100	76	76

## Applying for Certification Examinations

1. You must first establish a NERC.net user account. Once you are registered, you can access the on-line application form.
  - a. If you do not have a NERC.net user account, please [click here](https://soc.nerc.net/registration/default.aspx) (<https://soc.nerc.net/registration/default.aspx>) to set up your free account.
2. If you already have a NERC.net user account, please [click here](https://soc.nerc.net/default.aspx) (<https://soc.nerc.net/default.aspx>) to sign-in to your NERC.net user account to access the on-line examination application form.
  - a. If you have forgotten your user name or password, contact the NERC office at phone number (609) 452-8060 (Mon–Fri, 8:00 a.m.–4:00 p.m. Eastern).
3. Select *Exam Application Form*
4. Select the examination you wish to take then click *SUBMIT*
5. You may submit your payment either by selecting credit card (VISA or MasterCard only) or invoice for check payments. A copy of the invoice and check or money order must be mailed to NERC to complete your examination application process.

North American Electric Reliability Corporation  
System Operator Certification Program  
116-390 Village Boulevard  
Princeton, New Jersey 08540-5731

Applications are accepted year round. Allow two weeks for the processing of your application and receipt of notification that you are approved to take the examination.

An application is considered complete and processed only when all required information is provided and fees are received. After the application is processed, the authorization-to-test (ATT) letter containing the assigned ATT number is sent to each eligible candidate by e-mail followed by regular mail.

### Eligibility Period

Eligibility to take the examination remains in effect for one year from the date the ATT number is issued. Candidates are encouraged to schedule an appointment to sit for the examination promptly. If a candidate fails to schedule and take the examination during the one-year eligibility period, the candidate shall forfeit all payments made to NERC. Candidates who fail to take the examination within the one-year eligibility must submit a new application and pay the full fee to be considered for eligibility again.

## Fees

Fee Schedule	
Application to test	\$350
Application to retest	\$350
Application to withdraw	\$50
Bad check/credit	\$25

\*\*All funds shall be payable in U.S. dollars.

### Before scheduling an examination, please do the following:

- Review all parts of this Program Manual.
- Complete and submit the application to NERC, along with the appropriate fee.
- Receive an ATT letter containing the assigned ATT number by e-mail and regular mail from NERC declaring that you are eligible to take the examination. The letter will also provide instructions on how you may arrange the location, date, and time of your examination. The ATT number will be needed when you contact Prometric to schedule your test appointment.

### Scheduling an Examination

NERC will send you an ATT letter by e-mail and regular mail with instructions about the identification items to bring with you on the day of the examination. To select your examination location, date, and time go to the Prometric website at <http://www.prometric.com>. All attempts should be made to schedule your examination as soon as possible because testing center appointments are in high demand by other professions. Waiting to schedule your appointment may significantly limit the locations, dates, and times available. Examinations may be administered on any Monday through Saturday. Examinations may be taken on any day that accommodates your schedule and where and when examination space is available.

During the scheduling process, you will be required to confirm your ATT number and your first and last name. You will be advised of available testing locations, dates, and times.

*Note: When you schedule your test date, you will receive a confirmation number from Prometric. Please retain this number, as it will be useful should you have to use Prometric's automated cancellation system or if there is a conflict with the test center appointment. Prometric will not mail you a confirmation notice.*

### Examination Content Outline

The computer-based examination consists of objective, multiple-choice questions. The questions are based on the published [Content Outline](#) for each of the NERC system operator Certification examinations.

**Day of the Examination**

**Time at Testing Center** — Plan to arrive at the testing center at least thirty minutes early to sign in. You should allocate at least four hours to accommodate the total time you might be at the testing center. This includes:

Examination Time Allocation	
Examination Stages	Time Allocation
Administration & Review of Candidate Identification	30 minutes
Computer-Based Tutorial	15 minutes
Examination	2 hours & 45 minutes
Post-Examination Survey	15 minutes
<b>Total Time to be Allocated</b>	<b>3 hours &amp; 45 minutes</b>

**Computer Familiarization** — A fifteen-minute tutorial on operating instructions for the computer-based examination will be provided before the start of each examination. The tutorial is self-explanatory, and no prior computer knowledge is needed. You may bypass this feature if you wish (not recommended).

Computer-based testing allows you to skip questions, mark, and return to them at a later time. During the examination, you may change your answer to any question. A clock is on the screen at all times indicating the time remaining. Before exiting the examination, the computer will indicate any question(s) you have marked for review or those that remain unanswered.

**Post-Examination Survey** — At the completion of the examination, you will be invited to complete a brief questionnaire on your reactions to the examination experience and the quality of the testing center staff and services. *This is also your opportunity to comment on the content of the examination and to challenge any particular examination questions or answers.*

**Comments** — Comments on the examination process or questions will be collected in the post-examination survey. All comments will be forwarded to NERC.

## Testing Center Requirements

**Required Methods of Identification** — You will be required to show two forms of identification before being admitted to the examination. You will be required to show at least one primary form of identification and either another primary or a secondary form of identification.

- Primary identification — Primary identification is a government-issued form of identification and must have **both** your picture **and** your signature on it. Some examples of primary identification are: a driver's license (if it has both your picture and your signature), a passport, or a military ID.
- Secondary identification — Secondary identification must have **either** your picture **or** your signature **or** both. Acceptable forms of secondary ID are: a second government-issued ID as above, or an employment ID, or a credit card or debit card.

*Identification(s) that have been altered or damaged will not be accepted at the Prometric Test Center. If there is any discrepancy between the name on the identification presented to the test center staff and the NERC registration, the candidate will not be admitted to test and will be marked as a no-show. All no-shows forfeit all funds paid – no refunds are granted to no-shows.*

## Testing Center Regulations

- Candidates who arrive late for the examination might not be seated for the examination, depending on the criteria established by that testing center. Late arrivals that are not permitted to take the examination will be considered a no-show and must reapply and pay the full test fee to take the examination.
- No reference materials, calculators, or recording equipment may be taken into the examination. Candidates will be provided a keyed locker to store personal items while taking the examination.
- No test materials, documents, notes, or scratch paper of any sort may be taken from the examination.
- Visitors are not permitted during the examination.
- Testing center staff is instructed to answer questions about testing procedures only. They cannot respond to inquiries regarding the examination's content.
- During the examination, candidates may use the rest rooms for a biological break; however, the examination clock will continue running during such times.
- Candidates may not leave the testing center until they have finished the examination.
- Smoking is not permitted in any testing center.
- Any candidate giving or receiving assistance, or making a disturbance, will be required to turn in their examination materials, exit the examination room, and leave the testing center. Your test will be scored whether you have completed it or not. The disciplinary action procedure will be initiated upon notification by Prometric to NERC that such activity had occurred.
- Any instances of cheating, or attempts to impersonate another candidate, will be dealt with through the disciplinary action procedure.



## **Cancellations and No-shows**

You may cancel and reschedule an examination appointment either by calling Prometric at the toll free number listed in your ATT letter or through their website (<http://www.prometric.com>). Your request to cancel must be no later than noon, local test center time, two days (Monday–Saturday excluding local holidays) before the examination date. You may reschedule the examination date within your period of eligibility without paying an additional fee. If you are late in canceling your examination appointment, do not appear for it, or arrive late, you will be considered a no-show. All no-shows will have to reapply to take the examination and pay the full test fee. Refunds will not be issued to no-shows.

## **Minimum Time Between Examinations**

Candidates who fail the examination must wait 42 days from the date of the failed examination to retest. Candidates who pass one of the NERC system operator Certification examinations may take the examination thirty-six months after the date they were last certified (this only applies to those certificates valid for five years that were issued prior to the implementation of Continuing Education Hours as a means of Credential Maintenance).

## **Special Accommodations/Disabilities**

Allowance will be made for all documented requests for special testing conditions. Applicants must notify NERC by [e-mail](#) or telephone. The Certification coordinator will contact the applicant with further instructions. Disability requests must be supported by a letter (original copy) from a recognized health care provider and be signed by a physician or psychologist. All other requests must be similarly supported. NERC will review each request and provide appropriate accommodations. The decision will be included in the notice of eligibility/registration approval sent to the applicant.

*Note: All testing centers are in compliance with the regulations governing the Americans with Disabilities Act (ADA).*

## **Withdrawal from Examination Process**

As described in the *Eligibility Period* section of this Program Manual, the eligibility period is one year from the date the ATT number is issued. If a candidate wishes to withdraw from the process within the stated period for any reason, they must complete the candidate withdrawal request on the system operator Certification website on or before the last eligibility day. Candidates who submit the request within the time period will be reimbursed for the fees submitted to NERC less the withdrawal fee in effect at the time of the application. Failure to properly withdraw will result in the candidate forfeiting all submitted fees.

If you have already scheduled an appointment with Prometric to take the exam, you must first cancel that Prometric appointment or you will be charged a no-show fee.

### To access the Exam Withdrawal

On the [System Operator Certification Program](#) homepage, logon to your NERC.net account:

- Enter [User name](#) and [Password](#)
- Click on [Logon](#)
- Click on [Exam Withdrawal](#)
- Select the exam you are registered to take and from which you wish to withdraw, then click on [Submit](#)

### Examination Change Request

If a candidate wishes to change the examination (i.e., from BI to TO, or from RC to BIT, etc.) that they are registered to take, they must use the Program's website. An examination change request will not change the candidate's eligibility period. The eligibility period will remain valid for one year from the date that the original ATT number was issued. This change request must be submitted at least thirty days prior to the expiration of the candidate's eligibility period.

### To access the Examination Change

On the [System Operator Certification Program](#) homepage, logon to your NERC.net account:

- Enter [User Name](#) and [Password](#)
- Click on [Logon](#)
- Click on [Exam Change](#)
- Select the exam for which you are authorized then click on [Submit](#)
- Select the desired exam from the drop-down list, then click on [Submit](#)

You will be issued a new ATT number with the original expiration date. After receiving your new ATT you must schedule/reschedule an appointment with Prometric to take the exam.

### Results and Awarding of Certificates

Candidates can view pass/fail results on the computer screen when the examination is terminated. Before exiting the Prometric Testing Center, a copy of this display will be provided. This is an unofficial summary of the examination.

After grading and analysis of the examination results, NERC will mail an official summary. This will take about ten to twelve weeks. The official summary will include the grade achieved and the percentage of correctly answered questions in each content outline category.

Candidates who pass the examination will receive the appropriate NERC-certified system operator certificate based on the examination taken and signed by the President of NERC. The date on the certificate will be the day the candidate took the examination.

## System Operator Certificate Numbering Convention

Numbering certificates for certified system operators follows a specific convention. There have been two numbering conventions used since the start of the program.

The original Credential, issued from 1998 into 2002, was the NERC certified system operator. These certificates were assigned the letter N followed by four digits indicating the year the candidate registered, followed by a four digit sequential number.

Example: N19980109 = NERC certified system operator that registered in 1998 and was the 109th system operator registered in the program.

When the specialty Credentials were implemented in late 2002, a new numbering convention was implemented. The new numbering convention consists of a two-letter designation of the Credential type, followed by six digits that indicate year and month the Credential was awarded, followed by a three digit sequential number in that month.

Example: RA200306109 = NERC certified reliability operator certified in June of 2003 and was the 109th system operator certified in that month.

### Credential Designations

N/RA/RC	Reliability operator
BT	Combined balancing and interchange/transmission operator
BA	Balancing and interchange operator
TO	Transmission operator

### Confirmation of Credential to Third Parties

NERC will confirm to an employer that an individual holds a valid NERC system operator certificate (including releasing the certificate number and the issuance date) in response to a written request, on the employer's letterhead (or e-mail), providing the name of the individual. NERC will release the certificate numbers and issuance dates for individuals holding a current NERC system operator certificate to the Regional Entity Compliance Staff or designated agents of those Regional Entities in which an individual's employer operates in response to a written request, submitted on organization letterhead (or e-mail), that provides the names of the individuals for whom information is sought. No further information will be provided.

NERC will confirm to an employment search firm, or a potential employer, whether an individual holds a valid NERC system operator certificate (including releasing the certificate number and the issuance date) if the search firm has a release from the individual. No further information will be provided.

## Section II — Credential Maintenance

**Effective Date: October 1, 2006**

### Overview

The System Operator Certification Program incorporates a requirement to use Continuing Education Hours (CE Hours) to maintain a Credential that is valid for three years. Successfully passing an examination earns a Credential and a certificate that is valid for three years. Accumulation of the proper number and type of CE Hours from NERC-approved learning activities within that three-year period maintains the validity of that Credential for the next three years. A new certificate is issued indicating the new expiration date.

The program provides that:

1. System operators seeking to obtain a Credential will have to pass an examination to earn a Credential.
2. A certificate, valid for three years, will be issued to successful candidates.
3. A certified system operator must accumulate a minimum number of CE Hours, in specific training topics, before their certificate expires to maintain their Credential. The minimum number of CE Hours is based on each Credential:
  - a. 200 CE Hours for reliability operator
  - b. 160 CE Hours for balancing, interchange, and transmission operator
  - c. 140 CE Hours for balancing and interchange operator
  - d. 140 CE Hours for transmission operator
4. A minimum of 30 CE Hours must focus on content and/or implementation of NERC Reliability Standards.
5. A minimum of 30 CE Hours must be in simulations (i.e., table-top exercises, training simulators, emergency drills, practice emergency procedures, restoration, blackstart, etc.).
6. CE Hours can concurrently count for both NERC Reliability Standards and simulations but will only be counted once for the total CE Hours requirement.
  - a. For example: A one-hour simulation learning activity that focuses on NERC Standards can count towards the requirements for both NERC Reliability Standards and simulation. However, the Credential holder will only be awarded a total of one CE Hour toward the total CE Hours requirement. In other words, the CE Hours will not be double counted.
7. Retaking the examination is not an option for Credential Maintenance.
8. If a certified system operator does not accumulate enough CE Hours to maintain their current Credential prior to the certificate expiration date, their Credential will be Suspended for a maximum of one year. At the end of the suspension period, their Credential will be Revoked.
9. If, prior to the end of the one-year suspension, the certified system operator accumulates the proper number and type of CE Hours, their Credential will be reinstated with the original expiration date (three years after the previous expiration date).

10. A system operator with a Revoked Credential will have to pass an examination to become certified.

## When to Start Accumulating CE Hours

CE Hours earned (date of learning activity) in the six months prior to the implementation date will be recognized if they are earned from an approved learning activity that meets the Certification program requirements. Each learning activity will have to be approved for use for Credential Maintenance prior to the CE Hours being issued.

## Specifics of the Credential Maintenance Program

Certified system operators are required to accumulate CE Hours through the NERC Continuing Education Program in recognized training topics for Credential Maintenance. See *Appendix A* for the list of recognized training topics. Described below are the requirements for each of the four Credentials:

### Transmission Operator Certification

To maintain a valid transmission operator Credential, system operators must earn **140 CE Hours** within the 3-year period preceding the expiration date of their certificate.

The 140 CE Hours must include:

- A minimum of 30 CE Hours must focus on content and/or implementation of NERC Reliability Standards.
- A minimum of 30 CE Hours must utilize simulations (i.e., table-top exercises, dispatcher/operator training simulators, emergency drills, or practice emergency procedures, restoration, blackstart or other reliability-based scenarios).

### Balancing and Interchange Operator Certification

To maintain a valid balancing and interchange operator Credential, system operators must earn **140 CE Hours** within the 3-year period preceding the expiration date of their certificate.

The 140 CE Hours must include:

- A minimum of 30 CE Hours must focus on content and/or implementation of NERC Reliability Standards.
- A minimum of 30 CE Hours must utilize simulations (i.e., table-top exercises, dispatcher/operator training simulators, emergency drills, or practice emergency procedures, restoration, blackstart or other reliability-based scenarios).

### Balancing, Interchange, and Transmission Operator Certification

To maintain a valid balancing, interchange, and transmission operator Credential, system operators must earn **160 CE Hours** within the 3-year period preceding the expiration date of their certificate.

The 160 CE Hours must include:

- A minimum of 30 CE Hours must focus on content and/or implementation of NERC Reliability Standards.

- A minimum of 30 CE Hours must utilize simulations (i.e., table-top exercises, dispatcher/operator training simulators, emergency drills, or practice emergency procedures, restoration, blackstart or other reliability-based scenarios).

### **Reliability Operator Certification**

To maintain a valid reliability operator credential, system operators must earn **200 CE Hours** within the three-year period preceding the expiration date of their certificate.

The 200 CE Hours must include:

- A minimum of 30 CE Hours must focus on content and/or implementation of NERC Reliability Standards.
- A minimum of 30 CE Hours must utilize simulations (i.e., table-top exercises, dispatcher/operator training simulators, emergency drills, or practice emergency procedures, restoration, blackstart or other reliability-based scenarios).

### **Certificate**

System operators that have: 1) completed the Credential Maintenance application, 2) satisfied the CE Hours requirements, and 3) paid the required fee will be issued a certificate valid for three years.

### **Deficits of CE Hours for Credential Holders**

The Credential of a certified system operator who does not accumulate the required number and balance of CE Hours within the three-year period will be Suspended. A system operator with a Suspended certificate cannot perform any task that requires an operator to be NERC-certified. The system operator with a Suspended Credential will have up to twelve months to acquire the necessary CE Hours.

During the time of suspension, the original anniversary date will be maintained. Therefore, should the system operator accumulate the required number of CE Hours within the twelve-month suspension period, they will be issued a certificate that will be valid for three years from the previous expiration date. The system operator will be required to accumulate the required number of CE Hours prior to the current expiration date.

At the end of the twelve-month suspension period, if the system operator has not accumulated the required number of CE Hours, the Credential will be Revoked and all CE Hours earned will be forfeited. After a Credential is Revoked, the system operator will be required to pass an examination to become certified.

For example, a system operator whose Credential expires on July 31, 2009 does not accumulate the required number of CE Hours prior to that date:

1. The Credential will be Suspended on August 1, 2009.
2. If the system operator then accumulates and submits the required number of CE Hours by March 1, 2010, the Credential will be reinstated on March 1, 2010, and will be valid until July 31, 2012.

3. The system operator will have to accumulate the required number of CE Hours prior to July 31, 2012 or the Credential will be Suspended again.
4. CE Hours previously used to maintain the Credential cannot be reused for Credential Maintenance.
5. A record of the suspension between August 1, 2009 and March 1, 2010 will be maintained.

## **Carry-Over Hours**

For all Credentials, up to 30 CE Hours accumulated in the six months prior to the certificate expiration date and not used for Credential Maintenance may be carried over to the next three-year period.

CE Hours will be allocated on a first-in, first-out basis. In other words, CE Hours from a learning activity occurring first according to the calendar will be used to satisfy the CE Hours requirement first and continuing sequentially by the date of the learning activities.

## **Reporting of CE Hours Earned by Certified System Operators**

Normally, the Providers will make the submittals of electronically into the NERC system operator Certification database. However, should some conflict occur, the certified system operator must be able to submit proof of having acquired the necessary CE Hours from the Continuing Education Program Provider's approved learning activities.

System operators will be able to track their status/progress towards maintaining their Credential through the NERC system operator Certification website. Certified system operators should review their CE Hours records at least 90 days before their certificate expiration date to allow sufficient time to acquire CE Hours prior to the system operator's certificate expiration date should there be a deficit.

If a Provider does not submit the CE Hours, the certified system operator must submit proof of sufficient CE Hours to the NERC Manager of Personnel Certification no less than 30 days before the system operator's certificate expiration date. NERC staff may be able to process/resolve discrepancies in Credential holder CE Hours records in less than 30 days; however, submissions received at NERC within the 30-day window may not be credited to the system operator's account in time to prevent the Credential from being Suspended. Suspended Credentials based on incomplete data will be reinstated retroactively once proof of completion is verified.

For system operators who meet the CE Hours requirements, and upon receipt of an application and necessary fees, NERC will issue a new certificate with an expiration date three years from the previous expiration date (a new certificate will be mailed to the address on record).

## **Application for Credential Maintenance**

### **Procedure for applying for Credential Maintenance**

Application procedure will be completed after the software is developed.

## Hardship Clause

It is understood that, due to unforeseen events and extenuating circumstances, a certified system operator may be unable to accumulate the necessary CE Hours in the time frame required by the Program to maintain the Credential. In such an event, an individual must submit a written request containing a thorough explanation of the circumstance and supporting information to:

Manager–Personnel Certification  
NERC  
116-390 Village Boulevard  
Princeton, New Jersey 08540

The PCGC retains the right to invoke this hardship clause and deviate from the Program rules, as it deems appropriate, to address such events or circumstances. Examples of extenuating circumstances would include, but not limited to, extended military service, extended illness of the system operator or within the system operator’s immediate family, or system operator temporary disability that results in an extended period of time away from work.

## Changing Certification Levels

Certified system operators that want to transition to a lower Credential can do so. Many system operators hold a reliability operator Credential but are not working in a reliability operator capacity. Those certified system operators could easily transition to a Credential that more closely matches the work they perform without taking an examination. However, system operators currently holding a transmission operator or balancing and interchange operator Credential will have to pass an examination to move to a higher Credential such as the combined balancing, interchange, and transmission operator Credential or the reliability operator Credential.

A certified system operator can change the type of their Credential by indicating their desire on their Credential Maintenance application. A system operator has the following options:

*To change a Credential from:*

- Balancing and interchange operator to any other NERC Credential: the system operator must pass the examination for that Credential.
- Transmission operator to any other NERC Credential: the system operator must pass the examination for that Credential.
- Balancing, interchange, and transmission operator to reliability operator: the system operator must pass the examination for that Credential.
- Reliability operator to any other NERC Credential: the system operator must submit the proper number and type of CE Hours for the new Credential.
- Balancing, interchange, and transmission operator to transmission operator or balancing and interchange operator: the system operator must submit proper number and type of CE Hours for the new Credential.



## **Transition Plan — 5-year Program to 3-year Program**

A certified system operator whose certificate expires during the first three years after implementation of this Program has the option to either accumulate the required number of CE Hours according to the rules stated previously or pass the examination for the desired Credential. Certified system operators who accumulate the required number and balance of CE Hours will receive a certificate that will be valid for three years from the expiration date on their current certificate. System operators who pass an examination will receive a certificate valid for three years from the date they pass the examination.

Certified system operators whose certificate expires after the third anniversary of the implementation of this Program, must accumulate the required number of CE Hours prior to the expiration date of their certificate regardless of the issuance date of their certificate.

## Section III — Program Rules

### Rules for NERC-Certified System Operator

#### Recognized Learning Activities

CE Hours will be recognized for Credential Maintenance only for training topics/learning activities listed in *Appendix A* and where Providers have complied with the Continuing Education Program rules.

#### Provider Access to Database

Providers will be able to access the database to upload certified system operator CE Hours activity. The process for doing this will be determined after the database is developed.

#### System Operator Access to Database

Certified system operators will be able to access the database to track their CE Hour activity. The process for doing this will be determined after the database is developed.

#### Retain Documentation

The certified system operator is responsible for retaining appropriate documentation for proof of Credential Maintenance. Documentation includes:

- Name and contact information of the Provider
- Title and identification number of the learning activity and description of its content
- Date(s) of the learning activity
- Location (if applicable)
- Number and type of CE Hours
- System operator's NERC certificate number

Providers shall retain comparable documentation. Electronic forms of documentation are acceptable.

#### Learning Activity Credit Only Once Per Year

CE Hours for a particular course or learning activity will not be recognized for Credential Maintenance more than once a year based on the Credential anniversary. (i.e., during the twelve-month period preceding the system operator's Credential anniversary)

*Exception: CE Hours for courses dealing with emergency operations will be recognized no more than two times per year based on the Credential anniversary. (i.e., during the 12-month period preceding the system operator's Credential anniversary)*

#### Learning Activity Approved Status Revoked after CE Hours Granted

CE Hours granted for a course or learning activity that had been approved for Credential Maintenance will still be recognized if, subsequent to the system operator attending the course or learning activity, the approved status is Revoked.

**Instructor Credits**

For those instructors who are also certified system operators, 1.0 CE Hour for each CE Hours of a learning activity delivered will be recognized towards the instructor’s system operator Credential Maintenance. CE Hours for a particular course or learning activity will not be recognized for Credential Maintenance more than once a year based on the Credential anniversary. (i.e., during the twelve-month period preceding the system operator’s Credential anniversary)

*Exception: CE Hours for courses dealing with emergency operations will be recognized no more than two times per year based on the Credential anniversary. (i.e., during the twelve-month period preceding the system operator’s Credential anniversary)*

**Treatment of Disputes Between Certified System Operator and Providers**

Disputes between a Provider and a certified system operator must be resolved between the Provider and the certified system operator. NERC will not become involved in resolving the dispute. Additionally, it is the obligation of the certified system operator to periodically review their CE Hours’ records in the NERC system operator Certification database and to maintain their own training records to provide proof that CE Hour requirements have been achieved.

**Fees**

Fee Schedule**	
Application to test	\$350
Application to maintain or change Credential using CE Hours	\$350
Application to retest	\$350
Application to withdraw	\$50
Bad check/credit application	\$25

\*\*All funds must be payable in U.S. dollars.

The Program must be financially independent as well as not-for-profit. The on-going expenses to develop and maintain the examinations and the management and administrative costs associated with both the examination process and Credential Maintenance necessitate these fees. These fees will be periodically reviewed and adjusted accordingly.

## Section IV — Dispute Resolution

### 1. Applicability

Any dispute arising under the NERC agreement establishing a *NERC System Operator Certification Program* or from the establishment of any NERC rules, policies, or procedures dealing with any segment of the Certification process shall be subject to the NERC system operator certification dispute resolution process (hereafter called the “Process”). The Process is for the use of persons who hold an operator Certification or persons wishing to be certified to dispute the validity of the examination, the content of the test, the content outlines, or the registration process. The Process is not for trainers or certified persons disputing CE Hours.

### 2. Dispute Resolution Process

The dispute resolution process consists of three steps.

#### a. NERC System Operator Certification Program Staff

The first step in the process is for the person with a dispute to contact the NERC System Operator Certification Program staff. Contact may be made by a phone call or e-mail to the program staff. This first step can usually resolve the issues without further actions. It is expected that most disputes will be resolved at this step.

Any dispute that requires resolution will first be brought to the NERC System Operator Certification Program staff. Should the issue(s) not be resolved to the satisfaction of the parties involved, the issue can be brought to the Personnel Certification Governance Committee (PCGC) Dispute Resolution Task Force.

#### b. Personnel Certification Governance Dispute Resolution Task Force

If the NERC staff did not resolve the issue(s) to the satisfaction of the parties involved, a written request should be submitted to the chairman of the PCGC through NERC staff explaining the issue(s) and requesting further action. Upon receipt of the letter, the PCGC chairman will present the request to the PCGC Dispute Resolution Task Force for action. This task force consists of three current members of the PCGC. The PCGC Dispute Resolution Task Force will investigate and consider the issue(s) presented and make a decision. This decision will then be communicated to the submitting party, the PCGC chairman, and the NERC staff within 45 calendar days of receipt of the request.

If a French-Canadian or Mexican party raises a dispute, the PCGC shall appoint a French-Canadian speaking or Spanish-speaking interpreter, respectively, as requested.

#### c. Personnel Certification Governance Committee

If the PCGC Dispute Resolution Task Force’s decision did not resolve the issue(s) to the satisfaction of the parties involved, the final step in the process is for the issue(s) to be brought before the PCGC. The disputing party shall submit a written request to the PCGC chairman through NERC staff requesting that the issue(s) be brought before the

PCGC for resolution. The chairman shall see that the necessary documents and related data are provided to the PCGC members as soon as practicable. The PCGC will then meet or conference to discuss the issue(s) and make their decision within 60 calendar days of the chairman's receipt of the request. The decision will be provided to the person bringing the issue(s) and the NERC staff. The PCGC is the governing body of the Certification Program and its decision is final.

### **3. Process Expenses**

All individual expenses associated with the Process, including salaries, meetings, or consultant fees, shall be the responsibility of the individual parties incurring the expense.

### **4. Decision Process**

Robert's Rules of Order shall be used as a standard of conduct for the Process. A simple majority vote of the members present will decide all issues. The vote will be taken in a closed session. No one on the PCGC may participate in the dispute resolution process, other than as a party or witness, if he or she has an interest in the particular matter.

A stipulation of invoking the appeals process is that the entity requesting the appeal agrees that neither NERC (its Members, Board of Trustees, committees, subcommittees, and staff), any person assisting in the appeals process, nor any company employing a person assisting in the appeals process, shall be liable, and they shall be held harmless against the consequences of or any action or inaction or of any agreement reached in resolution of the dispute or any failure to reach agreement as a result of the appeals proceeding. This "hold harmless" clause does not extend to matters constituting gross negligence, intentional misconduct, or a breach of confidentiality.

## Section V — Disciplinary Action

### 1. Purpose

This disciplinary action procedure is necessary to protect the integrity of the system operator Credential. Should an individual act in a manner that is inconsistent with expectations, this procedure describes the process to investigate and take action necessary to protect the Credential.

### 2. Grounds for Action

The following shall serve as grounds for disciplinary action:

- a. Willful, gross, and/or repeated violation of the NERC Reliability Standards as determined by a NERC investigation.
  - i. Both the organization and the certified system operator are bound by the NERC Reliability Standards. If a certified system operator, either in concert with the organization or on his or her own initiative, performs a willful, gross, and/or repeated violation of the NERC Reliability Standards, he or she is liable for those actions and disciplinary actions may be taken against him or her.
- b. Willful, gross, and/or repeated negligence in performing the duties of a certified system operator as determined by a NERC investigation.
- c. Intentional misrepresentation of information provided on a NERC application for a system operator Certification exam or to maintain a system operator Credential using CE Hours.
- d. Intentional misrepresentation of identification in the exam process.
  - i. This includes, but is not limited to, a person identifying himself or herself as another person to obtain Certification for the other person.
- e. Any form of cheating during a Certification exam.
  - i. This includes, but is not limited to, bringing unauthorized reference material in the form of notes, crib sheets, or other methods of cheating into the testing center.
- f. A certified system operator's admission to or conviction of any felony or misdemeanor directly related to their duties as a system operator.

### 3. Hearing and Appeals Process

Upon report to NERC of a candidate's or certified system operator's alleged misconduct, the NERC Personnel Certification Governance Committee (PCGC) Credential Review Task Force will convene for the determination of facts. An individual, government agency, or other investigating authority can file reports.

Unless the task force initially determines that the report of alleged misconduct is without merit, the candidate or certified system operator will be given the right to notice of the allegation. A hearing will be held and the charged candidate or certified system operator will be given an opportunity to be heard and present further relevant information. The task force may seek out information from other involved parties. The hearing will not be open to the public, but it will be

open to the charged candidate or certified system operator and his or her representative. The task force will deliberate in a closed session, but the task force cannot receive any evidence during the closed session that was not developed during the course of the hearing. The task force's decision will be unanimous and will be in writing with inclusion of the facts and reasons for the decision. The task force's written decision will be delivered to the PCGC and by certified post to the charged candidate or certified system operator. In the event that the task force is unable to reach a unanimous decision, the matter shall be brought to the full committee for a decision.

The task force's decision will be one of the below:

**a. No Action**

Allegation of misconduct was determined to be unsubstantiated or inconsequential to the Credential.

**b. Probation**

A letter will be sent from NERC to the offender specifying:

- i. The length of time of the probationary period (to be determined by the PCGC).
  - (a) Credential will remain valid during the probationary period.
  - (b) The probationary period does not affect the expiration date of the current certificate.
- ii. During the probationary period, a subsequent offense of misconduct, as determined through the same process as described above, may be cause for more serious consequences.
  - (a) Extension of Probation,
  - (b) Revocation for cause, or
  - (c) Termination of Credential.

**c. Revoke for Cause**

A letter will be sent from NERC to the offender specifying:

- i. The length of time of the revocation period (to be determined by the PCGC).
  - (a) Credential is no longer valid.
  - (b) Successfully passing an exam will be required to become certified.
  - (c) An exam will not be authorized until the revocation period expires.

**d. Termination of Credential**

A letter will be sent from NERC to the offender specifying:

- i. Permanent removal of Credential.

#### **4. Appeal Process**

The decision of the task force may be appealed using the NERC [system operator certification dispute resolution](#) process.

## **5. Credential Review Task Force**

The Credential Review Task Force shall be comprised of three active members of the PCGC assigned by the Chairman of the PCGC on an ad hoc basis. No one on the Credential Review Task Force may have an interest in the particular matter.

The task force will meet in a venue determined by the task force chairman.

If a French-Canadian or Mexican party raises a dispute, the PCGC shall appoint a French-Canadian speaking or Spanish-speaking interpreter, respectively, as requested.



## Glossary

Capitalized terms used in this Appendix shall have the definitions set forth in Appendix 2 of the Rules of Procedure. For convenience of reference, definitions used in this Appendix are also set forth below:

- G01. **Continuing Education Hour or CE Hour:** Sixty minutes of participation in a group, independent study, or self-study learning activity as approved by the NERC Continuing Education Program.
- G02. **Continuing Education Program Provider or Provider:** The individual or organization offering a learning activity to participants and maintaining documentation required by these criteria.
- G03. **Certification:** An official recognition that indicates the recipient has passed a NERC exam or completed a specified number of Continuing Education Hours.
- G04. **Credential:** NERC designation that indicates the level of qualification achieved (i.e., reliability operator; balancing, interchange, and transmission operator; balancing and interchange operator; and transmission operator).
- G05. **Credential Maintenance:** Meet NERC CE Hours' requirements to maintain a valid NERC-issued system operator Credential.
- G06. **NERC-Approved Learning Activity:** Training that maintains or improves professional competence and has been approved by NERC for use in its Continuing Education Program.
- G07. **Probation:** A step in the disciplinary process during which the certificate is still valid. During the probationary period, a subsequent offense of misconduct, as determined through the same process as described above, may be cause for more serious consequences.
- G08. **Revoked:** A NERC certificate which has been Suspended for more than twelve months. While in this state, a certificate holder can not perform any task that requires an operator to be NERC-certified. The certificate holder will be required to pass an exam to be certified again. Any CE Hours accumulated prior to or during the revocation period will not be counted towards Credential Maintenance.
- G09. **Revoke for Cause:** A step in the disciplinary process during which the certificate is no longer valid and requiring successfully passing an exam to become certified. However, an exam will not be authorized until the revocation period expires. CE Hours earned before or during this revocation period will not be counted for maintaining a Credential.
- G10. **Suspended:** Certificate status due to an insufficient number of CE Hours being submitted prior to the expiration of a certificate. While in this state, a certificate holder can not perform any task that requires an operator to be NERC-certified.
- G11. **Termination of Credential:** A step in the disciplinary process whereby a Credential is permanently Revoked.

- G12. Type of CE Hours:** NERC-Approved Learning Activity covering topics from Appendix A, NERC Reliability Standards and/or simulations for which there is a minimum requirement for Credential Maintenance.

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## Appendix A — Recognized Operator Training Topics

1. **Basic Concepts**
  - a. Basic electricity including capacitance, inductance, impedance, Real and Reactive Power
  - b. Single phase & three phase power systems
  - c. Transmission line and transformer characteristics
  - d. Substation layouts including the advantages and disadvantages of substation bus schemes
2. **Production & Transfer of Electric Energy**
  - a. How generators produce electricity
  - b. Types of generators including advantages and disadvantages of each type
  - c. Economic operation of generators
  - d. Real and Reactive Power flow
3. **System Protection**
  - a. Transmission line, transformer, and bus protection principles
  - b. Generator protection principles
  - c. Types of relays used in different protection schemes
  - d. The role of communication systems in system protection
4. **Interconnected Power System Operations**
  - a. Voltage control
  - b. Frequency control
  - c. Power system stability
  - d. Facility outage response
  - e. Automatic generator control (AGC) including the different modes of AGC
  - f. Extra high voltage (EHV) operation
  - g. Energy accounting
  - h. Inadvertent energy
5. **Emergency Operations**
  - a. Loss of generation resource
  - b. Operating reserves
  - c. Contingency reserves
  - d. Line loading relief
  - e. Loop flow
  - f. Load shedding
  - g. Voltage and reactive flows during emergencies
  - h. Loss of critical transmission facilities
6. **Power System Restoration**
  - a. Restoration philosophies
  - b. Facility restoration
  - c. Blackstart restoration
  - d. Load shedding
  - e. Under-frequency Load shedding
  - f. Under-voltage Load shedding

**7. Market Operations**

- a. Standards of conduct
- b. Tariffs
- c. Transmission reservations and transmission priorities
- d. Transaction tagging

**8. Tools**

- a. Supervisory control and data acquisition
- b. Automatic generation control application
- c. Power flow application
- d. State estimator application
- e. Contingency analysis application
- f. P-V curves
- g. Load forecasting application
- h. Energy accounting application
- i. OASIS application
- j. E-Tag application
- k. Voice and data communication systems

**9. Operator Awareness**

- a. Identifying loss of facilities
- b. Recognizing loss of communication facilities
- c. Recognizing telemetry problems
- d. Recognizing and identifying contingency problems
- e. Communication with appropriate entities including the Reliability Coordinator

**10. Policies & Procedures**

- a. NERC Reliability Standards
- b. ISO/RTO operational and emergency policies and procedures
- c. Regional operational and emergency policies and procedures
- d. Local & company specific policies and procedures
- e. Emergency operating plans
- f. Line loading relief procedures
- g. Physical and cyber sabotage procedures
- h. Outage management and switching procedures

**11. NERC Reliability Standards**

- a. Application and/or implementation of NERC Reliability Standards

**PETITION OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
FOR APPROVAL OF REVISIONS TO ITS RULES OF PROCEDURE  
TO ADOPT A BULK ELECTRIC SYSTEM EXCEPTION PROCEDURE**

**ATTACHMENT 7B**

**REVISED APPENDIX 6 OF THE RULES OF PROCEDURE,  
*SYSTEM OPERATOR CERTIFICATION PROGRAM MANUAL***

**REDLINED VERSION**

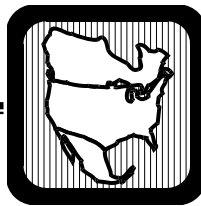
**Proposed Revisions 1-9-2012  
[Incorporates revisions filed with  
FERC on November 29, 2011]**

# **System Operator Certification**

# **Program Manual**

August 2006

Approved by the Personnel Certification Governance Committee  
Approved by the NERC Board of Trustees  
May 2006



**North American Electric Reliability Council**  
Updated: August 14, 2006

## Program Manual Changes

No.	Date	Section	Page	Description	Version
1	05/2005	All	All	Initial white paper expanded SOC Program to include CE hours	0
2	02/2006	All	All	Program Manual	1
3	06/2006	I and II	4, 17	Fees	1.1
4	06/2006	All	All	CEH to CE hours	1.1
5	08/2006	III	16	Training Providers retaining documentation	1

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## **Executive Summary**

Maintaining the reliability of the Bulk Electric System through implementation of the Reliability Standards requires skilled, trained and qualified system operators. The System Operator Certification Program provides the mechanism to ensure system operators are provided the education and training necessary to obtain the essential knowledge and skills and are therefore qualified to operate the Bulk Electric System.

The System Operator Certification Program provides the framework for the examinations used to obtain initial Certification in one of four NERC Credentials: transmission operator, balancing and interchange operator, balancing, interchange and transmission operator, and reliability operator. A system operator Credential is a personal Credential issued to a person for successfully passing a NERC system operator Certification exam. The Credential is maintained by accumulating a specified number of Continuing Education Hours within a specified period of time. The program will allow system operators to maintain their Credential through continuing education rather than to recertify by retaking an examination.

The NERC Personnel Certification Governance Committee (PCGC) is the governing body that establishes the policies, sets fees, and monitors the performance of the System Operator Certification Program. As program administrator, NERC maintains databases, records, and applications, collects fees, maintains contracts with vendors, and provides reports on system operator Certification related activities. The PCGC is responsible for ensuring the program is not-for-profit and financially sound, and annually reviews the program to ensure that it is adequately funded.

## Section I — Certification Examinations

### Overview

The System Operator Certification Program awards Certification Credentials to those individuals who demonstrate that they have attained sufficient knowledge relating to NERC Reliability Standards as well as the basic principles of Bulk Power System operations by passing one of four specialty examinations. A certificate is issued to a candidate who successfully completes an examination. Certificates issued prior to the implementation of the new Continuing Education Hours requirement will be valid for five years. Certificates issued after the implementation of this requirement will be valid for three years.

The members of the Examination Working Group (EWG) represent each of the specialty areas tested in the examinations. The EWG develops the examinations under the guidance of a psychometric consultant. The examinations are based on content outlines that were developed through a job analysis. Prior to being used in the scoring process, each question is ‘piloted’ (not scored) for one full examination cycle (eighteen months), and the performance of each question is continually tracked. The direct involvement of system operators, supervisors, and trainers in the examination development process will remain a primary requirement of future NERC system operator Certification examinations.

### Earning a Credential

#### Examinations

There are four specialty examinations: reliability operator, balancing and interchange operator, transmission operator, and balancing, interchange, and transmission operator. Each of the examinations has its own content outline that can be accessed from the Program’s web page. The specifics of the individual examinations can be obtained from the table below. The individual content outlines for each of the specialty examinations can be obtained by clicking on the name of the exam.

Examination Title	Total Questions	Scored Questions	Passing Score (# of answers correct)	Passing Score (% of answers correct)
Reliability operator Certification examination	150	125	93	74.4
Balancing, interchange, and transmission operator Certification examination	150	125	93	74.4
Transmission operator Certification examination	125	100	76	76
Balancing and interchange operator Certification examination	125	100	76	76

## Applying for Certification Examinations

1. You must first establish a NERC.net user account. Once you are registered, you can access the on-line application form.
  - a. If you do not have a NERC.net user account, please [click here](https://soc.nerc.net/registration/default.aspx) (<https://soc.nerc.net/registration/default.aspx>) to set up your free account.
2. If you already have a NERC.net user account, please [click here](https://soc.nerc.net/default.aspx) (<https://soc.nerc.net/default.aspx>) to sign-in to your NERC.net user account to access the on-line examination application form.
  - a. If you have forgotten your user name or password, contact the NERC office at phone number (609) 452-8060 (Mon–Fri, 8:00 a.m.–4:00 p.m. Eastern).
3. Select *Exam Application Form*
4. Select the examination you wish to take then click *SUBMIT*
5. You may submit your payment either by selecting credit card (VISA or MasterCard only) or invoice for check payments. A copy of the invoice and check or money order must be mailed to NERC to complete your examination application process.

North American Electric Reliability Corporation  
System Operator Certification Program  
116-390 Village Boulevard  
Princeton, New Jersey 08540-5731

Applications are accepted year round. Allow two weeks for the processing of your application and receipt of notification that you are approved to take the examination.

An application is considered complete and processed only when all required information is provided and fees are received. After the application is processed, the authorization-to-test (ATT) letter containing the assigned ATT number is sent to each eligible candidate by e-mail followed by regular mail.

### Eligibility Period

Eligibility to take the examination remains in effect for one year from the date the ATT number is issued. Candidates are encouraged to schedule an appointment to sit for the examination promptly. If a candidate fails to schedule and take the examination during the one-year eligibility period, the candidate shall forfeit all payments made to NERC. Candidates who fail to take the examination within the one-year eligibility must submit a new application and pay the full fee to be considered for eligibility again.

**Fees**

Fee Schedule	
Application to test	\$350
Application to retest	\$350
Application to withdraw	\$50
Bad check/credit	\$25

\*\*All funds shall be payable in U.S. dollars.

**Before scheduling an examination, please do the following:**

- Review all parts of this Program Manual.
- Complete and submit the application to NERC, along with the appropriate fee.
- Receive an ATT letter containing the assigned ATT number by e-mail and regular mail from NERC declaring that you are eligible to take the examination. The letter will also provide instructions on how you may arrange the location, date, and time of your examination. The ATT number will be needed when you contact Prometric to schedule your test appointment.

**Scheduling an Examination**

NERC will send you an ATT letter by e-mail and regular mail with instructions about the identification items to bring with you on the day of the examination. To select your examination location, date, and time go to the Prometric website at <http://www.prometric.com>. All attempts should be made to schedule your examination as soon as possible because testing center appointments are in high demand by other professions. Waiting to schedule your appointment may significantly limit the locations, dates, and times available. Examinations may be administered on any Monday through Saturday. Examinations may be taken on any day that accommodates your schedule and where and when examination space is available.

During the scheduling process, you will be required to confirm your ATT number and your first and last name. You will be advised of available testing locations, dates, and times.

*Note: When you schedule your test date, you will receive a confirmation number from Prometric. Please retain this number, as it will be useful should you have to use Prometric’s automated cancellation system or if there is a conflict with the test center appointment. Prometric will not mail you a confirmation notice.*

**Examination Content Outline**

The computer-based examination consists of objective, multiple-choice questions. The questions are based on the published [Content Outline](#) for each of the NERC system operator Certification examinations.

## Day of the Examination

**Time at Testing Center** — Plan to arrive at the testing center at least thirty minutes early to sign in. You should allocate at least four hours to accommodate the total time you might be at the testing center. This includes:

Examination Time Allocation	
Examination Stages	Time Allocation
Administration & Review of Candidate Identification	30 minutes
Computer-Based Tutorial	15 minutes
Examination	2 hours & 45 minutes
Post-Examination Survey	15 minutes
<b>Total Time to be Allocated</b>	<b>3 hours &amp; 45 minutes</b>

**Computer Familiarization** — A fifteen-minute tutorial on operating instructions for the computer-based examination will be provided before the start of each examination. The tutorial is self-explanatory, and no prior computer knowledge is needed. You may bypass this feature if you wish (not recommended).

Computer-based testing allows you to skip questions, mark, and return to them at a later time. During the examination, you may change your answer to any question. A clock is on the screen at all times indicating the time remaining. Before exiting the examination, the computer will indicate any question(s) you have marked for review or those that remain unanswered.

**Post-Examination Survey** — At the completion of the examination, you will be invited to complete a brief questionnaire on your reactions to the examination experience and the quality of the testing center staff and services. *This is also your opportunity to comment on the content of the examination and to challenge any particular examination questions or answers.*

**Comments** — Comments on the examination process or questions will be collected in the post-examination survey. All comments will be forwarded to NERC.

## Testing Center Requirements

**Required Methods of Identification** — You will be required to show two forms of identification before being admitted to the examination. You will be required to show at least one primary form of identification and either another primary or a secondary form of identification.

- Primary identification — Primary identification is a government-issued form of identification and must have **both** your picture **and** your signature on it. Some examples of primary identification are: a driver's license (if it has both your picture and your signature), a passport, or a military ID.
- Secondary identification — Secondary identification must have **either** your picture **or** your signature **or** both. Acceptable forms of secondary ID are: a second government-issued ID as above, or an employment ID, or a credit card or debit card.

***Identification(s) that have been altered or damaged will not be accepted at the Prometric Test Center. If there is any discrepancy between the name on the identification presented to the test center staff and the NERC registration, the candidate will not be admitted to test and will be marked as a no-show. All no-shows forfeit all funds paid – no refunds are granted to no-shows.***

## Testing Center Regulations

- Candidates who arrive late for the examination might not be seated for the examination, depending on the criteria established by that testing center. Late arrivals that are not permitted to take the examination will be considered a no-show and must reapply and pay the full test fee to take the examination.
- No reference materials, calculators, or recording equipment may be taken into the examination. Candidates will be provided a keyed locker to store personal items while taking the examination.
- No test materials, documents, notes, or scratch paper of any sort may be taken from the examination.
- Visitors are not permitted during the examination.
- Testing center staff is instructed to answer questions about testing procedures only. They cannot respond to inquiries regarding the examination's content.
- During the examination, candidates may use the rest rooms for a biological break; however, the examination clock will continue running during such times.
- Candidates may not leave the testing center until they have finished the examination.
- Smoking is not permitted in any testing center.
- Any candidate giving or receiving assistance, or making a disturbance, will be required to turn in their examination materials, exit the examination room, and leave the testing center. Your test will be scored whether you have completed it or not. The disciplinary action procedure will be initiated upon notification by Prometric to NERC that such activity had occurred.
- Any instances of cheating, or attempts to impersonate another candidate, will be dealt with through the disciplinary action procedure.

## **Cancellations and No-shows**

You may cancel and reschedule an examination appointment either by calling Prometric at the toll free number listed in your ATT letter or through their website (<http://www.prometric.com>). Your request to cancel must be no later than noon, local test center time, two days (Monday–Saturday excluding local holidays) before the examination date. You may reschedule the examination date within your period of eligibility without paying an additional fee. If you are late in canceling your examination appointment, do not appear for it, or arrive late, you will be considered a no-show. All no-shows will have to reapply to take the examination and pay the full test fee. Refunds will not be issued to no-shows.

## **Minimum Time Between Examinations**

Candidates who fail the examination must wait 42 days from the date of the failed examination to retest. Candidates who pass one of the NERC system operator Certification examinations may take the examination thirty-six months after the date they were last certified (this only applies to those certificates valid for five years that were issued prior to the implementation of Continuing Education Hours as a means of Credential Maintenance).

## **Special Accommodations/Disabilities**

Allowance will be made for all documented requests for special testing conditions. Applicants must notify NERC by [e-mail](#) or telephone. The Certification coordinator will contact the applicant with further instructions. Disability requests must be supported by a letter (original copy) from a recognized health care provider and be signed by a physician or psychologist. All other requests must be similarly supported. NERC will review each request and provide appropriate accommodations. The decision will be included in the notice of eligibility/registration approval sent to the applicant.

*Note: All testing centers are in compliance with the regulations governing the Americans with Disabilities Act (ADA).*

## **Withdrawal from Examination Process**

As described in the *Eligibility Period* section of this Program Manual, the eligibility period is one year from the date the ATT number is issued. If a candidate wishes to withdraw from the process within the stated period for any reason, they must complete the candidate withdrawal request on the system operator Certification website on or before the last eligibility day. Candidates who submit the request within the time period will be reimbursed for the fees submitted to NERC less the withdrawal fee in effect at the time of the application. Failure to properly withdraw will result in the candidate forfeiting all submitted fees.

If you have already scheduled an appointment with Prometric to take the exam, you must first cancel that Prometric appointment or you will be charged a no-show fee.

### To access the Exam Withdrawal

On the [System Operator Certification Program](#) homepage, logon to your NERC.net account:

- Enter [User name](#) and [Password](#)
- Click on [Logon](#)
- Click on [Exam Withdrawal](#)
- Select the exam you are registered to take and from which you wish to withdraw, then click on [Submit](#)

### Examination Change Request

If a candidate wishes to change the examination (i.e., from BI to TO, or from RC to BIT, etc.) that they are registered to take, they must use the Program's website. An examination change request will not change the candidate's eligibility period. The eligibility period will remain valid for one year from the date that the original ATT number was issued. This change request must be submitted at least thirty days prior to the expiration of the candidate's eligibility period.

### To access the Examination Change

On the [System Operator Certification Program](#) homepage, logon to your NERC.net account:

- Enter [User Name](#) and [Password](#)
- Click on [Logon](#)
- Click on [Exam Change](#)
- Select the exam for which you are authorized then click on [Submit](#)
- Select the desired exam from the drop-down list, then click on [Submit](#)

You will be issued a new ATT number with the original expiration date. After receiving your new ATT you must schedule/reschedule an appointment with Prometric to take the exam.

### Results and Awarding of Certificates

Candidates can view pass/fail results on the computer screen when the examination is terminated. Before exiting the Prometric Testing Center, a copy of this display will be provided. This is an unofficial summary of the examination.

After grading and analysis of the examination results, NERC will mail an official summary. This will take about ten to twelve weeks. The official summary will include the grade achieved and the percentage of correctly answered questions in each content outline category.

Candidates who pass the examination will receive the appropriate NERC-certified system operator certificate based on the examination taken and signed by the President of NERC. The date on the certificate will be the day the candidate took the examination.



## System Operator Certificate Numbering Convention

Numbering certificates for certified system operators follows a specific convention. There have been two numbering conventions used since the start of the program.

The original Credential, issued from 1998 into 2002, was the NERC certified system operator. These certificates were assigned the letter N followed by four digits indicating the year the candidate registered, followed by a four digit sequential number.

Example: N19980109 = NERC certified system operator that registered in 1998 and was the 109th system operator registered in the program.

When the specialty Credentials were implemented in late 2002, a new numbering convention was implemented. The new numbering convention consists of a two-letter designation of the Credential type, followed by six digits that indicate year and month the Credential was awarded, followed by a three digit sequential number in that month.

Example: RA200306109 = NERC certified reliability operator certified in June of 2003 and was the 109th system operator certified in that month.

### Credential Designations

N/RA/RC	Reliability operator
BT	Combined balancing and interchange/transmission operator
BA	Balancing and interchange operator
TO	Transmission operator

### Confirmation of Credential to Third Parties

NERC will confirm to an employer that an individual holds a valid NERC system operator certificate (including releasing the certificate number and the issuance date) in response to a written request, on the employer's letterhead (or e-mail), providing the name of the individual. NERC will release the certificate numbers and issuance dates for individuals holding a current NERC system operator certificate to the Regional Entity Compliance Staff or designated agents of those Regional Entities in which an individual's employer operates in response to a written request, submitted on organization letterhead (or e-mail), that provides the names of the individuals for whom information is sought. No further information will be provided.

NERC will confirm to an employment search firm, or a potential employer, whether an individual holds a valid NERC system operator certificate (including releasing the certificate number and the issuance date) if the search firm has a release from the individual. No further information will be provided.

## Section II — Credential Maintenance

**Effective Date: October 1, 2006**

### Overview

The System Operator Certification Program incorporates a requirement to use Continuing Education Hours (CE Hours) to maintain a Credential that is valid for three years. Successfully passing an examination earns a Credential and a certificate that is valid for three years. Accumulation of the proper number and type of CE Hours from NERC-approved learning activities within that three-year period maintains the validity of that Credential for the next three years. A new certificate is issued indicating the new expiration date.

The program provides that:

1. System operators seeking to obtain a Credential will have to pass an examination to earn a Credential.
2. A certificate, valid for three years, will be issued to successful candidates.
3. A certified system operator must accumulate a minimum number of CE Hours, in specific training topics, before their certificate expires to maintain their Credential. The minimum number of CE Hours is based on each Credential:
  - a. 200 CE Hours for reliability operator
  - b. 160 CE Hours for balancing, interchange, and transmission operator
  - c. 140 CE Hours for balancing and interchange operator
  - d. 140 CE Hours for transmission operator
4. A minimum of 30 CE Hours must focus on content and/or implementation of NERC Reliability Standards.
5. A minimum of 30 CE Hours must be in simulations (i.e., table-top exercises, training simulators, emergency drills, practice emergency procedures, restoration, blackstart, etc.).
6. CE Hours can concurrently count for both NERC Reliability Standards and simulations but will only be counted once for the total CE Hours requirement.
  - a. For example: A one-hour simulation learning activity that focuses on NERC Standards can count towards the requirements for both NERC Reliability Standards and simulation. However, the Credential holder will only be awarded a total of one CE Hour toward the total CE Hours requirement. In other words, the CE Hours will not be double counted.
7. Retaking the examination is not an option for Credential Maintenance.
8. If a certified system operator does not accumulate enough CE Hours to maintain their current Credential prior to the certificate expiration date, their Credential will be Suspended for a maximum of one year. At the end of the suspension period, their Credential will be Revoked.
9. If, prior to the end of the one-year suspension, the certified system operator accumulates the proper number and type of CE Hours, their Credential will be reinstated with the original expiration date (three years after the previous expiration date).

10. A system operator with a Revoked Credential will have to pass an examination to become certified.

## When to Start Accumulating CE Hours

CE Hours earned (date of learning activity) in the six months prior to the implementation date will be recognized if they are earned from an approved learning activity that meets the Certification program requirements. Each learning activity will have to be approved for use for Credential Maintenance prior to the CE Hours being issued.

## Specifics of the Credential Maintenance Program

Certified system operators are required to accumulate CE Hours through the NERC Continuing Education Program in recognized training topics for Credential Maintenance. See *Appendix A* for the list of recognized training topics. Described below are the requirements for each of the four Credentials:

### Transmission Operator Certification

To maintain a valid transmission operator Credential, system operators must earn **140 CE Hours** within the 3-year period preceding the expiration date of their certificate.

The 140 CE Hours must include:

- A minimum of 30 CE Hours must focus on content and/or implementation of NERC Reliability Standards.
- A minimum of 30 CE Hours must utilize simulations (i.e., table-top exercises, dispatcher/operator training simulators, emergency drills, or practice emergency procedures, restoration, blackstart or other reliability-based scenarios).

### Balancing and Interchange Operator Certification

To maintain a valid balancing and interchange operator Credential, system operators must earn **140 CE Hours** within the 3-year period preceding the expiration date of their certificate.

The 140 CE Hours must include:

- A minimum of 30 CE Hours must focus on content and/or implementation of NERC Reliability Standards.
- A minimum of 30 CE Hours must utilize simulations (i.e., table-top exercises, dispatcher/operator training simulators, emergency drills, or practice emergency procedures, restoration, blackstart or other reliability-based scenarios).

### Balancing, Interchange, and Transmission Operator Certification

To maintain a valid balancing, interchange, and transmission operator Credential, system operators must earn **160 CE Hours** within the 3-year period preceding the expiration date of their certificate.

The 160 CE Hours must include:

- A minimum of 30 CE Hours must focus on content and/or implementation of NERC Reliability Standards.

- A minimum of 30 CE Hours must utilize simulations (i.e., table-top exercises, dispatcher/operator training simulators, emergency drills, or practice emergency procedures, restoration, blackstart or other reliability-based scenarios).

### **Reliability Operator Certification**

To maintain a valid reliability operator credential, system operators must earn **200 CE Hours** within the three-year period preceding the expiration date of their certificate.

The 200 CE Hours must include:

- A minimum of 30 CE Hours must focus on content and/or implementation of NERC Reliability Standards.
- A minimum of 30 CE Hours must utilize simulations (i.e., table-top exercises, dispatcher/operator training simulators, emergency drills, or practice emergency procedures, restoration, blackstart or other reliability-based scenarios).

### **Certificate**

System operators that have: 1) completed the Credential Maintenance application, 2) satisfied the CE Hours requirements, and 3) paid the required fee will be issued a certificate valid for three years.

### **Deficits of CE Hours for Credential Holders**

The Credential of a certified system operator who does not accumulate the required number and balance of CE Hours within the three-year period will be Suspended. A system operator with a Suspended certificate cannot perform any task that requires an operator to be NERC-certified. The system operator with a Suspended Credential will have up to twelve months to acquire the necessary CE Hours.

During the time of suspension, the original anniversary date will be maintained. Therefore, should the system operator accumulate the required number of CE Hours within the twelve-month suspension period, they will be issued a certificate that will be valid for three years from the previous expiration date. The system operator will be required to accumulate the required number of CE Hours prior to the current expiration date.

At the end of the twelve-month suspension period, if the system operator has not accumulated the required number of CE Hours, the Credential will be Revoked and all CE Hours earned will be forfeited. After a Credential is Revoked, the system operator will be required to pass an examination to become certified.

For example, a system operator whose Credential expires on July 31, 2009 does not accumulate the required number of CE Hours prior to that date:

1. The Credential will be Suspended on August 1, 2009.
2. If the system operator then accumulates and submits the required number of CE Hours by March 1, 2010, the Credential will be reinstated on March 1, 2010, and will be valid until July 31, 2012.

3. The system operator will have to accumulate the required number of CE Hours prior to July 31, 2012 or the Credential will be Suspended again.
4. CE Hours previously used to maintain the Credential cannot be reused for Credential Maintenance.
5. A record of the suspension between August 1, 2009 and March 1, 2010 will be maintained.

## **Carry-Over Hours**

For all Credentials, up to 30 CE Hours accumulated in the six months prior to the certificate expiration date and not used for Credential Maintenance may be carried over to the next three-year period.

CE Hours will be allocated on a first-in, first-out basis. In other words, CE Hours from a learning activity occurring first according to the calendar will be used to satisfy the CE Hours requirement first and continuing sequentially by the date of the learning activities.

## **Reporting of CE Hours Earned by Certified System Operators**

Normally, the Providers will make the submittals of electronically into the NERC system operator Certification database. However, should some conflict occur, the certified system operator must be able to submit proof of having acquired the necessary CE Hours from the Continuing Education Program Provider's approved learning activities.

System operators will be able to track their status/progress towards maintaining their Credential through the NERC system operator Certification website. Certified system operators should review their CE Hours records at least 90 days before their certificate expiration date to allow sufficient time to acquire CE Hours prior to the system operator's certificate expiration date should there be a deficit.

If a Provider does not submit the CE Hours, the certified system operator must submit proof of sufficient CE Hours to the NERC Manager of Personnel Certification no less than 30 days before the system operator's certificate expiration date. NERC staff may be able to process/resolve discrepancies in Credential holder CE Hours records in less than 30 days; however, submissions received at NERC within the 30-day window may not be credited to the system operator's account in time to prevent the Credential from being Suspended. Suspended Credentials based on incomplete data will be reinstated retroactively once proof of completion is verified.

For system operators who meet the CE Hours requirements, and upon receipt of an application and necessary fees, NERC will issue a new certificate with an expiration date three years from the previous expiration date (a new certificate will be mailed to the address on record).

## **Application for Credential Maintenance**

### **Procedure for applying for Credential Maintenance**

Application procedure will be completed after the software is developed.

## Hardship Clause

It is understood that, due to unforeseen events and extenuating circumstances, a certified system operator may be unable to accumulate the necessary CE Hours in the time frame required by the Program to maintain the Credential. In such an event, an individual must submit a written request containing a thorough explanation of the circumstance and supporting information to:

Manager–Personnel Certification  
NERC  
116-390 Village Boulevard  
Princeton, New Jersey 08540

The PCGC retains the right to invoke this hardship clause and deviate from the Program rules, as it deems appropriate, to address such events or circumstances. Examples of extenuating circumstances would include, but not limited to, extended military service, extended illness of the system operator or within the system operator’s immediate family, or system operator temporary disability that results in an extended period of time away from work.

## Changing Certification Levels

Certified system operators that want to transition to a lower Credential can do so. Many system operators hold a reliability operator Credential but are not working in a reliability operator capacity. Those certified system operators could easily transition to a Credential that more closely matches the work they perform without taking an examination. However, system operators currently holding a transmission operator or balancing and interchange operator Credential will have to pass an examination to move to a higher Credential such as the combined balancing, interchange, and transmission operator Credential or the reliability operator Credential.

A certified system operator can change the type of their Credential by indicating their desire on their Credential Maintenance application. A system operator has the following options:

*To change a Credential from:*

- Balancing and interchange operator to any other NERC Credential: the system operator must pass the examination for that Credential.
- Transmission operator to any other NERC Credential: the system operator must pass the examination for that Credential.
- Balancing, interchange, and transmission operator to reliability operator: the system operator must pass the examination for that Credential.
- Reliability operator to any other NERC Credential: the system operator must submit the proper number and type of CE Hours for the new Credential.
- Balancing, interchange, and transmission operator to transmission operator or balancing and interchange operator: the system operator must submit proper number and type of CE Hours for the new Credential.

## **Transition Plan — 5-year Program to 3-year Program**

A certified system operator whose certificate expires during the first three years after implementation of this Program has the option to either accumulate the required number of CE Hours according to the rules stated previously or pass the examination for the desired Credential. Certified system operators who accumulate the required number and balance of CE Hours will receive a certificate that will be valid for three years from the expiration date on their current certificate. System operators who pass an examination will receive a certificate valid for three years from the date they pass the examination.

Certified system operators whose certificate expires after the third anniversary of the implementation of this Program, must accumulate the required number of CE Hours prior to the expiration date of their certificate regardless of the issuance date of their certificate.

## Section III — Program Rules

### Rules for NERC-Certified System Operator

#### Recognized Learning Activities

CE Hours will be recognized for Credential Maintenance only for training topics/learning activities listed in *Appendix A* and where Providers have complied with the Continuing Education Program rules.

#### Provider Access to Database

Providers will be able to access the database to upload certified system operator CE Hours activity. The process for doing this will be determined after the database is developed.

#### System Operator Access to Database

Certified system operators will be able to access the database to track their CE Hour activity. The process for doing this will be determined after the database is developed.

#### Retain Documentation

The certified system operator is responsible for retaining appropriate documentation for proof of Credential Maintenance. Documentation includes:

- Name and contact information of the Provider
- Title and identification number of the learning activity and description of its content
- Date(s) of the learning activity
- Location (if applicable)
- Number and type of CE Hours
- System operator's NERC certificate number

Providers shall retain comparable documentation. Electronic forms of documentation are acceptable.

#### Learning Activity Credit Only Once Per Year

CE Hours for a particular course or learning activity will not be recognized for Credential Maintenance more than once a year based on the Credential anniversary. (i.e., during the twelve-month period preceding the system operator's Credential anniversary)

*Exception: CE Hours for courses dealing with emergency operations will be recognized no more than two times per year based on the Credential anniversary. (i.e., during the 12-month period preceding the system operator's Credential anniversary)*

#### Learning Activity Approved Status Revoked after CE Hours Granted

CE Hours granted for a course or learning activity that had been approved for Credential Maintenance will still be recognized if, subsequent to the system operator attending the course or learning activity, the approved status is Revoked.



**Instructor Credits**

For those instructors who are also certified system operators, 1.0 CE Hour for each CE Hours of a learning activity delivered will be recognized towards the instructor’s system operator Credential Maintenance. CE Hours for a particular course or learning activity will not be recognized for Credential Maintenance more than once a year based on the Credential anniversary. (i.e., during the twelve-month period preceding the system operator’s Credential anniversary)

*Exception: CE Hours for courses dealing with emergency operations will be recognized no more than two times per year based on the Credential anniversary. (i.e., during the twelve-month period preceding the system operator’s Credential anniversary)*

**Treatment of Disputes Between Certified System Operator and Providers**

Disputes between a Provider and a certified system operator must be resolved between the Provider and the certified system operator. NERC will not become involved in resolving the dispute. Additionally, it is the obligation of the certified system operator to periodically review their CE Hours’ records in the NERC system operator Certification database and to maintain their own training records to provide proof that CE Hour requirements have been achieved.

**Fees**

Fee Schedule**	
Application to test	\$350
Application to maintain or change Credential using CE Hours	\$350
Application to retest	\$350
Application to withdraw	\$50
Bad check/credit application	\$25

\*\*All funds must be payable in U.S. dollars.

The Program must be financially independent as well as not-for-profit. The on-going expenses to develop and maintain the examinations and the management and administrative costs associated with both the examination process and Credential Maintenance necessitate these fees. These fees will be periodically reviewed and adjusted accordingly.

## Section IV — Dispute Resolution

### 1. Applicability

Any dispute arising under the NERC agreement establishing a *NERC System Operator Certification Program* or from the establishment of any NERC rules, policies, or procedures dealing with any segment of the Certification process shall be subject to the NERC system operator certification dispute resolution process (hereafter called the “Process”). The Process is for the use of persons who hold an operator Certification or persons wishing to be certified to dispute the validity of the examination, the content of the test, the content outlines, or the registration process. The Process is not for trainers or certified persons disputing CE Hours.

### 2. Dispute Resolution Process

The dispute resolution process consists of three steps.

#### a. NERC System Operator Certification Program Staff

The first step in the process is for the person with a dispute to contact the NERC System Operator Certification Program staff. Contact may be made by a phone call or e-mail to the program staff. This first step can usually resolve the issues without further actions. It is expected that most disputes will be resolved at this step.

Any dispute that requires resolution will first be brought to the NERC System Operator Certification Program staff. Should the issue(s) not be resolved to the satisfaction of the parties involved, the issue can be brought to the Personnel Certification Governance Committee (PCGC) Dispute Resolution Task Force.

#### b. Personnel Certification Governance Dispute Resolution Task Force

If the NERC staff did not resolve the issue(s) to the satisfaction of the parties involved, a written request should be submitted to the chairman of the PCGC through NERC staff explaining the issue(s) and requesting further action. Upon receipt of the letter, the PCGC chairman will present the request to the PCGC Dispute Resolution Task Force for action. This task force consists of three current members of the PCGC. The PCGC Dispute Resolution Task Force will investigate and consider the issue(s) presented and make a decision. This decision will then be communicated to the submitting party, the PCGC chairman, and the NERC staff within 45 calendar days of receipt of the request.

If a French-Canadian or Mexican party raises a dispute, the PCGC shall appoint a French-Canadian speaking or Spanish-speaking interpreter, respectively, as requested.

#### c. Personnel Certification Governance Committee

If the PCGC Dispute Resolution Task Force’s decision did not resolve the issue(s) to the satisfaction of the parties involved, the final step in the process is for the issue(s) to be brought before the PCGC. The disputing party shall submit a written request to the PCGC chairman through NERC staff requesting that the issue(s) be brought before the

PCGC for resolution. The chairman shall see that the necessary documents and related data are provided to the PCGC members as soon as practicable. The PCGC will then meet or conference to discuss the issue(s) and make their decision within 60 calendar days of the chairman's receipt of the request. The decision will be provided to the person bringing the issue(s) and the NERC staff. The PCGC is the governing body of the Certification Program and its decision is final.

### **3. Process Expenses**

All individual expenses associated with the Process, including salaries, meetings, or consultant fees, shall be the responsibility of the individual parties incurring the expense.

### **4. Decision Process**

Robert's Rules of Order shall be used as a standard of conduct for the Process. A simple majority vote of the members present will decide all issues. The vote will be taken in a closed session. No one on the PCGC may participate in the dispute resolution process, other than as a party or witness, if he or she has an interest in the particular matter.

A stipulation of invoking the appeals process is that the entity requesting the appeal agrees that neither NERC (its Members, Board of Trustees, committees, subcommittees, and staff), any person assisting in the appeals process, nor any company employing a person assisting in the appeals process, shall be liable, and they shall be held harmless against the consequences of or any action or inaction or of any agreement reached in resolution of the dispute or any failure to reach agreement as a result of the appeals proceeding. This "hold harmless" clause does not extend to matters constituting gross negligence, intentional misconduct, or a breach of confidentiality.

## Section V — Disciplinary Action

### 1. Purpose

This disciplinary action procedure is necessary to protect the integrity of the system operator Credential. Should an individual act in a manner that is inconsistent with expectations, this procedure describes the process to investigate and take action necessary to protect the Credential.

### 2. Grounds for Action

The following shall serve as grounds for disciplinary action:

- a. Willful, gross, and/or repeated violation of the NERC Reliability Standards as determined by a NERC investigation.
  - i. Both the organization and the certified system operator are bound by the NERC Reliability Standards. If a certified system operator, either in concert with the organization or on his or her own initiative, performs a willful, gross, and/or repeated violation of the NERC Reliability Standards, he or she is liable for those actions and disciplinary actions may be taken against him or her.
- b. Willful, gross, and/or repeated negligence in performing the duties of a certified system operator as determined by a NERC investigation.
- c. Intentional misrepresentation of information provided on a NERC application for a system operator Certification exam or to maintain a system operator Credential using CE Hours.
- d. Intentional misrepresentation of identification in the exam process.
  - i. This includes, but is not limited to, a person identifying himself or herself as another person to obtain Certification for the other person.
- e. Any form of cheating during a Certification exam.
  - i. This includes, but is not limited to, bringing unauthorized reference material in the form of notes, crib sheets, or other methods of cheating into the testing center.
- f. A certified system operator's admission to or conviction of any felony or misdemeanor directly related to their duties as a system operator.

### 3. Hearing and Appeals Process

Upon report to NERC of a candidate's or certified system operator's alleged misconduct, the NERC Personnel Certification Governance Committee (PCGC) Credential Review Task Force will convene for the determination of facts. An individual, government agency, or other investigating authority can file reports.

Unless the task force initially determines that the report of alleged misconduct is without merit, the candidate or certified system operator will be given the right to notice of the allegation. A hearing will be held and the charged candidate or certified system operator will be given an opportunity to be heard and present further relevant information. The task force may seek out information from other involved parties. The hearing will not be open to the public, but it will be

open to the charged candidate or certified system operator and his or her representative. The task force will deliberate in a closed session, but the task force cannot receive any evidence during the closed session that was not developed during the course of the hearing. The task force's decision will be unanimous and will be in writing with inclusion of the facts and reasons for the decision. The task force's written decision will be delivered to the PCGC and by certified post to the charged candidate or certified system operator. In the event that the task force is unable to reach a unanimous decision, the matter shall be brought to the full committee for a decision.

The task force's decision will be one of the below:

**a. No Action**

Allegation of misconduct was determined to be unsubstantiated or inconsequential to the Credential.

**b. Probation**

A letter will be sent from NERC to the offender specifying:

- i. The length of time of the probationary period (to be determined by the PCGC).
  - (a) Credential will remain valid during the probationary period.
  - (b) The probationary period does not affect the expiration date of the current certificate.
- ii. During the probationary period, a subsequent offense of misconduct, as determined through the same process as described above, may be cause for more serious consequences.
  - (a) Extension of Probation,
  - (b) Revocation for cause, or
  - (c) Termination of Credential.

**c. Revoke for Cause**

A letter will be sent from NERC to the offender specifying:

- i. The length of time of the revocation period (to be determined by the PCGC).
  - (a) Credential is no longer valid.
  - (b) Successfully passing an exam will be required to become certified.
  - (c) An exam will not be authorized until the revocation period expires.

**d. Termination of Credential**

A letter will be sent from NERC to the offender specifying:

- i. Permanent removal of Credential.

#### **4. Appeal Process**

The decision of the task force may be appealed using the NERC [system operator certification dispute resolution](#) process.

## **5. Credential Review Task Force**

The Credential Review Task Force shall be comprised of three active members of the PCGC assigned by the Chairman of the PCGC on an ad hoc basis. No one on the Credential Review Task Force may have an interest in the particular matter.

The task force will meet in a venue determined by the task force chairman.

If a French-Canadian or Mexican party raises a dispute, the PCGC shall appoint a French-Canadian speaking or Spanish-speaking interpreter, respectively, as requested.

## Glossary

Capitalized terms used in this Appendix shall have the definitions set forth in Appendix 2 of the Rules of Procedure. For convenience of reference, definitions used in this Appendix are also set forth below:

- G01. **Continuing Education Hour or CE Hour:** Sixty minutes of participation in a group, independent study, or self-study learning activity as approved by the NERC Continuing Education Program.
- G02. **Continuing Education Program Provider or Provider:** The individual or organization offering a learning activity to participants and maintaining documentation required by these criteria.
- G03. **Certification:** An official recognition that indicates the recipient has passed a NERC exam or completed a specified number of Continuing Education Hours.
- G04. **Credential:** NERC designation that indicates the level of qualification achieved (i.e., reliability operator; balancing, interchange, and transmission operator; balancing and interchange operator; and transmission operator).
- G05. **Credential Maintenance:** Meet NERC CE Hours' requirements to maintain a valid NERC-issued system operator Credential.
- G06. **NERC-Approved Learning Activity:** Training that maintains or improves professional competence and has been approved by NERC for use in its Continuing Education Program.
- G07. **Probation:** A step in the disciplinary process during which the certificate is still valid. During the probationary period, a subsequent offense of misconduct, as determined through the same process as described above, may be cause for more serious consequences.
- G08. **Revoked:** A NERC certificate which has been Suspended for more than twelve months. While in this state, a certificate holder can not perform any task that requires an operator to be NERC-certified. The certificate holder will be required to pass an exam to be certified again. Any CE Hours accumulated prior to or during the revocation period will not be counted towards Credential Maintenance.
- G09. **Revoke for Cause:** A step in the disciplinary process during which the certificate is no longer valid and requiring successfully passing an exam to become certified. However, an exam will not be authorized until the revocation period expires. CE Hours earned before or during this revocation period will not be counted for maintaining a Credential.
- G10. **Suspended:** Certificate status due to an insufficient number of CE Hours being submitted prior to the expiration of a certificate. While in this state, a certificate holder can not perform any task that requires an operator to be NERC-certified.
- G11. **Termination of Credential:** A step in the disciplinary process whereby a Credential is permanently Revoked.

- G12. Type of CE Hours:** NERC-Approved Learning Activity covering topics from Appendix A, NERC Reliability Standards and/or simulations for which there is a minimum requirement for Credential Maintenance.



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## Appendix A — Recognized Operator Training Topics

1. **Basic Concepts**
  - a. Basic electricity including capacitance, inductance, impedance, [Real and Reactive Power](#) ~~real and reactive power~~
  - b. Single phase & three phase power systems
  - c. Transmission line and transformer characteristics
  - d. Substation layouts including the advantages and disadvantages of substation bus schemes
2. **Production & Transfer of Electric Energy**
  - a. How generators produce electricity
  - b. Types of generators including advantages and disadvantages of each type
  - c. Economic operation of generators
  - d. Real and [Reactive Power](#) ~~reactive power~~ flow
3. **System Protection**
  - a. Transmission line, transformer, and bus protection principles
  - b. Generator protection principles
  - c. Types of relays used in different protection schemes
  - d. The role of communication systems in system protection
4. **Interconnected Power System Operations**
  - a. Voltage control
  - b. Frequency control
  - c. Power system stability
  - d. Facility outage response
  - e. Automatic generator control (AGC) including the different modes of AGC
  - f. Extra high voltage (EHV) operation
  - g. Energy accounting
  - h. Inadvertent energy
5. **Emergency Operations**
  - a. Loss of generation resource
  - b. Operating reserves
  - c. Contingency reserves
  - d. Line loading relief
  - e. Loop flow
  - f. Load shedding
  - g. Voltage and reactive flows during emergencies
  - h. Loss of critical transmission facilities
6. **Power System Restoration**
  - a. Restoration philosophies
  - b. Facility restoration
  - c. Blackstart restoration
  - d. Load shedding
  - e. Under-frequency ~~Loadload~~ shedding
  - f. Under-voltage ~~Loadload~~ shedding

**7. Market Operations**

- a. Standards of conduct
- b. Tariffs
- c. Transmission reservations and transmission priorities
- d. Transaction tagging

**8. Tools**

- a. Supervisory control and data acquisition
- b. Automatic generation control application
- c. Power flow application
- d. State estimator application
- e. Contingency analysis application
- f. P-V curves
- g. Load forecasting application
- h. Energy accounting application
- i. OASIS application
- j. E-Tag application
- k. Voice and data communication systems

**9. Operator Awareness**

- a. Identifying loss of facilities
- b. Recognizing loss of communication facilities
- c. Recognizing telemetry problems
- d. Recognizing and identifying contingency problems
- e. Communication with appropriate entities including the Reliability Coordinator

**10. Policies & Procedures**

- a. NERC Reliability Standards
- b. ISO/RTO operational and emergency policies and procedures
- c. Regional operational and emergency policies and procedures
- d. Local & company specific policies and procedures
- e. Emergency operating plans
- f. Line loading relief procedures
- g. Physical and cyber sabotage procedures
- h. Outage management and switching procedures

**11. NERC Reliability Standards**

- a. Application and/or implementation of NERC Reliability Standards

**PETITION OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
FOR APPROVAL OF REVISIONS TO ITS RULES OF PROCEDURE  
TO ADOPT A BULK ELECTRIC SYSTEM EXCEPTION PROCEDURE**

**ATTACHMENT 8A**

**REVISED APPENDIX 8 OF THE RULES OF PROCEDURE,  
*NERC BLACKOUT AND DISTURBANCE RESPONSE PROCEDURES***

**CLEAN VERSION**

**Proposed Revisions 1-9-2012  
[Incorporates revisions filed with  
FERC on November 29, 2011]**

# **NERC Blackout and Disturbance Response Procedures**

Effective October 18, 2007

North American Electric Reliability Corporation

NERC Blackout and Disturbance Response Procedures

## **NERC Blackout and Disturbance Response Procedures**

### **Introduction**

NERC, through its professional staff and the Regional Entities and their members, provide the best source of technical and managerial expertise for responding to major events that affect the Bulk Power System.

NERC's role following a blackout or other major Bulk Electric System disturbance or emergency is to provide leadership, coordination, technical expertise, and assistance to the industry in responding to the event. Working closely with the Regional Entities and Reliability Coordinators, NERC will coordinate efforts among industry participants, and with state, federal, and provincial governments in the United States and Canada to support the industry's response.

When responding to any event where physical or cyber security is suspected as a cause or contributing factor to an event, NERC will immediately notify appropriate government agencies and coordinate its analysis with them.

During the conduct of some NERC-level analyses, assistance may be needed from government agencies. Collaborative analysis with certain government agencies may be appropriate in some cases; e.g., collaborating with the Nuclear Regulatory Commission technical staff when a system event involves a nuclear unit. This assistance could include: authority to require data reporting from affected or involved parties; communications with other agencies of government; analyses related to possible criminal or terrorist involvement in the event; resources for initial data gathering immediately after the event; authority to call meetings of affected or involved parties; and technical and analytical resources for studies. If a federal or multi-national government analysis is called for, government agencies should work in primarily an oversight and support role, in close coordination with the NERC analysis.

It is critical to establish, up front, a clear delineation of roles, responsibilities, and coordination requirements among industry and government for the analysis and reporting of findings, conclusions, and recommendations related to major blackouts, disturbances, or other emergencies affecting the Bulk Power System.

Depending on the severity and of the event and the area impacted, the event analysis may be conducted either by NERC or by the impacted Regional Entity. If the analysis is conducted by the Regional Entity, NERC staff, at least one member of the NERC Event Analysis Working Group (in addition to the Event Analysis Working Group member from the impacted Regional Entity), and other appropriate technical experts from the NERC community will participate as members of the Regional Entity analysis team.

A Regional Entity may request NERC to elevate an analysis to a NERC-level. In such cases, all team responsibilities will shift to NERC, and the Regional Entity may continue to participate in the analysis on appropriate teams.

These procedures do not represent a "cookbook" to be followed blindly. They provide a framework to guide NERC's response to events that may have multiregional, national, or

international implications. Experienced industry leadership would still be required to tailor the response to the specific circumstances of the event.

Responding to major blackouts and other system disturbances can be divided into four phases:

1. situation assessment and communications;
2. situation tracking and communications;
3. data collection, investigation, analysis and reporting; and
4. follow-up on recommendations.

### **Phase 1 — Situation Assessment and Communications**

NERC's primary roles in Phase 1 are to:

- conduct an initial situation assessment;
- call for the collection of and analyze necessary initial data and information for the event;
- assist the Regional Entity-lead analysis with determining the need for supplemental technical expertise from the NERC community;
- issue initial findings, conclusions, and recommendations;
- maintain detailed data records (not subject to Freedom of Information Act);
- assist government agencies in criminal analyses when relevant;
- provide technical expertise for modeling and analyzing the event; and
- follow up on recommendations.

While conducting its initial situation assessment, NERC will make an early determination as to whether the cause of the event may be related to physical or cyber security, and communicate as appropriate with government agencies.

Notice of a event is typically received by the NERC Electricity Sector Information Sharing and Analysis Center (ESISAC) person on duty and relayed to other appropriate NERC personnel.<sup>1</sup> NERC performs an initial situation assessment by contacting the appropriate Reliability Coordinator(s), and makes a decision on whether to activate its crisis communications plan. At the initial stage in gathering information about an incident, it is critical to minimize interference with Bulk Electric System operators who are in the process of restoring the system. To minimize interference with their work, NERC, in its capacity as the ESISAC, should serve as the primary communications link with government agencies.

The ESISAC Concept of Operations (ConOps) specifies the operations plan, communications procedures, and logistics NERC will follow during normal conditions, emergencies, and national security special events. The ConOps includes the primary points of contact (24x7) for the Federal Energy Regulatory Commission, U.S. Department of Energy, U.S. Department of Homeland Security, U.S. Nuclear Regulatory Commission, and Public Safety and Emergency Preparedness Canada.

It is important that during these early hours the ESISAC, in coordination with government agencies, determine whether this event was caused by the actions of criminal or terrorist parties. The results of this criminal assessment are essential to operators because if there is a possibility that the "attack" is still ongoing, restoration and response actions would need to be tailored to

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<sup>1</sup> NERC maintains 24x7 contact information for its key personnel to facilitate such contacts.  
NERC Blackout and Disturbance Response Procedures – Effective October 18, 2007

these circumstances. If NERC and government agencies deem it necessary for further criminal analyses, NERC will issue a formal notice to affected systems to retain all relevant information gathered during this and subsequent phases of an analysis.

The specific criteria for reporting disturbances and other events are described in NERC Reliability Standard EOP-004-1. These criteria and procedures are intended to provide a common basis for consistent reporting of abnormal system conditions and events that occur in North America. All entities responsible for the reliability of Bulk Power Systems in North America must ensure that sufficient information is submitted to NERC within the time frame required. Reliability Coordinators will use the Reliability Coordinator Information System (RCIS) as the primary method of communications to NERC. The ESISAC duty person is responsible for monitoring the RCIS for such notifications.

Depending on the scope and magnitude of the event, NERC will issue media advisories through its crisis communications plan.

### **Phase 2 — Situation Tracking and Communications**

Based on the nature and severity of the event, in Phase 2 NERC will continue to track progress in restoring the Bulk Power System and service to customers, and keep industry, government agencies, and the public informed. The most important thing to recognize in this phase is that the primary focus of Reliability Coordinators and Transmission Operators is the prompt restoration of the Bulk Electric System. NERC will coordinate requests by government agencies for information from Reliability Coordinators and Transmission Operators, and serve as a conduit and coordinator between industry and government for regular status reports on the restoration.

As events continue, NERC will determine whether a detailed analysis of the event should be conducted, and start to identify manpower requirements, data collection and retention requirements, and at what level the analysis should be conducted. If the event is localized within a Region, NERC will participate in the event analysis of the Regional Entity.

### **Phase 3 — Data Collection, Investigation, Analysis, and Reporting**

Based on the scope, magnitude, and impact of an event, during Phase 3 NERC may:

1. perform an overview analysis of system and generator response;
2. rely on one of its Regional Entities to conduct the analysis and monitor the analysis results;
3. work with a Regional Entity in its analysis; or
4. conduct a NERC-level analysis.

The NERC CEO will decide, based on the initial situation assessment and consultation with the NERC technical committee officers<sup>2</sup>, if a NERC-level analysis is warranted. If a NERC-level analysis is to be conducted, the NERC CEO will appoint the Director of Events Analysis and Information Exchange to lead the analysis and assemble a high-level technical steering group to provide guidance and support throughout the analysis.

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<sup>2</sup> NERC will maintain a list of 24x7 contact information for its technical committee officers.

NERC reserves the right to elevate or augment an analysis performed by a Regional Entity pending the results of the Regional Entity analysis. Additional requests for analyses or supporting data may be made by NERC at any time in the investigation process.

A Regional Entity may request NERC to elevate an analysis to a NERC-level. In such cases, all team responsibilities will shift to NERC, and the Regional Entity may continue to participate in the analysis on appropriate teams.

If the analysis is to be led by one of the Regional Entities, a member of the NERC staff, at least one member of the NERC Event Analysis Working Group (in addition to an Event Analysis Working Group member from the impacted Regional Entity), and other appropriate technical experts from the NERC community will participate as a triage team. The triage team will participate as members of the Regional Entity analysis team. The triage team will also assist the Regional Entity with determining if additional technical expertise from the NERC community are needed for the analysis.

For NERC-level analyses, the first task of the Director of Events Analysis and Information Exchange would be to identify what technical and other resources and data would be needed from staff, the industry, and government, and to issue those requests immediately. This task will include identification of any special managerial, forensic, or engineering skills needed for the analysis. Secondly, the Director of Events Analysis and Information Exchange must issue requests for those resources and information. Third, the Director of Events Analysis and Information Exchange must organize the teams that will conduct and report on the analysis.

The teams needed for a particular analysis will vary with the nature and scope of the event. Attachment A describes the typical teams that would be required for a NERC-level analysis, and Attachment B provides suggested guidelines for the NERC-level analysis team scopes. Individuals that participate on these teams will be expected to sign an appropriate confidentiality agreement. NERC uses a standard (pro forma) confidentiality agreement (Attachment C) for participants in event analyses, which it will adapt for specific analyses.

The Blackout and Disturbance Analysis Objectives, Approach, Schedule, and Status (Attachment D) and Guidelines for NERC Reports on Blackouts and Disturbances (Attachment E) are used to guide and manage analysis and reporting on major blackouts and disturbances.

A NERC-level analysis will comprise (a) collecting pertinent event data; (b) constructing a detailed sequence of events leading to and triggering the disturbance; (c) assembling system models and data and conducting detailed system analysis to simulate pre- and post-event conditions; and (d) issuing findings, conclusions, and recommendations. The details of these four phases of the analysis are:

**a. Collecting Pertinent Event Data**

- Collect all pertinent event logs, disturbance recorders, operator transcripts, and other system data.



#### **b. Detailed Sequence of Events**

- Construct a detailed sequence of events leading to and triggering the event. Reconcile event logs, disturbance recorders, operator transcripts, and other system data to create an accurate sequence of events.
- Enter and preserve all data in a secure data warehouse.

#### **c. Detailed System Analysis**

- Assess the sequence of events to determine critical times for study.
- Assemble the necessary system models and data from Regional Entity and operating entities to accurately model (with power flow and dynamic simulations) the pre-event conditions.<sup>3</sup> Determine pre-event conditions at critical times prior to event initiation, including an assessment of reliability margins in the pre-event time frame.
- Analyze data from phasor measurement units, high-speed data recorders, digital fault recorders, digital relays, and system relay targets.<sup>4</sup>
- Analyze generator and Load performance, including underfrequency and undervoltage relay actions.
- Use the model information and sequence of events to dynamically model the trigger events and the outage sequence. Identify the system phenomena that propagated the failure. Provide graphical results showing the nature of the cascade. Conduct additional analyses as initial findings identify the need for further study.

#### **d. Findings, Conclusions, and Recommendations**

- Identify and assess failures contributing to the event, including possible instability conditions, system protection mis-operations, generator actions, etc.
- Either identify or rule out man-made/criminal cyber or physical attacks on the electric system.
- Determine if the system was being operated within equipment and system design criteria at the time of the outage.
- Assess the qualifications, training, SCADA/EMS tools, and communications available to system operators and Reliability Coordinators, and how effective these were leading up to and during the event.
- Assess the adequacy of communications system and communications among system operators.
- Identify any issues regarding maintenance or equipment conditions that may have contributed to the outage.
- Determine whether system restoration procedures were available and adequate. Identify any issues that caused unexpected delays in the restoration of generators and Loads.
- Identify the root causes<sup>5</sup> and contributing factors of the Cascading outage.

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<sup>3</sup> NERC is developing standards for data and model validation that will facilitate modeling activities in future blackout analyses.

<sup>4</sup> NERC is developing standards for dynamic monitoring equipment and the deployment of such equipment at critical locations in the Bulk Electric System.

<sup>5</sup> NERC will rely on root cause analysis experts, both from within the industry and outside consultants, to conduct these analyses.

- Recommend actions to prevent Cascading outages in the future and to improve system reliability.
- Determine whether the system is adequately designed.
- All compliance issues will be referred to the NERC Director of Compliance.

#### **Phase 4 — Follow-up on Recommendations**

For Phase 4 NERC and the Regional Entities will follow up on specific recommendations coming from all analyses, whether done at the Regional Entity or NERC level. In certain cases, where government agencies have taken a direct role in the analysis, reports will be made to those agencies on progress in addressing the recommendations.

## Typical Team Assignments for Analysis of Blackouts or Disturbances<sup>6</sup>

### Fact-Finding Teams

- Physical and/or cyber security (if needed)
- On-site interviews
- System data collection (frequency, voltages, generation and Loads)<sup>7</sup>
- System protection and control information
- System restoration
- Coordination with Regional Entity teams

### Assessment and Analysis Teams

- Performance of generation and transmission Protection Systems
- Frequency analysis
- Equipment maintenance
- SCADA/EMS/Tools
- Operator training
- Reliability Standards compliance
- System planning
- System operation
- System restoration
- Root cause analysis
- System simulation
- Interregional coordination
- Vegetation management
- Recommendations for future actions
- Security and law enforcement liaison

### Data Management Teams

- Data requests
- Data collection
- Data warehouse – entry, logging, retention, and maintenance<sup>8</sup>
- Data release<sup>9</sup>

### Report Writing Teams

- Text
- Graphics
- Presentations

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<sup>6</sup> The analysis team leader will specify the tasks required of each team.

<sup>7</sup> Standard forms and procedures for the collection of data and information will be adapted for particular circumstances.

<sup>8</sup> Experience with data warehousing and access procedures gained during the investigation of the August 2003 blackout will be used in future investigations.

<sup>9</sup> Data release procedures will prevent inappropriate disclosure of information.

## **Communications Teams**

- Press releases
- Interface with government agencies
- Interviews

## NERC Blackout and Disturbance Response Procedures Guidelines for Analysis Team Scopes

Each blackout or disturbance is unique and will therefore demand a customized approach to its analysis. The following guidelines for analysis team scopes are suggestive rather than definitive. Not all the teams listed may be needed for a particular analysis.

**Data Requests and Management** — This team organizes large volumes of raw data and value-added information produced by analysts in support of the blackout analysis into a data warehouse. The team issues data requests from affected entities, catalogs and stores all data received, and provides secure and confidential access to teams and personnel supporting the analysis. The team serves as the single point for issuing data requests, receiving and storing data, and managing data queries by the analysts, and is responsible for assuring consistency, security, and confidentiality of the data and minimizing redundant data requests.

**Sequence of Events** — A precise, accurate sequence of events is a building block for all other aspects of the analysis, and is a starting point for the root cause analysis. It is the basis for developing computer models to simulate system conditions and evaluate steady state and stability conditions in the period leading to blackout. The sequence of events is the foundation of facts upon which all other aspects of the analysis can proceed.

**System Modeling and Simulation Analysis** — System modeling and simulation allows the investigators to replicate system conditions leading up to the blackout. While the sequence of events provides a precise description of discrete events, it does not describe the overall state of the electric system and how close it was to various steady state, voltage stability, and power angle stability limits. An accurate computer model of the system, benchmarked to actual conditions at selected critical times, allows analysts to conduct a series of sensitivity studies to determine if the system was stable and within limits at each point in time leading up to the blackout, and at what point the system became unstable. It also allows analysts to test different solutions to prevent Cascading. Although it is not possible to recreate the entire blackout sequence, simulation methods will reveal the mode(s) of failure initiating the blackout and propagating through the system.

**Root Cause Analysis** — Root cause analysis guides the overall analysis process by providing a systematic approach to evaluating root causes and contributing factors leading to the blackout or disturbance. This team works closely with the technical analysis teams and draws on other data sources as needed to record verified facts regarding conditions and actions (or inactions) that contributed to the blackout or disturbance. The root cause analysis guides the overall analysis by indicating areas requiring further inquiry and other areas that may be of interest regarding lessons learned, but are not causal to the blackout. Root cause analysis enables the analysis process to develop a factual record leading to logical and defensible conclusions in the final report regarding the causes of the blackout.

**Operations Tools, SCADA/EMS, Communications, and Operations Planning** — This team will assess the observability of the electric system to operators and Reliability Coordinators, and the availability and effectiveness of operational (real-time and day-ahead)

reliability assessment tools, including redundancy of views and the ability to observe the “big picture” regarding Bulk Electric System conditions. The team also investigates the operating practices and effectiveness of those practices of operating entities and Reliability Coordinators in the affected area. This team investigates all aspects of the blackout related to operator and Reliability Coordinator knowledge of system conditions, action or inactions, and communications.

**Frequency/ACE** — This team will analyze potential frequency anomalies that may have occurred, as compared to typical interconnection operations, to determine if there were any unusual issues with control performance and frequency and any effects they may have had related to the blackout.

**System Planning, Design, and Studies** — This team will analyze the responsibilities, procedures, and design criteria used in setting System Operating Limits, and compare them to good utility practice. The team will review the actual limits in effect on day of the blackout and whether these limits were being observed. The team will review voltage schedules and guides, and reactive management practices in the affected areas, including use of static and dynamic reactive reserves. The team will analyze the tagged and scheduled transactions to determine if inter-regional transfer limits were understood and observed. The team will analyze system planning and design studies completed in the affected areas to determine if operating conditions were consistent with the assumptions of those studies and whether the planning and design studies were sufficient and effective.

**Transmission System Performance, Protection, Control, Maintenance, and Damage** — This team investigates the causes of all transmission Facility automatic operations (trips and reclosures) leading up to the blackout on all Facilities greater than 100 kV. This review includes relay protection and remedial action schemes, identifying the cause of each operation, and any misoperations that may have occurred. The team also assesses transmission Facility maintenance practices in the affected area as compared to good utility practice and identifies any transmission equipment that was damaged in any way as a result of the blackout. The team will assess transmission line rating practices and the impact that ambient temperature and wind speeds had on the transmission line performance in terms of the design temperature of the transmission conductors. The team shall report any patterns and conclusions regarding what caused transmission Facilities to trip; why the blackout extended as far as it did and not further into other systems; why the transmission separated where it did; any misoperations and the effect those misoperations had on the blackout; and any transmission equipment damage. The team will also report on the transmission Facility maintenance practices of entities in the affected area compared to good utility practice. Vegetation management practices are excluded here and covered in a different team.

**Generator Performance, Protection, Controls, Maintenance and Damage** — This team will investigate the cause of generator trips for all generators with a 10 MW or greater nameplate rating leading to and through the end of the blackout. The review shall include the cause for the generator trips, relay targets, unit power runbacks, and voltage/Reactive Power excursions. The team shall report any generator equipment that was damaged as a result of the blackout. The team shall report on patterns and conclusions regarding what caused generation Facilities to trip. The team shall identify any unexpected performance anomalies or unexplained events. The team shall assess generator maintenance practices in the affected area as compared

to good utility practice. The team will analyze the coordination of generator under-frequency settings with transmission settings, such as under-frequency Load shedding. The team will gather and analyze data on affected nuclear units and work with the Nuclear Regulatory Commission to address nuclear unit issues.

**Vegetation/ROW** — This team investigates the practices of transmission Facility owners in the affected areas for vegetation management and ROW maintenance. These practices will be compared with accepted utility practices in general, and with NERC Reliability Standards. The team will evaluate whether the affected parties were within their defined procedures at the time of the blackout and will investigate historical patterns in the area related to outages caused by contact with vegetation.

**Analysis Process and Procedures Review** — This team will review the process and procedures used in the analysis of the blackout, make recommendations for improvement, and develop recommendations for appropriate processes, procedures, forms, etc. to guide and expedite future analyses including coordination and cooperation between NERC, its Regional Entities, and government agencies.

**Restoration Review** — All entities operating portions of the Bulk Electric System in North America are required by NERC Reliability Standards to maintain system restoration plans and black start plans, and Reliability Coordinators are required to coordinate the implementation of those plans. This team will review the appropriateness and effectiveness of the restoration plans implemented and the effectiveness of the coordination of these plans.

**NERC and RE Standards/Procedures and Compliance** — This team reviews the adequacy of NERC Reliability Standards, Regional Reliability Standards and Regional Entity procedures, and the Compliance Monitoring and Enforcement Program to address issues leading to the blackout. The team also reviews the compliance of the affected operating entities with Reliability Standards. For less significant event analyses, this team may not be needed. However, all compliance issues will be referred to the NERC Director of Compliance.

**NERC CONFIDENTIALITY AGREEMENT  
FOR  
ANALYSIS OF BLACKOUTS AND DISTURBANCES**

This Confidentiality Agreement (“Agreement”), dated \_\_\_\_\_, is between the North American Electric Reliability Corporation (“NERC”), and

\_\_\_\_\_, a member of the NERC Event Analysis Team (“Team Member”)(collectively referred to as “Parties”).

**WHEREAS**, NERC is conducting an analysis of the power event that occurred in \_\_\_\_\_ on \_\_\_\_\_ and related matters (“Event”); and

**WHEREAS**, NERC has established a team to carry out that analysis (“Event Analysis Team”); and

**WHEREAS**, in order for the Event Analysis Team to fulfill its objectives, it is necessary for the Event Analysis Team have access to confidential or business sensitive information from operating entities within the \_\_\_\_\_ and to be able to conduct open and unconstrained discussions among team members,

The Parties therefore agree as follows:

1. The term “Event Analysis Information” means all information related in any way to the Event that operating entities within the \_\_\_\_\_ or their representatives have furnished or are furnishing to NERC in connection with NERC’s analysis of the Event, whether furnished before or after the date of this Agreement, whether tangible or intangible, and in whatever form or medium provided (including, without limitation, oral communications), as well as all information generated by the Event Analysis Team or its representatives that contains, reflects or is derived from the furnished Event Analysis Information; provided, however, the term “Event Analysis Information” shall not include information that (i) is or becomes generally available to the public other than as a result of acts by the undersigned Parties or anyone to whom the undersigned Parties supply the Information, or (ii) is known to or acquired by the Team Member separate from receiving the information from the Event Analysis Team.

2. The Team Member understands and agrees that the Event Analysis Information is being made available solely for purposes of the Event Analysis and that the Event Analysis Information shall not be used in any manner to further the commercial interests of any person or entity. The Team Member further understands and agrees that he or she will not disclose Event Analysis Information to any person who has not signed this Agreement except as such disclosure may be required by law or judicial or regulatory order.

3. If Team Member’s employing organization has signed the NERC Confidentiality Agreement for Electric System Security Data (“NERC Security Data Agreement”), paragraph 2 shall not be deemed to prohibit Team Member from disclosing Event Analysis Information to NERC Blackout and Disturbance Response Procedures – Effective October 18, 2007



other employees of that organization, but only to the extent that “security data” as defined in the NERC Security Data Agreement is shared within the organization.

4. The Parties expressly agree that Event Analysis Information shall otherwise only be disclosed through official releases and reports as authorized by NERC.

5. It shall not be a violation of the NERC Confidentiality Agreement for Electric System Security Data for a Reliability Coordinator to furnish Event Analysis Information to an Event Analysis Team Member who has signed this Agreement.

6. This Agreement shall be for sole benefit of the parties hereto. This Agreement may be modified or waived only by a separate writing signed by the Parties. If any clause or provision of this Agreement is illegal, or unenforceable, then it is the intention of the Parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the Parties that in lieu of each clause or provision that is illegal, invalid or unenforceable, there be added as part of this Agreement a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable. This Agreement will be governed and construed in accordance with the laws of the State of New Jersey, except for any choice of law requirement that otherwise may apply the law from another jurisdiction.

7. This Agreement shall have a term of two (2) years from the date hereof, except that the obligations of paragraphs 2, 3, and 4 shall continue for five (5) years from the date hereof.

**NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION**

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

**NERC EVENT ANALYSIS TEAM MEMBER**

Signed: \_\_\_\_\_

Printed: \_\_\_\_\_

## NERC Blackout and Disturbance Analysis Objectives, Analysis Approach, Schedule, and Status

Analysis Objective	Analysis Approach	Schedule	Status
<b>Pre-Event Conditions</b>			
1. What was the precursor sequence of events leading to the event?	<ul style="list-style-type: none"> <li>• Assemble data/alarm logs and time-stamped sequence information.</li> <li>• Develop and maintain an expanding database of log and time-stamped sequence information.</li> <li>• Develop a precursor sequence of high-level, events relevant to, and leading to event initiation.</li> <li>• Reconcile the precursor sequence of events with those emerging from Regional Entities, RTOs, and operating entities.</li> </ul>		
2. What time frames are relevant for pre-event assessment of system conditions? What points in time should be used to establish a baseline set of study conditions when the system was last known to be stable and within normal operating criteria?	<ul style="list-style-type: none"> <li>• Referencing precursor sequence of events, determine relevant times to develop base case conditions (stable and within normal operating criteria).</li> <li>• Verify relevant time horizons and availability of system data at those times with Regional Entities, RTOs, and operating entities.</li> </ul>		
3. What models and data can best simulate system conditions prior to and during the event? What is the relevant scope of the system for detailed study (what is considered the boundary of the study system and what is considered neighboring or external systems?)	<ul style="list-style-type: none"> <li>• Identify up-to-date power system model(s) appropriate for powerflow and transient and dynamic simulations (determine if detailed eastern Interconnection model is needed or multi-regional model(s) are needed.</li> <li>• Identify what models are available in Regional Entities, RTOs, and operating entities.</li> <li>• Identify who will actually perform power flow, transient and dynamic simulations; hire contractor(s) as needed.</li> <li>• Identify and assemble data required for these models.</li> <li>• Develop and maintain a system data repository.</li> </ul>		

Analysis Objective	Analysis Approach	Schedule	Status
<p>4. What system conditions existed in the precursor time horizon leading up to the event (at the times identified in 1.)?</p>	<ul style="list-style-type: none"> <li>• Obtain and manage data for powerflow: system configuration, planned and unplanned outages, unit commitment and dispatch, interchange schedules, congestion conditions, reserves, Loads, state estimator snapshots, deratings and limitations, frequency, etc. Identify who will maintain and run powerflow simulations.</li> <li>• Work with Regional Entities, RTOs, and operating entities to develop powerflow cases defining the base conditions for each relevant time, ensuring the powerflows model each critical juncture leading up to the event.</li> <li>• Identify and review results of additional studies completed by Reliability Coordinators, RTOs and operating entities.</li> <li>• Assess the powerflow results with respect to steady state operating criteria (was the system within all known limits at each precursor time)?</li> </ul>		
<p>5. Were there any prior-existing abnormalities, instabilities, reliability criteria violations, or reliability issues in the precursor sequence time horizon? Prior to event initiation were there any latent instability conditions that would suggest the system was at risk? Were the precursor conditions ones that had been previously studied by the entities involved? Were there adequate reserves with effective distribution? Were planned outages effectively coordinated?</p>	<ul style="list-style-type: none"> <li>• Work with Regional Entities, RTOs, and operating entities to obtain and manage transient and dynamic models for simulations.</li> <li>• Identify who will conduct transient and dynamic simulations and if external contractor(s) are required.</li> <li>• Conduct transient and dynamic simulations at each of the precursor study times.</li> <li>• Assess the stability of the system at each of these times and identify any latent reliability issues prior to blackout initiation.</li> <li>• Consider creating a visual map of system conditions.</li> <li>• Document the limitations and assumptions of simulations affecting the certainty of the simulation results.</li> </ul>		
<b>Blackout Sequence of Events</b>			
<p>6. What was the sequence of system events leading to and directly triggering the blackout?</p>	<ul style="list-style-type: none"> <li>• Evaluate data logs, fault recorder data disturbance recorder data, and synchro-phasor measurement to establish a detailed sequence of events that initiated the event.</li> <li>• Identify the sequence of events that directly led to the event.</li> <li>• Review and reconcile these trigger events with Regional Entities, RTOs, and operating entity analyses.</li> </ul>		

Analysis Objective	Analysis Approach	Schedule	Status
7. What was the sequence of events during the event?	<ul style="list-style-type: none"> <li>• Evaluate logs and disturbance recorder data to establish sequence during the blackout. (The event sequence may follow multiple tracks.)</li> <li>• Review and reconcile this sequence with those constructed by Regional Entities, RTOs, and operating entities.</li> <li>• Consider developing 3-D, time-lapse visualization of the blackout (U. of Minnesota and/or U. of Wisconsin).</li> </ul>		
8. What was the cause of the event in terms of electrical conditions and other related events? Generally describe any system breakups, islanding, etc. Were there conditions of voltage or frequency collapse, or unstable oscillations? Was the sequence strictly a sequential “domino” effect of Facility trips? What were the system conditions (snapshots) at key points during the event?	<ul style="list-style-type: none"> <li>• Assess triggering sequence and blackout sequence to establish the causes for the blackout in terms of electrical conditions and events.</li> <li>• Select key points in sequence for simulation that are relevant for study and that can be accurately modeled. (It may not be possible to reconcile data sufficiently to recreate system conditions during the blackout.)</li> <li>• To the extent possible, conduct simulations and assess results at each point during the blackout.</li> <li>• Review and reconcile results with Regional Entities, and operating entities.</li> </ul>		
9. Why did the event extend as far as it did? What arrested the event from extending further into other systems?	<ul style="list-style-type: none"> <li>• Using advanced analysis techniques, assess where and why the event was arrested.</li> </ul>		
10. How did affected non-nuclear generators respond during the event? Were trips as expected and required by procedures and standards? Did non-nuclear generators remain connected and support the power system in the manner they should have? Did any generator action, generator control functions, or generator protection systems contribute to the event?	<ul style="list-style-type: none"> <li>• Prepare a table of affected generators and actions they made leading up to and during the event, including time-stamped unit trips, relays initiating unit trips, MW and MVar outputs, voltages, and frequency, etc.</li> <li>• Analyze the automatic (including relay trips) and operator-initiated actions of non-nuclear generators to determine whether actions were correct under the conditions or not.</li> <li>• Reconcile non-nuclear generator data and analysis with that of the Regional Entities, RTOs, and operating entities.</li> </ul>		
11. How did nuclear generators respond leading up to and during the blackout? Were trips as expected and required by procedures and standards? Were there any nuclear safety issues identified?	<ul style="list-style-type: none"> <li>• Work with NRC to develop a table of sequence of actions and issues regarding affected nuclear generators (both ones that tripped and those that did not).</li> <li>• Refer nuclear issues to NRC for analysis, assisting in their analyses where appropriate.</li> </ul>		
12. What was the sequence and amount of Load lost? What directly caused Load loss (e.g. under-frequency Load shed, loss of transmission source, voltage collapse, relay actions, under/over frequency protection or stalls, etc.)	<ul style="list-style-type: none"> <li>• Work Regional Entities, RTOs, and operating entities to develop a description of Load lost/impacted, by area.</li> <li>• Analyze and report the cause for Load loss in each area.</li> </ul>		

<b>Analysis Objective</b>	<b>Analysis Approach</b>	<b>Schedule</b>	<b>Status</b>
13. How did system protection and automated controls operate during the event? Did they operate correctly or not?	<ul style="list-style-type: none"> <li>Assess each automatic trip of a transmission or generator Facility for proper or improper relay actions.</li> <li>Assemble and review Regional Entity and operating entity reviews of logs, disturbance reports, and relay targets/logs and reconcile with NERC data.</li> </ul>		
14. Was any equipment damaged during the event?	<ul style="list-style-type: none"> <li>Request information from Regional Entities, and companies on equipment damage, as appropriate.</li> <li>Assess any transmission or generation Facilities sustaining damage during the event, and extent of damage.</li> </ul>		
15. Did SCADA/EMS and data communications systems operate correctly during the event? What problems were noted?	<ul style="list-style-type: none"> <li>Request information from Regional Entities, and companies.</li> <li>Identify and analyze any problems with SCADA/EMS and data communications at regional and company levels.</li> </ul>		
<b>Reliability Standards/Procedures</b>			
16. What NERC Reliability Standards were applicable to the event? What violations occurred? Were NERC Reliability Standards and policies sufficient?	<ul style="list-style-type: none"> <li>Compliance Staff review NERC Reliability Standards relevant to the event and perform a compliance review.</li> </ul>		
17. What Regional Reliability Standards were applicable to the event? What violations occurred? Were Regional Reliability Standards and Regional Entity policies sufficient?	<ul style="list-style-type: none"> <li>Request Regional Entities to review applicable Regional Reliability Standards and report compliance with those Regional Reliability Standards during the event.</li> </ul>		
18. Were any special operating procedures or other operating guidelines in effect and being observed leading up to the event? Were these procedures sufficient?	<ul style="list-style-type: none"> <li>Review and analyze loop flow procedures with involved Regional Entities and companies, and report analysis results.</li> </ul>		
19. What other RTO, Transmission Owner, CA procedures were applicable? What violations occurred? Were the procedures sufficient?	<ul style="list-style-type: none"> <li>Request RTOs, Transmission Owners, CAs to review applicable Reliability Standards and compliance with existing reliability procedures and Reliability Standards during the event, and report results.</li> </ul>		
<b>Maintenance</b>			
20. Are there any indications that maintenance of transmission or generation Facilities may have contributed to the event?	<ul style="list-style-type: none"> <li>Assess whether equipment or maintenance issues (e.g. tree trimming) contributed to the blackout and investigate specifics in areas of concern.</li> <li>Review Regional Entity assessments of maintenance issues that may have contributed to the event.</li> </ul>		

<b>Personnel, Procedures, and Communications</b>			
21. What conditions were operators and Reliability Coordinators aware of leading up to and during the event? What information did they have to warn them of unsafe system conditions? What problems or concerns did they have? What did they observe during the event? Were human errors made that contributed to the event? If there were, what were the causes of the errors?	<ul style="list-style-type: none"> <li>• Develop an interview guide to address procedural and operational issues.</li> <li>• Conduct onsite interviews with operating personnel and Reliability Coordinators involved.</li> <li>• Analyze interview data to corroborate with technical data and report conclusions.</li> </ul>		
22. Were lines of authority clearly understood and respected in the time leading up to and during the event, as well as during the restoration period?	<ul style="list-style-type: none"> <li>• Identify critical instructions given and evaluate results.</li> <li>• Review documentation and effectiveness of assignments of operating and reliability authorities.</li> </ul>		
23. What communications occurred among operating entities?	<ul style="list-style-type: none"> <li>• Review voice communications logs.</li> <li>• Evaluate logs relevant to the blackout and identify key interactions. Report conclusions.</li> </ul>		
24. What were the qualifications (including Certification status) and training of all operating personnel involved in the event and their supervisors?	<ul style="list-style-type: none"> <li>• Request Certification status of all operating personnel from involved operating entities.</li> <li>• Conduct onsite review of training materials and records.</li> <li>• Conduct onsite review of operating procedures and tools</li> </ul>		
25. Was the role and performance of the Reliability Coordinators as expected?	<ul style="list-style-type: none"> <li>• Review the adequacy of reliability plans for the affected Regional Entities.</li> <li>• Review the actions of the affected Reliability Coordinators to determine if they performed according to plans.</li> <li>• Assess whether inter-area communications were effective, both at the control area and Reliability Coordinator levels.</li> </ul>		
<b>System Restoration</b>			
26. Were blackstart and restoration procedures available and adequate in each area? Were they followed and were they adequate to the restoration task? Were pre-defined authorities respected during the restoration?	<ul style="list-style-type: none"> <li>• Onsite audit of blackstart and restoration procedures and plans.</li> <li>• Analyze whether the plans and procedures were used and whether they were sufficient for this outage.</li> </ul>		
27. What issues were encountered in the restoration that created unexpected challenges or delays? What lessons were learned in the restoration (both things that went well and things that did not).	<ul style="list-style-type: none"> <li>• Solicit information from operating entities and Regional Entities regarding unexpected challenges and delays in restoration, and lessons learned.</li> <li>• Analyze what worked well and what did not in the restoration.</li> </ul>		

<b>System Planning and Design</b>			
28. Were the conditions leading up to the event within the design and planning criteria for the transmission systems involved?	<ul style="list-style-type: none"> <li>Request Transmission Owners and Regional Entities involved to report any violations of design or planning criteria prior to or leading up to the blackout.</li> </ul>		
<b>Conclusions and Recommendations</b>			
29. From a technical perspective, what are the root causes of this event? What additional technical factors contributed to making the event possible?	<ul style="list-style-type: none"> <li>Conduct a root cause analysis on the findings and data. Categorize results as “root cause” or “contributing factor”. Focus on technical aspects.</li> </ul>		
30. What are the significant findings and lessons learned resulting from the analysis regarding technical failures leading to the event? What actions are recommended to avoid similar future events and improve Bulk Electric System reliability? What issues may be inconclusive and require future analysis?	<ul style="list-style-type: none"> <li>Draft report of significant findings, lessons learned, and recommendations.</li> </ul>		
31. Final Report	<ul style="list-style-type: none"> <li>Prepare and coordinate publication of final report.</li> </ul>		

## Guidelines for NERC Reports on Blackouts and Disturbances<sup>10</sup>

### Introduction and Purpose

### Executive Summary of Blackout or Disturbance

### Conclusions & Recommendations

### Actions to Minimize the Possibility of Future Blackouts and Disturbances

### Detailed Analysis of Event

#### 1. Sequence of Events

- 1.1. Sequence of transmission and generation events
  - 1.1.1. Reasons for each trip
  - 1.1.2. Sequence of loss of Load
  - 1.1.3. Description of Cascading and islanding

#### 2. System Modeling

- 2.1. Model and assumptions
  - 2.1.1. Equipment ratings and limits
  - 2.1.2. Steady state, system dynamics, and other analyses
  - 2.1.3. Degree of simulation success
  - 2.1.4. Simulation results
  - 2.1.5. Conclusions and lessons learned
- 2.2. Pre-event Conditions
  - 2.2.1. Load levels
    - 2.2.1.1. Forecast vs. Actual
    - 2.2.1.2. Comparison with planning and operational models
  - 2.2.2. Generation dispatch
    - 2.2.2.1. Forecast vs. actual
    - 2.2.2.2. Comparison with day ahead studies
    - 2.2.2.3. Reporting of scheduled and forced outages
  - 2.2.3. Reserve capacity
    - 2.2.3.1. Location of MW reserves
    - 2.2.3.2. Planned vs. actual
  - 2.2.4. Transmission configurations
    - 2.2.4.1. Planned vs. actual
    - 2.2.4.2. Comparison with day ahead studies
    - 2.2.4.3. Reporting of scheduled and forced outages

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<sup>10</sup> Each blackout or disturbance is unique and will therefore demand a customized approach to its investigation and reporting. These guidelines for NERC reports are suggestive rather than definitive. Not all investigations and reports will require covering all of these topics.



- 2.2.5. Interregional transactions
    - 2.2.5.1. Calculated transfer limits
    - 2.2.5.2. Basis for limits – thermal, voltage, and stability
    - 2.2.5.3. Seasonal assessments – Assumptions vs. actual
    - 2.2.5.4. Actual schedules vs. Tagged schedules
      - 2.2.5.4.1. AIE Survey
      - 2.2.5.4.2. Tag Survey
  - 2.2.6. System voltages (profile) and reactive supplies
    - 2.2.6.1. Coordination of reactive supplies and voltage schedules
    - 2.2.6.2. Reactive supply with power transfers
- 2.3. Event Key Parameters
    - 2.3.1. System voltages (profile) and reactive supplies
    - 2.3.2. Power flows and equipment loadings
    - 2.3.3. System dynamic effects
- 3. Transmission system performance**
    - 3.1. Equipment ratings
    - 3.2. Protective relay actions
    - 3.3. Equipment maintenance
    - 3.4. Equipment damage
- 4. Generator performance**
    - 4.1. Generator control actions
    - 4.2. Generator protection
      - 4.2.1. Underfrequency
      - 4.2.2. Overspeed
      - 4.2.3. Excitation systems
      - 4.2.4. Other systems
    - 4.3. Equipment maintenance
    - 4.4. Equipment protection
    - 4.5. Dynamic effects of generators
- 5. System frequency**
    - 5.1. Frequency excursions – pre event
      - 5.1.1. Analysis of frequency anomalies
      - 5.1.2. Effect of time error correction
    - 5.2. Frequency analysis of the event
      - 5.2.1. Remaining interconnection
      - 5.2.2. Islands remaining
- 6. Operations**
    - 6.1. Operational visibility and actions
      - 6.1.1. Reliability Coordinators
        - 6.1.1.1. Delegation and authority
        - 6.1.1.2. Monitoring capabilities
          - 6.1.1.2.1. Scope of coverage and system visibility

- 6.1.1.2.2. Monitoring tools
- 6.1.1.2.3. Data availability and use
- 6.1.1.3. Operations planning capability
  - 6.1.1.3.1. Operational planning tools
  - 6.1.1.3.2. Coordination
- 6.1.1.4. Operating procedures
  - 6.1.1.4.1. Emergency operations
  - 6.1.1.4.2. Loss of monitoring system or components
  - 6.1.1.4.3. Communication procedures
- 6.1.1.5. Operating qualifications and training
  - 6.1.1.5.1. Qualification of operators
  - 6.1.1.5.2. Training provided
  - 6.1.1.5.3. Simulation of emergencies
- 6.1.2. Transmission Operators
  - 6.1.2.1. Authority to take action
  - 6.1.2.2. Monitoring capabilities
    - 6.1.2.2.1. Scope of coverage and system visibility
    - 6.1.2.2.2. Monitoring tools
    - 6.1.2.2.3. Data availability and use
  - 6.1.2.3. Operations planning capability
    - 6.1.2.3.1. Operational planning tools
    - 6.1.2.3.2. Coordination
  - 6.1.2.4. Operating procedures
    - 6.1.2.4.1. Emergency operations
    - 6.1.2.4.2. Loss of monitoring system or components
    - 6.1.2.4.3. Communication procedures
  - 6.1.2.5. Operating qualifications and training
    - 6.1.2.5.1. Qualification of operators
    - 6.1.2.5.2. Training provided
    - 6.1.2.5.3. Simulation of emergencies

## **7. System Planning and Design**

- 7.1. Establishing operating limits
  - 7.1.1. Responsibility for setting limits
  - 7.1.2. ATC and TTC calculations
  - 7.1.3. Planning studies
    - 7.1.3.1. Wide-Area simultaneous transfer limits
      - 7.1.3.1.1. Determination of limits
      - 7.1.3.1.2. Monitoring of limits
      - 7.1.3.1.3. Basis for limits – thermal, voltage, and stability
      - 7.1.3.1.4. Regional Entity assessments
      - 7.1.3.1.5. Other system studies in affected areas
    - 7.1.3.2. Reactive planning
      - 7.1.3.2.1. Reactive reserve planning
      - 7.1.3.2.2. Active vs. static resources
      - 7.1.3.2.3. Voltage stability analysis

7.1.3.3.Regional Criteria and/or NERC Reliability Standards used for planning

7.1.3.3.1. Compliance to these planning Regional Criteria and/or Reliability Standards

## **8. Reliability Standards and Compliance**

### 8.1. Audits

#### 8.1.1. Reliability Coordinators

##### 8.1.1.1.Previous audits and results

###### 8.1.1.1.1. Compliance with NERC Reliability Standards

##### 8.1.1.2.Updated findings based on analysis

##### 8.1.1.3.Post blackout audit results and findings

##### 8.1.1.4.Recommendations for future audits

#### 8.1.2. Balancing Authorities

##### 8.1.2.1.Regional Entity audits

###### 8.1.2.1.1. Compliance with NERC Reliability Standards and Regional Reliability Standards

##### 8.1.2.2.Updated findings based on analysis

##### 8.1.2.3.Post blackout audit results and findings

##### 8.1.2.4.Recommendations for future audits

### 8.2. Regional Criteria and/or NERC Reliability Standards used for operations

#### 8.2.1. Compliance to these operating Regional Criteria and/or Reliability Standards

### 8.3. Reliability Standards

#### 8.3.1. Improvements needed

#### 8.3.2. Potential new Reliability Standards

## **9. Actions to Minimize the Possibility of Future Widespread Events**

### 9.1. Reliability Standards and compliance to Reliability Standards

### 9.2. Availability of planned Facilities as scheduled

### 9.3. Automatic Load shedding programs

### 9.4. Controlled separation and islanding

### 9.5. Improved data collection and system monitoring

### 9.6. Studies of impacts of severe events

## **10. Restoration of Service**

### 10.1. Restoration procedures

#### 10.1.1. RTOs and ISOs

#### 10.1.2. Transmission Operators

#### 10.1.3. Generator Operators

#### 10.1.4. Distribution Providers

### 10.2. Restoring service

#### 10.2.1. Transmission line restoration

##### 10.2.1.1. Within control area/ISO/RTO

##### 10.2.1.2. Interarea tie lines

##### 10.2.1.3. Impediments and other issues

- 10.2.2. Generation restoration
  - 10.2.2.1. Utility-owned generation
  - 10.2.2.2. Independent generation
  - 10.2.2.3. Fuel supply adequacy
  - 10.2.2.4. Fossil units
  - 10.2.2.5. Nuclear units
  - 10.2.2.6. Capacity reserves
  - 10.2.2.7. Coordination with transmission
  - 10.2.2.8. Coordination with Load and other generation
  - 10.2.2.9. Impediments and other issues
- 10.2.3. Coordination and communications
  - 10.2.3.1. Within control area/ISO/RTO
  - 10.2.3.2. With outside control areas/ISOs/RTOs
  - 10.2.3.3. Wide-Area coverage
  - 10.2.3.4. Impediments and other issues
- 10.3. Review of restoration procedures
  - 10.3.1. Time to restore customers
  - 10.3.2. Need for modifications
  - 10.3.3. Availability of procedures to necessary participants
  - 10.3.4. Need for training and practice drills
  - 10.3.5. Comparison with other control areas/ISOs/RTOs

## **11. Analysis Process**

- 11.1. Description of process
  - 11.1.1. Organization
  - 11.1.2. Coordination with US-Canada task force
  - 11.1.3. Coordination with Regional Entities and RTOs
  - 11.1.4. Recommended process improvements
    - 11.1.4.1. Use for other events – near misses, etc.
- 11.2. Data management
  - 11.2.1. Data collection processes
    - 11.2.1.1. Data request process
    - 11.2.1.2. Data forms used
  - 11.2.2. Data received
    - 11.2.2.1. Quality and usefulness of data
  - 11.2.3. Data warehousing
    - 11.2.3.1. Data warehouse structure
    - 11.2.3.2. Accessibility of data
  - 11.2.4. Data forms and process for future analyses

**PETITION OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
FOR APPROVAL OF REVISIONS TO ITS RULES OF PROCEDURE  
TO ADOPT A BULK ELECTRIC SYSTEM EXCEPTION PROCEDURE**

**ATTACHMENT 8B**

**REVISED APPENDIX 3D OF THE RULES OF PROCEDURE  
*NERC BLACKOUT AND DISTURBANCE RESPONSE PROCEDURES***

**REDLINED VERSION**

**Proposed Revisions 1-9-2012  
[Incorporates revisions filed with  
FERC on November 29, 2011]**

# **NERC Blackout and Disturbance Response Procedures**

Effective October 18, 2007

North American Electric Reliability Corporation

NERC Blackout and Disturbance Response Procedures

## **NERC Blackout and Disturbance Response Procedures**

### **Introduction**

NERC, through its professional staff and the Regional Entities and their members, provide the best source of technical and managerial expertise for responding to major events that affect the Bulk Power System.

NERC's role following a blackout or other major Bulk Electric System disturbance or emergency is to provide leadership, coordination, technical expertise, and assistance to the industry in responding to the event. Working closely with the Regional Entities and Reliability Coordinators, NERC will coordinate efforts among industry participants, and with state, federal, and provincial governments in the United States and Canada to support the industry's response.

When responding to any event where physical or cyber security is suspected as a cause or contributing factor to an event, NERC will immediately notify appropriate government agencies and coordinate its analysis with them.

During the conduct of some NERC-level analyses, assistance may be needed from government agencies. Collaborative analysis with certain government agencies may be appropriate in some cases; e.g., collaborating with the Nuclear Regulatory Commission technical staff when a system event involves a nuclear unit. This assistance could include: authority to require data reporting from affected or involved parties; communications with other agencies of government; analyses related to possible criminal or terrorist involvement in the event; resources for initial data gathering immediately after the event; authority to call meetings of affected or involved parties; and technical and analytical resources for studies. If a federal or multi-national government analysis is called for, government agencies should work in primarily an oversight and support role, in close coordination with the NERC analysis.

It is critical to establish, up front, a clear delineation of roles, responsibilities, and coordination requirements among industry and government for the analysis and reporting of findings, conclusions, and recommendations related to major blackouts, disturbances, or other emergencies affecting the Bulk Power System.

Depending on the severity and of the event and the area impacted, the event analysis may be conducted either by NERC or by the impacted Regional Entity. If the analysis is conducted by the Regional Entity, NERC staff, at least one member of the NERC Event Analysis Working Group (in addition to the Event Analysis Working Group member from the impacted Regional Entity), and other appropriate technical experts from the NERC community will participate as members of the Regional Entity analysis team.

A Regional Entity may request NERC to elevate an analysis to a NERC-level. In such cases, all team responsibilities will shift to NERC, and the Regional Entity may continue to participate in the analysis on appropriate teams.

These procedures do not represent a "cookbook" to be followed blindly. They provide a framework to guide NERC's response to events that may have multiregional, national, or

international implications. Experienced industry leadership would still be required to tailor the response to the specific circumstances of the event.

Responding to major blackouts and other system disturbances can be divided into four phases:

1. situation assessment and communications;
2. situation tracking and communications;
3. data collection, investigation, analysis and reporting; and
4. follow-up on recommendations.

### **Phase 1 — Situation Assessment and Communications**

NERC's primary roles in Phase 1 are to:

- conduct an initial situation assessment;
- call for the collection of and analyze necessary initial data and information for the event;
- assist the Regional Entity-lead analysis with determining the need for supplemental technical expertise from the NERC community;
- issue initial findings, conclusions, and recommendations;
- maintain detailed data records (not subject to Freedom of Information Act);
- assist government agencies in criminal analyses when relevant;
- provide technical expertise for modeling and analyzing the event; and
- follow up on recommendations.

While conducting its initial situation assessment, NERC will make an early determination as to whether the cause of the event may be related to physical or cyber security, and communicate as appropriate with government agencies.

Notice of a event is typically received by the NERC Electricity Sector Information Sharing and Analysis Center (ESISAC) person on duty and relayed to other appropriate NERC personnel.<sup>1</sup> NERC performs an initial situation assessment by contacting the appropriate Reliability Coordinator(s), and makes a decision on whether to activate its crisis communications plan. At the initial stage in gathering information about an incident, it is critical to minimize interference with Bulk Electric System operators who are in the process of restoring the system. To minimize interference with their work, NERC, in its capacity as the ESISAC, should serve as the primary communications link with government agencies.

The ESISAC Concept of Operations (ConOps) specifies the operations plan, communications procedures, and logistics NERC will follow during normal conditions, emergencies, and national security special events. The ConOps includes the primary points of contact (24x7) for the Federal Energy Regulatory Commission, U.S. Department of Energy, U.S. Department of Homeland Security, U.S. Nuclear Regulatory Commission, and Public Safety and Emergency Preparedness Canada.

It is important that during these early hours the ESISAC, in coordination with government agencies, determine whether this event was caused by the actions of criminal or terrorist parties. The results of this criminal assessment are essential to operators because if there is a possibility that the "attack" is still ongoing, restoration and response actions would need to be tailored to

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<sup>1</sup> NERC maintains 24x7 contact information for its key personnel to facilitate such contacts.  
NERC Blackout and Disturbance Response Procedures – Effective October 18, 2007



these circumstances. If NERC and government agencies deem it necessary for further criminal analyses, NERC will issue a formal notice to affected systems to retain all relevant information gathered during this and subsequent phases of an analysis.

The specific criteria for reporting disturbances and other events are described in NERC Reliability Standard EOP-004-1. These criteria and procedures are intended to provide a common basis for consistent reporting of abnormal system conditions and events that occur in North America. All entities responsible for the reliability of Bulk Power Systems in North America must ensure that sufficient information is submitted to NERC within the time frame required. Reliability Coordinators will use the Reliability Coordinator Information System (RCIS) as the primary method of communications to NERC. The ESISAC duty person is responsible for monitoring the RCIS for such notifications.

Depending on the scope and magnitude of the event, NERC will issue media advisories through its crisis communications plan.

### **Phase 2 — Situation Tracking and Communications**

Based on the nature and severity of the event, in Phase 2 NERC will continue to track progress in restoring the Bulk Power System and service to customers, and keep industry, government agencies, and the public informed. The most important thing to recognize in this phase is that the primary focus of Reliability Coordinators and Transmission Operators is the prompt restoration of the Bulk Electric System. NERC will coordinate requests by government agencies for information from Reliability Coordinators and Transmission Operators, and serve as a conduit and coordinator between industry and government for regular status reports on the restoration.

As events continue, NERC will determine whether a detailed analysis of the event should be conducted, and start to identify manpower requirements, data collection and retention requirements, and at what level the analysis should be conducted. If the event is localized within a Region, NERC will participate in the event analysis of the Regional Entity.

### **Phase 3 — Data Collection, Investigation, Analysis, and Reporting**

Based on the scope, magnitude, and impact of an event, during Phase 3 NERC may:

1. perform an overview analysis of system and generator response;
2. rely on one of its Regional Entities to conduct the analysis and monitor the analysis results;
3. work with a Regional Entity in its analysis; or
4. conduct a NERC-level analysis.

The NERC CEO will decide, based on the initial situation assessment and consultation with the NERC technical committee officers<sup>2</sup>, if a NERC-level analysis is warranted. If a NERC-level analysis is to be conducted, the NERC CEO will appoint the Director of Events Analysis and Information Exchange to lead the analysis and assemble a high-level technical steering group to provide guidance and support throughout the analysis.

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<sup>2</sup> NERC will maintain a list of 24x7 contact information for its technical committee officers.

NERC reserves the right to elevate or augment an analysis performed by a Regional Entity pending the results of the Regional Entity analysis. Additional requests for analyses or supporting data may be made by NERC at any time in the investigation process.

A Regional Entity may request NERC to elevate an analysis to a NERC-level. In such cases, all team responsibilities will shift to NERC, and the Regional Entity may continue to participate in the analysis on appropriate teams.

If the analysis is to be led by one of the Regional Entities, a member of the NERC staff, at least one member of the NERC Event Analysis Working Group (in addition to an Event Analysis Working Group member from the impacted Regional Entity), and other appropriate technical experts from the NERC community will participate as a triage team. The triage team will participate as members of the Regional Entity analysis team. The triage team will also assist the Regional Entity with determining if additional technical expertise from the NERC community are needed for the analysis.

For NERC-level analyses, the first task of the Director of Events Analysis and Information Exchange would be to identify what technical and other resources and data would be needed from staff, the industry, and government, and to issue those requests immediately. This task will include identification of any special managerial, forensic, or engineering skills needed for the analysis. Secondly, the Director of Events Analysis and Information Exchange must issue requests for those resources and information. Third, the Director of Events Analysis and Information Exchange must organize the teams that will conduct and report on the analysis.

The teams needed for a particular analysis will vary with the nature and scope of the event. Attachment A describes the typical teams that would be required for a NERC-level analysis, and Attachment B provides suggested guidelines for the NERC-level analysis team scopes. Individuals that participate on these teams will be expected to sign an appropriate confidentiality agreement. NERC uses a standard (pro forma) confidentiality agreement (Attachment C) for participants in event analyses, which it will adapt for specific analyses.

The Blackout and Disturbance Analysis Objectives, Approach, Schedule, and Status (Attachment D) and Guidelines for NERC Reports on Blackouts and Disturbances (Attachment E) are used to guide and manage analysis and reporting on major blackouts and disturbances.

A NERC-level analysis will comprise (a) collecting pertinent event data; (b) constructing a detailed sequence of events leading to and triggering the disturbance; (c) assembling system models and data and conducting detailed system analysis to simulate pre- and post-event conditions; and (d) issuing findings, conclusions, and recommendations. The details of these four phases of the analysis are:

**a. Collecting Pertinent Event Data**

- Collect all pertinent event logs, disturbance recorders, operator transcripts, and other system data.

#### **b. Detailed Sequence of Events**

- Construct a detailed sequence of events leading to and triggering the event. Reconcile event logs, disturbance recorders, operator transcripts, and other system data to create an accurate sequence of events.
- Enter and preserve all data in a secure data warehouse.

#### **c. Detailed System Analysis**

- Assess the sequence of events to determine critical times for study.
- Assemble the necessary system models and data from Regional Entity and operating entities to accurately model (with power flow and dynamic simulations) the pre-event conditions.<sup>3</sup> Determine pre-event conditions at critical times prior to event initiation, including an assessment of reliability margins in the pre-event time frame.
- Analyze data from phasor measurement units, high-speed data recorders, digital fault recorders, digital relays, and system relay targets.<sup>4</sup>
- Analyze generator and [Loadload](#) performance, including underfrequency and undervoltage relay actions.
- Use the model information and sequence of events to dynamically model the trigger events and the outage sequence. Identify the system phenomena that propagated the failure. Provide graphical results showing the nature of the cascade. Conduct additional analyses as initial findings identify the need for further study.

#### **d. Findings, Conclusions, and Recommendations**

- Identify and assess failures contributing to the event, including possible instability conditions, system protection mis-operations, generator actions, etc.
- Either identify or rule out man-made/criminal cyber or physical attacks on the electric system.
- Determine if the system was being operated within equipment and system design criteria at the time of the outage.
- Assess the qualifications, training, SCADA/EMS tools, and communications available to system operators and Reliability Coordinators, and how effective these were leading up to and during the event.
- Assess the adequacy of communications system and communications among system operators.
- Identify any issues regarding maintenance or equipment conditions that may have contributed to the outage.
- Determine whether system restoration procedures were available and adequate. Identify any issues that caused unexpected delays in the restoration of generators and [Loadsloads](#).
- Identify the root causes<sup>5</sup> and contributing factors of the Cascading outage.

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<sup>3</sup> NERC is developing standards for data and model validation that will facilitate modeling activities in future blackout analyses.

<sup>4</sup> NERC is developing standards for dynamic monitoring equipment and the deployment of such equipment at critical locations in the Bulk Electric System.

<sup>5</sup> NERC will rely on root cause analysis experts, both from within the industry and outside consultants, to conduct these analyses.

- Recommend actions to prevent Cascading outages in the future and to improve system reliability.
- Determine whether the system is adequately designed.
- All compliance issues will be referred to the NERC Director of Compliance.

#### **Phase 4 — Follow-up on Recommendations**

For Phase 4 NERC and the Regional Entities will follow up on specific recommendations coming from all analyses, whether done at the Regional Entity or NERC level. In certain cases, where government agencies have taken a direct role in the analysis, reports will be made to those agencies on progress in addressing the recommendations.

## Typical Team Assignments for Analysis of Blackouts or Disturbances<sup>6</sup>

### Fact-Finding Teams

- Physical and/or cyber security (if needed)
- On-site interviews
- System data collection (frequency, voltages, generation and ~~Loads~~~~loads~~)<sup>7</sup>
- System protection and control information
- System restoration
- Coordination with Regional Entity teams

### Assessment and Analysis Teams

- Performance of generation and transmission Protection Systems
- Frequency analysis
- Equipment maintenance
- SCADA/EMS/Tools
- Operator training
- Reliability Standards compliance
- System planning
- System operation
- System restoration
- Root cause analysis
- System simulation
- Interregional coordination
- Vegetation management
- Recommendations for future actions
- Security and law enforcement liaison

### Data Management Teams

- Data requests
- Data collection
- Data warehouse – entry, logging, retention, and maintenance<sup>8</sup>
- Data release<sup>9</sup>

### Report Writing Teams

- Text
- Graphics
- Presentations

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<sup>6</sup> The analysis team leader will specify the tasks required of each team.

<sup>7</sup> Standard forms and procedures for the collection of data and information will be adapted for particular circumstances.

<sup>8</sup> Experience with data warehousing and access procedures gained during the investigation of the August 2003 blackout will be used in future investigations.

<sup>9</sup> Data release procedures will prevent inappropriate disclosure of information.

**Communications Teams**

- Press releases
- Interface with government agencies
- Interviews

## NERC Blackout and Disturbance Response Procedures Guidelines for Analysis Team Scopes

Each blackout or disturbance is unique and will therefore demand a customized approach to its analysis. The following guidelines for analysis team scopes are suggestive rather than definitive. Not all the teams listed may be needed for a particular analysis.

**Data Requests and Management** — This team organizes large volumes of raw data and value-added information produced by analysts in support of the blackout analysis into a data warehouse. The team issues data requests from affected entities, catalogs and stores all data received, and provides secure and confidential access to teams and personnel supporting the analysis. The team serves as the single point for issuing data requests, receiving and storing data, and managing data queries by the analysts, and is responsible for assuring consistency, security, and confidentiality of the data and minimizing redundant data requests.

**Sequence of Events** — A precise, accurate sequence of events is a building block for all other aspects of the analysis, and is a starting point for the root cause analysis. It is the basis for developing computer models to simulate system conditions and evaluate steady state and stability conditions in the period leading to blackout. The sequence of events is the foundation of facts upon which all other aspects of the analysis can proceed.

**System Modeling and Simulation Analysis** — System modeling and simulation allows the investigators to replicate system conditions leading up to the blackout. While the sequence of events provides a precise description of discrete events, it does not describe the overall state of the electric system and how close it was to various steady state, voltage stability, and power angle stability limits. An accurate computer model of the system, benchmarked to actual conditions at selected critical times, allows analysts to conduct a series of sensitivity studies to determine if the system was stable and within limits at each point in time leading up to the blackout, and at what point the system became unstable. It also allows analysts to test different solutions to prevent Cascading. Although it is not possible to recreate the entire blackout sequence, simulation methods will reveal the mode(s) of failure initiating the blackout and propagating through the system.

**Root Cause Analysis** — Root cause analysis guides the overall analysis process by providing a systematic approach to evaluating root causes and contributing factors leading to the blackout or disturbance. This team works closely with the technical analysis teams and draws on other data sources as needed to record verified facts regarding conditions and actions (or inactions) that contributed to the blackout or disturbance. The root cause analysis guides the overall analysis by indicating areas requiring further inquiry and other areas that may be of interest regarding lessons learned, but are not causal to the blackout. Root cause analysis enables the analysis process to develop a factual record leading to logical and defensible conclusions in the final report regarding the causes of the blackout.

**Operations Tools, SCADA/EMS, Communications, and Operations Planning** — This team will assess the observability of the electric system to operators and Reliability Coordinators, and the availability and effectiveness of operational (real-time and day-ahead)

reliability assessment tools, including redundancy of views and the ability to observe the “big picture” regarding Bulk Electric System conditions. The team also investigates the operating practices and effectiveness of those practices of operating entities and Reliability Coordinators in the affected area. This team investigates all aspects of the blackout related to operator and Reliability Coordinator knowledge of system conditions, action or inactions, and communications.

**Frequency/ACE** — This team will analyze potential frequency anomalies that may have occurred, as compared to typical interconnection operations, to determine if there were any unusual issues with control performance and frequency and any effects they may have had related to the blackout.

**System Planning, Design, and Studies** — This team will analyze the responsibilities, procedures, and design criteria used in setting System Operating Limits, and compare them to good utility practice. The team will review the actual limits in effect on day of the blackout and whether these limits were being observed. The team will review voltage schedules and guides, and reactive management practices in the affected areas, including use of static and dynamic reactive reserves. The team will analyze the tagged and scheduled transactions to determine if inter-regional transfer limits were understood and observed. The team will analyze system planning and design studies completed in the affected areas to determine if operating conditions were consistent with the assumptions of those studies and whether the planning and design studies were sufficient and effective.

**Transmission System Performance, Protection, Control, Maintenance, and Damage** — This team investigates the causes of all transmission Facility automatic operations (trips and reclosures) leading up to the blackout on all Facilities greater than 100 kV. This review includes relay protection and remedial action schemes, identifying the cause of each operation, and any misoperations that may have occurred. The team also assesses transmission Facility maintenance practices in the affected area as compared to good utility practice and identifies any transmission equipment that was damaged in any way as a result of the blackout. The team will assess transmission line rating practices and the impact that ambient temperature and wind speeds had on the transmission line performance in terms of the design temperature of the transmission conductors. The team shall report any patterns and conclusions regarding what caused transmission Facilities to trip; why the blackout extended as far as it did and not further into other systems; why the transmission separated where it did; any misoperations and the effect those misoperations had on the blackout; and any transmission equipment damage. The team will also report on the transmission Facility maintenance practices of entities in the affected area compared to good utility practice. Vegetation management practices are excluded here and covered in a different team.

**Generator Performance, Protection, Controls, Maintenance and Damage** — This team will investigate the cause of generator trips for all generators with a 10 MW or greater nameplate rating leading to and through the end of the blackout. The review shall include the cause for the generator trips, relay targets, unit power runbacks, and voltage/[Reactive Power](#)/[reactive power](#) excursions. The team shall report any generator equipment that was damaged as a result of the blackout. The team shall report on patterns and conclusions regarding what caused generation Facilities to trip. The team shall identify any unexpected performance anomalies or unexplained events. The team shall assess generator maintenance practices in the



affected area as compared to good utility practice. The team will analyze the coordination of generator under-frequency settings with transmission settings, such as under-frequency Loadload shedding. The team will gather and analyze data on affected nuclear units and work with the Nuclear Regulatory Commission to address nuclear unit issues.

**Vegetation/ROW** — This team investigates the practices of transmission Facility owners in the affected areas for vegetation management and ROW maintenance. These practices will be compared with accepted utility practices in general, and with NERC Reliability Standards. The team will evaluate whether the affected parties were within their defined procedures at the time of the blackout and will investigate historical patterns in the area related to outages caused by contact with vegetation.

**Analysis Process and Procedures Review** — This team will review the process and procedures used in the analysis of the blackout, make recommendations for improvement, and develop recommendations for appropriate processes, procedures, forms, etc. to guide and expedite future analyses including coordination and cooperation between NERC, its Regional Entities, and government agencies.

**Restoration Review** — All entities operating portions of the Bulk Electric System in North America are required by NERC Reliability Standards to maintain system restoration plans and black start plans, and Reliability Coordinators are required to coordinate the implementation of those plans. This team will review the appropriateness and effectiveness of the restoration plans implemented and the effectiveness of the coordination of these plans.

**NERC and RE Standards/Procedures and Compliance** — This team reviews the adequacy of NERC Reliability Standards, Regional Reliability Standards and Regional Entity procedures, and the Compliance Monitoring and Enforcement Program to address issues leading to the blackout. The team also reviews the compliance of the affected operating entities with Reliability Standards. For less significant event analyses, this team may not be needed. However, all compliance issues will be referred to the NERC Director of Compliance.

**NERC CONFIDENTIALITY AGREEMENT  
FOR  
ANALYSIS OF BLACKOUTS AND DISTURBANCES**

This Confidentiality Agreement (“Agreement”), dated \_\_\_\_\_, is between the North American Electric Reliability Corporation (“NERC”), and

\_\_\_\_\_, a member of the NERC Event Analysis Team (“Team Member”)(collectively referred to as “Parties”).

**WHEREAS**, NERC is conducting an analysis of the power event that occurred in \_\_\_\_\_ on \_\_\_\_\_ and related matters (“Event”); and

**WHEREAS**, NERC has established a team to carry out that analysis (“Event Analysis Team”); and

**WHEREAS**, in order for the Event Analysis Team to fulfill its objectives, it is necessary for the Event Analysis Team have access to confidential or business sensitive information from operating entities within the \_\_\_\_\_ and to be able to conduct open and unconstrained discussions among team members,

The Parties therefore agree as follows:

1. The term “Event Analysis Information” means all information related in any way to the Event that operating entities within the \_\_\_\_\_ or their representatives have furnished or are furnishing to NERC in connection with NERC’s analysis of the Event, whether furnished before or after the date of this Agreement, whether tangible or intangible, and in whatever form or medium provided (including, without limitation, oral communications), as well as all information generated by the Event Analysis Team or its representatives that contains, reflects or is derived from the furnished Event Analysis Information; provided, however, the term “Event Analysis Information” shall not include information that (i) is or becomes generally available to the public other than as a result of acts by the undersigned Parties or anyone to whom the undersigned Parties supply the Information, or (ii) is known to or acquired by the Team Member separate from receiving the information from the Event Analysis Team.

2. The Team Member understands and agrees that the Event Analysis Information is being made available solely for purposes of the Event Analysis and that the Event Analysis Information shall not be used in any manner to further the commercial interests of any person or entity. The Team Member further understands and agrees that he or she will not disclose Event Analysis Information to any person who has not signed this Agreement except as such disclosure may be required by law or judicial or regulatory order.

3. If Team Member’s employing organization has signed the NERC Confidentiality Agreement for Electric System Security Data (“NERC Security Data Agreement”), paragraph 2 shall not be deemed to prohibit Team Member from disclosing Event Analysis Information to NERC Blackout and Disturbance Response Procedures – Effective October 18, 2007

other employees of that organization, but only to the extent that “security data” as defined in the NERC Security Data Agreement is shared within the organization.

4. The Parties expressly agree that Event Analysis Information shall otherwise only be disclosed through official releases and reports as authorized by NERC.

5. It shall not be a violation of the NERC Confidentiality Agreement for Electric System Security Data for a Reliability Coordinator to furnish Event Analysis Information to an Event Analysis Team Member who has signed this Agreement.

6. This Agreement shall be for sole benefit of the parties hereto. This Agreement may be modified or waived only by a separate writing signed by the Parties. If any clause or provision of this Agreement is illegal, or unenforceable, then it is the intention of the Parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the Parties that in lieu of each clause or provision that is illegal, invalid or unenforceable, there be added as part of this Agreement a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable. This Agreement will be governed and construed in accordance with the laws of the State of New Jersey, except for any choice of law requirement that otherwise may apply the law from another jurisdiction.

7. This Agreement shall have a term of two (2) years from the date hereof, except that the obligations of paragraphs 2, 3, and 4 shall continue for five (5) years from the date hereof.

**NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION**

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

**NERC EVENT ANALYSIS TEAM MEMBER**

Signed: \_\_\_\_\_

Printed: \_\_\_\_\_

## NERC Blackout and Disturbance Analysis Objectives, Analysis Approach, Schedule, and Status

Analysis Objective	Analysis Approach	Schedule	Status
<b>Pre-Event Conditions</b>			
1. What was the precursor sequence of events leading to the event?	<ul style="list-style-type: none"> <li>• Assemble data/alarm logs and time-stamped sequence information.</li> <li>• Develop and maintain an expanding database of log and time-stamped sequence information.</li> <li>• Develop a precursor sequence of high-level, events relevant to, and leading to event initiation.</li> <li>• Reconcile the precursor sequence of events with those emerging from Regional Entities, RTOs, and operating entities.</li> </ul>		
2. What time frames are relevant for pre-event assessment of system conditions? What points in time should be used to establish a baseline set of study conditions when the system was last known to be stable and within normal operating criteria?	<ul style="list-style-type: none"> <li>• Referencing precursor sequence of events, determine relevant times to develop base case conditions (stable and within normal operating criteria).</li> <li>• Verify relevant time horizons and availability of system data at those times with Regional Entities, RTOs, and operating entities.</li> </ul>		
3. What models and data can best simulate system conditions prior to and during the event? What is the relevant scope of the system for detailed study (what is considered the boundary of the study system and what is considered neighboring or external systems?)	<ul style="list-style-type: none"> <li>• Identify up-to-date power system model(s) appropriate for powerflow and transient and dynamic simulations (determine if detailed eastern Interconnection model is needed or multi-regional model(s) are needed.</li> <li>• Identify what models are available in Regional Entities, RTOs, and operating entities.</li> <li>• Identify who will actually perform power flow, transient and dynamic simulations; hire contractor(s) as needed.</li> <li>• Identify and assemble data required for these models.</li> <li>• Develop and maintain a system data repository.</li> </ul>		

Analysis Objective	Analysis Approach	Schedule	Status
<p>4. What system conditions existed in the precursor time horizon leading up to the event (at the times identified in 1.)?</p>	<ul style="list-style-type: none"> <li>• Obtain and manage data for powerflow: system configuration, planned and unplanned outages, unit commitment and dispatch, interchange schedules, congestion conditions, reserves, <del>Loads</del>loads, state estimator snapshots, deratings and limitations, frequency, etc. Identify who will maintain and run powerflow simulations.</li> <li>• Work with Regional Entities, RTOs, and operating entities to develop powerflow cases defining the base conditions for each relevant time, ensuring the powerflows model each critical juncture leading up to the event.</li> <li>• Identify and review results of additional studies completed by Reliability Coordinators, RTOs and operating entities.</li> <li>• Assess the powerflow results with respect to steady state operating criteria (was the system within all known limits at each precursor time)?</li> </ul>		
<p>5. Were there any prior-existing abnormalities, instabilities, reliability criteria violations, or reliability issues in the precursor sequence time horizon? Prior to event initiation were there any latent instability conditions that would suggest the system was at risk? Were the precursor conditions ones that had been previously studied by the entities involved? Were there adequate reserves with effective distribution? Were planned outages effectively coordinated?</p>	<ul style="list-style-type: none"> <li>• Work with Regional Entities, RTOs, and operating entities to obtain and manage transient and dynamic models for simulations.</li> <li>• Identify who will conduct transient and dynamic simulations and if external contractor(s) are required.</li> <li>• Conduct transient and dynamic simulations at each of the precursor study times.</li> <li>• Assess the stability of the system at each of these times and identify any latent reliability issues prior to blackout initiation.</li> <li>• Consider creating a visual map of system conditions.</li> <li>• Document the limitations and assumptions of simulations affecting the certainty of the simulation results.</li> </ul>		
<b>Blackout Sequence of Events</b>			
<p>6. What was the sequence of system events leading to and directly triggering the blackout?</p>	<ul style="list-style-type: none"> <li>• Evaluate data logs, fault recorder data disturbance recorder data, and synchro-phasor measurement to establish a detailed sequence of events that initiated the event.</li> <li>• Identify the sequence of events that directly led to the event.</li> <li>• Review and reconcile these trigger events with Regional Entities, RTOs, and operating entity analyses.</li> </ul>		

Analysis Objective	Analysis Approach	Schedule	Status
7. What was the sequence of events during the event?	<ul style="list-style-type: none"> <li>Evaluate logs and disturbance recorder data to establish sequence during the blackout. (The event sequence may follow multiple tracks.)</li> <li>Review and reconcile this sequence with those constructed by Regional Entities, RTOs, and operating entities.</li> <li>Consider developing 3-D, time-lapse visualization of the blackout (U. of Minnesota and/or U. of Wisconsin).</li> </ul>		
8. What was the cause of the event in terms of electrical conditions and other related events? Generally describe any system breakups, islanding, etc. Were there conditions of voltage or frequency collapse, or unstable oscillations? Was the sequence strictly a sequential “domino” effect of Facility trips? What were the system conditions (snapshots) at key points during the event?	<ul style="list-style-type: none"> <li>Assess triggering sequence and blackout sequence to establish the causes for the blackout in terms of electrical conditions and events.</li> <li>Select key points in sequence for simulation that are relevant for study and that can be accurately modeled. (It may not be possible to reconcile data sufficiently to recreate system conditions during the blackout.)</li> <li>To the extent possible, conduct simulations and assess results at each point during the blackout.</li> <li>Review and reconcile results with Regional Entities, and operating entities.</li> </ul>		
9. Why did the event extend as far as it did? What arrested the event from extending further into other systems?	<ul style="list-style-type: none"> <li>Using advanced analysis techniques, assess where and why the event was arrested.</li> </ul>		
10. How did affected non-nuclear generators respond during the event? Were trips as expected and required by procedures and standards? Did non-nuclear generators remain connected and support the power system in the manner they should have? Did any generator action, generator control functions, or generator protection systems contribute to the event?	<ul style="list-style-type: none"> <li>Prepare a table of affected generators and actions they made leading up to and during the event, including time-stamped unit trips, relays initiating unit trips, MW and MVar outputs, voltages, and frequency, etc.</li> <li>Analyze the automatic (including relay trips) and operator-initiated actions of non-nuclear generators to determine whether actions were correct under the conditions or not.</li> <li>Reconcile non-nuclear generator data and analysis with that of the Regional Entities, RTOs, and operating entities.</li> </ul>		
11. How did nuclear generators respond leading up to and during the blackout? Were trips as expected and required by procedures and standards? Were there any nuclear safety issues identified?	<ul style="list-style-type: none"> <li>Work with NRC to develop a table of sequence of actions and issues regarding affected nuclear generators (both ones that tripped and those that did not).</li> <li>Refer nuclear issues to NRC for analysis, assisting in their analyses where appropriate.</li> </ul>		
12. What was the sequence and amount of <u>Loadload</u> lost? What directly caused <u>Loadload</u> loss (e.g. under-frequency <u>Loadload</u> shed, loss of transmission source, voltage collapse, relay actions, under/over frequency protection or stalls, etc.)	<ul style="list-style-type: none"> <li>Work Regional Entities, RTOs, and operating entities to develop a description of <u>Loadload</u> lost/impacted, by area.</li> <li>Analyze and report the cause for <u>Loadload</u> loss in each area.</li> </ul>		

<b>Analysis Objective</b>	<b>Analysis Approach</b>	<b>Schedule</b>	<b>Status</b>
13. How did system protection and automated controls operate during the event? Did they operate correctly or not?	<ul style="list-style-type: none"> <li>Assess each automatic trip of a transmission or generator Facility for proper or improper relay actions.</li> <li>Assemble and review Regional Entity and operating entity reviews of logs, disturbance reports, and relay targets/logs and reconcile with NERC data.</li> </ul>		
14. Was any equipment damaged during the event?	<ul style="list-style-type: none"> <li>Request information from Regional Entities, and companies on equipment damage, as appropriate.</li> <li>Assess any transmission or generation Facilities sustaining damage during the event, and extent of damage.</li> </ul>		
15. Did SCADA/EMS and data communications systems operate correctly during the event? What problems were noted?	<ul style="list-style-type: none"> <li>Request information from Regional Entities, and companies.</li> <li>Identify and analyze any problems with SCADA/EMS and data communications at regional and company levels.</li> </ul>		
<b>Reliability Standards/Procedures</b>			
16. What NERC Reliability Standards were applicable to the event? What violations occurred? Were NERC Reliability Standards and policies sufficient?	<ul style="list-style-type: none"> <li>Compliance Staff review NERC Reliability Standards relevant to the event and perform a compliance review.</li> </ul>		
17. What Regional Reliability Standards were applicable to the event? What violations occurred? Were Regional Reliability Standards and Regional Entity policies sufficient?	<ul style="list-style-type: none"> <li>Request Regional Entities to review applicable Regional Reliability Standards and report compliance with those Regional Reliability Standards during the event.</li> </ul>		
18. Were any special operating procedures or other operating guidelines in effect and being observed leading up to the event? Were these procedures sufficient?	<ul style="list-style-type: none"> <li>Review and analyze loop flow procedures with involved Regional Entities and companies, and report analysis results.</li> </ul>		
19. What other RTO, Transmission Owner, CA procedures were applicable? What violations occurred? Were the procedures sufficient?	<ul style="list-style-type: none"> <li>Request RTOs, Transmission Owners, CAs to review applicable Reliability Standards and compliance with existing reliability procedures and Reliability Standards during the event, and report results.</li> </ul>		
<b>Maintenance</b>			
20. Are there any indications that maintenance of transmission or generation Facilities may have contributed to the event?	<ul style="list-style-type: none"> <li>Assess whether equipment or maintenance issues (e.g. tree trimming) contributed to the blackout and investigate specifics in areas of concern.</li> <li>Review Regional Entity assessments of maintenance issues that may have contributed to the event.</li> </ul>		

<b>Personnel, Procedures, and Communications</b>			
21. What conditions were operators and Reliability Coordinators aware of leading up to and during the event? What information did they have to warn them of unsafe system conditions? What problems or concerns did they have? What did they observe during the event? Were human errors made that contributed to the event? If there were, what were the causes of the errors?	<ul style="list-style-type: none"> <li>• Develop an interview guide to address procedural and operational issues.</li> <li>• Conduct onsite interviews with operating personnel and Reliability Coordinators involved.</li> <li>• Analyze interview data to corroborate with technical data and report conclusions.</li> </ul>		
22. Were lines of authority clearly understood and respected in the time leading up to and during the event, as well as during the restoration period?	<ul style="list-style-type: none"> <li>• Identify critical instructions given and evaluate results.</li> <li>• Review documentation and effectiveness of assignments of operating and reliability authorities.</li> </ul>		
23. What communications occurred among operating entities?	<ul style="list-style-type: none"> <li>• Review voice communications logs.</li> <li>• Evaluate logs relevant to the blackout and identify key interactions. Report conclusions.</li> </ul>		
24. What were the qualifications (including Certification status) and training of all operating personnel involved in the event and their supervisors?	<ul style="list-style-type: none"> <li>• Request Certification status of all operating personnel from involved operating entities.</li> <li>• Conduct onsite review of training materials and records.</li> <li>• Conduct onsite review of operating procedures and tools</li> </ul>		
25. Was the role and performance of the Reliability Coordinators as expected?	<ul style="list-style-type: none"> <li>• Review the adequacy of reliability plans for the affected Regional Entities.</li> <li>• Review the actions of the affected Reliability Coordinators to determine if they performed according to plans.</li> <li>• Assess whether inter-area communications were effective, both at the control area and Reliability Coordinator levels.</li> </ul>		
<b>System Restoration</b>			
26. Were blackstart and restoration procedures available and adequate in each area? Were they followed and were they adequate to the restoration task? Were pre-defined authorities respected during the restoration?	<ul style="list-style-type: none"> <li>• Onsite audit of blackstart and restoration procedures and plans.</li> <li>• Analyze whether the plans and procedures were used and whether they were sufficient for this outage.</li> </ul>		
27. What issues were encountered in the restoration that created unexpected challenges or delays? What lessons were learned in the restoration (both things that went well and things that did not).	<ul style="list-style-type: none"> <li>• Solicit information from operating entities and Regional Entities regarding unexpected challenges and delays in restoration, and lessons learned.</li> <li>• Analyze what worked well and what did not in the restoration.</li> </ul>		



<b>System Planning and Design</b>			
28. Were the conditions leading up to the event within the design and planning criteria for the transmission systems involved?	<ul style="list-style-type: none"> <li>Request Transmission Owners and Regional Entities involved to report any violations of design or planning criteria prior to or leading up to the blackout.</li> </ul>		
<b>Conclusions and Recommendations</b>			
29. From a technical perspective, what are the root causes of this event? What additional technical factors contributed to making the event possible?	<ul style="list-style-type: none"> <li>Conduct a root cause analysis on the findings and data. Categorize results as “root cause” or “contributing factor”. Focus on technical aspects.</li> </ul>		
30. What are the significant findings and lessons learned resulting from the analysis regarding technical failures leading to the event? What actions are recommended to avoid similar future events and improve Bulk Electric System reliability? What issues may be inconclusive and require future analysis?	<ul style="list-style-type: none"> <li>Draft report of significant findings, lessons learned, and recommendations.</li> </ul>		
31. Final Report	<ul style="list-style-type: none"> <li>Prepare and coordinate publication of final report.</li> </ul>		

## Guidelines for NERC Reports on Blackouts and Disturbances<sup>10</sup>

### Introduction and Purpose

### Executive Summary of Blackout or Disturbance

### Conclusions & Recommendations

### Actions to Minimize the Possibility of Future Blackouts and Disturbances

### Detailed Analysis of Event

#### 1. Sequence of Events

- 1.1. Sequence of transmission and generation events
  - 1.1.1. Reasons for each trip
  - 1.1.2. Sequence of loss of ~~Load~~load
  - 1.1.3. Description of Cascading and islanding

#### 2. System Modeling

- 2.1. Model and assumptions
  - 2.1.1. Equipment ratings and limits
  - 2.1.2. Steady state, system dynamics, and other analyses
  - 2.1.3. Degree of simulation success
  - 2.1.4. Simulation results
  - 2.1.5. Conclusions and lessons learned
- 2.2. Pre-event Conditions
  - 2.2.1. Load levels
    - 2.2.1.1. Forecast vs. Actual
    - 2.2.1.2. Comparison with planning and operational models
  - 2.2.2. Generation dispatch
    - 2.2.2.1. Forecast vs. actual
    - 2.2.2.2. Comparison with day ahead studies
    - 2.2.2.3. Reporting of scheduled and forced outages
  - 2.2.3. Reserve capacity
    - 2.2.3.1. Location of MW reserves
    - 2.2.3.2. Planned vs. actual
  - 2.2.4. Transmission configurations
    - 2.2.4.1. Planned vs. actual
    - 2.2.4.2. Comparison with day ahead studies
    - 2.2.4.3. Reporting of scheduled and forced outages

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<sup>10</sup> Each blackout or disturbance is unique and will therefore demand a customized approach to its investigation and reporting. These guidelines for NERC reports are suggestive rather than definitive. Not all investigations and reports will require covering all of these topics.

- 2.2.5. Interregional transactions
    - 2.2.5.1. Calculated transfer limits
    - 2.2.5.2. Basis for limits – thermal, voltage, and stability
    - 2.2.5.3. Seasonal assessments – Assumptions vs. actual
    - 2.2.5.4. Actual schedules vs. Tagged schedules
      - 2.2.5.4.1. AIE Survey
      - 2.2.5.4.2. Tag Survey
  - 2.2.6. System voltages (profile) and reactive supplies
    - 2.2.6.1. Coordination of reactive supplies and voltage schedules
    - 2.2.6.2. Reactive supply with power transfers
- 2.3. Event Key Parameters
    - 2.3.1. System voltages (profile) and reactive supplies
    - 2.3.2. Power flows and equipment loadings
    - 2.3.3. System dynamic effects
- 3. Transmission system performance**
    - 3.1. Equipment ratings
    - 3.2. Protective relay actions
    - 3.3. Equipment maintenance
    - 3.4. Equipment damage
- 4. Generator performance**
    - 4.1. Generator control actions
    - 4.2. Generator protection
      - 4.2.1. Underfrequency
      - 4.2.2. Overspeed
      - 4.2.3. Excitation systems
      - 4.2.4. Other systems
    - 4.3. Equipment maintenance
    - 4.4. Equipment protection
    - 4.5. Dynamic effects of generators
- 5. System frequency**
    - 5.1. Frequency excursions – pre event
      - 5.1.1. Analysis of frequency anomalies
      - 5.1.2. Effect of time error correction
    - 5.2. Frequency analysis of the event
      - 5.2.1. Remaining interconnection
      - 5.2.2. Islands remaining
- 6. Operations**
    - 6.1. Operational visibility and actions
      - 6.1.1. Reliability Coordinators
        - 6.1.1.1. Delegation and authority
        - 6.1.1.2. Monitoring capabilities
          - 6.1.1.2.1. Scope of coverage and system visibility

- 6.1.1.2.2. Monitoring tools
- 6.1.1.2.3. Data availability and use
- 6.1.1.3. Operations planning capability
  - 6.1.1.3.1. Operational planning tools
  - 6.1.1.3.2. Coordination
- 6.1.1.4. Operating procedures
  - 6.1.1.4.1. Emergency operations
  - 6.1.1.4.2. Loss of monitoring system or components
  - 6.1.1.4.3. Communication procedures
- 6.1.1.5. Operating qualifications and training
  - 6.1.1.5.1. Qualification of operators
  - 6.1.1.5.2. Training provided
  - 6.1.1.5.3. Simulation of emergencies
- 6.1.2. Transmission Operators
  - 6.1.2.1. Authority to take action
  - 6.1.2.2. Monitoring capabilities
    - 6.1.2.2.1. Scope of coverage and system visibility
    - 6.1.2.2.2. Monitoring tools
    - 6.1.2.2.3. Data availability and use
  - 6.1.2.3. Operations planning capability
    - 6.1.2.3.1. Operational planning tools
    - 6.1.2.3.2. Coordination
  - 6.1.2.4. Operating procedures
    - 6.1.2.4.1. Emergency operations
    - 6.1.2.4.2. Loss of monitoring system or components
    - 6.1.2.4.3. Communication procedures
  - 6.1.2.5. Operating qualifications and training
    - 6.1.2.5.1. Qualification of operators
    - 6.1.2.5.2. Training provided
    - 6.1.2.5.3. Simulation of emergencies

## **7. System Planning and Design**

- 7.1. Establishing operating limits
  - 7.1.1. Responsibility for setting limits
  - 7.1.2. ATC and TTC calculations
  - 7.1.3. Planning studies
    - 7.1.3.1. Wide-Area simultaneous transfer limits
      - 7.1.3.1.1. Determination of limits
      - 7.1.3.1.2. Monitoring of limits
      - 7.1.3.1.3. Basis for limits – thermal, voltage, and stability
      - 7.1.3.1.4. Regional Entity assessments
      - 7.1.3.1.5. Other system studies in affected areas
    - 7.1.3.2. Reactive planning
      - 7.1.3.2.1. Reactive reserve planning
      - 7.1.3.2.2. Active vs. static resources
      - 7.1.3.2.3. Voltage stability analysis

7.1.3.3. Regional Criteria and/or NERC Reliability Standards used for planning

7.1.3.3.1. Compliance to these planning Regional Criteria and/or Reliability Standards

## **8. Reliability Standards and Compliance**

### 8.1. Audits

#### 8.1.1. Reliability Coordinators

##### 8.1.1.1. Previous audits and results

###### 8.1.1.1.1. Compliance with NERC Reliability Standards

##### 8.1.1.2. Updated findings based on analysis

##### 8.1.1.3. Post blackout audit results and findings

##### 8.1.1.4. Recommendations for future audits

#### 8.1.2. Balancing Authorities

##### 8.1.2.1. Regional Entity audits

###### 8.1.2.1.1. Compliance with NERC Reliability Standards and Regional Reliability Standards

##### 8.1.2.2. Updated findings based on analysis

##### 8.1.2.3. Post blackout audit results and findings

##### 8.1.2.4. Recommendations for future audits

### 8.2. Regional Criteria and/or NERC Reliability Standards used for operations

#### 8.2.1. Compliance to these operating Regional Criteria and/or Reliability Standards

### 8.3. Reliability Standards

#### 8.3.1. Improvements needed

#### 8.3.2. Potential new Reliability Standards

## **9. Actions to Minimize the Possibility of Future Widespread Events**

### 9.1. Reliability Standards and compliance to Reliability Standards

### 9.2. Availability of planned Facilities as scheduled

### 9.3. Automatic ~~Load~~ shedding programs

### 9.4. Controlled separation and islanding

### 9.5. Improved data collection and system monitoring

### 9.6. Studies of impacts of severe events

## **10. Restoration of Service**

### 10.1. Restoration procedures

#### 10.1.1. RTOs and ISOs

#### 10.1.2. Transmission Operators

#### 10.1.3. Generator Operators

#### 10.1.4. Distribution Providers

### 10.2. Restoring service

#### 10.2.1. Transmission line restoration

##### 10.2.1.1. Within control area/ISO/RTO

##### 10.2.1.2. Interarea tie lines

##### 10.2.1.3. Impediments and other issues

- 10.2.2. Generation restoration
  - 10.2.2.1. Utility-owned generation
  - 10.2.2.2. Independent generation
  - 10.2.2.3. Fuel supply adequacy
  - 10.2.2.4. Fossil units
  - 10.2.2.5. Nuclear units
  - 10.2.2.6. Capacity reserves
  - 10.2.2.7. Coordination with transmission
  - 10.2.2.8. Coordination with ~~Load~~load and other generation
  - 10.2.2.9. Impediments and other issues
- 10.2.3. Coordination and communications
  - 10.2.3.1. Within control area/ISO/RTO
  - 10.2.3.2. With outside control areas/ISOs/RTOs
  - 10.2.3.3. Wide-Area coverage
  - 10.2.3.4. Impediments and other issues
- 10.3. Review of restoration procedures
  - 10.3.1. Time to restore customers
  - 10.3.2. Need for modifications
  - 10.3.3. Availability of procedures to necessary participants
  - 10.3.4. Need for training and practice drills
  - 10.3.5. Comparison with other control areas/ISOs/RTOs

## **11. Analysis Process**

- 11.1. Description of process
  - 11.1.1. Organization
  - 11.1.2. Coordination with US-Canada task force
  - 11.1.3. Coordination with Regional Entities and RTOs
  - 11.1.4. Recommended process improvements
    - 11.1.4.1. Use for other events – near misses, etc.
- 11.2. Data management
  - 11.2.1. Data collection processes
    - 11.2.1.1. Data request process
    - 11.2.1.2. Data forms used
  - 11.2.2. Data received
    - 11.2.2.1. Quality and usefulness of data
  - 11.2.3. Data warehousing
    - 11.2.3.1. Data warehouse structure
    - 11.2.3.2. Accessibility of data
  - 11.2.4. Data forms and process for future analyses

**PETITION OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
FOR APPROVAL OF REVISIONS TO ITS RULES OF PROCEDURE  
TO ADOPT A BULK ELECTRIC SYSTEM EXCEPTION PROCEDURE**

**ATTACHMENT 9**

**“THE DEVELOPMENT PROCESS AND BASIS FOR THE RoP TEAM’S  
RECOMMENDED PROVISIONS – HOW STAKEHOLDER COMMENTS WERE  
CONSIDERED AND ADDRESSED”**

**PREPARED BY THE BES RULES OF PROCEDURE TEAM**

# **The development process and basis for the RoP Team's recommended provisions--including how stakeholder comments were considered and addressed**

## **Background**

On November 18, 2010, the Federal Energy Regulatory Commission ("FERC" or the "Commission") issued an Order (No. 743) directing NERC to revise the definition of Bulk Electric System to address the Commission's technical and other concerns as identified in the Order. Concurrent with the development of the revised Bulk Electric System definition, NERC was also directed to develop a process for granting specific facilities exemptions from the Bulk Electric System definition. FERC subsequently clarified certain aspects of its directives in Order No. 743-A.

The goal of the combined efforts was to develop a definition and exemption process sufficient to ensure that all facilities necessary for operating an interconnected electric transmission network are included in the bulk electric system under Section 215 authority. In the Orders, the Commission described in large part its technical and other concerns as:

- Inconsistencies and ambiguities exist across 8 regions with respect to the definition of the Bulk Electric System
- A backstop review process does not exist for resolving such inconsistencies and ambiguities
- Facilities exist that could significantly affect reliability but that because of inconsistencies in the definition are not subject to mandatory reliability rules, and thus the ERO lacks authority to require such entities to mitigate reliability risks

Through Orders 743 and 743-A the Commission proposed to:

- Eliminate regional discretion
- Maintain a bright-line definition of the Bulk Electric System as including facilities operating at 100kV and above
- Establish an exemption process and criteria that was NERC developed and FERC approved

NERC was given the latitude to develop a solution as effective as or more effective than the Commission's proposal in the Order.

## **Executive Summary**

A team of industry stakeholders<sup>1</sup>, with participation from NERC and regional staff, was assigned the task<sup>2</sup> to develop a process for granting exceptions to the definition of the Bulk Electric System. This Rules of Procedure (or "RoP") team was to coordinate closely with the standards

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<sup>1</sup> The RoP roster is listed at: [http://www.nerc.com/docs/standards/dt/BESROP\\_ROSTER\\_08312011.pdf](http://www.nerc.com/docs/standards/dt/BESROP_ROSTER_08312011.pdf). The team was selected from stakeholder names submitted for participation on the Project 2010-017, standard drafting team to bring a good mixture of technical, policy, and industry views.

<sup>2</sup> Standards Announcement: Bulk Electric System Definition Revision Status - [http://www.nerc.com/docs/standards/dt/Project\\_2010-17\\_Standards\\_Announcement\\_040611.pdf](http://www.nerc.com/docs/standards/dt/Project_2010-17_Standards_Announcement_040611.pdf)



development efforts of the drafting team and, through stakeholder participation, propose a modification to the NERC Rules of Procedure that could be filed with the Commission for approval in response to the directives in Orders 743 and 743-A.

Believing that the set of electrical elements that comprise the Bulk Electric System generally will be appropriately determined through a hierarchical application of the newly proposed definition which includes detailed inclusions and exclusions to provide additional bright-line specificity beyond just the originally proposed 100kV threshold, the team expects that a practical exceptions process for specific facilities mischaracterized by the definition should be less frequently invoked and therefore less burdensome administratively than was envisioned by the Commission's original proposal for exemptions from a more broad-brush 100kV approach.<sup>3</sup> The exceptions process is intended to be consistent, repeatable, and verifiable while allowing sufficient flexibility for circumstances specific to each case to dictate the proper outcome in the interest of reliability.

Interested stakeholders were provided multiple opportunities to participate in the development of the process through open meetings as well as extensive use of e-mail,<sup>4</sup> web postings,<sup>5</sup> and informational and question-and-answer presentations held jointly with the definition drafting team<sup>6</sup>. Members of the Rules of Procedure team worked with Canadian entities to address consistent treatment of transmission lines that cross the border to address FERC's stated concerns and to alleviate Canadian concerns about a "one-size-fits-all" approach.

Several process attributes considered by the team during development were:

- Maintain the exemption for facilities used in the local distribution of electric energy as well as radial facilities
- The exception procedure including the criteria<sup>7</sup> for allowing exceptions should be clear, objective, transparent, and uniformly applicable
- The process should allow any registered entity to utilize the process to seek an exception either for its own facilities or for others' facilities with respect to which it has ERO-related reliability responsibilities
- NERC should be the ultimate decision-maker in order to retain facility-by-facility oversight of the objective and uniform application of the exception criteria
- The process should provide a procedure for revoking a previously granted exception if a facility no longer qualifies for such special treatment
- The records of all exception requests should be ready-for-audit by Commission staff

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<sup>3</sup> *Revision to Electric Reliability Organization Definition of Bulk Electric System*, Notice of Proposed Rulemaking, 75 FR 14097 (Mar. 24, 2010), FERC Stats. & Regs. ¶ 32,654 (2010).

<sup>4</sup> The RoP e-mail distribution list was combined with the Project 2010-017 drafting team roster and any interested participant was allowed to join a "plus" list that was used extensively.

<sup>5</sup> A project team webpage was created and hyperlinked to the standards under development webpage for information.

<sup>6</sup> The NERC Members Representatives Committee was briefed on several occasions throughout 2011, two joint NERC Webinars with Q&A were presented, and one joint presentation at a NERC Standards workshop.

<sup>7</sup> The leadership of the BES Definition SDT and of the Rules of Procedure team met with the leadership of the Standards Program and the Standards Committee and determined that the BES Definition SDT would assume responsibility for working with stakeholders to identify what evidence will be needed to support a request for an exception to the BES definition.

Several significant issues were identified during the development of the process that needed to be addressed. The issues were not considered to be intractable nor threatening to reliability, but nonetheless were important to the stakeholders. The issues generally fell into the following categories:

- Who is eligible to initiate and/or participate in the process by which an Exception is granted? What is the role of state regulators?
- What should be the scope of the Elements that can be contained in a single Request?
- Should an entity unable to determine the status of an element by applying the bright line BES definition be able to obtain a determination of its status through the exception process?
- What is the appropriate balance between allowing open access to the process and ensuring administrative time is spent analyzing and processing valid, permissible requests?
- What is the appropriate balance between facility-by-facility case-specific flexibility and an appropriate level of consistency, respecting the varied roles and proper exercise of discretion by each participant?
- How transparent should the process be? Should entities other than the Regional Entity, NERC, FERC, or Canadian Provincial authorities be allowed access to facility-specific Exception-related information filed by an entity?
- What should be the status for compliance purposes of an Element during the pendency of the request?

### **Summary of the Development Process**

The Rules of Procedure Exceptions process was developed through stakeholder participation as described in the executive summary. Additionally, interested stakeholders were asked to provide feedback on the proposed amendments through a special electronic comment form on two separate occasions.

A 30 day posting for comment was held from May 10, 2011 through June 10, 2011, in conjunction with the first posting of the draft definition. There were 70 sets of comments on this first posting, including comments from more than 176 different people from approximately 131 companies representing 10 of the 10 Industry Segments.

After considering all comments received from the first posting, the team made substantial revisions to the proposed amendments, and a second posting with a 45-day public comment period was conducted from September 13, 2011 through October 27, 2011, in conjunction with the second posting and initial ballot of the draft definition. There were 72 sets of comments on this second posting, including comments from more than 134 different people from approximately 86 companies representing 9 of the 10 Industry Segments.

After consideration of this second set of comments, the Rules of Procedure team made further revisions, mostly to clarify and fine-tune the process. Many of the comments received expressed concerns about the outside edges of the process which represented a worst-case scenario. While such a scenario certainly must be considered, it is important to note that such provisions were included in the exception process in order to anticipate situations that might be encountered occasionally or even infrequently during the administration of the process (e.g., uncorrectable insufficiencies in the form of a Request ), but that most requests are not expected

to present such situations and therefore will be processed to a definitive conclusion in fewer steps but still in a fair, efficient and effective manner. Additional information may be found at: [http://www.nerc.com/filez/standards/Rules\\_of\\_Procedure-BES.html](http://www.nerc.com/filez/standards/Rules_of_Procedure-BES.html)

Some commenters noted, with appreciation, that the development process for these amendments offered them more opportunity for review and comment than has traditionally been available for revisions to the Rules of Procedure. Additionally, commenters expressed that communication outreach efforts by the team such as through webinars was very helpful. The RoP team also has benefited from the additional input afforded by the two-step process.

## **Proposal**

The RoP Team believes that the proposed process establishes a fair and efficient resolution to a majority of the Exception Requests that will be presented, yet provides the necessary processes to address special circumstances that may arise in the process of arriving at a technically sound determination. In essence, in most circumstances, the process is a fairly simple and direct process of discrete steps:

1. An entity applies the definition to an element, but nonetheless believes that an element should either be included in or excluded from the Bulk Electric System contrary to its characterization by the definition, and therefore submits an Exception Request to the region where the Element is located.
2. The region receives the request, and
  - a. The region conducts an initial screening looking for three items to determine if it is a valid request for processing:
    - Is the request from an eligible submitter?
    - Is the request for an exception to the Definition?
    - Is the required information provided with the request?If the initial answer to each question is yes, the request is moved forward to a substantive review. If not, the submitter has an opportunity to fix the request before the region rejects the request as deficient.
  - b. The region substantively evaluates the request and makes a recommendation to NERC.
3. NERC reviews the request and all information developed at the regional level, and either approves or disapproves the exception request.
4. The Entity either accepts or appeals NERC's decision.

Additional checks and balances exist to address special situations, such as when a region itself submits an Exception Request or when a region either intends to reject a request as insufficient or recommend to NERC that an exception request be denied. In such circumstances, measures to give extra consideration to the submitter's or owner's position necessarily create additional levels of complexity, but they also provide important safeguards to ensure the best technical result for reliability.

The RoP team believes the proposed amendments represent a process that:

- Balances the need for effective and efficient reliability administration with due process and clarity of expectations.
- Is consistent, repeatable, and verifiable.
- Supports consistent treatment of transmission lines that cross international borders.
- Helps alleviate concerns about a "one-size fits all" approach.
- Allowed commenters to raise and address a number of their substantive concerns.

## Consideration of Comments

### *Effective and efficient reliability administration vs. due process and clarity of expectations*

Commenters were divided on how successfully the proposed procedure achieves this balance and on what procedural elements need to be added or should be eliminated. The RoP Team wishes to emphasize that the industry, the regions, and NERC each have responsibilities under the proposed process, and while these responsibilities do revolve around the processing of a single request, they are distinct and different steps that are discrete and manageable. The process sets a framework by which entities exercise their responsibilities together to effectively analyze a request and produce a technically justified conclusion. Where specific work-product or deliverables are detailed in the process, it is done to ensure consistency. It is expected that each participant in the process use its discretion where appropriate to maximize the efficiency and effectiveness of its individual obligations in the process.

A two-stage review (screening and substantive review) is included to ensure that requests are appropriately submitted prior to accepting them into the process of detailed technical review. In practice, a properly submitted request will flow through the initial review and on into substantive review without delay, and the minor administrative action of screening is more than counterbalanced by the time and resource savings gained by focusing technical work only on those requests that are complete and ready for substantive review. The process should not result in properly submitted exception requests being denied a technical review, and in the unlikely case of an improper rejection on arbitrary grounds, a process exists for a submitter to turn to NERC, which can direct the substantive review of a request.

### *Status of an Element for compliance purposes*

There continues to be a desire among some commenters for a reduction in the exposure to compliance monitoring and enforcement activities during the pendency of exception requests. The RoP team notes that the Commission has already addressed this issue<sup>8</sup> and the team has provided a mechanism for ongoing transition issues to be identified and addressed in consultation with the Regional Entity as necessary in the exceptions process.

The concept of “commercial operations” was included in section 10.2(a) to provide a reference point in future time from which to judge exception requests for newly planned but not yet constructed elements. In addition, although the BES definition implementation plan proposes a 24 month implementation period for application of the definition, Section 10.2(b) addresses the circumstance where an exception request is not resolved by the end of the “bright line” implementation period. The intent of both provisions is that for a new element (or for one which is not currently within the BES for compliance) which would be included under the new definition, if the owner believes it should be granted an exception from inclusion, the request for that exception should be submitted in sufficient time prior to its being placed into service (or

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<sup>8</sup> From Order No. 743:

132. While the Commission is sensitive to commenters’ concerns regarding non-compliance during the transition period, the Commission will not provide a trial period, as we declined to do in Order No. 693, with respect to those facilities that are subject to Commission-approved Reliability Standards for the first time. We expect that the transition periods will be long enough for exemption requests to be processed and to allow entities to bring newly-included facilities into compliance prior to the mandatory enforcement date. Additionally, the ERO and Regional Entities may exercise their enforcement discretion during the transition period.

prior to the end of the implementation period) that a decision can be reached, a negative decision can be mitigated, and the element brought into compliance without requiring what might have been unnecessary compliance expenses to be incurred in advance.

Some commenters expressed concern about a situation in which a new standard requirement could begin to apply to an element that was the subject of an exception request, thereby causing the owner to incur additional compliance costs. The team declined to address this case because the standards development process allows significant opportunity to address applicability and effective dates, and this is not unlike the situation already addressed by the Commission in Order 693 concerning the transition to ERO enforcement of mandatory reliability standards generally.

#### *Composition and selection of panels of experts*

The composition and selection of panels of experts at different points in the process was questioned by some commenters, and the RoP team has made some clarifying adjustments in its proposed procedure. The composition and selection of the regional-level Technical Review Panel (in section 5.3) was adjusted from a minimum of 5 to a minimum of 3 in order to allow for more efficient utilization of technical resources. A minimum of three persons was still considered necessary in order to allow the possibility of a minority view to be expressed without grid-locking the panel. Additionally, the RoP team gave the Regional Entity senior executive (President, General Manager, CEO, etc.) the authority to appoint the technical review panel without being constrained to particular membership criteria as long as technical expertise and independence is honored. For example, the regional executives may collectively choose, for consistency and peer collaboration, to assign the role of the Technical Review Panel to a group made up of other regional staff responsible for processing another region's individual regional exception requests. Such a group also could provide a standing pool of peer experts providing this service to each region and promote consistent recommendations to NERC. The intent is that the Technical Review Panel will render an independent opinion on any request for which the region intends to issue a Rejection or a recommendation of disapproval. Such an opinion would be part of the record for NERC to consider in its evaluation, so a staff member of the RE that is making the recommendation should not be a member of the panel reviewing their own recommendation or rejection.

#### *Region acting as a Submitting Entity*

In response to a variety of comments expressing concern and some confusion over the situation in which the region was itself submitting an exception request, the RoP provided additional detail regarding those elements of the procedure at the regional level that would continue to be applicable in order to protect the owner's due process, enable the development of a complete factual record for NERC's evaluation, and allow the expertise and distinct roles the region and NERC each have in processing exception requests to be followed.

#### *Transparency and participation in the process*

Several commenters expressed concern about the appropriate degree of transparency in the process, especially when an exception decision might become precedence for decisions made on later requests --- including requests in other regions. Some commenters even expressed an interest in allowing expanded participation by third parties (such as state regulators, trade associations, neighboring utilities, etc.) in the processing of individual exception requests.

The RoP team continues to believe that the exception process should be one based on the technical reliability issues of the specific case presented and that consistency in application of the process is most enhanced by having a single decision-making entity, NERC, whose expertise is in electric reliability. As stated before<sup>9</sup>, the RoP Team believes that if there were no limitation on interventions, the exception process may not be effective and efficient and could be lengthy. To establish a procedure that encouraged or even only invited multi-party filings would unduly complicate the process without any concomitant benefit in reliability.

The team specifically provided that (1) detailed notice of any request would be provided to every Registered Entity with reliability oversight obligation for the Element subject to the Request and (2) general information about the request will be publicly posted. The RoP team believes that it has achieved sufficient balance between the protection of CEII and other confidential information and the need to have a process as transparent as possible to ensure consistency. The RoP Team believes that third parties (including state regulatory agencies) will have adequate opportunity to provide comments regarding the request without formally participating in the process.

In response to comments about access to the record, the RoP team clarified that the Submitting Entity or Owner will have access to the information upon which NERC's final decision is based and otherwise ensured that a full record will be created and maintained for later audit and/or appeal.

#### *Inability to provide supporting information*

A comment was received regarding the ability of a submitting entity to obtain and provide the Section III, Required Information to support its request. The procedure is designed such that the submitting entity has the burden to establish a compelling argument that an element should be considered in or out of the BES contrary to the definition because the element is or is not, as the case may be, necessary for the reliable operation of the interconnected transmission network. However, the RoP Team concurs with the response used by the SDT pertaining to the concept of a base case and what to do if there is difficulty gaining access to needed data to support an Exception Request:

In response to the comment about an appropriate Base Case, the SDT expects the entity seeking an exception to supply an appropriate base case that the Regional Entity will acknowledge as appropriate. Not indicating the explicit types of studies or base cases to be provided and how to interpret the information in the application process does not fail to provide a basis for the Regional Entity to determine what constitutes an acceptable submittal.

The SDT recommends that each submitting entity work with its Regional Entity to resolve issues with information availability or access and, in the event such information is not available, whether suitable replacement data is acceptable. The SDT further recommends that where information is unavailable, the submitting entity state such in the comment area and provide the reason for this unavailability. This will signal the Regional Entity that an issue concerning information availability will need to be resolved as part of the review process.

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<sup>9</sup> Consideration of Comments located at: [http://www.nerc.com/docs/standards/sar/Project\\_2010-17\\_BES\\_ROP\\_Consideration\\_of\\_Comments.pdf](http://www.nerc.com/docs/standards/sar/Project_2010-17_BES_ROP_Consideration_of_Comments.pdf)

### *Consistency of results*

Several commenters expressed concern with the consistency of the exceptions process, largely because of the heavy involvement of regions in performing a substantive review and issuing a recommendation. However, Order 743 recognized that differences properly may exist across North America with respect to a particular type of element and its effect on reliable operations, and directed the ERO to develop an exceptions process at least in part to address such differences.

The RoP team considered that not only how an element is connected to the bulk power system but also how its use impacts reliable operation. To a large extent, therefore, the **Detailed information to Support an Exception Request** can best be evaluated in context and developed at a regional level. Such regionally developed information then will be used along with its separate engineering judgment by a single decider (NERC) to arrive at a technically sound determination. Undoubtedly, clarity and effectiveness of the process will improve with use. The RoP Team concurs with the SDT revisions to Section III of the **Detailed information to Support an Exception Request** and notes their response to comments regarding concerns that there may be insufficient technical or other criteria to determine whether varying results are arbitrary or based on meaningful distinctions.

The SDT understands the concerns raised by the commenters in not receiving hard and fast [technical] guidance on this issue. The SDT would like nothing better than to be able to provide a simple continent-wide resolution to this matter. However, after many hours of discussion and an initial attempt at doing so, it has become obvious to the SDT that the simple answer that so many desire is not achievable. If the SDT could have come up with the simple answer, it would have been supplied within the bright-line. The SDT would also like to point out to the commenters that it directly solicited assistance in this matter in the first posting of the criteria and received very little in the form of substantive comments.

There are so many individual variables that will apply to specific cases that there is no way to cover everything up front. There are always going to be extenuating circumstances that will influence decisions on individual cases. One could take this statement to say that the regional discretion hasn't been removed from the process as dictated in the Order. However, the SDT disagrees with this position. The exception request form has to be taken in concert with the changes to the ERO Rules of Procedure and looked at as a single package. When one looks at the rules being formulated for the exception process, it becomes clear that the role of the Regional Entity has been drastically reduced in the proposed revision. The role of the Regional Entity is now one of reviewing the submittal for completion and making a recommendation to the ERO Panel...Moreover, Appendix 5C of the proposed NERC Rules of Procedure, provides NERC the option to remand the request to the Regional Entity with the mandate to process the exception if it finds the Regional Entity erred in rejecting or disapproving the exception request.

On the other side of this equation, one could make an argument that the Regional Entity has no basis for what constitutes an acceptable submittal. Commenters point out that the explicit types of studies to be provided and how to interpret the information aren't shown in the request process. The SDT again points to the variations that will abound in the requests as negating any hard and

fast rules in this regard. However, one is not dealing with amateurs here. This is not something that hasn't been handled before by either party and there is a great deal of professional experience involved on both the submitter's and the Regional Entity's side of this equation. Having viewed the request details, the SDT believes that both sides can quickly arrive at a resolution as to what information needs to be supplied for the submittal to travel upward to the ERO Panel for adjudication.

Now, the commenters could point to lack of direction being supplied to the ERO Panel as to specific guidelines for them to follow in making their decision. The SDT re-iterates the problem with providing such hard and fast rules. There are just too many variables to take into account. Providing concrete guidelines is going to tie the hands of the ERO Panel and inevitably result in bad decisions being made. The SDT also refers the commenters to Appendix 5C of the proposed NERC Rules of Procedure, Section 3.1 where the basic premise on evaluating an exception request must be based on whether the Elements are necessary for the reliable operation of the interconnected transmission system. Further, reliable operation is defined in the Rules of Procedure as operating the elements of the bulk power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance, including a cyber security incident, or unanticipated failure of system elements. The SDT firmly believes that the technical prowess of the ERO Panel, the visibility of the process, and the experience gained by having this same panel review multiple requests will result in an equitable, transparent, and consistent approach to the problem. The SDT would also point out that there are options for a submitting entity to pursue that are outlined in the proposed ERO Rules of Procedure changes if they feel that an improper decision has been made on their submittal.

The RoP team also notes that the draft SAR for Phase II of this Project 2010-017 calls for a review of the process after 12 months of experience. If at that time, experience has shown that additional elements have been consistently useful factors, they can be added as additional detail to the process.

The SDT believes that this time period will allow industry to see if the process is working correctly and to suggest changes to the process based on actual real-world experience and not just on suppositions of what may occur in the future. Given the complexity of the technical aspects of this problem and the filing deadline that the SDT is working under for Phase I of this project, the SDT believes that it has developed a fair and equitable method of approaching this difficult problem.

#### *Start-up issues*

The RoP team suggests that NERC and the regions develop and share with the industry, as needed, some guideline and tools to help them administrate the Exception Process during start-up. This should include regular reporting of exceptions considered and either approved or disapproved, with as much detail as appropriate for public posting. It should be understood, however, that the outcome of what may be perceived to be similar requests may be different due to the specific operating facts and circumstances involved, and BES reliability remains the final goal of the whole process.



Some commenters requested that the Exception Process be postponed until Phase II of the definition process has been concluded. The RoP team does not agree and recommends to move forward with the proposed Exception Process in coordination with the implementation of the revised definition. The only alternative would appear to be to apply the Definition without any exceptions for some period of time, which would result in unnecessary inclusions and undesirable exclusions of elements from the BES, neither of which would benefit reliability.

In response to comments suggesting procedures for the tracking of Exceptions as they are processed, the RoP team believes this to be an administrative matter for NERC and the regions to address.

#### *Recertification of Exceptions*

Some question was raised regarding the frequency with which an Exception which has been granted must be recertified, with some commenters proposing 3 or 5 years rather than the 2 years in the proposed procedure. The continued application of an exception to a facility for which an exception is no longer warranted could have negative effects on reliability, so a shorter rather than longer time between reviews seems warranted. Moreover, the certification process being proposed on this schedule is more of an information update than anything especially onerous. Only if NERC obtains information suggesting the Exception may no longer be appropriate is a more detailed substantive review conducted.

#### *Consistency with existing procedures*

Some commenters expressed a concern about consistency with the existing NERC RoP. However, in drafting the exception process, the team leveraged existing administrative rules where possible. Particularly, the appeals process is drafted to parallel the appeals process for PRC-023 in Section 1702. This process efficiency takes advantage of existing industry time and resources expended in understanding and commenting on an administrative process and increases the predictability and consistency of NERC procedures. The team also notes that the Exception Process may be amended as appropriate upon the adoption of any related changes elsewhere in the Rules of Procedure or in the Definition or the **Detailed information to Support an Exception Request**, whether under Phase II of the standards development project 2010-017 or thereafter.

#### *Consider the whole record*

Some commenters requested that the expression “No single piece of evidence should be dispositive” should be removed from the description of NERC’s consideration of the request. The RoP Team agreed and changed the wording consistent with the SDT comments to allow an entity to submit any additional information it feels relevant. Because the definition provides bright-line threshold criteria for exclusions and inclusions, the exception process will likely use a blend of quantitative and qualitative thresholds encompassed in engineering judgment to arrive at a determination. With respect to the jurisdictional boundary between distribution and transmission, the team notes that Rules of Procedure at Section 314 already addresses Conflicts with Statutes, Regulations, and Orders and that the exception process should focus on facilities necessary for the reliable operation of the interconnected bulk-power system.

#### *Lines that cross international borders*

The RoP team adopted new language in Section 1.2 that we believe address the stated concerns.

## **Conclusion**

The RoP team believes the process as proposed will enable fair yet efficient and effective determinations with respect to requests that specific elements be excepted from application of the BES Definition. In order to accomplish this, we believe the procedure needs to be approved and put into place concurrently with the effective date of the new definition, with sufficient lead time before compliance obligations are imposed on newly included elements to allow exception requests properly and thoroughly to be considered. The two year implementation period proposed by the SDT seems to be sufficient in most cases to allow industry participants to identify possible exceptions and prepare requests and for the regions and NERC to follow the procedure proposed here to completion.

The exception procedure proposed here is not intended to be a frequently utilized method for determining the status of great numbers of elements or facilities across the country. Nor should it need to be in light of the detailed Inclusions and Exclusions that are part of the Bulk Electric System definition, which should clearly and appropriately serve to characterize the vast majority of elements and facilities. Only the tough cases will need to be reviewed through this process, and it is for those tough cases that the procedure has been designed to provide sufficient procedural detail to be consistent, repeatable and verifiable, yet also to allow the flexibility to evaluate the technical issues presented by each request in context. Opinions can and do differ regarding the best balance between the countervailing interests in a speedy, decisive process (which may risk over-simplicity) and full consideration of sometimes complex technical issues (which may risk unnecessarily expanding steps and slowing down the process), but the RoP team believes its proposal presents a framework in which those requests that can be decided straightforwardly will be decided quickly and efficiently but those more difficult requests can receive the attention they need and deserve in order to reach the best decision for reliability.