

152 FERC ¶ 61,142
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
Tony Clark, and Colette D. Honorable.

North American Electric Reliability Corporation

Docket No. RR15-11-000

ORDER ON REVISIONS TO COMPLIANCE AND CERTIFICATION
COMMITTEE CHARTER

(Issued August 21, 2015)

1. On June 2, 2015, North American Electric Reliability Corporation (NERC) filed proposed revisions to the Compliance and Certification Committee Charter (CCC Charter).¹ As discussed below, we conditionally approve NERC's proposed revisions to the CCC Charter. NERC also requests guidance on the need to file with the Commission future revisions to the CCC Charter, which we provide below.

I. Background

2. Section 215 of the Federal Power Act requires the Commission to certify an Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval.² In July 2006, the Commission certified NERC as the ERO and directed NERC, *inter alia*, to submit a

¹ The Compliance and Certification Committee is a stakeholder committee consisting of 34 total members that are appointed by the NERC Board of Trustees, and is tasked with engaging, supporting, and advising the NERC Board of Trustees on all facets of the NERC Compliance Monitoring and Enforcement program, Organization Registration program, and Organization Certification program, and monitoring NERC's adherence to the NERC Rules of Procedure. *See* North American Electric Reliability Corp. June 2, 2015 Petition, Attachment 1 (Clean version of the proposed amendments to the CCC Charter) at 1, 2, and 17 (Petition).

² 16 U.S.C. § 824o (2012).

compliance filing to provide additional information regarding its Compliance and Certification Committee in its capacity as an adjudicative body within the ERO.³

3. On January 18, 2007, the Commission approved NERC's compliance filing, which provided additional information about the membership, selection, quorum, voting, and hearing procedures of the Compliance and Certification Committee and memorialized these details in the CCC Charter.⁴ In the January 2007 Order, the Commission directed NERC to submit a further compliance filing to clarify the appropriate scope and mission of the Compliance and Certification Committee.⁵

4. On June 7, 2007, the Commission approved NERC's compliance filing in response to the January 2007 Order, which clarified the scope and mission of the Compliance and Certification Committee and included corresponding revisions to the CCC Charter.⁶ In the June 2007 Order, the Commission directed NERC to further revise the membership, hearing, and mediation provisions of the CCC Charter.⁷ On October 18, 2007, the Commission approved NERC's proposed revisions to the CCC Charter.⁸

5. On March 15, 2010, NERC filed proposed revisions to the NERC Rules of Procedure, *inter alia*, to add Appendix 4E (NERC Compliance and Certification Committee Hearing Procedures; NERC Compliance and Certification Committee Hearing Procedures for Use in Appeals of Certification Matters; NERC Compliance and Certification Committee Mediation Procedures) that governs the practices of the

³ *North American Electric Reliability Corp.*, 116 FERC ¶ 61,062, at P 506, *order on reh'g and compliance*, 117 FERC ¶ 61,126 (2006), *order on compliance*, 118 FERC ¶ 61,030, *order on clarification and reh'g*, 119 FERC ¶ 61,046 (2007), *aff'd sub nom. Alcoa Inc. v. FERC*, 564 F.3d 1342 (D.C. Cir. 2009).

⁴ *North American Electric Reliability Corp.*, 118 FERC ¶ 61,030 (2007) (January 2007 Order).

⁵ *Id.* P 162.

⁶ *North American Electric Reliability Corp.*, 119 FERC ¶ 61,248 (2007) (June 2007 Order).

⁷ *Id.* P 20.

⁸ *North American Electric Reliability Corp.*, 121 FERC ¶ 61,033, at P 5 (2007).

Compliance and Certification Committee during hearings.⁹ NERC included in its filing corresponding revisions to the CCC Charter.¹⁰ On June 10, 2010, the Commission approved NERC's filing, including the proposed revisions to the CCC Charter.¹¹

II. NERC Petition

6. NERC requests approval of proposed revisions to the CCC Charter. NERC states that the revisions improve the clarity and accuracy of the CCC Charter. Specifically, NERC explains that the revisions correct references to the NERC Rules of Procedure and change references to NERC titles to reflect organizational changes.¹²

7. NERC also requests guidance on the need to file with the Commission future revisions to the CCC Charter. NERC states that the CCC Charter is not part of the NERC Rules of Procedure or Bylaws, and therefore may not require Commission approval.¹³

III. Notice of Filing

8. Notice of NERC's June 2, 2015 filing was published in the *Federal Register*, 80 Fed. Reg. 32,556 (2015), with interventions and protests due on or before June 23, 2015. No protests or interventions were filed.

IV. Discussion

9. NERC proposes, *inter alia*, to revise the Hearing Panel provision in the Hearings section of the CCC Charter. The proposed revision would allow voting members of the committee "with little or no affiliation with" parties to the hearing to be nominated to

⁹ North American Electric Reliability Corp., Filing, Docket No. RR10-8-000, at Attachment 3 (Proposed Appendix 4E: NERC Compliance and Certification Committee Hearing Procedures; NERC Compliance and Certification Committee Hearing Procedures for Use in Appeals of Certification Matters; and NERC Compliance and Certification Committee Mediation Procedures) (filed March 15, 2010).

¹⁰ *Id.* at Attachment 4 (Amended Compliance and Certification Committee Charter).

¹¹ North American Electric Reliability Corp., Docket No. RR10-8-000, at 2 (June 10, 2010) (delegated letter order).

¹² Petition at 1.

¹³ *Id.* at 2.

stand for selection to the hearing panel.¹⁴ Currently, the CCC Charter requires members of the committee to be “at arm’s length from parties to the hearing.”¹⁵ The current language in the CCC Charter is consistent with the definition of Hearing Panel in Appendix 4E of the NERC Rules of Procedure, which also states that voting members must be “at arm’s length to” parties to the hearing.¹⁶ We find that NERC’s proposed revision introduces new language that is inconsistent with the definition of Hearing Panel in Appendix 4E of the NERC Rules of Procedure. Accordingly, we conditionally approve NERC’s proposed revisions to the CCC Charter and direct NERC to submit a compliance filing within 60 days of the date of this order retaining the existing language in the Hearings section, as discussed above.

10. In response to NERC’s request for guidance, we continue to require NERC to submit to the Commission for approval future revisions to the CCC Charter. The CCC Charter sets forth the mission of NERC’s Compliance and Certification Committee, which supports and advises the NERC Board of Trustees and NERC on all facets of the NERC Compliance Monitoring and Enforcement program, Registration program, and Organization Certification program, and monitors NERC’s adherence to the NERC Rules of Procedure. NERC’s proposed change in the CCC Charter at issue in this order relates to the Compliance and Certification Committee’s activities as an adjudicatory body, the topic on which the Commission initially sought information about the committee’s composition and organization.¹⁷ Moreover, NERC’s Compliance Monitoring and Enforcement, and Registration programs are currently going through significant transitions to risk-based programs and the Commission’s oversight of this transition and the CCC Charter remains important. Additionally, the Commission has required NERC to file revisions to the CCC Charter in the past, and consistent with this precedent, we continue to require NERC to submit to the Commission for approval future revisions to the CCC Charter to ensure the revisions are consistent with the Commission-approved NERC Rules of Procedure.

¹⁴ *Id.*, Attachment 2 (Redlined version of the proposed amendments to the CCC Charter) at 16.

¹⁵ *Id.*

¹⁶ NERC Rules of Procedure, Appendix 4E, at 3 (Oct. 4, 2013).

¹⁷ *See supra* PP 2-3.

The Commission orders:

(A) NERC's proposed revisions to the CCC Charter are hereby conditionally approved, subject to a compliance filing to be made within 60 days of the date of this order, as discussed in the body of this order.

(B) NERC shall continue to submit revisions to the CCC Charter to the Commission for approval, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.