

SCHIFF HARDIN LLP

Owen E. MacBride
(312) 258-5680
Email: omacbride@schiffhardin.com

233 SOUTH WACKER DRIVE
SUITE 6600
CHICAGO, ILLINOIS 60606
Tel.: 312.258.5500
Fax: 312.258.5700
www.schiffhardin.com

December 23, 2010

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 Nos. RR06-1-022 and RR07-7-008
Report of the North American Electric Reliability Corporation and
Western Electricity Coordinating Council in Response to
August 29, 2009 Commission Order**

Dear Ms. Bose:

The North American Electric Reliability Corporation and the Western Electricity Coordinating Council hereby submit the "Report of the North American Electric Reliability Corporation and Western Electricity Coordinating Council in Response to August 29, 2009 Commission Order" in the above-referenced dockets.

This filing consists of: (1) this transmittal letter and (2) the narrative text of the filing, which follows this transmittal letter. Both of these documents are transmitted in a single pdf file.

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

UNITED STATES OF AMERICA
Before the
FEDERAL ENERGY REGULATORY COMMISSION

**NORTH AMERICAN ELECTRIC RELIABILITY
CORPORATION**

Docket No. RR06-1-022

**DELEGATION AGREEMENT BETWEEN THE NORTH
AMERICAN ELECTRIC RELIABILITY CORPORATION
AND WESTERN ELECTRICITY COORDINATING
COUNCIL**

Docket No. RR07-7-008

**REPORT OF THE
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND WESTERN ELECTRICITY COORDINATING COUNCIL
IN RESPONSE TO AUGUST 29, 2009 COMMISSION ORDER**

Gerald W. Cauley
President and Chief Executive Officer
David N. Cook
Senior Vice President and General Counsel
North American Electric Reliability Corporation
116-390 Village Boulevard
Princeton, NJ 08540-5721
(609) 452-8060
(609) 452-9550 – facsimile
david.cook@nerc.net

Owen E. MacBride
Debra Ann Palmer
Schiff Hardin LLP
1666 K Street, N.W., Suite 300
Washington, DC 20036-4390
(202) 778-6400
(202) 778-6460 – facsimile
omacbride@schiffhardin.com
dpalmer@schiffhardin.com
Counsel for North American Electric Reliability
Corporation

Steven F. Goodwill
Vice President and General Counsel
Western Electricity Coordinating
Council
155 North 400 West, Suite 200
Salt Lake City, UT 84103
(801) 883-6857
(801) 582-3918 – facsimile
sgoodwill@wecc.biz

Peter H. Zamore
Sheehey, Furlong & Behm P.C.
30 Main Street, P.O. Box 66
Burlington, VT 05402
(802) 864-9891
(802) 864-6815 – facsimile
pzamore@sheeheyvt.com
Counsel for Western Electricity
Coordinating Council

December 23, 2010

I. INTRODUCTION

The North American Electric Reliability Corporation (“NERC”) and the Western Electricity Coordinating Council (“WECC”) file this report in compliance with the Commission’s letter Order issued August 29, 2009 in Docket Nos. RR06-1-022 and RR07-7-008 (“August 29, 2009 Order”). The underlying subject matter is a deviation in WECC’s Hearing Procedures from the NERC *pro forma* Hearing Procedures, specifically, that the WECC Hearing Procedures do not include the shortened hearing procedures included in §1.3.2 of the NERC *pro forma* Hearing Procedures.¹ In the August 29, 2009 Order, the Commission accepted NERC and WECC’s (i) request for continuation of this deviation from the NERC *pro forma* Hearing Procedures, and (ii) proposal to file a report by December 31, 2010 addressing the merits of continuing the deviation.

As discussed in § III of this filing, WECC has concluded that it should amend its Hearing Procedures to add the shortened hearing procedures found in the NERC *pro forma* Hearing Procedures, thereby ending the deviation. WECC and NERC expect to complete the internal corporate actions necessary to effectuate this revision during the first quarter of 2011 and to present the revised WECC Hearing Procedures to the Commission for approval in February 2011.

¹ The NERC *pro forma* Hearing Procedures are Attachment 2 to the NERC *Uniform Compliance Monitoring and Enforcement Program*, Appendix 4C to the NERC Rules of Procedure. The WECC Hearing Procedures, in addition to being a “Regional Entity Rule (18 C.F.R. §39.1), are an attachment to Exhibit D to the Delegation Agreement between NERC and WECC.

II. NOTICES AND COMMUNICATIONS

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

Gerald W. Cauley
President and Chief Executive Officer
David N. Cook*
Senior Vice President and General Counsel
North American Electric Reliability Corporation
116-390 Village Boulevard
Princeton, NJ 08540-5721
(609) 452-8060
(609) 452-9550 – facsimile
david.cook@nerc.net

Owen E. MacBride*
Debra Ann Palmer
Schiff Hardin LLP
1666 K Street, N.W., Suite 300
Washington, DC 20036-4390
(202) 778-6400
(202) 778-6460 – facsimile
omacbride@schiffhardin.com
dpalmer@schiffhardin.com
Counsel for NERC

Steven F. Goodwill*
Vice President and General Counsel
Western Electricity Coordinating Council
155 North 400 West, Suite 200
Salt Lake City, UT 84103
(801) 883-6857
(801) 582-3918 – facsimile
sgoodwill@wecc.biz

Peter H. Zamore
Sheehey, Furlong & Behm P.C.
30 Main Street, P.O. Box 66
Burlington, VT 05402
(802) 864-9891
(802) 864-6815 – facsimile
pzamore@sheeheyvt.com
Counsel for WECC

*Persons to be included on the
Commission's official service list.

III. REPORT IN RESPONSE TO AUGUST 29, 2009 COMMISSION ORDER

In an October 30, 2007 filing with the Commission, NERC explained that WECC decided to develop a set of hearing procedures that were different in certain respects than the hearing procedures being developed by NERC and the Eastern Interconnection Regional Entities, based on WECC's specific needs.² NERC further explained that NERC and WECC believed these two sets of hearing procedures would not conflict with the Commission's goal of consistency, because there were few substantive differences and therefore the two sets of hearing procedures would not be burdensome for registered entities located in both interconnections.³

² *Compliance Filing of the North American Electric Reliability Corporation in Response to April 19, 2007 Order*, filed October 30, 2007 ("October 30, 2007 Compliance Filing") at 42.

³ October 30, 2007 Compliance Filing at 42.

The October 30, 2007 Compliance Filing included a specific explanation of WECC's decision not to include the shortened hearing procedures in the WECC Hearing Procedures.⁴

In its Order issued March 21, 2008, on the October 30, 2007 Compliance Filing, the Commission ruled as follows with respect to the omission of the shortened hearing procedures from the WECC Hearing Procedures:

We accept, subject to conditions, WECC's justification for its proposed deviation regarding the omission of NERC's shortened hearing procedures (*see* NERC hearing procedures, paragraph 1.3.2). Because this deviation represents a significant change from the NERC hearing procedures, we require NERC and WECC to submit a report, by June 30, 2009, addressing the merits of retaining this deviation.⁵

On June 29, 2009, NERC and WECC filed a report with the Commission as required by P 230 of the March 21, 2008 Order.⁶ NERC and WECC stated that as of May 31, 2009, WECC had no disputed compliance matters go through its hearing process; and there had been only a small number of disputed compliance matters for which registered entities had requested hearings before the other Regional Entities' hearing bodies; further, even in the other Regions, no case had actually gone to hearing. Therefore, in light of the lack of actual experience to determine if addition of the shortened hearing procedure to the WECC Hearing Procedures would be useful (and whether the absence of the shortened hearing procedure was depriving WECC and registered entities of opportunities for efficiencies), WECC continued to believe its original reasons for not including the shortened hearing procedures were valid; and NERC had no basis to depart from its previous deference to WECC's judgment. Accordingly, NERC and

⁴ October 30, 2007 Compliance Filing at 42, 44.

⁵ *Order Addressing Revised Delegation Agreements*, 122 FERC ¶ 61,245 (2008) ("March 21, 2008 Order"), at P 230.

⁶ *Report of the North American Electric Reliability Corporation and Western Electricity Coordinating Council in Response to Paragraph 230 of March 21, 2008 Commission Order*, filed June 29, 2009.

WECC proposed that WECC be allowed to continue this deviation from the *pro forma* Hearing Procedures, but that WECC and NERC provide another report to the Commission by no later than December 31, 2010. This proposal was approved in the August 29, 2009 Order.

WECC has now concluded that it should add the shortened hearing procedures to the WECC Hearing Procedures, thereby ending this deviation. This determination is being made in the interests of promoting uniformity, rather than based on experience in using the WECC Hearing Procedures and the *pro forma* Hearing Procedures. It continues to be the case that WECC has had no disputed compliance matters go through its hearing process, that there have been only a small number of disputed compliance matters for which registered entities have requested hearings before other Regional Entities' hearing bodies, and even in the other Regions, no case has actually gone to hearing. Rather, to date, all alleged violations of reliability standards and other compliance and enforcement matters have been resolved by the registered entity, the Regional Entity and NERC through negotiations and settlement agreements.

It is necessary for WECC to complete internal corporate actions, including obtaining formal approval of its Board, to revise its Hearing Procedures to incorporate the shortened hearing procedures.⁷ The revised WECC Hearing Procedures then need to be submitted to NERC for approval by the NERC Board of Trustees, and thereafter submitted to the Commission for approval (both as a revision to a Regional Entity Rule and as an amendment to the NERC-WECC Delegation Agreement). In the interests of efficiency and to reduce the number of WECC and NERC Board actions and Commission filings otherwise needed, NERC and WECC have agreed that this revision to the WECC Hearing Procedures will be approved by the

⁷ It may also be necessary for WECC to amend its Compliance Monitoring and Enforcement Program document to add one or more references to the shortened hearing procedures that will now be included in the WECC Hearing Procedures.

respective Boards and filed with the Commission for approval in conjunction with the amendments to the NERC *pro forma* Regional Delegation Agreement and the individual Delegation Agreements (including the NERC-WECC Delegation Agreement) required by the Commission’s October 21, 2010 Order in Docket No. RR10-11-000.⁸ The compliance filing in response to the October 21, 2010 Order is required by February 18, 2011, and it will include the revised WECC Hearing Procedures incorporating the addition of the shortened hearing procedures from the NERC *pro forma* Hearing Procedures.

IV. CONCLUSION

NERC and WECC respectfully request that the Commission this report as compliance with the August 29, 2009 Order in this docket.

Respectfully submitted,

<p>Gerald W. Cauley President and Chief Executive Officer David N. Cook Senior Vice President and General Counsel North American Electric Reliability Corporation 116-390 Village Boulevard Princeton, NJ 08540-5721 (609) 452-8060 (609) 452-9550 – facsimile david.cook@nerc.net</p> <p>Owen E. MacBride Debra Ann Palmer Schiff Hardin LLP 1666 K Street, N.W., Suite 300 Washington, DC 20036-4390 (202) 778-6400 (202) 778-6460 – facsimile omacbride@schiffhardin.com dpalmer@schiffhardin.com Counsel for NERC</p>	<p>Steven F. Goodwill Vice President and General Counsel Western Electricity Coordinating Council 155 North 400 West, Suite 200 Salt Lake City, UT 84103 (801) 883-6857 (801) 582-3918 – facsimile sgoodwill@wecc.biz</p> <p>Peter H. Zamore Sheehey, Furlong & Behm P.C. 30 Main Street, P.O. Box 66 Burlington, VT 05402 (802) 864-9891 (802) 864-6815 – facsimile pzamore@sheeheyvt.com Counsel for WECC</p>
--	--

⁸ *Order Conditionally Approving Revised Pro Forma Delegation Agreement, Revised Delegation Agreements with Regional Entities, Amendments to Rules of Procedure and Certain Regional Entity Bylaws*, 133 FERC ¶ 61,061 (2010) (“October 21, 2010 Order”).

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document upon all parties listed on the official service list compiled by the Secretary in this proceeding.

Dated at Chicago, Illinois this 23rd day of December, 2010.

/s/ Owen E. MacBride
Owen E. MacBride

*Attorney for North American Electric
Reliability Corporation*