

January 23, 2015

**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 Petition for Approval of  
Amendments to Exhibit B to the Delegation Agreement with Southwest Power Pool,  
Inc. – Amendments to Southwest Power Pool, Inc.’s Bylaws  
Docket No. RR15-\_\_\_\_-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (“NERC”) hereby submits the  
“Petition of the North American Electric Reliability Corporation for Approval of Amendments to  
Exhibit B of the Delegation Agreement with Southwest Power Pool, Inc. – Amendments to  
Southwest Power Pool, Inc.’s Bylaws.”

NERC is submitting amendments to Exhibit B to the Delegation Agreement with  
Southwest Power Pool, Inc. (“SPP”), on behalf of Southwest Power Pool Regional Entity (“SPP  
RE”). Specifically, the Bylaws of Southwest Power Pool, Inc. (“SPP Bylaws”), which are  
Exhibit B to the Delegation Agreement, have been revised. The amendments to the SPP Bylaws  
were filed at the Federal Energy Regulatory Commission (“FERC”) by SPP in FERC Docket  
Nos. ER13-2031-001 and ER14-2851-000, pursuant to Sections 205 and 206 of the Federal  
Power Act and Part 35 of the Regulations of the FERC.<sup>1</sup>

<sup>1</sup> These amendments were accepted by FERC in a Letter Order issued to SPP on May 14, 2014 and in the Order  
Conditionally Accepting in Part, Rejecting in Part, Accepting and Suspending Filings in Part, Establishing Hearing

These amendments to the Delegation Agreement make corrections and update procedures in various articles in the Bylaws. Specifically, the amendments to the SPP Bylaws: (1) clarify certain obligations of an SPP member that withdraws from SPP; (2) facilitate the decision of the Western Area Power Administration-Upper Great Plains Region (“Western-UGP”), a federal power marketing agency (“PMA”), Basin Electric Power Cooperative (“Basin Electric”) and Heartland Consumers Power District (“Heartland”) (collectively, the “IS Parties”) to join SPP as Transmission Owning Members, to place their respective transmission facilities under the functional control of SPP, and begin taking transmission service under the Tariff; and (3) make ministerial corrections. The amendments to the SPP’s Bylaws do not affect SPP’s Regional Entity functions and there are no reliability-related issues that are raised by the amendments. The amended SPP Bylaws continue to satisfy the five governance criteria specified in Exhibit B of the SPP Regional Delegation Agreement.

This filing consists of: (1) this transmittal letter, (2) the narrative text of the Petition which follows this transmittal letter, and (3) Attachments 1 and 2 to the Petition which contain a clean version and a redline version of the proposed amendments to Exhibit B to the Delegation Agreement respectively. All of these documents are transmitted in a single PDF file.

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and Settlement Judge Procedures and Consolidating Proceedings and Directing Compliance Filing, 149 FERC ¶ 61,113 (2014) respectively.

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

Respectfully submitted,

/s/ Meredith M. Joliver

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**UNITED STATES OF AMERICA**  
**Before the**  
**FEDERAL ENERGY REGULATORY COMMISSION**

**NORTH AMERICAN ELECTRIC            )**  
**RELIABILITY CORPORATION        )**     **Docket No. RR14-\_\_\_-000**

**PETITION OF THE**  
**NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION**  
**FOR APPROVAL OF AMENDMENTS TO EXHIBIT B TO THE DELEGATION**  
**AGREEMENT WITH SOUTHWEST POWER POOL, INC. – AMENDMENTS TO**  
**SOUTHWEST POWER POOL, INC.’S BYLAWS**

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*Counsel for North American Electric  
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January 23, 2015

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### ATTACHMENTS

**Attachment 1:** Amended Exhibit B to the Delegation Agreement Between North American Electric Reliability Corporation and Southwest Power Pool, Inc. – Clean version

**Attachment 2:** Amended Exhibit B to the Delegation Agreement Between North American Electric Reliability Corporation and Southwest Power Pool, Inc. – Redlined version

## **I. INTRODUCTION**

Pursuant to § 215(e)(4) of the Federal Power Act<sup>2</sup> (“FPA”) and 18 C.F.R. §§ 39.8 and 39.10 (2012), the North American Electric Reliability Corporation (“NERC”) requests the Federal Energy Regulatory Commission’s (“Commission”) approval of amendments to the Delegation Agreement between NERC and Southwest Power Pool, Inc. (“SPP”), on behalf of Southwest Power Pool Regional Entity (“SPP RE”), one of the NERC Regional Entities. Specifically, NERC is submitting revised Bylaws of Southwest Power Pool, Inc. (the “SPP Bylaws”) which are Exhibit B to the Delegation Agreement. The amendments to the Bylaws were filed at FERC by SPP in FERC Docket Nos. ER13-2031-001 and ER14-2851-000 pursuant to Sections 205 and 206 of the Federal Power Act<sup>3</sup> and Part 35 of the Regulations of the Commission.<sup>4</sup>

SPP is a Regional Transmission Organization which also performs Regional Entity functions pursuant to its Delegation Agreement with NERC. The SPP Bylaws are Exhibit B to the Delegation Agreement. The instant amendments to the SPP’s Bylaw do not affect SPP’s Regional Entity functions, and this filing is being made to include the revised Bylaws in the Delegation Agreement. This filing contains amendments to the SPP Bylaws applicable to the following sections: Sections 1.0, 2.1, 3.15.4, 5.1, 5.1.1.1, 6.6, 8.7.3, 8.7.5, and 10.0. The NERC Board of Trustees approved the amended Delegation Agreement containing amendments to Section 8.73 by conference call on November 21, 2013. The NERC Board of Trustees approved

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<sup>2</sup> 16 U.S.C. § 824o (2005).

<sup>3</sup> 16 U.S.C. §§ 824d and 824e.

<sup>4</sup> 18 C.F.R. 35.

the amended Delegation Agreement containing amendments to Sections 1.0, 2.1, 3.15.4, 5.1.1.1, 6.6, 8.7.5, and 10.0 at the November 14, 2014 Board Meeting.

The SPP Bylaws are “Regional Entity Rules” as defined in 18 C.F.R. § 39.10; thus, in accordance with 18 C.F.R. § 39.10, amendments to a Regional Entity Rule require Commission approval. These amendments to the Delegation Agreement: (1) make ministerial corrections; (2) update various procedures on membership withdrawal; and (3) facilitate the IS Parties joining SPP. Specifically, the amendments to the SPP Bylaws:

- (a) Add the definition of the terms (1) “Federal Power Marketing Agency,” (“FPMA”); (2) “Federal Power Marketing Agency Amendments,” (“FPMAA”); and (3) “Western Area Power Administration-Upper Great Plains Region (“Western-UGP”)” in *Section 1.0 Definitions*;
- (b) Make ministerial changes to capitalize the terms “Federal Power Marketing Agency” in Sections 2.1 and “Federal” in Section 3.15.4;
- (c) (i) Remove the word “and” from subsection (a) of Section 5.1, and add the word “and” to subsection (b) of Section 5.1; (ii) modify the number of Members of the Members Committee from 19 to 24, (iii) modify the number of investor owned utility representative Members from 4 to 6, (iv) modify the number of cooperatives Members from 4 to 5, (v) add one representative from a FPMA, and (vi) insert language to add one representative from “an independent transmission company Member, defined as having assets under the OATT and no Affiliate Relationships in other categories of Membership” in *Section 5.1.1.1 Composition*;
- (d) (i) Modify the number of Members of the Corporate Governance Committee from 9 to 10; (ii) delete “federal” power agency Member representative to only include “state”

power agencies; and (iii) add “one representative shall be representative and selected by a FPMA Member(s)” in *Section 6.6 Corporate Governance Committee*.

- (e) Insert clarifying language to state, “To the extent that Section 4.3.3A of this Membership Agreement is applicable, a...” at the beginning of Section 8.7.3 and delete language referencing, “Payments in fulfillment of any such obligations and allocated costs shall commence on the date that the costs of such transmission facilities are reflected in SPP’s generally applicable rates, unless SPP and the Terminated Member agree to an alternate date. Rights, obligations, and payments applicable to time periods prior to the Termination Date shall be honored by SPP and the Terminated Member. Fulfillment and performance of such rights and obligations, and rights and obligations regarding the use of such transmission facilities, shall be negotiated between SPP and the Terminated Member, and any dispute involving such rights and obligations shall be resolved in accordance with the dispute resolution procedures in the Bylaws and Membership Agreement.” in *Section 8.7.3 Financial Obligations for Transmission Facilities*;
- (f) Insert a new section entitled “*Section 8.7.5 Limitation on Financial Penalty Obligations*”; and
- (g) Insert additional clarify language that references the new Section 8.7.5 and the new language in Section 5.1.1. in *Section 10 Amendments To These Bylaws, The Articles Of Incorporation, And Membership Agreement*.

The revised Bylaws continue to satisfy the five governance criteria in the Delegation Agreement. SPP’s additional terms “FPMA,” “FPMAA,” and “Western-UGP” within its Bylaws



do not conflict or impact any of NERC's definitions and there are no reliability-related issues that are raised by the amendments to the SPP Bylaws.

**Attachments 1 and 2** to this Petition are clean and redlined versions, respectively, of the proposed amended Exhibit B to the Delegation Agreement. **Attachment 2** shows the proposed amendments to Exhibit B to the Delegation Agreement.

## **II. NOTICES AND COMMUNICATIONS**

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

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## **III. PROPOSED AMENDMENTS TO EXHIBIT B TO THE DELEGATION AGREEMENT BETWEEN NERC AND SOUTHWEST POWER POOL, INC.**

The proposed amendments to Section 8.73 of the Delegation Agreement amend the Bylaws to address a Commission directive related to clarifying the withdrawal obligation for costs of transmission facilities.<sup>5</sup> The proposed revisions to Sections 1.0, 2.1, 3.15.4, 5.1, 5.1.1.1, 6.6, 8.75 and 10.0, amend the Bylaws to: (1) facilitate the decision of the Western Area Power

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<sup>5</sup> *Sw. Power Pool, Inc.*, 144 FERC ¶ 61,208 (2013) (“September 19 Order”).

Administration-Upper Great Plains Region (“Western-UGP”), a federal power marketing agency (“PMA”), Basin Electric Power Cooperative (“Basin Electric”) and Heartland Consumers Power District (“Heartland”) (collectively, the “IS Parties”) to join SPP as Transmission Owning Members, to place their respective transmission facilities under the functional control of SPP, and begin taking transmission service under the Tariff; and (2) make ministerial corrections. The following paragraphs describe the proposed amendments to the Delegation Agreement, specifically Exhibit B, on a section-by-section basis.

1. Section 1.0 Definitions

a. Section 1.0 Definitions

- i. **Added** the following definition: “Federal Power Marketing Agency,” which states, “This term shall include the term “Federal Power Marketing Administration” (“FPMA”) and have the same definition that is set forth in the Federal Power Act at 16 U.S.C. § 796(19), which defines “Federal Power Marketing Agency” as “any agency or instrumentality of the United States (other than the Tennessee Valley Authority) which sells electric energy[.]”
- ii. **Added** the following definition: “Federal Power Marketing Agency Amendments,” which states, “The amendments and revisions to the SPP Bylaws, the SPP Membership Agreement, or Section 39.3 of the OATT that are required by a Federal Power Marketing Agency for membership in SPP at the time of the Federal Power Marketing Agency's initial membership or as they may be revised in the future by mutual agreement between the Federal Power Marketing Agency and SPP.”
- iii. **Added** the following definition: “Western Area Power Administration—Upper Great Plains Region (“Western-UGP”),” which states, “A division of the Western Area Power Administration that markets and transmits Federal power from reservoir projects under the control of the Department of the Army or the U.S. Bureau of Reclamation to Statutory Load Obligations, including preference power customers in Iowa, Minnesota, Montana, Nebraska, North Dakota, and South Dakota located in a defined marketing area. Western-UGP operates the WAUW Balancing Authority Area in the Western Interconnection, where certain of its transmission facilities are located.”

2. Section 2.1 Qualifications
  - i. **Capitalized** the term “Federal Power Marketing Agency.”
3. Section 3.15.4 Qualifications
  - i. **Capitalized** the word “Federal.”
4. Section 5.1 Members Committee
  - i. **Deleted** the word “and” from subsection (a).
  - ii. **Added** the word “and” to subsection (b).
  - b. Section 5.1.1.1 Composition
    - i. **Deleted** “19” and **added** “24” so that the total Members of the Members Committee would state, “Provided that Membership is sufficient to accommodate these provisions, the Members Committee shall consist of up to 1924 persons.”
    - ii. **Deleted** “four” and **added** “six” so that the number of representatives for investor owned utilities would state, “~~Four~~Six representatives shall be investor owned utilities Members.”
    - iii. **Deleted** “four” and **added** “five” so that the number of representatives for cooperatives would state “~~four~~five representatives shall be cooperatives Members.”
    - iv. **Deleted** “federal” from the requirement that two representatives shall be from a state power agency so that it states, “two representatives shall be state/~~federal~~ power agencies Members.”
    - v. **Added** “one representative shall be from a Federal Power Marketing Agency.” The language was added following the requirement that two representatives be from state power agencies.
    - vi. **Added** “from an independent transmission company Member, defined as having assets under the OATT and no Affiliate Relationships in other categories of Membership; one representative shall be a.” The language was added following the requirement that two representatives be from alternative power/public interest members.
5. Section 6.0 Committees Reporting to the Board of Directors
  - a. Section 6.6 Corporate Governance Committee
    - i. **Deleted** “nine” and **added** “ten” so that the number of representatives of the Committee would state “~~nine~~ten members.”
    - ii. **Deleted** “federal” so that the computation of Member’s representing power agencies to read as, “one representative shall be representative

of and selected by state/~~federal~~ power agencies Members.”

- iii. **Deleted** “and” so that the computation of Member’s representing large/small retail Members to read as, “~~and~~ one representative shall be representative of and selected by large/small retail Members.”
- iv. **Added** “and one representative shall be representative of and selected by a Federal Power Marketing Agency Member(s).” The language was added at the end of the second paragraph describing the Members of the Corporate Governance Committee.

6. Section 8.0 Fiscal Administration

a. Section 8.7 Financial Obligation of Withdrawing Members

- i. **Added** “To the extent that Section 4.33A of the Membership Agreement is applicable” to the beginning of Section 8.7.3 to clarify the obligations of terminating members.
- ii. **Added the following Section:** Section 8.7.5 Limitation on Financial and Penalty Obligations, which provides:
  - (a) Notwithstanding the delineation of Members' financial obligations in section 8.7, a Federal Power Marketing Agency shall not be subject to the financial obligations listed in this Section 8.7 in the event FERC finds that SPP has not adhered to all of the Federal Power Marketing Agency Amendments as that term is defined in Section 1.0 of these Bylaws or if SPP files and FERC approves material changes to the Federal Power Marketing Agency Amendments.
  - (b) Provided further, notwithstanding any language to the contrary in these Bylaws, a Federal Power Marketing Agency has not waived or conceded any defense it may have, including sovereign immunity, intergovernmental immunity, or lack of subject matter jurisdiction in any action against it by an Enforcement Authority, nor has it accepted any liability, responsibility, or obligation to pay any civil monetary penalties or fines imposed by an Enforcement Authority to which it would not have been subject in the absence of these Bylaws. SPP, in accepting Western-UGP as a member, does not thereby concede or accept responsibility for any portion of a penalty or fine attributable to the actions or omissions of Western-UGP. SPP will identify the amount of any penalty or fine that SPP allocates to Western-UGP or that SPP determines is attributable to Western-UGP and will identify that amount to FERC as uncollectable and not otherwise owed by

SPP. Enforcement Authority in these Bylaws means the Federal Energy Regulatory Commission (FERC), Electric Reliability Organization (ERO), or Regional Entities with enforcement authority pursuant to a delegation from an ERO or FERC for the purpose of proposing and enforcing reliability standards.

7. Section 10.0 Amendments To These Bylaws, The Articles Of Incorporation, And Membership Agreement
- a. **Added** “Section 8.7.5 LIMITATION ON FINANCIAL AND PENALTY OBLIGATIONS, Section” immediately following the title Section 5.0 in the second line.
  - b. **Added** “8.7.5” so that the third sentence states, “Sections 4.0, 5.0, 8.7.5, 9.0, and 10.0 of these Bylaws and the Articles of Incorporation may be amended, repealed, or added to only by approval of the Membership.”
  - c. **Added** “Provided, that all changes to Federal Power Marketing agency/administration representation in Section 5.1.1 and any change to Section 8.7.5 must be mutually agreed to by the Federal Power Marketing Agency Member and SPP.” This sentence was added immediately following the modified sentence in (b) above.

#### **IV. SOUTHWEST POWER POOL, INC. AND NERC APPROVALS OF THE PROPOSED AMENDMENTS TO EXHIBIT B TO THE DELEGATION AGREEMENT**

The amendments to Section 8.7.3 of the amended Delegation Agreement were approved by the SPP Board of Directors at a meeting on October 29, 2013. On November 1, 2013, SPP filed revisions to Section 8.7.3 of its Bylaws to address a directive issued by the Commission in its September 19, 2013 Order.<sup>6</sup> The revisions clarified that a Transmission Owner (as defined in the SPP Membership Agreement), will be responsible for financial obligations associated with transmission facilities if it withdraws from SPP. The NERC Board of Trustees approved the amended Delegation Agreement containing amendments to Section 8.7.3 by conference call on November 21, 2013. NERC determined that the amended Delegation Agreement continues to

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<sup>6</sup> *Sw. Power Pool, Inc.*, 144 FERC ¶ 61,208 (2013).

satisfy the five Governance criteria stated in Exhibit B. The Commission approved SPP's November 1, 2013 filing containing the proposed amendments in a Letter Order on May 14, 2014.<sup>7</sup>

On September 11, 2014, SPP filed revisions to Sections 1.0, 2.1, 3.15.4, 5.1, 5.1.1.1, 6.6, 8.7.5 and 10.0 to (a) add the definitions "Federal Power Marketing Agency," "Federal Power Marketing Agency Amendments," and "Western Area Power Administration-Upper Great Plains Region ("Western-UGP");" (b) modify the Membership composition of the Members Committee and Corporate Governance Committee; and (c) limit SPP's financial obligations to the addition of the Western-UGP. The NERC Board of Trustees approved the above-referenced amendments to the amended Delegation Agreement during the Board Meeting on November 14, 2014. NERC determined that the amended Delegation Agreement continues to satisfy the five Governance criteria stated in Exhibit B. The Commission approved SPP's September 11, 2014 filing containing the proposed amendments by Order on November 10, 2014.<sup>8</sup>

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<sup>7</sup> See Letter Order issued to SPP on May 14, 2014 in FERC Docket No. ER13-2013.

<sup>8</sup> See Order Conditionally Accepting in Part, Rejecting in Part, Accepting and Suspending Filings in Part, Establishing Hearing and Settlement Judge Procedures and Consolidating Proceedings and Directing Compliance Filing, 149 FERC ¶ 61,113 (2014).

## **V. CONCLUSION**

NERC respectfully requests that the Commission approve the proposed amendments to the Delegation Agreement as shown in **Attachment 2** to this Petition as amendments to Regional Entity Rules.

Respectfully submitted,

*/s/ Meredith M. Jolivert*

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*Counsel for North American Electric  
Reliability Corporation*

Dated: January 23, 2015

**ATTACHMENT 1**

**AMENDED EXHIBIT B**

**TO THE DELEGATION AGREEMENT BETWEEN  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION**

**AND**

**SOUTHWEST POWER POOL, INC.**

**CLEAN VERSION**



**ERO**

The Electric Reliability Organization under FERC jurisdiction that regulates reliability of the electric power grid.

**Federal Power Marketing Agency**

This term shall include the term “Federal Power Marketing Administration” and have the same definition that is set forth in the Federal Power Act at 16 U.S.C. § 796(19), which defines “Federal power marketing agency” as “any agency or instrumentality of the United States (other than the Tennessee Valley Authority) which sells electric energy[.]”

**Federal Power Marketing Agency Amendments**

The amendments and revisions to the SPP Bylaws, the SPP Membership Agreement, and Section 39.3 of the OATT that are required by a Federal Power Marketing Agency for membership in SPP at the time of the Federal Power Marketing Agency's initial membership or as they may be revised in the future by mutual agreement between the Federal Power Marketing Agency and SPP.

**Member**

An entity that has met the requirements of Section 2.2 of these Bylaws.

**Membership**

The collective Members of SPP.

**Membership Agreement**

The contract, that specifies the rights and obligations of the parties, executed between SPP and an entity seeking to become an SPP member.

**NERC**

The North American Electric Reliability Corporation or successor organizations.

**Western Area Power Administration-Upper Great Plains Region ("Western-UGP")**

A division of the Western Area Power Administration that markets and transmits Federal power from reservoir projects under the control of the Department of the Army or the U.S. Bureau of Reclamation to Statutory Load Obligations, including preference power customers in Iowa, Minnesota, Montana, Nebraska, North Dakota, and South Dakota located in a defined marketing area. Western-UGP operates the WAUW Balancing Authority Area in the Western Interconnection, where certain of its transmission facilities are located.

## **2.1 Qualifications**

Membership in SPP is voluntary and is open to any electric utility, Federal Power Marketing Agency, transmission service provider, any entity engaged in the business of producing, selling and/or purchasing electric energy for resale, and any entity willing to meet the membership requirements, including execution of the Membership Agreement. Membership also is open to any entity eligible to take service under the SPP Open Access Transmission Tariff (OATT). These entities desire the greater efficiency and service reliability gained through better coordination by voluntary association in SPP as constituted herein and in the SPP Articles of Incorporation. Members recognize that such association has a significant effect upon the availability and reliability of the bulk electric power supply of the region, and thereby affects the reliability of the nation's electric power supply.

proceeding. However, such director, Regional Entity Trustee, officer, agent, employee, or other representative shall have provided SPP with (i) a written affirmation under oath that the incumbent, in good faith, believes the conditions of indemnification herein have been met; and (ii) a written undertaking that the incumbent shall repay any amounts advanced, with interest accumulated at a reasonable rate, if it is ultimately determined that such conditions are not met.

#### **3.15.4 Limitations**

The provisions of this section 3.15 are subject to applicable state and Federal laws, if any, which limit the ability of a Member to waive liability or enter into agreements of indemnity. Any benefits under this Section 3.15 shall not extend to any Member so limited by state or Federal law in complying with the provisions thereof.

#### **3.15.5 Modification of Rights by Agreement**

Any provision of this Section 3.15.1 may be waived or modified by express written agreement between SPP and Member. Such express written agreement shall apply solely to the subject matter of the agreement and is not intended to be a general waiver or modification of the rights provided in Section 3.15.1.

#### **3.15.6 Procedural Rights Not Affected**

The limitations of liability provided in Section 3.15.1 shall not affect any procedural rights or obligation a Member may have at law or equity.

## **5.1 Members Committee**

The Members Committee shall work with the Board of Directors to manage and direct the general business of SPP. Its duties shall include, but are not limited to the following:

- (a) Provide individual and collective input to the Board of Directors, including but not limited to a straw vote from the Members Committee representatives as an indication of the level of consensus among Members, on all actions pending before the Board of Directors;
- (b) Serve on committees reporting to the Board of Directors as appointed by the Board of Directors; and
- (c) Provide input with the Board of Directors to the Regional Entity Trustees on SPP Regional Reliability Standards presented by the MOPC to the Trustees or otherwise developed under the auspices of the Trustees for submission to the ERO for its approval.

### **5.1.1 Composition and Qualifications**

#### **5.1.1.1 Composition**

Provided that Membership is sufficient to accommodate these provisions, the Members Committee shall consist of up to 24 persons. Six representatives shall be investor owned utilities Members; five representatives shall be cooperatives Members; two representatives shall be municipals Members (including municipal joint action agencies); three representatives shall be independent power producers/marketers Members; two representatives shall be state power agencies Members; one representative shall be from a Federal Power Marketing Agency; two representatives shall be alternative power/public interest Members; one representative shall be from an independent transmission company Member, defined as having assets under the OATT and no Affiliate Relationships in other categories of Membership; one representative shall be a large retail customer Member, defined as non-residential end-use customers with individual or aggregated loads of 1-MW or more; and one representative shall be a small retail customer Member, defined as residential customers and other customers

## **6.6 Corporate Governance Committee**

The Corporate Governance Committee is responsible for the overall governance structure, including nominations, for the company in accordance with its scope as approved by the Board of Directors.

To the extent that the membership allows, the CGC shall be comprised of ten members. One representative shall be the President of SPP who will serve as the Chair; one representative shall be the Chairman of the Board, unless his/her position is under consideration, in which case the Vice Chairman of the Board; one representative shall be representative of and selected by investor owned utilities Members; one representative shall be representative of and selected by co-operatives Members; one representative shall be representative of and selected by municipals Members; one representative shall be representative of and selected by independent power producers/marketers Members; one representative shall be representative of and selected by state power agencies Members; one representative shall be representative of and selected by alternative power/public interest Members; one representative shall be representative of and selected by large/small retail Members; and one representative shall be representative of and selected by a Federal Power Marketing Agency Member(s).

Where a vacancy occurs with respect to a representative of a sector, the representatives from the appropriate sector will fill the vacancy. For purposes of selecting or removing representatives only, each group of Members with Affiliate Relationships shall be considered a single Member.

The CGC shall meet at least once per calendar year, and additionally as needed, provided that a quorum, as defined in these Bylaws, is present. The CGC shall report to the Board of Directors following each CGC meeting with respect to its activities and with such recommendations, as the CGC deems necessary.

- e. Member's share (computed in accordance with the Bylaws) of all interest that will become due for payment with respect to all interest bearing Financial Obligations after the Termination Date and until the maturity of all Financial Obligations in accordance with their respective terms ("Future Interest"). In the event that a Financial Obligation carries a variable interest rate, the interest rate in effect at the Termination Date shall be used to calculate the applicable Future Interest. In determining the Member's share of Future Interest, SPP shall take into account any reduction of Financial Obligations due to mitigation under this Section.

### **8.7.2 Computation of a Member's Existing Obligations**

For purposes of computing the Existing Obligations of any withdrawing or terminated Member in accordance with the Membership Agreement, such "Member's share" is a percentage calculated as follows:

$$A = 100 [0.25(1/N) + 0.75(B/C)]$$

Where: A = Member's share (expressed as a percentage)

N = Total number of Members

B = The Member's previous year Net Energy for Load

C = Total of factor B for all Members

The Finance Committee shall have the discretion to reduce the Existing Obligations of any withdrawing or Terminated Member, to reflect any SPP costs or expenses that may be mitigated in connection with such Member's withdrawal or termination. In the event of consolidation of affiliate memberships or the transfer of membership from one corporate entity to another, whereby one entity remains a member of SPP, the withdrawal obligation for the departing company(ies) may be waived at SPP's sole discretion.

### **8.7.3 Financial Obligations for Transmission Facilities**

To the extent that Section 4.3.3A of the Membership Agreement is applicable, a Terminated Member shall remain financially responsible for all financial obligations incurred and costs allocated to its load for transmission facilities approved prior to the Termination Date.

#### **8.7.4 Penalty Costs**

A Terminated Member shall remain liable for its share of costs associated with penalties assessed against SPP by FERC, the FERC-approved Electric Reliability Organization, any Electric Reliability Organization-approved Regional Entity, or any other governmental or regulatory authority with jurisdiction over SPP that SPP incurs as a result of events that occurred prior to Member's Termination Date but that SPP is unable to recover under the SPP OATT.

#### **8.7.5 Limitation on Financial and Penalty Obligations**

(a) Notwithstanding the delineation of Members' financial obligations in Section 8.7, a Federal Power Marketing Agency shall not be subject to the financial obligations listed in this Section 8.7 in the event FERC finds that SPP has not adhered to all of the Federal Power Marketing Agency Amendments as that term is defined in Section 1.0 of these Bylaws or if SPP files and FERC approves material changes to the Federal Power Marketing Agency Amendments.

(b) Provided further, notwithstanding any language to the contrary in these Bylaws, a Federal Power Marketing Agency has not waived or conceded any defense it may have, including sovereign immunity, intergovernmental immunity, or lack of subject matter jurisdiction in any action against it by an Enforcement Authority, nor has it accepted any liability, responsibility, or obligation to pay any civil monetary penalties or fines imposed by an Enforcement Authority to which it would not have been subject in the absence of these Bylaws. SPP, in accepting Western-UGP as a member, does not thereby concede or accept responsibility for any portion of a penalty or fine attributable to the actions or omissions of Western-UGP. SPP will identify the amount of any penalty or fine that SPP allocates to Western-UGP or that SPP determines is attributable to Western-UGP and will identify that amount to FERC as uncollectable and not otherwise owed by SPP. Enforcement Authority in these Bylaws means the Federal Energy Regulatory Commission (FERC), Electric Reliability Organization (ERO), or Regional Entities with enforcement



authority pursuant to a delegation from an ERO or FERC for the purpose of proposing and enforcing reliability standards.

## **10.0 Amendments To These Bylaws, The Articles Of Incorporation, And Membership Agreement**

Except for modifications to Section 4.0 BOARD OF DIRECTORS, Section 5.0 COMMITTEES ADVISING THE BOARD OF DIRECTORS, Section 8.7.5 LIMITATION ON FINANCIAL AND PENALTY OBLIGATIONS, Section 9.0 REGIONAL ENTITY FUNCTION, and Section 10.0 AMENDMENTS, these Bylaws may be amended, repealed, or added to by the Board of Directors only upon 30 days written notice to the Membership of the proposed modification(s). Approval of amendments to the Bylaws by the Board of Directors must be by an affirmative vote of at least five directors. Sections 4.0, 5.0, 8.7.5, 9.0, and 10.0 of these Bylaws and the Articles of Incorporation may be amended, repealed, or added to only by approval of the Membership. Provided, that all changes to Federal Power Marketing agency/administration representation in Section 5.1.1 and any change to Section 8.7.5 must be mutually agreed to by the Federal Power Marketing Agency Member and SPP. All amendments are subject to the requisite regulatory approval(s).

**ATTACHMENT 2**

**AMENDED EXHIBIT B**

**TO THE DELEGATION AGREEMENT BETWEEN  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION**

**AND**

**SOUTHWEST POWER POOL, INC.**

**REDLINED VERSION**

**ERO**

The Electric Reliability Organization under FERC jurisdiction that regulates reliability of the electric power grid.

**Federal Power Marketing Agency**

This term shall include the term “Federal Power Marketing Administration” and have the same definition that is set forth in the Federal Power Act at 16 U.S.C. § 796(19), which defines “Federal power marketing agency” as “any agency or instrumentality of the United States (other than the Tennessee Valley Authority) which sells electric energy[.]”

**Federal Power Marketing Agency Amendments**

The amendments and revisions to the SPP Bylaws, the SPP Membership Agreement, and Section 39.3 of the OATT that are required by a Federal Power Marketing Agency for membership in SPP at the time of the Federal Power Marketing Agency's initial membership or as they may be revised in the future by mutual agreement between the Federal Power Marketing Agency and SPP.

**Member**

An entity that has met the requirements of Section 2.2 of these Bylaws.

**Membership**

The collective Members of SPP.

**Membership Agreement**

The contract, that specifies the rights and obligations of the parties, executed between SPP and an entity seeking to become an SPP member.

**NERC**

The North American Electric Reliability Corporation or successor organizations.

**Western Area Power Administration-Upper Great Plains Region ("Western-UGP")**

A division of the Western Area Power Administration that markets and transmits Federal power from reservoir projects under the control of the Department of the Army or the U.S. Bureau of Reclamation to Statutory Load Obligations, including preference power customers in Iowa, Minnesota, Montana, Nebraska, North Dakota, and South Dakota located in a defined marketing area. Western-UGP operates the WAUW Balancing Authority Area in the Western Interconnection, where certain of its transmission facilities are located.

## 2.1 Qualifications

Membership in SPP is voluntary and is open to any electric utility, Federal Power Marketing Agency~~power marketing agency~~, transmission service provider, any entity engaged in the business of producing, selling and/or purchasing electric energy for resale, and any entity willing to meet the membership requirements, including execution of the Membership Agreement. Membership also is open to any entity eligible to take service under the SPP Open Access Transmission Tariff (OATT). These entities desire the greater efficiency and service reliability gained through better coordination by voluntary association in SPP as constituted herein and in the SPP Articles of Incorporation. Members recognize that such association has a significant effect upon the availability and reliability of the bulk electric power supply of the region, and thereby affects the reliability of the nation's electric power supply.

proceeding. However, such director, Regional Entity Trustee, officer, agent, employee, or other representative shall have provided SPP with (i) a written affirmation under oath that the incumbent, in good faith, believes the conditions of indemnification herein have been met; and (ii) a written undertaking that the incumbent shall repay any amounts advanced, with interest accumulated at a reasonable rate, if it is ultimately determined that such conditions are not met.

#### **3.15.4 Limitations**

The provisions of this section 3.15 are subject to applicable state and ~~Federal~~federal laws, if any, which limit the ability of a Member to waive liability or enter into agreements of indemnity. Any benefits under this Section 3.15 shall not extend to any Member so limited by state or ~~Federal~~federal law in complying with the provisions thereof.

#### **3.15.5 Modification of Rights by Agreement**

Any provision of this Section 3.15.1 may be waived or modified by express written agreement between SPP and Member. Such express written agreement shall apply solely to the subject matter of the agreement and is not intended to be a general waiver or modification of the rights provided in Section 3.15.1.

#### **3.15.6 Procedural Rights Not Affected**

The limitations of liability provided in Section 3.15.1 shall not affect any procedural rights or obligation a Member may have at law or equity.

## 5.1 Members Committee

The Members Committee shall work with the Board of Directors to manage and direct the general business of SPP. Its duties shall include, but are not limited to the following:

- (a) Provide individual and collective input to the Board of Directors, including but not limited to a straw vote from the Members Committee representatives as an indication of the level of consensus among Members, on all actions pending before the Board of Directors; ~~and~~
- (b) Serve on committees reporting to the Board of Directors as appointed by the Board of Directors; ~~and-~~
- (c) Provide input with the Board of Directors to the Regional Entity Trustees on SPP Regional Reliability Standards presented by the MOPC to the Trustees or otherwise developed under the auspices of the Trustees for submission to the ERO for its approval.

### 5.1.1 Composition and Qualifications

#### 5.1.1.1 Composition

Provided that Membership is sufficient to accommodate these provisions, the Members Committee shall consist of up to ~~24~~<sup>19</sup> persons. ~~Six~~<sup>Four</sup> representatives shall be investor owned utilities Members; ~~five~~<sup>four</sup> representatives shall be cooperatives Members; two representatives shall be municipals Members (including municipal joint action agencies); three representatives shall be independent power producers/marketers Members; two representatives shall be state/~~federal~~ power agencies Members; one representative shall be from a Federal Power Marketing Agency; two representatives shall be alternative power/public interest Members; one representative shall be from an independent transmission company Member, defined as having assets under the OATT and no Affiliate Relationships in other categories of Membership; one representative shall be a large retail customer Member, a large retail customer Member; defined as non-residential end-use customers with individual or aggregated loads of 1-MW or more; and one representative shall be a small retail customer Member, defined as residential customers and other customers with individual or aggregated loads of



## 6.6 Corporate Governance Committee

The Corporate Governance Committee is responsible for the overall governance structure, including nominations, for the company in accordance with its scope as approved by the Board of Directors.

To the extent that the membership allows, the CGC shall be comprised of ten members. One representative shall be the President of SPP who will serve as the Chair; one representative shall be the Chairman of the Board, unless his/her position is under consideration, in which case the Vice Chairman of the Board; one representative shall be representative of and selected by investor owned utilities Members; one representative shall be representative of and selected by co-operatives Members; one representative shall be representative of and selected by municipals Members; one representative shall be representative of and selected by independent power producers/marketers Members; one representative shall be representative of and selected by state/~~federal~~ power agencies Members; one representative shall be representative of and selected by alternative power/public interest Members; ~~and~~—one representative shall be representative of and selected by large/small retail Members; and one representative shall be representative of and selected by a Federal Power Marketing Agency Member(s).

Where a vacancy occurs with respect to a representative of a sector, the representatives from the appropriate sector will fill the vacancy. For purposes of selecting or removing representatives only, each group of Members with Affiliate Relationships shall be considered a single Member.

The CGC shall meet at least once per calendar year, and additionally as needed, provided that a quorum, as defined in these Bylaws, is present. The CGC shall report to the Board of Directors following each CGC meeting with respect to its activities and with such recommendations, as the CGC deems necessary.

- e. Member's share (computed in accordance with the Bylaws) of all interest that will become due for payment with respect to all interest bearing Financial Obligations after the Termination Date and until the maturity of all Financial Obligations in accordance with their respective terms ("Future Interest"). In the event that a Financial Obligation carries a variable interest rate, the interest rate in effect at the Termination Date shall be used to calculate the applicable Future Interest. In determining the Member's share of Future Interest, SPP shall take into account any reduction of Financial Obligations due to mitigation under this Section.

### **8.7.2 Computation of a Member's Existing Obligations**

For purposes of computing the Existing Obligations of any withdrawing or terminated Member in accordance with the Membership Agreement, such "Member's share" is a percentage calculated as follows:

$$A = 100 [0.25(1/N) + 0.75(B/C)]$$

Where: A = Member's share (expressed as a percentage)

N = Total number of Members

B = The Member's previous year Net Energy for Load

C = Total of factor B for all Members

The Finance Committee shall have the discretion to reduce the Existing Obligations of any withdrawing or Terminated Member, to reflect any SPP costs or expenses that may be mitigated in connection with such Member's withdrawal or termination. In the event of consolidation of affiliate memberships or the transfer of membership from one corporate entity to another, whereby one entity remains a member of SPP, the withdrawal obligation for the departing company(ies) may be waived at SPP's sole discretion.

### **8.7.3 Financial Obligations for Transmission Facilities**

To the extent that Section 4.3.3A of the Membership Agreement is applicable, a ~~A~~-Terminated Member shall remain financially responsible for all financial obligations incurred and costs allocated to its load for transmission facilities approved prior to the Termination Date. ~~Payments in fulfillment of any~~

~~such obligations and allocated costs shall commence on the date that the costs of such transmission facilities are reflected in SPP's generally applicable rates, unless SPP and the Terminated Member agree to an alternate date. Rights, obligations, and payments applicable to time periods prior to the Termination Date shall be honored by SPP and the Terminated Member. Fulfillment and performance of such rights and obligations, and rights and obligations regarding the use of such transmission facilities, shall be negotiated between SPP and the Terminated Member, and any disputes involving such rights and obligations shall be resolved in accordance with the dispute resolution procedures in the Bylaws and Membership Agreement.~~

#### **8.7.4 Penalty Costs**

A Terminated Member shall remain liable for its share of costs associated with penalties assessed against SPP by FERC, the FERC-approved Electric Reliability Organization, any Electric Reliability Organization-approved Regional Entity, or any other governmental or regulatory authority with jurisdiction over SPP that SPP incurs as a result of events that occurred prior to Member's Termination Date but that SPP is unable to recover under the SPP OATT.

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(b) Provided further, notwithstanding any language to the contrary in these Bylaws, a Federal Power Marketing Agency has not waived or conceded any defense it may have, including sovereign immunity, intergovernmental immunity, or lack of subject matter jurisdiction in any action against it by an Enforcement Authority, nor has it accepted any liability, responsibility, or obligation to pay any civil monetary penalties

or fines imposed by an Enforcement Authority to which it would not have been subject in the absence of these Bylaws. SPP, in accepting Western-UGP as a member, does not thereby concede or accept responsibility for any portion of a penalty or fine attributable to the actions or omissions of Western-UGP. SPP will identify the amount of any penalty or fine that SPP allocates to Western-UGP or that SPP determines is attributable to Western-UGP and will identify that amount to FERC as uncollectable and not otherwise owed by SPP. Enforcement Authority in these Bylaws means the Federal Energy Regulatory Commission (FERC), Electric Reliability Organization (ERO), or Regional Entities with enforcement authority pursuant to a delegation from an ERO or FERC for the purpose of proposing and enforcing reliability standards.

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**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 Washington, D.C. this 23<sup>rd</sup> day of January, 2015.

/s/ Meredith M. Jolivet  
Meredith M. Jolivet

*Counsel for North American Electric  
Reliability Corporation*