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

Californians for Green Nuclear Power, Inc.) **Docket No. EL21-13-000**
 Complainant)
))
v.))
))
North American Electric Reliability)
Corporation,))
Western Electricity Coordinating Council,)
California Independent System Operator)
Corporation,))
California Public Utilities Commission,)
California State Water Resources Control)
Board,))
California State Lands Commission)
 Respondents)

**THE NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION AND
THE WESTERN ELECTRICITY COORDINATING COUNCIL
JOINT ANSWER TO AMENDED COMPLAINT AND MOTION TO DISMISS**

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December 15, 2020

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Pursuant to Rules 206, 212, 213, and 215(b) of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure ¹ and the Commission’s Notice of Amended Complaint, ² the North American Electric Reliability Corporation (“NERC”) and the Western Electricity Coordinating Council (“WECC”) submit this Answer to the Amended Complaint filed by Californians for Green Nuclear Power, Inc.

¹ 18 C.F.R. §§ 385.206, 385.212, 385.213, and 385.215(b) (2020).
² Notice of Amended Complaint, Docket No. EL21-13-000 (November 30, 2020).

(“Complainant”) on November 25, 2020 in the above-captioned docket (“Amended Complaint”) and Motion to Dismiss.³

The Complaint alleges that (i) Respondents California Independent System Operator Corporation (“CAISO”), the California Public Utilities Commission (“CPUC”), the California State Water Resources Control Board (“CSWRCB”), and the California State Lands Commission (“CSLC”) have violated NERC’s Reliability Standards, specifically Reliability Standard BAL-002-WECC-2a (Contingency Reserve) through the approval of the retirement of the Diablo Canyon Power Plant (“DCPP”) planned in 2025; and (ii) Respondents NERC and WECC, as the Electric Reliability Organization (“ERO”) and a Regional Entity under the Federal Power Act (“FPA”),⁴ respectively, failed to conduct proper oversight or enforce NERC’s Reliability Standards, specifically BAL-002-WECC-2a, to prevent Reliability Standards violations caused by the retirement of the DCPP in 2025.⁵

As discussed below, the Commission should dismiss with prejudice the Amended Complaint against Respondents NERC and WECC for the following reasons: (i) the Amended Complaint exceeds the statutory authority of Section 306 of the FPA⁶ because NERC and WECC are not licensees, transmitting utilities, or public utilities; (ii) the Amended Complaint fails to meet the minimum requirements of the FPA and the Commission’s regulations by not specifying the basis in fact and law or the remedy requested; and (iii) the Amended Complaint fails on substantive

³ NERC and WECC have titled this document “Joint Answer to Amended Complaint and Motion to Dismiss.” However, NERC’s and WECC’s Answer is its Motion to Dismiss, because, as discussed below Complainant has no legal basis to file with FERC a complaint against NERC and WECC.

⁴ 16 U.S.C. §§ 791-828c.

⁵ Amended Complaint at 8.

⁶ 16 U.S.C. § 825e.

grounds because NERC and WECC have adhered to their duty to perform oversight and enforce Reliability Standards under the FPA.

I. NOTICES AND COMMUNICATIONS

Notices and communications with respect to this filing may be addressed to the following:⁷

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II. SUMMARY

A. Background

The Complainant submitted a complaint on October 26, 2020 (“Original Complaint”) in the above-captioned docket, listing NERC, WECC, CAISO, CPUC, CSWRCB, and CSLC as respondents. On November 16, 2020, NERC and WECC filed a joint answer to the Original Complaint (“Original Answer”) requesting the Commission dismiss the complaint. As described below, Complainant failed to satisfactorily address the points raised in the Original Answer. As such, NERC and WECC reiterate those arguments below, with the addition of a motion to dismiss and further demonstration that the Amended Complaint failed to cure the deficiencies detailed in the Original Answer.

⁷ Persons to be included on the Commission’s service list are identified by an asterisk. NERC and WECC respectfully request a waiver of Rule 203 of the Commission’s regulations, 18 C.F.R. § 385.203, to allow the inclusion of more than two persons on the service list in this proceeding.

B. Summary of the Amended Complaint

Complainant is a non-profit organization that takes issue with the CPUC's approval of a plan to retire DCPD in 2025.⁸ Regarding Respondents NERC and WECC, the Amended Complaint alleges that Respondents NERC and WECC "failed to conduct proper oversight or enforce NERC's [R]eliability [S]tandards to prevent [R]eliability [S]tandards violations caused by removing DCPD's 2240[sic] MW from the California electric grid."⁹ The Amended Complaint also alleges that Respondents have violated NERC's Reliability Standards, specifically BAL-002-WECC-2a, through the approval of the retirement of the DCPD planned in 2025.¹⁰ Finally, the Amended Complaint alleges the following: (i) CAISO's Loading Order, with CPUC affirmation, "...violate[s] FERC rules against unduly discriminatory and preferential treatment..."; and (ii) the "...totality of circumstances in California...make the federal rates...unjust and unreasonable under FPA sections 205 and 206."¹¹

The Amended Complaint requests that the Commission:

- i. Open investigations into the following:
 1. Determine the effect of retirement of DCPD on jurisdictional reliability (at 3)
 2. whether the closure of DCPD violates federal Reliability Standards; (at 3)
 3. how federal reliability standards for natural-gas pipelines could be affected by retirement of DCPD; (at 11)

⁸ Amended Complaint at 2.

⁹ *Id.* at 8.

¹⁰ *Id.* at 2, 5, and 8. The Amended Complaint does not specify which Respondents allegedly violated Reliability Standards.

¹¹ *Id.* at 3.

4. whether CAISO accepting closure of DCPD will result in market-design flaws; and (at 12)
 5. whether CAISO is favoring renewable technologies (at 12)
- ii. Order a reliability analysis, including clarifying how DCPD mitigates against natural-gas system disruption; (at 11)
 - iii. Take action to enforce NERC's Reliability Standards; and (at 8)
 - iv. Consider whether whether jurisdictional rates are just and reasonable. (at 3)¹²

C. Summary of NERC and WECC Answer to Amended Complaint

The Commission should dismiss with prejudice the Amended Complaint against Respondents NERC and WECC and decline to provide the requested relief because: (i) NERC and WECC are not proper parties to a complaint under FPA Section 306, and the Amended Complaint exceeds the statutory authority pursuant to FPA Section 306; (ii) it fails to meet the minimum requirements applicable to complaints under the Commission's Rules of Practice and Procedure;¹³ and (iii) NERC and WECC satisfy their statutory and regulatory obligations under Section 215 of the FPA and the Commission's regulations. NERC and WECC raised these deficiencies in an answer to the Original Complaint, but the Complainant failed to cure those deficiencies in the Amended Complaint, as described in detail below. As such, NERC and WECC request the Commission grant the motion to dismiss the Amended Complaint.

¹² *Id.* at 11.

¹³ *See* 18 C.F.R. § 385.206.

III. ANSWER TO AMENDED COMPLAINT AND MOTION TO DISMISS

A. The Amended Complaint Should be Dismissed with Prejudice Because the Amended Complaint Exceeds the Statutory Authority Under Section 306 of the FPA.

The Commission should dismiss the Amended Complaint because it exceeds the statutory authority of Section 306 of the FPA.¹⁴ Of the various statutes listed in the Amended Complaint, only the FPA is relevant to NERC and WECC.¹⁵ Complaints may be brought under FPA Section 306 regarding “anything done or omitted to be done by *any licensee, transmitting utility, or public utility* in contravention of the provisions” of the FPA.¹⁶ However, neither NERC, as the ERO under sections 215(a)(2) and (b) of the FPA,¹⁷ nor WECC, as a Regional Entity as defined in Section 215(a)(7) of the FPA,¹⁸ is considered a licensee, transmitting utility, or public utility. Neither NERC nor WECC (i) is licensed under Section 4 of the FPA;¹⁹ (ii) owns, operates, or controls facilities used for transmission;²⁰ or (iii) owns or operates facilities subject to the Commission’s jurisdiction.²¹ Accordingly, NERC and WECC are not proper parties to a complaint under FPA

¹⁴ 16 U.S.C. § 825e.

¹⁵ The Amended Complaint was noticed pursuant to the FPA, the Natural Gas Act of 1938, and the Federal Pipeline Safety Regulations, and Rule 206 of the Commission’s Rules of Practice and Procedure. *See* Notice of Amended Complaint, *supra*.

¹⁶ 16 U.S.C. § 825e (emphasis added).

¹⁷ *Id.* § 824o(a)(2) and (b). The Commission certified NERC as the ERO in accordance with Section 215 of the FPA on July 20, 2006. *N. Am. Elec. Reliability Corp.*, 116 FERC ¶ 61,062 (2006), *order on reh’g and compliance*, 117 FERC ¶ 61,126 (2006), *order on compliance*, 118 FERC ¶ 61,030 (2007), *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).

¹⁸ 16 U.S.C. § 824o(a)(7) and (e)(4). *See also N. Am. Elec. Reliability Corp.*, 119 FERC ¶ 61,060 (2006), *order on reh’g*, 120 FERC ¶ 61,260 (2007) (accepting a delegation agreement between NERC and WECC in order to designate WECC as a Regional Entity pursuant to Section 215(e)(4) of the FPA). The Commission approved the currently effective delegation agreement in 2016 in Docket No. RR15-12. *See N. Am. Elec. Reliability Corp.*, 153 FERC ¶ 61,135 (2015) (conditionally approving revised delegation agreement and directing compliance filing), *order on compliance*, *N. Am. Elec. Reliability Corp.*, Docket No. RR15-12-001 (delegated letter order) (Mar. 23, 2016). A petition for approval of a revised delegation agreement to be effective January 1, 2021 is pending in Docket No. RR20-5-000.

¹⁹ 16 U.S.C. § 796(5).

²⁰ *Id.* § 796(23).

²¹ *Id.* § 824(e).

Section 306, and the Amended Complaint against Respondents NERC and WECC must be dismissed as exceeding the authority provided under the statute.

Moreover, dismissing the Amended Complaint on these grounds is consistent with Commission precedent in similar cases. In *Morris v. N. Am. Elec. Reliability Corp. and SERC Reliability Corp.*, the Commission dismissed a complaint brought against NERC and another Regional Entity, finding that “[n]either [NERC nor the Regional Entity] serves as a licensee, transmitting utility, or public utility. Thus consistent with the plain words of the statute, and our precedent, we conclude that the complaint exceeds the statutory authority of section 306 of the FPA.”²²

Similarly, in *Citizens Energy Task Force v. Midwest Reliability Org., et al.*, the Commission dismissed a complaint against another Regional Entity, Midwest Reliability Organization (“MRO”), finding that MRO was “not a proper party to the Complaint.... MRO serves no other role under the FPA and is not a licensee, transmitting utility, or public utility. Thus,... the Complaint impermissibly exceeds the statutory authority of section 306 of the FPA.”²³

Furthermore, NERC and WECC raised this exact defense and Commission precedent in the Original Answer, and the Complainant failed to address this issue in the Amended Complaint. The Complainant does not present any precedent that counters *Morris v. N. Am. Elec. Reliability Corp. and SERC Reliability Corp.* or *Citizens Energy Task Force v. MRO*. While Complainant cites *Indicated Shippers v. Trunkline Gas Co. LLC* as permitting the Commission to exercise its discretion regardless of procedural deficiencies in a complaint, that discretion only applies to

²² *Morris v. N. Am. Elec. Reliability Corp. and SERC Reliability Corp.*, 153 FERC ¶ 61,266 at P 10 (2015) (dismissing a complaint alleging that NERC and SERC violated the NERC Rules of Procedure in assessing a penalty for Reliability Standards violations).

²³ *Citizens Energy Task Force v. MRO*, 144 FERC ¶ 61,006 at P 38.

waivers of requirements in the Commission’s regulations.²⁴ In this case, it is the requirements in a statute, the FPA, that set forth an appropriate party to a complaint, and the Commission cannot waive statutory requirements. As such, consistent with the plain language of the statute and the Commission’s precedent, the Commission should dismiss this Amended Complaint against NERC and WECC as it exceeds the statutory authority of Section 306 of the FPA.

B. The Amended Complaint Should be Dismissed with Prejudice Because it Fails to Meet the Minimum Requirements of the FPA and the Commission’s Regulations.

The Commission should dismiss the Amended Complaint because it fails to meet the minimum requirements of the FPA and the Commission’s regulations with respect to the content of complaints. To facilitate proceedings, the Commission sets forth procedural rules that dictate requirements for the content of complaints.²⁵ The purpose of these requirements is to help ensure respondents understand the specific allegations made in the complaint. Rule 203, for example, requires pleadings to set forth the basis in fact and law for the positions taken.²⁶ Rule 206 provides that complaints must, among other elements, (i) clearly identify the action or inaction alleged to violate applicable statutory or regulatory requirements; (ii) explain how the action or inaction violates applicable statutory standards or regulatory requirements; and (iii) state the specific relief or remedy requested and the basis for that relief.

Long-standing Commission precedent provides that “rather than bald allegations, [a complainant] must make an adequate proffer of evidence including pertinent information and

²⁴ Amended Complaint at 14 (citing *Indicated Shippers v. Trunkline Gas Co. LLC*, 105 FERC ¶ 61,394 (2003)).

²⁵ 18 C.F.R. § 385.

²⁶ *Id.* § 385.203(a)(7).

analysis to support its claims.”²⁷ Moreover, the precedent cited by Complainant, *Indicated Shippers v. Trunkline Gas Co. LLC*,²⁸ can be distinguished as the Commission waived the requirements to quantify the economic impact, whereas the deficiencies in the Amended Complaint go to the basis of the complaint itself. Further, the Commission has previously held that, in cases alleging a violation of a Reliability Standard, the complaint must set forth the specific Reliability Standard at issue and explain how the respondent’s action or inaction caused the violation. In *Citizens Energy Task Force v. Midwest Reliability Org., et al.*, the Commission held:

If a complaint regarding an alleged violation of a Reliability Standard is to meet the threshold requirements of Rule 206, then the complaint must, at a minimum, set forth the specific provision of the Reliability Standard that is at issue and provide some explanation as to how the Respondent’s alleged action or inaction caused the violation.²⁹

The Complaint failed to meet the necessary elements of Rule 206 and should therefore be dismissed for the following reasons.

First, the Complaint fails to “clearly identify the action or inaction” of NERC or WECC that allegedly violated applicable statutory or regulatory requirements or “explain how the action or inaction” violated applicable law. Instead, the Amended Complaint merely provides general, non-specific assertions that NERC and WECC “failed to conduct proper oversight or enforce NERC’s reliability standards to prevent reliability standards violations caused by removing

²⁷ *Ill. Muni. Elec. Agency v. Cent. Ill. Pub. Serv. Co.*, Order Dismissing Complaint Without Prejudice, 76 FERC ¶ 61,084 at 4 (1996); *Californians for Renewable Energy, Inc., (CARE) and Barbara Durkin v. Nat’l Grid, Cape Wind, and the Mass. Dep’t of Pub. Util.*, Order Dismissing Complaint, 137 FERC ¶ 61,113, at PP 2, 31-32 (2011); *Californians for Renewable Energy, Inc., Michael E. Boyd, and Robert M. Sarvey v. Pac. Gas and Elec. Co.*, Order Dismissing Complaint, 143 FERC ¶ 61,005 at P 2 (2013); and *Citizens Energy Task Force and Save Our Unique Lands v. Midwest Reliability Org., et al.*, Order Dismissing Complaint, 144 FERC ¶ 61,006 at P 38 (2013).

²⁸ Amended Complaint at 14 (citing *Indicated Shippers v. Trunkline Gas Co. LLC*, 105 FERC ¶ 61,394 (2003)).

²⁹ *Citizens Energy Task Force v. Midwest Reliability Org., et al.*, 144 FERC ¶ 61,006 at P 39 (2013).

DCPP's 2,240 MW from the California electric grid.”³⁰ These assertions are unsupported by any supporting evidence, information, or analysis.

In contrast to the Original Complaint, the Amended Complaint cites a specific standard, regional Reliability Standard BAL-002-WECC-2a, that was allegedly violated or that NERC and WECC allegedly failed to enforce. However, Commission precedent requires that a complaint “must, at a minimum, *set forth the specific provision* of the Reliability Standard.”³¹ The Complainant merely mentions BAL-002-WECC-2a and fails to state what requirement allegedly was violated or allegedly was not enforced. Moreover, the Complainant has failed to explain how the future planned retirement of DCPP has resulted in an applicable entity being unable to satisfy its obligations to maintain sufficient reserves in real-time operations.³²

Without the specificity required by Rule 206 and the Commission's precedent cited above, including in *Citizens Energy Task Force v. Midwest Reliability Org., et al.*, it is not possible for NERC and WECC to determine what action or inaction is the subject of the Amended Complaint. Notwithstanding the lack of specificity, NERC and WECC cannot even guess at the type of violation that is alleged when the Complainant alleges that a *future* action is causing violations of Real-time operations requirements.

NERC and WECC note that Section 215 of the FPA does not authorize the ERO or the Commission to set and enforce compliance with standards for adequacy of electric facilities or

³⁰ Amended Complaint at 8.

³¹ *Citizens Energy Task Force v. Midwest Reliability Org., et al.*, 144 FERC ¶ 61,006 at P 39 (2013) (emphasis added).

³² All of the requirements in BAL-002-WECC-2a are in the Real-time operations time horizon, which generally means the requirement concerns “actions required within one hour or less to preserve the reliability of the [BES].” NERC, “Time Horizons” (2014), https://www.nerc.com/pa/Stand/Resources/Documents/Time_Horizons.pdf. NERC and WECC note that Real-time is defined as “present time as opposed to future time” in the context of Reliability Standards. *Glossary of Terms Used in NERC Reliability Standards*, https://www.nerc.com/files/Glossary_of_Terms.pdf.

services.³³ Furthermore, the licensing and relicensing of nuclear generation plants is outside the authority of the ERO. As such, it is difficult to even infer the types of Reliability Standards violations the Complaint is trying to allege, including BAL-002-WECC-2a.

Second, the Amended Complaint did not state the “specific” relief or remedy requested and the basis for that relief as required by Rule 206. As noted previously, the Amended Complaint requests that the Commission take action to enforce NERC’s Reliability Standards, as well as review and initiate remediation of reliability concerns raised in the Complaint, among other requests that are not relevant to NERC and WECC.³⁴ However, by failing to identify the specific Reliability Standards provisions it seeks to be enforced, the Amended Complaint fails to state the specific relief or remedy requested and the basis for that relief, as required by Rule 206.

By requesting that FERC investigate “whether the closure of the DCPD violates federal Reliability Standards,”³⁵ the Amended Complaint: (i) demonstrates on its face that it fails to meet the requirement in Rule 206(b)(7) that it state a specific request for relief (as well as the requirements in Rule 206(b)(1) and (2) related to specific allegations), and (ii) undercuts the very basis upon which its allegations against NERC and WECC rely – that NERC and WECC failed to enforce Reliability Standards or exercise proper oversight.

³³ 16 U.S.C. § 824o(i)(2) (“This section does not authorize the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.”). Additionally, 16 U.S.C. § 824o(a)(3) states, “The term ‘reliability standard’ means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities, including cybersecurity protection, and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.” Finally, the Adequate Level of Reliability Task Force developed a technical report supporting the definition of Adequate Level of Reliability and providing guidance on the scope of Reliability Standards: https://www.nerc.com/comm/Other/Adequate%20Level%20of%20Reliability%20Task%20Force%20%20ALRTF%20DL/Final%20Documents%20Posted%20for%20Stakeholders%20and%20Board%20of%20Trustee%20Review/2013_03_26_Technical_Report_clean.pdf.

³⁴ Amended Complaint at 8.

³⁵ *Id.*

In conclusion, the Amended Complaint fails to meet the minimum requirements of Rule 206. The Amended Complaint did not clearly identify the NERC or WECC action or inaction that allegedly violated applicable law or explain how that action or inaction allegedly violated applicable law. The Amended Complaint also did not state the specific relief or remedy requested. Therefore, if the Commission does not dismiss the Amended Complaint because NERC and WECC are not proper parties to a complaint under Section 306 of the FPA, then the Commission should dismiss the Amended Complaint based on these procedural deficiencies.

C. NERC and WECC have Performed their Statutory Obligations Regarding Reliability Standards and Oversight.

NERC and WECC deny any and all allegations against them that could reasonably be inferred from the nonspecific assertions in the Amended Complaint and answer that they perform their duties as authorized and required by statute. By enacting the Energy Policy Act of 2005,³⁶ Congress entrusted the Commission with the duties of approving and enforcing rules to ensure the reliability of the Bulk-Power System, and with the duties of certifying an ERO that would be charged with developing and enforcing mandatory Reliability Standards, subject to Commission approval. The Commission certified NERC as the ERO in 2006.³⁷ Similarly, the Commission accepted the delegation agreement designating WECC as a Regional Entity pursuant to FPA Section 215(e)(4).³⁸

³⁶ 16 U.S.C. § 824o.

³⁷ *N. Am. Elec. Reliability Corp.*, 116 FERC ¶ 61,062, *order on reh'g and compliance*, 117 FERC ¶ 61,126 (2006), *order on compliance*, 118 FERC ¶ 61,030, *order on compliance*, 118 FERC ¶ 61,190, *order on reh'g*, 119 FERC ¶ 61,046 (2007), *aff'd sub nom. Alcoa Inc. v. FERC*, 564 F.3d 1342 (D.C. Cir. 2009).

³⁸ 16 U.S.C. § 824o(a)(7) and (e)(4). *See also N. Am. Elec. Reliability Corp.*, 119 FERC ¶ 61,060 (2006), *order on reh'g*, 120 FERC ¶ 61,260 (2007) (accepting a delegation agreement between NERC and WECC in order to designate WECC as a Regional Entity pursuant to Section 215(e)(4) of the FPA).

As the ERO, NERC is committed to assure the reliability and security of the Bulk-Power System in North America.³⁹ Similarly, WECC supports this goal as a Regional Entity.⁴⁰ Under the FERC-approved NERC Rules of Procedure (“ROP”), NERC and WECC develop Reliability Standards in accordance with Section 300 (Reliability Standards Development) of the ROP, the NERC Standard Processes Manual, and the WECC Standard Development Procedures.⁴¹ NERC and the Regional Entities, including WECC, monitor, assess, and enforce compliance with Reliability Standards in the United States in accordance with Section 400 (Compliance Enforcement) of the ROP and the NERC Compliance Monitoring and Enforcement Program.⁴² Further, NERC and WECC perform assessments of the reliability and adequacy of the Bulk-Power System as required by Section 215(g) of the FPA⁴³ and Section 800 (Reliability Assessment and Performance Analysis) of the ROP.

Additionally, the Commission looks to ensure that NERC and WECC continue to meet their statutory and regulatory obligations. Recently, the Commission found that, “NERC continues to satisfy the statutory and regulatory criteria for certification as the ERO” and found that “the Regional Entities [including WECC] continue to satisfy applicable statutory and regulatory

³⁹ *N. Am. Elec. Reliability Corp.*, 116 FERC ¶ 61,062, *order on reh’g and compliance*, 117 FERC ¶ 61,126 (2006), *order on compliance*, 118 FERC ¶ 61,030, *order on compliance*, 118 FERC ¶ 61,190, *order on reh’g*, 119 FERC ¶ 61,046 (2007), *aff’d sub nom. Alcoa Inc. v. FERC*, 564 F.3d 1342 (D.C. Cir. 2009).

⁴⁰ *Id.*

⁴¹ The NERC Rules of Procedure are available at <https://www.nerc.com/AboutNERC/Pages/Rules-ofProcedure.aspx>. The NERC Standard Processes Manual is available at https://www.nerc.com/comm/SC/Documents/Appendix_3A_StandardsProcessesManual.pdf. The WECC Reliability Standards Development Procedures are available at <https://www.wecc.org/Reliability/WECC%20Reliability%20Standards%20Development%20Procedures%20-%20FERC%20Approved%20October%2027%202017%20-%202019%20Template.pdf>.

⁴² *Id.* The NERC Compliance Monitoring and Enforcement Program is available at https://www.nerc.com/FilingsOrders/us/RuleOfProcedureDL/Appendix_4C_CMEP_06082018.pdf.

⁴³ 16 U.S.C. § 824o(g).

criteria.”⁴⁴ While the Amended Complaint cited a NERC assessment⁴⁵ and a WECC assessment⁴⁶ that were not cited in the Original Complaint, NERC and WECC assert that these assessments demonstrate NERC and WECC carried out their duties pursuant to Section 800 of the ROP, even if the assessments do not come to the unit-specific conclusion the Complainant desires.

Therefore, to the extent that the Amended Complaint alleges that NERC and WECC have failed to satisfy their statutory and regulatory obligations in any way, NERC and WECC deny the allegations in their entirety and urge the Commission to dismiss the Amended Complaint.

⁴⁴ *N. Am. Elec. Reliability Corp.*, Order on Five-Year Performance Assessment, 170 FERC ¶ 61,029 at P 20 (2020).

⁴⁵ NERC, “2020-2021 Winter Reliability Assessment” (November 2020), https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_WRA_2020_2021.pdf.

⁴⁶ WECC, “Generation Resource Adequacy Forecast: Post-Transfers LOLH,” <https://www.wecc.org/ePubs/GenerationResourceAdequacyForecast/Pages/Post-Transfers-LOLH.aspx>.

IV. CONCLUSION

WHEREFORE, for the reasons stated above, NERC and WECC respectfully request that the Commission dismiss with prejudice the Amended Complaint against NERC and WECC, consistent with Section 306 of the FPA and Rule 206 of the Commission's rules.

Respectfully submitted,

/s/ Marisa Hecht

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Date: December 15, 2020

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of this document upon all parties listed on the official service list compiled by the Secretary in the above-captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Washington, D.C., this 15th day of December 2020.

/s/ Marisa Hecht _____
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*Counsel for the North American Electric
Reliability Corporation*