

June 9, 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 No. RR010-___-000
Petition for Approval of Revised Pro Forma Delegation Agreement,
Revised Delegation Agreements with the Eight Regional Entities, and
Amendments to the NERC Rules of Procedure**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby submits a "Petition for Approval of Revised Pro Forma Delegation Agreement, Revised Delegation Agreements with the Eight Regional Entities, and Amendments to the NERC Rules of Procedure." The Petition also requests approval of amendments to the Bylaws of several of the Regional Entities. This Petition is submitted pursuant to §215(e)(4) and (f) of the Federal Power Act and the Commission's regulations at 18 C.F.R. §39.8 and §39.10.

NERC's filing consists of: (1) this transmittal letter, (2) the narrative text of this filing which follows this transmittal letter, and (3) Attachments 1A, 1B, 2A, 2B, 3A, 3B, 4A, 4B, 5A, 5B, 5C, 6A, 6B, 7A, 7B, 8A, 8B, 9A, 9B, 10, 11A, 11B, 12A, 12B, 13A, 13B, 14A, 14B, 15 and 16, all of which is being transmitted in a single pdf file. Pages iv and v in the Table of Contents to the narrative text list and identify the Attachments.

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

Respectfully submitted,

/s/ Owen E. MacBride
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Attorney for North American Electric
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ATTACHMENTS:

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Attachment 1B: Revised pro forma Delegation Agreement – redlined against current pro forma Delegation Agreement

Attachment 2A: Revised Delegation Agreement with Florida Reliability Coordinating Council – clean version

Attachment 2B: Revised Delegation Agreement with Florida Reliability Coordinating Council – redlined against revised pro forma Delegation Agreement

Attachment 3A: Revised Delegation Agreement with Midwest Reliability Organization – clean version

Attachment 3B: Revised Delegation Agreement with Midwest Reliability Organization – redlined against revised pro forma Delegation Agreement

Attachment 4A: Revised Delegation Agreement with Northeast Power Coordinating Council – clean version

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Attachment 5A: Revised Delegation Agreement with Reliability*First* Corporation – clean version

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Attachment 6A: Revised Delegation Agreement with SERC Reliability Corporation – clean version

Attachment 6B: Revised Delegation Agreement with SERC Reliability Corporation – redlined against revised pro forma Delegation Agreement

Attachment 7A: Revised Delegation Agreement with Southwest Power Pool Regional Entity – clean version

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Attachment 8A: Revised Delegation Agreement with Texas Reliability Entity – clean version

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Attachment 10: Amended Bylaws of Midwest Reliability Organization – redlined version, and section-by-section explanation of amendments

Attachment 11A: Revised Sections 100 – 1600 of the NERC Rules of Procedure – clean version

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Attachment 12A: Revised Appendix 4A to the NERC Rules of Procedure – *Audit of Regional Entity Compliance Programs* – clean version

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Attachment 13A: Revised Appendix 4B to the NERC Rules of Procedure – *Sanction Guidelines of the North American Electric Reliability Corporation* – clean version

Attachment 13B: Revised Appendix 4B to the NERC Rules of Procedure – *Sanction Guidelines of the North American Electric Reliability Corporation* – redlined version

Attachment 14A: Revised Appendix 4C to the NERC Rules of Procedure – *Compliance Monitoring and Enforcement Program* – clean version

Attachment 14B: Revised Appendix 4C to the NERC Rules of Procedure – *Compliance Monitoring and Enforcement Program* – redlined version

Attachment 15: Appendix 5A to the NERC Rules of Procedure – *Organization Registration and Certification Manual* – renumbered from “Appendix 5” with no other changes

Attachment 16: New Appendix 5B to the NERC Rules of Procedure – *Statement of Compliance Registry Criteria*

I. INTRODUCTION

The North American Electric Reliability Corporation (“NERC”), in accordance with §215(e)(4) of the Federal Power Act (“FPA”) and 18 C.F.R. §39.8, respectfully requests Commission approval of the following documents:

- Revised pro forma Delegation Agreement with Regional Entities (**Attachment 1** to this filing)
- Revised Delegation Agreements with each of the eight Regional Entities, based on the revised pro forma Delegation Agreement (**Attachments 2** through **9**)¹
- Amendments to Section 5.4 of the FRCC Bylaws which are included in Exhibit B to the Delegation Agreement with FRCC (in **Attachment 2**)²
- Revisions to Exhibit A to the Delegation Agreements with FRCC and SERC, to reflect minor adjustments to the bulk electric system facilities included in each of these regions (included in **Attachments 2** and **6**, respectively)
- Amended Bylaws of MRO which are included in the Delegation Agreement with MRO (in **Attachment 3**).³ **Attachment 10** is a redlined version of the amended MRO Bylaws.

¹ The eight Regional Entities are Florida Reliability Coordinating Council (“FRCC”), Midwest Reliability Organization (“MRO”), Northeast Power Coordinating Council (“NPCC”), ReliabilityFirst Corporation (“ReliabilityFirst”), SERC Reliability Corporation (“SERC”), Southwest Power Pool Regional Entity (“SPP RE”), Texas Reliability Entity (“Texas RE”), and Western Electricity Coordinating Council (“WECC”). On May 6, 2010, in Docket No. RR10-6-000, the Commission approved NERC’s proposed Delegation Agreement with Texas RE as the successor Regional Entity in the Electric Reliability Council of Texas (“ERCOT”) region to Texas Regional Entity, a division of ERCOT (“Old Texas RE”). NERC, Texas RE and Old Texas RE are planning that the Delegation Agreement approved by the Commission in Docket No. RR10-6-000 will become effective on July 1, 2010 and the existing Delegation Agreement with Old Texas RE will terminate on that date.

² The FRCC Bylaws are “Regional Entity Rules” as defined in 18 C.F.R. §39.1, and therefore approval of the amendments to the FRCC Bylaws is also requested pursuant to §215(f) of the FPA and 18 C.F.R. §39.10.

³ The MRO Bylaws are “Regional Entity Rules” as defined in 18 C.F.R. §39.1, and therefore approval of the amendments to the MRO Bylaws is also requested pursuant to §215(f) of the FPA and 18 C.F.R. §39.10.

In addition, in accordance with §215(f) of the FPA and 18 C.F.R. §39.10, NERC respectfully requests approval of the following revisions and additions to the NERC Rules of Procedure (“ROP”):

- Revisions to Sections 200, 400, 500, 800, 1000, 1100 and 1200 of the NERC ROP (**Attachment 11**)
- Revisions to Appendix 4A to the NERC ROP -- *Audit of Regional Entity Compliance Programs* (**Attachment 12**)
- Revisions to Appendix 4A to the NERC ROP – *Sanction Guidelines of the North American Electric Reliability Corporation* (**Attachment 13**)
- Revisions to Appendix 4C to the NERC ROP – *Compliance Monitoring and Enforcement Program* (**Attachment 14**)
- Revision to Appendix 5 to the NERC ROP – *Organization Registration and Certification Manual* – this Appendix has been renumbered as Appendix 5A, with no other changes (**Attachment 15**)
- Addition of new Appendix 5B to the NERC ROP – *Statement of Compliance Registry Criteria* – this is Version 5.0 of the *Statement of Compliance Registry Criteria* which is being added as an Appendix to the ROP, with no textual changes (**Attachment 16**)

Section III of this Petition describes the proposed revised pro forma Delegation Agreement and the proposed revised Delegation Agreements between NERC and the eight Regional Entities, including any deviations or differences in the individual Delegation Agreements from the revised pro forma Delegation Agreement. Section III also describes the amendments to the FRCC and MRO Bylaws. Section IV of this Petition describes and explains the proposed revisions and additions to the NERC ROP and Appendices, all of which are Electric Reliability Organization (“ERO”) Rules.

NERC respectfully asks the Commission to issue an order approving the revised pro forma Delegation Agreement, the revised Delegation Agreements with the eight Regional Entities, and the proposed revisions and additions to the NERC ROP and Appendices, to be effective January 1, 2011.

II. NOTICES AND COMMUNICATIONS

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

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III. REVISED DELEGATION AGREEMENTS

A. Process for Development of Revised Pro Forma Delegation Agreement

NERC and the Regional Entities have negotiated a revised pro forma Delegation Agreement, and individual Delegation Agreements based on the new pro forma agreement, in response to the need for changes identified in the course of NERC’s and the Regional Entities’ operations under §215 of the FPA and 18 C.F.R. Part 39 since 2007, and in particular in response to issues identified in NERC’s *Three-Year ERO Assessment Report* that was conducted in 2008-2009 and filed with the Commission on July 20, 2009.⁴ The *Three-Year ERO Assessment Report* identified a number of issues which were suitable to be addressed through revisions to the Regional Entity Delegation Agreements. Based on the aggregate basket of issues to be

⁴ *North American Electric Reliability Organization, Three-Year Electric Reliability Organization Performance Assessment Report Submitted in Accordance with 18 C.F.R. §39.3(c)*, filed July 20, 2009 in Docket No. RR09-7-0000 (“*Three-Year ERO Assessment Report*”).

addressed, NERC and the Regional Entities agreed it would be appropriate to negotiate a new pro forma Delegation Agreement and to enter into new Delegation Agreements consistent with the new pro forma agreement.⁵

NERC and the Regional Entities began working together to develop the revised pro forma Delegation Agreement in the Fall of 2009. In order to provide sufficient time for negotiations, for obtaining stakeholder input, and for filing with, and review and approval by, the Commission, of the revised pro forma Delegation Agreement and the individual Delegation Agreements, NERC requested Commission approval of an amendment to the Delegation Agreements to extend the expiration date of their initial terms by one year, from May 2010 to May 2, 2011. The Commission approved this amendment on January 14, 2010.⁶

In connection with the NERC Member Representatives Committee (“MRC”) meeting on November 4, 2009, NERC and the Regional Entities conducted a session with stakeholders for discussion of possible changes to the Delegation Agreements. Submission of written comments was also invited. On January 29, 2010, NERC posted a draft of the revised pro forma Delegation Agreement for stakeholder comment for a comment period running through March 5, 2010 (45 days). Written comments were received from eleven entities and organizations. Additionally, a

⁵ The Commission originally approved delegation agreements between NERC and the Regional Entities in an Order issued April 19, 2007. *Order Accepting ERO Compliance Filing, Accepting ERO/Regional Entity Delegation Agreements, and Accepting Regional Entity 2007 Business Plans*, 119 FERC ¶ 61,060 (2007) (“April 19, 2007 Order”), *Order on Rehearing*, 120 FERC ¶ 61,260 (2007). In subsequent Orders, the Commission has approved both revisions of general applicability to the Delegation Agreements and amendments to the Delegation Agreements with particular Regional Entities to address particular circumstances. *See, e.g., Order Addressing Revised Delegation Agreements*, 122 FERC ¶ 61,245 (2008); *Order Accepting Compliance Filings, Subject to Conditions*, 125 FERC ¶ 61,330 (2008); *Order on Compliance Filing*, 127 FERC ¶ 61,209 (2009).

⁶ Letter Order issued January 14, 2010, in Docket No. RR10-2-000.

discussion concerning the proposed revisions to the Delegation Agreement was held during the February 15, 2010 MRC meeting.

Based on review and consideration of stakeholder comments on the public posting, NERC and the Regional Entities completed negotiation of the revised pro forma Delegation Agreement during March and April, 2010. The respective boards of directors or trustees of the Regional Entities approved entry into revised Delegation Agreements, based on the revised pro forma Delegation Agreement, at meetings held during April and early May.⁷ At its May 12, 2010 meeting, the NERC Board of Trustees approved the revised pro forma Delegation Agreement and the revised Delegation Agreements with each of the Regional Entities, as required by Article X, section 1 of the NERC Bylaws.

B. Revised Pro Forma Delegation Agreement

1. Summary of Major Changes in the Pro Forma Delegation Agreement

This subsection identifies the provisions of the revised pro forma Delegation Agreement that NERC considers to be the most significant changes from the current pro forma Delegation Agreement. Section III.B.2 provides a detailed, section-by-section description of the differences between the current and revised pro forma Delegation Agreements. **Attachment 1A** is a clean version of the revised pro forma Delegation Agreement, while **Attachment 1B** is a redlined version of the revised pro forma Delegation Agreement against the current pro forma Delegation Agreement.

⁷ The Regional Entity boards approved entry into the revised Delegation Agreements at meetings held on the following dates: FRCC, May 5; MRO, April 26; NPCC, April 27; ReliabilityFirst, April 30; SERC, April 28; SPP RE, April 26; Texas RE, April 27; WECC, April 30. **Attachments 2** through **9** each contains a letter or board resolution from the respective Regional Entity memorializing that its board approved the revised Delegation Agreement on the date stated above.

- Under the revised pro forma Delegation Agreement, all of the Regional Entities have agreed to adopt the NERC Compliance Monitoring and Enforcement Program (“CMEP”), Appendix 4C to the NERC ROP.⁸ (Revised pro forma Delegation Agreement, §2(a)(iii) and Exhibit D.)
- Under the revised pro forma Delegation Agreement, a Regional Entity that also performs (or whose affiliated entity performs) registered functions as a Registered Entity cannot monitor its own compliance (or that of its affiliate) with applicable Reliability Standards, but rather must enter into an agreement with NERC or another Regional Entity to monitor and enforce the first Regional Entity’s compliance with the Reliability Standards that are applicable to its registered functions. (Revised pro forma Delegation Agreement, §4(a)-(b).)
- The revised pro forma Delegation Agreement expressly recognizes the possibility of coordinated compliance monitoring and enforcement, by two or more Regional Entities, of a Registered Entity that has operations in more than one region. (Revised pro forma Delegation Agreement, §4(c).)
- The revised pro forma Delegation Agreement adopts and uses the terms “Possible Violation,” “Alleged Violation,” and “Confirmed Violation,” which are being adopted in the revised NERC CMEP, Appendix 4C to the NERC ROP, in order to establish consistency among the Regional Entities as to when potential violations of Reliability Standards must be entered into the NERC and Regional Entity tracking systems and notices must be given to Registered Entities (*see* discussion in §IV.B and §IV.E below). (*See, e.g.*, Revised pro forma Delegation Agreement §6(b)-(d).)
- The revised pro forma Delegation Agreement establishes specific criteria on which NERC will base its reviews of dispositions of compliance matters by the Regional Entities. (Revised pro forma Delegation Agreement, §6(d).)
- The revised pro forma Delegation Agreement recognizes that a Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures. (Revised pro forma Delegation Agreement, §6(h).)
- The revised pro forma Delegation Agreement contains an expanded description of the delegation-related activities to be carried out by the Regional Entities, including certification of Bulk Power System entities, reliability assessment and performance analysis, event analysis and reliability improvement activities, training and education,

⁸ The revised CMEP is discussed in §IV.E of this Petition. The agreement to adopt the uniform CMEP does not include the NERC uniform Hearing Procedures. (*See* the revised pro forma Delegation Agreement, Exhibit D, §1.0.) Only one Regional Entity has a deviation from the uniform CMEP: §5.3(vii) of the WECC CMEP does not contain a reference to a shortened hearing procedure, because the WECC hearing procedures do not include the shortened hearing procedure that is included in the NERC uniform Hearing Procedures. *See* §III.C.8 below.

and situation awareness and infrastructure security. (Revised pro forma Delegation Agreement, §7.)

- Under the revised pro forma Delegation Agreement, NERC will maintain a single consolidated Compliance Registry listing the bulk power system owners, operators, and users that are registered in the various reliability functional categories as responsible to comply with applicable Reliability Standards. NERC will register entities based on application of the criteria in the NERC *Statement of Compliance Registry Criteria* to information on owners, operators and users gathered and provided by the Regional Entities. (Revised pro forma Delegation Agreement, §7(b).)
- The revised pro forma Delegation Agreement contains a new section describing in detail the processes and procedures by which the parties intend for NERC to carry out its oversight responsibilities of the Regional Entities' performance of their delegated functions. (Revised pro forma Delegation Agreement, §8.)
- Under the revised pro forma Delegation Agreement, NERC and the Regional Entities will develop performance goals, measures and other parameters to assess their performance in carrying out their respective functions and other activities. The performance goals, measures, and other parameters will be public and will be reviewed and analyzed on the same timetable as the development of the annual NERC and Regional Entity business plans and budgets. Additionally, at the request of the NERC President, a Regional Entity may be required to develop an action plan to address areas of its performance that NERC reasonably determines, based on evaluation of performance against the performance goals, measures, and parameters, to be unsatisfactory. (Revised pro forma Delegation Agreement, §8(a).)
- The revised pro forma Delegation Agreement includes a specific collaborative process for establishing "directives" with respect to the Regional Entities' performance of their delegated functions and delegation-related activities. This process begins with collaboration, proceeds through notice and comment among the parties, and concludes with a binding decision by the NERC President, with the opportunity for the Regional Entity(ies) to ask the NERC Board to review the NERC President's determination. (Revised pro forma Delegation Agreement, §8(c))
- The revised pro forma Delegation Agreement expressly identifies the requirements that will provide the basis for any audits performed by NERC of the Regional Entity's performance. (Revised pro forma Delegation Agreement, §8(f).)
- The revised pro forma Delegation Agreement specifies more detailed procedures for the preparation of the annual Regional Entity business plans and budgets. (Revised pro forma Delegation Agreement, §9 and Exhibit E.)
- The revised pro forma Delegation Agreement provides for the possibility of using penalties collected by a Regional Entity for violations of Reliability Standards in a manner other than as an offset to the Regional Entity's overall statutory budget in the

following year. Any such departure from the normal treatment would require prior approval by NERC and the Commission. (Revised pro forma Delegation Agreement, §9(j) and Exhibit E, §5.)

- The initial term of the revised Delegation Agreements is five years rather than three years. This is consistent with the current pro forma Delegation Agreement, which provided for an initial term of three years from May 2007 to May 2010 and a renewal term of five years. (Revised pro forma Delegation Agreement, §12(b).)

2. Detailed Description of Changes in the Revised Pro Forma Delegation Agreement

This subsection provides a detailed description, on a section-by-section basis, of the changes from the current pro forma Delegation Agreement to the revised pro forma Delegation Agreement, as shown in legislative style (redlined) in **Attachment 1B**. In addition to the substantive changes described below, the revised pro forma Delegation Agreement reflects a more consistent use of defined terms and more consistent capitalization of defined terms.

a. Base Delegation Agreement

Initial paragraph and recitals. The initial paragraph identifies the effective date of the revised Delegation Agreement as January 1, 2011, consistent with NERC's request in this Petition. In the initial paragraph and the recitals, a number of defined terms have been capitalized. The last recital describes the basis and purpose on which NERC and the Regional Entities have negotiated and entered into the revised Delegation Agreements.

Section 1, Definitions. The Definitions section has been revised to provide that certain defined terms (as identified by capitalization) from the NERC Glossary of Terms Used in Reliability Standards as well as from the FPA, the Commission's ERO Regulations, and the NERC ROP, are used in the pro forma Delegation Agreement. The Definitions section has also been revised to state that terms may be defined elsewhere in the Delegation Agreement. "Regional Entity" and "Reliability Standard" have been removed from the Definitions section because they are defined elsewhere.

Section 2, Representations. Section 2(a)(iii) has been revised to state that the Regional Entity has adopted the NERC CMEP, Appendix 4C to the NERC ROP. Revisions have been made to §2(b) for grammatical purposes.

Section 3, Covenants. Revisions have been made to correctly use defined terms and to provide correct cross-references within the revised pro forma Delegation Agreement.

Section 4, Delegation of Authority. Revisions have been made to §4(a) for consistent use of terms and to recognize that certain limitations on the geographic scope of the Regional Entity's Delegated Authority may be set forth in Exhibit A to the Delegation Agreement. In addition, §4(a) has been revised, and new §4(b) has been added, to specify that a Regional Entity that also performs (or whose affiliated entity performs) registered functions as a Registered Entity cannot monitor its own compliance (or that of its affiliate) with applicable Reliability Standards, but rather must enter into an agreement with NERC or another Regional Entity to monitor and enforce the first Regional Entity's compliance with the Reliability Standards that are applicable to its registered functions.

New §4(c) has been added to allow Regional Entities to enter into arrangements, subject to approval by NERC, to perform compliance monitoring and enforcement activities outside their regions, with respect to Registered Entities that have registered functions monitored by more than one Regional Entity.

Sections §4(b) and (c) of the current pro forma Delegation Agreement are §4(d) and (e) of the revised pro forma Delegation Agreement. Revisions have been made to these subsections to use defined terms and to provide correct cross-references.

Section 5, Development and Proposal of Reliability Standards. In §5(a)(ii), a reference to a section of the NERC ROP has been changed to be consistent with the revised ROP. Other revisions have been made to §5 to use defined terms and for greater clarity.

Section 6, Enforcement of Compliance with Reliability Standards. Revisions have been made throughout §6 to use defined terms, including the terms Possible Violation, Alleged Violation and Confirmed Violation, and other defined terms that are used in the revised uniform CMEP.

Section 6(a) has been revised to provide for consistent use of defined terms and other terms. Section 6(a) has also been revised (i) to note that limitations or exceptions to the geographic scope of the Regional Entity's delegated authority to enforce Reliability Standards may be specified in Exhibit A; (ii) to specify that any changes to the Regional Entity's CMEP require approval of the Commission; and (iii) to specify that in implementing its CMEP, the Regional Entity agrees to comply with any directives issued pursuant to new §8(c) and with any guidance or directions issued by the NERC Board or a Board committee pursuant to new §8(d).

Sections 6(b)-(d) and (f) have been revised to use defined terms

Section 6(c) has been revised to specify that a Possible Violation, Alleged Violation or Confirmed Violation shall be treated as non-public unless the matter is filed with the Commission as a Notice of Penalty or, if disclosure is required, is dismissed.

New §6(d) provides that the Regional Entity shall report all Possible Violations, Alleged Violations and Confirmed Violations to NERC for review and, in the case of Confirmed Violations, penalties or sanctions, and settlements, for approval. This provision clarifies what compliance enforcement actions by the Regional Entity are subject to approval by NERC. Section 6(d) also states that following NERC's approval of a Regional Entity's disposition of a

compliance enforcement matter, NERC shall file the disposition with the Commission if required. Further, §6(d) states the criteria by which NERC will review the Regional Entity's dispositions. Those criteria are:

- (i) whether the disposition is supported by a sufficient record compiled in accordance with the NERC ROP, NERC directives and Commission requirements, taking into account the nature of the Possible Violation, Alleged Violation or Confirmed Violation;
- (ii) whether the disposition is consistent with any applicable directives issued pursuant to new §8(c), any applicable directions or guidance issued pursuant to new §8(d), or other applicable NERC guidance concerning the subject Reliability Standards;
- (iii) if the disposition is a Confirmed Violation or settlement, whether it provides for a penalty or sanction (including no penalty or sanction) in accordance with the NERC *Sanction Guidelines*; and
- (iv) whether the disposition is reasonably consistent with other dispositions by the Regional Entity and by other Regional Entities of Possible Violations, Alleged Violations and Confirmed Violations involving the same or similar facts and circumstances.

The specification of these criteria in the revised pro forma Delegation Agreement is intended to bring greater clarity and certainty to the scope and bases of NERC's review of Regional Entity dispositions of compliance enforcement matters. Section 6(d) provides that NERC may reject any Regional Entity disposition of a compliance enforcement matter, with an explanation of why NERC believes the disposition does not meet the above criteria.

Section 6(d) also provides that the Regional Entity may submit a disposition requiring NERC approval that has previously been rejected by NERC, or a revised disposition following a rejection, directly to the NERC Board of Trustees Compliance Committee ("BOTCC") for approval, without revising the disposition to address all the grounds on which NERC originally rejected the disposition. This provision provides a means for the Regional Entity to submit a disposition to the BOTCC for approval or rejection if the Regional Entity disagrees with the

reasons NERC staff rejected the disposition and/or believes submission of further revised versions of the disposition to NERC staff will not be useful.

Finally, §6(d) states that final approval of the Regional Entity's disposition of a Possible Violation, Alleged Violation or Confirmed Violation shall be made by the NERC BOTCC; however, the BOTCC may, by appropriate resolution, delegate authority for final approval of dispositions of specified categories of Possible Violations, Alleged Violations and Confirmed Violations to the NERC President. This delegation authority provides the BOTCC with the ability to reduce its workload by avoiding the need to review dispositions of certain categories of compliance enforcement matters, and thereby enable the BOTCC to devote more attention to dispositions of more serious or complicated compliance enforcement matters.

Section 6(e) has been revised to clarify that it is decisions of the Regional Entity Hearing Body with respect to penalty determinations that may be filed with, and heard and disposed of by, NERC, in accordance with procedures in the NERC ROP.

Section 6(g) has been revised (from §6(f) in the current pro forma Delegation Agreement) to specify that the Regional Entity's CMEP shall be maintained in compliance with the NERC CMEP and the annual NERC CMEP Implementation Plan.

Section 6(h) has been revised (from §6(g) in the current pro forma Delegation Agreement) to specify that the Regional Entity shall maintain a conflict of interest policy that assures the integrity and independence of its CMEP, including the integrity and independence of persons or decision-making bodies making final determinations in compliance enforcement actions under §5.0 of the NERC CMEP.

Section 6(i) has been revised (from §6(h) in the current pro forma Delegation Agreement) to provide that NERC will review the Regional Entity's CMEP at least once every five years

rather than at least once every three years. However, this subsection continues to provide that NERC may review the Regional Entity's CMEP as often as NERC deems necessary.

Sections 6(i) and 6(j) in the current pro forma Delegation Agreement have been deleted. Portions of these subsections are encompassed by §6(a), §8(a) and §8(c) – (e) of the revised pro forma Delegation Agreement, and the remaining provisions were viewed to be no longer necessary, particularly in light of the agreement that all Regional Entities will adopt the NERC uniform CMEP.

Section 7, Delegation-Related Activities. Section 7 has been significantly expanded to identify the delegation-related activities the Regional Entity will perform, in addition to its delegated authority to develop and adopt Regional Reliability Standards and (for Regional Entities organized on an Interconnection-wide basis) Regional Variances under §5 and to monitor and enforce compliance with Reliability Standards under §6. The initial paragraph of §7 states that the Regional Entity's delegation-related activities include, but are not limited to, those described in subsections 7(a) through 7(f), each of which shall be considered a statutory activity.

Section 7(a) provides that the NERC Board shall set criteria for certification of Bulk-Power System entities, in accordance with the NERC ROP, and that the Regional Entity shall issue certifications to entities in accordance with the NERC ROP.

Section 7(b) provides for NERC to develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities, and states that NERC shall apply the registration criteria to register owners, operators, and users as Registered Entities.⁹ It also provides that NERC shall maintain the registration database (*i.e.*, the Compliance Registry). Currently, the Regional Entities have the initial responsibility to register owners, operators, and

⁹ As part of this filing, NERC is proposing to add the *Statement of Compliance Registry Criteria* to the ROP as Appendix 5B. *See* §IV.G below and **Attachment 16**.

users, and to maintain Regional compliance registries. However, revised §7(b) does provide that the Regional Entity shall provide data and information to NERC to enable NERC to maintain a registration database that is accurate and up-to-date. Finally, §7(b) provides that the NERC BOTCC shall hear appeals from owners, operators, and users contesting registration, in accordance with the NERC ROP; and that if the BOTCC upholds a registration decision, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

Section 7(c) addresses the Regional Entity's responsibilities with respect to the Reliability Assessment and Performance Analysis Program. The responsibilities described in this subsection are consistent with those currently performed by the Regional Entities in this program, but new §7(c) memorializes them in the Delegation Agreement. Section 7(c) also specifies that NERC shall develop data-gathering quality control procedures, forms and reporting mechanisms which shall be used by the Regional Entity in carrying out its responsibilities.

Section 7(d) addresses the Regional Entity's responsibilities with respect to Event Analysis and Reliability Improvement. Section 7(d) specifies that the Regional Entity will conduct event analysis pursuant to the NERC ROP and applicable governmental regulations; that NERC and the Regional Entity will coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports; and that in collaboration with NERC, the Regional Entity will disseminate to the industry lessons learned and other information from event analysis.

Section 7(e) addresses the Regional Entity's responsibilities with respect to the Training and Education Program, and specifies that the Regional Entity may provide training and education to Registered Entities, as it deems necessary, in support of its performance of

delegated functions and related activities. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

Finally, Section 7(f) addresses the Regional Entity's responsibilities with respect to the Situation Awareness and Infrastructure Security Program (which includes Critical Infrastructure Protection). It specifies that the Regional Entity will gather and assess situation awareness information provided by Registered Entities pursuant to the NERC ROP and applicable governmental regulations, and will provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions and responding to events on the Bulk-Power System. In addition, the Regional Entity will collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System.

Section 8, Oversight of Performance of Delegated Functions and Related Activities.

Section 8 is a new section that sets forth processes and procedures NERC and the Regional Entities intend to be used in NERC's oversight of the Regional Entities' performance of Delegated Authority and related activities under the Delegation Agreements. The introductory paragraph of §8 states that it is the intent of NERC and the Regional Entities that matters relating to NERC's oversight of a Regional Entity's performance of its Delegated Authority and related activities shall be established, to the maximum extent possible, by collaboration between NERC and the Regional Entity and, if applicable, other Regional Entities.

Section 8(a) provides that NERC shall develop, in collaboration with the Regional Entities, performance goals, measures and other parameters, and performance reports, which shall be used to measure NERC's and the Regional Entity's performance of their respective functions and related activities. These performance goals, measures and parameters and the form

of performance reports will be approved by the NERC President and made public. Section 8(a) further provides that NERC will use the performance goals, measures and parameters and performance reports to evaluate the Regional Entity's performance of its delegated functions and related activities and to provide advice and direction to the Regional Entity on performance improvements. Additionally, the performance goals, measures and other parameters and their values will be reviewed by NERC and the Regional Entities, and revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process.

Section 8(a)(iii) specifies that at the request of the NERC President, a Regional Entity will be required to develop, submit for NERC approval, and implement, action plans to address areas of its performance that are reasonably determined by NERC, based on analysis of the Regional Entity's performance against the performance goals, measures and parameters, or its performance of specific activities, to be unsatisfactory. Before requiring the Regional Entity to adopt and implement an action plan or other remedial action, NERC must notify the Regional Entity of the need and basis for an action plan or other remedial action and provide an opportunity for the Regional Entity to submit a response contesting NERC's evaluation of its performance and the need for an action plan. Additionally, the Regional Entity may ask the NERC President to reconsider the request, and thereafter may ask the NERC Board to review and reconsider the request. Section 8(a)(iii) further specifies that NERC and the Regional Entity will work collaboratively in the development and implementation of the action plan. A final action plan submitted by the Regional Entity will be made public unless the NERC President determines the action plan or specific portions of it should be non-public.

Section 8(b) provides that NERC will make available to the Regional Entity standardized training and education programs for Regional Entity personnel, which will be designed taking

into account input from the Regional Entities on topics relating to the delegated functions and related activities.

Section 8(c) sets forth the process by which NERC may issue directives to a Regional Entity concerning the manner in which the Regional Entity shall perform its delegated functions and related activities under the Delegation Agreement. (An ERO Rule requiring Commission approval is not a §8(c) directive.) NERC will initiate the development of a directive through a collaborative process with the Regional Entity and, if applicable, other Regional Entities. Any directive developed through this collaborative process will be approved and issued by the NERC President. If, after a reasonable time, NERC and the Regional Entity(ies) cannot reach agreement on the directive, NERC may issue the directive with the approval of the NERC President. However, before the directive is issued, the Regional Entity(ies) must be given an opportunity to present their positions on the proposed directive, and a suggested alternative version(s), to the NERC President. A directive issued by the NERC President will be binding upon and complied with by the Regional Entity, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. The Regional Entity may ask the NERC Board (or a Board committee to which the Board delegates authority) to review and confirm, revise or revoke any directive issued without the Regional Entity's agreement; such a request must be made within 30 days after issuance of the directive absent good cause for a later request.

Section 8(c)(iv) states that NERC and Regional Entities will collaborate in deciding whether a directive will be made public; if no agreement is reached by the date of issuance of the directive, the NERC President will determine if it should be made public. Section 8(c)(iv) states

a presumption that a directive should be made public unless the NERC President makes a written determination, stating a specific reason, that the directive should be non-public.

Section 8(d) provides that the NERC Board, or a Board committee with delegated authority, may issue guidance and directions to the Regional Entity(ies) as to the manner in which delegated functions and related activities shall be performed. The Board or Board committee shall also establish reasonable time periods for implementation of guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of any additional resources. The Regional Entity(ies) may request the NERC Board or Board committee to reconsider or revise any guidance or direction. Any guidance or direction must be stated in writing and will be public, unless the Board or Board committee determines particular guidance or direction should be non-public.

Section 8(e) states that NERC will conduct collaborative reviews with the Regional Entity(ies) that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions. Essentially the same provision is found in §6(j) of the current pro forma Delegation Agreement.

Section 8(f) specifies that any audits NERC performs of the Regional Entity shall be limited to examination of the Regional Entity's compliance with the Delegation Agreement, the NERC ROP, the CMEP, Commission requirements, and directives issued pursuant to §8(c).

Section 9, Funding. This section has been expanded from the Funding section (§8) of the current pro forma Delegation Agreement. Exhibit E to the Delegation Agreement (discussed in §III.B.2.f below) contains other provisions concerning funding and costs. The introductory paragraph to §9 states the overall objective of the Funding section, which is to ensure, subject to

Commission approval, that the delegated functions and related activities in sections 5, 6 and 7 of the Delegation Agreement will have reasonable and adequate funding and resources.

Section 9(a) specifies that the Regional Entity will develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with the ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. The proposed business plan and budget must describe the activities necessary, and provide a budget with adequate resources, for the Regional Entity to carry out its Delegated Authority; and must show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

Section 9(b) specifies that NERC and the Regional Entity agree that the portion of the Regional Entity's approved budget for statutory functions and activities will be equitably allocated among end users within the Regional Entity's geographic boundaries and recovered through a formula based on Net Energy for Load ("NEL") or an alternative formula that is proposed by the Regional Entity and approved by NERC and the Commission. Section 9(b) is not substantively different from §8(b) of the current pro forma Delegation Agreement.

Section 9(c) specifies that NERC will determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of the work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate, with allocation on a NEL basis presumed to be equitable. Section 9(c) is not substantively different from §8(c) of the current pro forma Delegation Agreement.

Section 9(d) specifies that NERC will provide the Regional Entity with the forms for submittal of its business plan and budget, and any accompanying instructions, in accordance with

a schedule for preparation of the business plan and budget developed by NERC and the Regional Entities. Section 9(e) specifies that the Regional Entity will submit its proposed annual business plan and budget for its Delegated Authority and related activities, and for all the Regional Entity's other activities, in accordance with the annual schedule for preparation of business plans and budgets that NERC and the Regional Entities will develop pursuant to Exhibit E.

Section 9(f) provides that NERC will fund the Regional Entity's performance of its Delegated Authority and related activities in accordance with the Regional Entity's Commission-approved business plan and budget, in the amount of the assessments to end users approved by the Commission. Section 9(f) refers to Exhibit E as setting forth the procedures and timing for billing and collecting the approved assessments from end users and other entities and payment of the approved assessment to the Regional Entity. Section 9(f) also states that NERC will not impose any material obligation or requirement regarding the Delegated Authority on the Regional Entity that has not been provided for in an approved business plan and budget, or an approved amended or supplemental and budget, without the Regional Entity's consent.

Section 9(g) contains provisions found in §8(e) of the current pro forma Delegation Agreement stating that NERC will develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and Regional Entity fiscal year budget with the actual results at the NERC and Regional Entity levels; that the Regional Entity will follow NERC's prescribed system of accounts except to the extent NERC permits a departure; and that NERC will make an informational filing with the Commission describing any waiver it permits and providing an explanation supporting the permitted departure. Other

provisions of §8(e) of the current Delegation Agreement have been deleted from this subsection as they are covered elsewhere in the revised pro forma Delegation Agreement.

The provisions found in §8(f) and §8(g) of the current pro forma Delegation Agreement have been deleted. The provisions in current §8(f) are found in §2(a) of Exhibit E of the revised pro forma Delegation Agreement, and the provisions of current §8(g) are covered in greater detail elsewhere in §9 and Exhibit E of the revised pro forma Delegation Agreement.

Section 9(h) is identical to §8(h) of the current pro forma Delegation Agreement and specifies that the Regional Entity will submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31). Section 9(i) is comparable to §8(i) of the current pro forma Delegation Agreement but has been revised to specify that the Regional Entity will submit its audited financial statements for the fiscal year to NERC by May 1 of the following year (rather than within 150 days following the end of the fiscal year).¹⁰

The provision of §8(j) of the current pro forma Delegation Agreement, that NERC will have the right to review the Regional Entity's financial records no less than every three years, is not included in §9 of the revised pro forma Delegation Agreement, because NERC's review of the Regional Entity's financial records is now covered in §8 of Exhibit E to the revised pro forma Delegation Agreement.

¹⁰ This change is consistent with the revised procedure for the submission of NERC's and the Regional Entities' annual comparisons of their budgeted funding and expenditures to actual budgets and expenditures for the preceding year. On June 29, 2009, the Commission approved NERC's proposal to change the date for these annual filings from April 1 to May 30 to allow the budget-to-actual comparisons to be based on NERC's and the Regional Entities' audited financial statements for the preceding year. *North American Electric Reliability Corporation, Order Conditionally Accepting Compliance Filing*, 127 FERC ¶ 61,307 (2009).

Section 9(j) is comparable to §8(k) of the current pro forma Delegation Agreement and specifies that Exhibit E sets forth the mechanism through which the Regional Entity will offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of the Regional Entity) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which the Regional Entity will transmit to NERC any penalty monies received from an operational function or division or affiliated entity of the Regional Entity. However, the subsection has been amended to add a proviso that, subject to approval by NERC and the Commission, the Regional Entity may propose and implement an alternative use of penalty monies to that specified in Exhibit E.

Section 10, Assignment. The only revision to this provision (which is §9 of the current pro forma Delegation Agreement) is the addition of a proviso that the Regional Entity may not delegate its Delegated Authority to any other entity “without NERC’s express consent.”

Section 11, Default and Cure. Other than modification of internal and cross-references, the only revision to this provision (which is §10 of the current pro forma Delegation Agreement) is the following revision to one sentence: “The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured.”

Section 12, Term and Termination. This section covers the same subject matter as §11 of the current pro forma Delegation Agreement. Sections 12(a) and (b) have been revised (i) to specify an Effective Date of January 1, 2011 (for which NERC is requesting approval in this Petition); (ii) to specify a term of five years from the Effective Date, with the possibility of renewal for successive additional five-year renewal terms (the current Delegation Agreements

only provide for a single five-year renewal term), and (iii) to update/revise cross-references to other sections of the revised pro forma Delegation Agreement. Establishing an (initial) term of five years from the proposed Effective Date of January 1, 2011 is consistent with the current Delegation Agreements which provided for a three-year initial term beginning in May 2007 with provision for a five-year renewal term. Prior to any renewal term, NERC must conduct an audit to ensure that the Regional Entity continues to meet all statutory and regulatory requirements necessary to maintain its eligibility for delegation.

Section 12(b) has been revised to provide that either Party may terminate the Delegation Agreement as of the end of a term by giving written notice at least one year prior to the end of the term. Section 12(b) has also been revised to state that if the Delegation Agreement is not renewed or becomes subject to termination, NERC and the Regional Entity shall work both to provide for a transition of Regional Entity's Delegated Authority to NERC or another entity and to provide for resolution of any wind-up costs associated with termination of the Delegation Agreement.

There are no revisions in §12(c) and (d) other than updating cross-references.

Section 13, Limitation of Liability. This section is identical to §12 of the current pro forma Delegation Agreement; no revisions have been made.

Section 14, No Third Party Beneficiaries. This section is identical to §13 of the current pro forma Delegation Agreement; only a typographical revision has been made.

Section 15, Confidentiality. This section is identical to §14 of the current pro forma Delegation Agreement; no revisions have been made.

Section 16, Amendment. This section is identical to §15 of the current pro forma Delegation Agreement; no revisions have been made.

Section 17, Amendments to the NERC Rules of Procedure. This section covers the same subject matter as §16 of the current pro forma Delegation Agreement; the only revisions that have been made are to update cross-references and to use defined terms.

Section 18, Dispute Resolution. This section covers the same subject matter as §17 of the current pro forma Delegation Agreement; however, in the revised pro forma Delegation Agreement, the Dispute Resolution procedure has been expanded to provide for a more detailed procedure with multiple steps. The expanded procedure includes: (i) a requirement for the Party invoking Dispute Resolution to do so by written notice to the other Party; (ii) a specified period (which may be extended by agreement) in which the Parties' designated representatives will negotiate to attempt to resolve the dispute; (iii) if the dispute is not resolved, escalation to the Parties' CEOs, who shall negotiate for a specified period (which may be extended by agreement) to attempt to resolve the dispute; and (iv) if the CEOs are unable to resolve the dispute, either Party may invoke any other available dispute resolution mechanism, including filing a complaint or petition with the Commission. The expanded Dispute Resolution process is more consistent with the type of process often found in commercial agreements.

Section 18(f) states that if the Parties are unable to resolve a dispute through negotiations, (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over judicial proceedings.

The introductory paragraph of §18 states that during Dispute Resolution, the Regional Entity shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under the Delegation Agreement. Finally, §18(g) provides that the Dispute Resolution process shall not apply to compliance enforcement actions against individual Registered Entities.

Section 19, Notice. This section is identical to §18 of the current pro forma Delegation Agreement, with the exception that the recipient of notices for NERC has been changed.

Section 20, Governing Law. This section is identical to §19 of the current pro forma Delegation Agreement; no revisions have been made.

Section 21, Headings. This section is identical to §20 of the current pro forma Delegation Agreement; no revisions have been made.

Section 22, Savings Clause. This section covers the same subject matter as §21 of the current pro forma Delegation Agreement. The only revisions from the current provision are for the use of defined terms, and to change the term “ensure reliability” to “maintain reliability.”

Section 23, Entire Agreement. This section is identical to §22 of the current pro forma Delegation Agreement; no revisions have been made.

Section 24, Execution of Counterparts. This section is identical to §23 of the current pro forma Delegation Agreement; no revisions have been made.

b. Exhibit A to Delegation Agreement

Exhibit A to the Delegation Agreements sets forth the Regional Entity’s geographic boundaries and any additions to or exclusions from the geographic or electrical boundaries within which the Regional Entity will carry out its delegated functions. The following instruction has been added to Exhibit A in the revised pro forma Delegation Agreement:

Any exclusions of geographic or electrical areas or of Registered Entities from the scope of the Registered Entity's Delegated Authority within the geographical or electrical boundaries shown on **Exhibit A**, and any additions of geographic or electrical areas or of Registered Entities located outside the boundaries shown on **Exhibit A** to the scope of the Regional Entity's Delegated Authority, shall be specifically stated or described in **Exhibit A**. (Emphasis in original.)

c. Exhibit B to Delegation Agreement

In the revised pro forma Delegation Agreement, there are no changes to the five criteria stated in the cover page to Exhibit B. Exhibit B to the individual Delegation Agreements includes each Regional Entity's current bylaws.

d. Exhibit C to Delegation Agreement

In the revised pro forma Delegation Agreement, there is only one change to the 34 Common Attributes of an acceptable Regional Entity Reliability Standards Development Procedure ("RSDP") which the Regional Entity's RSDP must meet. Specifically, in Common Attribute 34, the reference to "Violation Severity Levels" has been deleted. This is consistent with a recent change to the NERC RSDP, approved by the Commission, pursuant to which Violation Severity Levels and Violation Risk Factors for a Reliability Standard are no longer considered as a part of the standard and developed through the RSDP, but rather are considered compliance elements that are developed separately in conjunction with development of the standard and approved by the NERC Board.¹¹ Exhibit C to the individual Delegation Agreements includes each Regional Entity's current RSDP.

e. Exhibit D to the Delegation Agreement

Section 1.0 of Exhibit D has been revised to state that the Regional Entity will implement the NERC CMEP, Appendix 4C to the NERC ROP. All Regional Entities have agreed to

¹¹ This amendment to the NERC RSDP was approved by the Commission in a letter order issued February 5, 2010, in Docket No. 10-4-000.

implement the NERC CMEP.¹² Therefore, former §1.2 of Exhibit D, which provided for identification of any deviations between the Regional Entity's CMEP and the NERC uniform CMEP, has been deleted. However, revised §1.0 also specifies that for purposes of this commitment, the NERC CMEP does not include the NERC uniform Hearing Procedures. The Regional Entity's Hearing Procedures are addressed in §2.0, Regional Hearing of Compliance Matters. As in the current pro forma Delegation Agreement, §2.0 requires identification of the Regional Entity's hearing body and, if the hearing body is a compliance panel other than the Regional Entity Board, a description of how the members of the compliance panel are selected and the qualifications for selection to the compliance panel. Section 2.0 also specifies that the Regional Entity will conduct compliance hearings in accordance with Attachment 2, Hearing Procedures, to the NERC CMEP, subject to any deviations in the Regional Entity's hearing procedures that are listed in §2.0 or in a separate attachment.

Section 3.0 of Exhibit D in the revised pro forma Delegation Agreement has not been revised from the current pro forma Delegation Agreement. It requires the Regional Entity to identify any other decision-making bodies used within its compliance program, along with a description of the functions of that body, to the extent not described elsewhere, how the members of that body are selected, and the qualifications for selection.

f. Exhibit E to the Delegation Agreement

Exhibit E, Funding, has been considerably expanded in the revised pro forma Delegation Agreement, and some provisions have been moved to Exhibit E from the body of the Delegation Agreement.

¹² As noted above and described in §III.C.8 below, there is one deviation in the WECC CMEP from the uniform CMEP.

In Section 1, the list of Regional Entity activities funded through the ERO funding mechanism has been expanded. Event Analysis and Reliability Improvement has been listed as a separate statutory activity, and Situation Awareness and Infrastructure Security have been listed as two separate statutory activities rather than as a single activity. Reliability Readiness Evaluation and Improvement has been deleted from the list, as this program has been terminated. In addition, the references to the sections of the NERC ROP have been deleted as these were no longer considered useful for budgeting and funding purposes.

Section 2 contains detailed provisions concerning the development, submission, review and preparation of the Regional Entity's annual business plan and budget. Section 2(a) specifies that the Regional Entity's business plan and budget shall include supporting materials, including the proposed collection of all assessments, dues, fees, and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. The proposed business plan and budget and proposed assessment shall also provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies.

Section 3 addresses the allocation of the Regional Entity's costs, and specifies that the assessments to fund the Regional Entity's delegated functions and related activities shall be allocated among all load-serving entities ("LSE") on the basis of NEL, unless a different method of allocating and collecting assessments has been submitted to and approved by NERC and the Commission. The Regional Entity must submit to NERC a list of the LSEs or designees that shall be responsible for paying the Regional Entity's assessment, the LSEs' proportionate NEL, and other data and information needed to calculate the Regional Entity's assessments to LSEs and designees.

Section 4 addresses collection and funding. Section 4(a) (similar to §3 of Exhibit E to the current pro forma Delegation Agreement) contains alternative provisions applicable if (i) NERC bills and collects the assessments directly from the LSEs and designees, or (ii) the Regional Entity acts as billing and collection agent on behalf of NERC. The text applicable where the Regional Entity acts as the billing and collection agent retains provisions regarding the Regional Entity's role that the Commission has previously required.

Section 4(b) specifies that NERC will pursue any non-payments of assessment amounts, and that to the extent reasonably practicable, the Regional Entity will assist NERC in pursuing and collecting any non-payments. Section 4(b) further specifies that the Regional Entity is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts; rather, NERC retains sole responsibility for recovering non-payments or underpayments of assessment amounts. Additionally, NERC will add the amount of any non-payments by end-users or designees within the Regional Entity's region that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year, with the amount of such non-payments to be allocated to end-users within Regional Entity's region. This provision memorializes the procedures that NERC and the Regional Entities have heretofore followed to recover unpaid assessments.

Section 4(c) is comparable to §3(c) of the current pro forma Delegation Agreement, and specifies that NERC will pay the Regional Entity's approved assessment to fund the cost of the Regional Entity's delegated functions and related activities to the Regional Entity in four equal quarterly payments. The subsection has been revised to state that the payment dates will be January 15, April 15, July 15 and October 15 of the budget year.

Section 5, Application of Penalties, is comparable to §4 of Exhibit E to the current pro forma Delegation Agreement. The section has been revised to provide for the possibility of an alternative application of penalty monies collected from Registered Entities, if approved by the Commission.¹³

Section 6, Budget and Funding for Regional Entity's Non-Statutory Activities, is comparable to §5 of Exhibit E to the current pro forma Delegation Agreement, and requires the Regional Entity to list any non-statutory activities and to describe the methods and procedures it uses to keep statutory funding and expenditures separate from non-statutory funding and expenditures. This section has been revised (i) to require the Regional Entity to provide a description of how its general and administrative costs are allocated between statutory and non-statutory activities, and (ii) to specify that the Regional Entity's non-statutory costs (if any), which cannot be included in the calculation of its assessments, dues, fees and other charges for statutory activities, must include a reasonable allocation of its general and administrative costs.

Section 7 specifies that if, during the course of the fiscal year, the Regional Entity determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, the Regional Entity will submit a proposed amended or supplemental business plan and budget and request for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in the its approved business plan and budget for the year. The section provides for review and approval by NERC of the amended or supplemental budget and assessment, and submission to the Commission for approval. The current pro forma Delegation Agreement does not contain a provision requiring the Regional

¹³ A possible alternative application of penalty payments would be to spread application of a large penalty payment or payments received in a year over two or more years, thereby avoiding large year-to-year fluctuations in assessment levels.

Entity to submit an amended or supplemental budget and assessment request during the course of the year in the event of unexpected costs or funding shortfalls.

Section 8 provides that NERC will conduct reviews of the quarterly and annual financial statements submitted by the Regional Entity pursuant to §9(h)-(i) of the base agreement. NERC's review of the Regional Entity's financial records was covered in §8(j) of the current base pro forma Delegation Agreement, but this topic has been moved to Exhibit E of the revised pro forma Delegation Agreement.

C. Revised Delegation Agreements with Regional Entities

This §III.C describes the revised Delegation Agreements between NERC and the individual Regional Entities, focusing on those respects in which an individual Delegation Agreement differs from the revised pro forma Delegation Agreement. **Attachments 2A** through **9A** are clean versions of the proposed revised Delegation Agreements between NERC and each of the eight Regional Entities. **Attachments 2B** to **9B** are redlined versions of the proposed revised Delegation Agreements against the revised pro forma Delegation Agreement. As discussed below, many of the deviations reflect unique circumstances of the particular Regional Entity and have previously been approved by the Commission.

The discussion below does not identify all provisions in the individual Delegation Agreements that differ from the revised pro forma Delegation Agreement due to insertion of specific information for the Regional Entity (such as the description of the particular Regional Entity's geographic boundaries in Exhibit A, or the inclusion of specific information on the Regional Entity's RSDP in the Common Attributes in Exhibit C); or due to selection of text options in the pro forma Delegation Agreement to reflect the circumstances of the particular Regional Entity (such as where text applying only to a Regional Entity organized on an

Interconnection-wide basis is deleted from the Delegation Agreement between NERC and a Regional Entity that is not organized on an Interconnection-wide basis; or where the Delegation Agreement describes the Regional Entity’s governing body using the applicable descriptive option provided in the pro forma Delegation Agreement).

1. Florida Reliability Coordinating Council Delegation Agreement and Request for Approval of Amendments to FRCC Bylaws

a. Differences from Pro Forma Delegation Agreement

The following list identifies deviations or differences in the revised FRCC Delegation Agreement (**Attachment 2**) from the revised pro forma Delegation Agreement, and also identifies certain differences between the current and the revised FRCC Delegation Agreements due to reasons other than the changes in the pro forma template.

1. In the first sentence of §9(j) of the base agreement, text has been deleted as shown below:

Exhibit E to this Agreement sets for the mechanism through which FRCC shall offset penalty monies it receives (~~other than penalty monies received from an operational function or division or affiliated entity of FRCC~~) against its next year’s annual budget for carrying out functions under this Agreement, ~~and the mechanism by which FRCC shall transmit to NERC and penalty monies received from an operational function or division or affiliated entity of FRCC.~~

This text has been deleted because FRCC has entered into an agreement with SERC, which is pending before the Commission for approval, pursuant to which SERC will perform the Compliance Enforcement Authority (“CEA”) functions with respect to those registered functions for which the FRCC Member Services Division (“MSC”) is the Registered Entity in the FRCC region.¹⁴ That proposed agreement provides that penalties collected by SERC from the FRCC

¹⁴ *Petition of the North American Electric Reliability Corporation for Approval of Compliance Monitoring and Enforcement Agreements Between SERC Reliability Corporation and Florida Reliability Coordinating Council and Southwest Power Pool Regional Entity and Related*

MSC for violations of Reliability Standards applicable to the MSC's registered functions, shall be used to reduce the portion of the FRCC ERO assessment to be paid by LSEs and designees in the FRCC region for the subsequent fiscal year. The *SERC-FRCC-SPP CMEP Agreements Filing* also requests approval for the same amendment to §8(k) of the current FRCC Delegation Agreement as is proposed in §9(j) of the revised FRCC Delegation Agreement (which addresses the same subject matter as §8(k) of the current agreement). As explained in the *SERC-FRCC-SPP CMEP Agreements Filing*, NERC, FRCC and SERC believe it is appropriate for LSEs in the FRCC region to receive the benefit of any penalties paid by FRCC as a Registered Entity, through reduced assessments in a future year, due to the fact that the LSEs in the FRCC region will be paying, through the annual FRCC assessment, SERC's costs to perform the CEA functions with respect to FRCC's registered functions.¹⁵ The Commission should rule on the proposed deviation in §9(j) of the revised FRCC Delegation Agreement consistent with the determination it makes on this point in its order on the *SERC-FRCC-SPP CMEP Agreements Filing*.

2. The third paragraph of Exhibit A to the FRCC Delegation Agreement contains revisions to the description of the FRCC region from the description contained in the current FRCC Delegation Agreement. The revisions are shown below in legislative style.

The areas of Baker and Nassau counties that are not part of the FRCC Region are part of the SERC Region. These sections are part of the Okefenoke Rural Electric Membership Corporation (OREMC) that is headquartered in Nahunta, GA or facilities owned by Georgia Transmission Corporation (GTC) that is headquartered in Tucker Georgia. Roughly two thirds of OREMC load is in Georgia and one third is in Florida. The majority of the OREMC load in Florida is connected directly to the Southern Company Balancing Area in the

Amendments to Delegation Agreements, filed March 10, 2010 in Docket No. RR10-7-000 (“*SERC-FRCC-SPP CMEP Agreements Filing*”).

¹⁵ *SERC-FRCC-SPP CMEP Agreements Filing* at 13-14.

SERC Region. Part of OREMC load is connected to both the Southern Company Balancing Area and FPL Balancing Area by a Georgia Transmission Corporation 115kV transmission line and Macedonia Switching Station in Baker County. A small portion of the OREMC load, about five (5) MW to twenty five (25) MW, is supplied as a radial feed from FPL West Nassau Substation. Georgia Transmission Corporation OREMC has secured firm transportation service from JEA and/or FPL on the Florida / Southern Interface to supply this load. The OREMC schedules energy on an hourly basis to cover this load. SERC will be responsible for registration and compliance monitoring of the Georgia Transmission Corporation in Baker County, Florida and of OREMC.

The effect of these revisions is that SERC, rather than FRCC, will be responsible for acting as the CEA with respect to the electrical facilities of Georgia Transmission Corporation and OREMC, as described above, that are physically located within the geographic boundaries of the FRCC region.

3. Exhibit A to the revised FRCC Delegation Agreement also contains the following statement:

Within the FRCC Region, compliance monitoring and enforcement functions with respect to reliability functions for which FRCC is a registered entity are performed by SERC Reliability Corporation (SERC) pursuant to a contract between FRCC and SERC dated as of (date).

This provision refers to the SERC-FRCC CMEP Agreement and is one of the amendments to the current FRCC Delegation Agreement for which approval has been requested in the *SERC-FRCC-SPP CMEP Agreements Filing* in Docket No. RR10-7-000.

4. Section 2.0 of Exhibit D to the revised FRCC Delegation Agreement identifies “the FRCC Board Compliance Committee (BCC), a balanced compliance panel reporting directly to the FRCC’s Board of Directors,” as FRCC’s hearing body. Section 2.0 also describes the composition of the BCC, the FRCC Industry Sectors from which the BCC members are drawn, the procedures for selection to populate the BCC pool and to select the hearing body from the BCC pool for a particular hearing, and the quorum and voting requirements for the BCC.

These provisions are identical to those in §2.0 of Exhibit D to the current FRCC Delegation Agreement.

5. Section 3.0, Other Decision-Making Bodies, in the revised FRCC Delegation Agreement differs from the current FRCC Delegation Agreement as shown below:

The FRCC has engaged ~~NERC~~ the SERC Reliability Corporation (SERC) to oversee the compliance monitoring and enforcement responsibility as related to FRCC's compliance with Reliability Standards requirements that are applicable to the functions for which FRCC is a Registered Entity.

This change is due to the proposed SERC-FRCC CMEP Agreement, and has also been proposed for approval in the *SERC-FRCC-SPP CMEP Agreements Filing* in Docket No. RR10-7-000.

6. In Section 5, Application of Penalties, of Exhibit E to the revised FRCC Delegation Agreement, the following deletions have been made from the pro forma language:

~~Except as otherwise approved by the Commission, all penalty monies received by FRCC, other than penalty monies received from an operational function or division of affiliated entity of [Regional Entity], shall be applied as a general offset to FRCC's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of [Regional Entity] shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.~~

These deletions are proposed for the same reason as the proposed deviations in §9(j) of the base agreement described in point 1 above. These same deletions have been proposed to §4 of the current FRCC Delegation Agreement (which is comparable to §5 of the revised Delegation Agreement) in the *SERC-FRCC-SPP CMEP Agreements Filing*. As with the proposed text deletions to §9(j) of the base agreement described in point 1 above, the Commission should rule on the proposed deviation in §5 of Exhibit E to the revised FRCC Delegation Agreement

consistent with the determination it makes on this point in its order on the *SERC-FRCC-SPP CMEP Agreements Filing*.

7. In §6, Budget and Funding for FRCC’s Non-Statutory Activities, of Exhibit E, the revised FRCC Delegation Agreement includes a detailed description of FRCC’s non-statutory activities and of the methods and procedures used by FRCC to keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities and to record the costs it incurs in performance of non-statutory functions separately from the costs it incurs in performance of its statutory activities.

b. Proposed Amendments to §5.4 of the FRCC Bylaws

NERC and FRCC are requesting approval of amendments to §5.4 of the FRCC Bylaws which are included in Exhibit B to the revised FRCC Delegation Agreement. In the interests of efficiency and avoiding multiple filings of different versions of the same document for approval, NERC has included the proposed Bylaws amendments in this Petition and requests that the Commission review and approve the Bylaws amendments in its Order on the revised Delegation Agreements. Because FRCC’s Bylaws are a “Regional Entity Rule” as defined in 18 C.F.R. §39.10, approval of the Bylaws amendments is requested pursuant to §215(f) of the FPA and 18 C.F.R. §39.10. The proposed amendments to the FRCC Bylaws §5.4, which pertains to the FRCC Compliance Committee, are as follows:

Section 5.4 Compliance Committee. Each Voting Member may appoint one (1) representative, empowered to vote on behalf of the Voting Member, to serve on the Compliance Committee. A representative may, if unable to attend a meeting, designate, in writing, an alternate to act on behalf of the representative. Quorum and Voting Rights shall be as defined in Sections 5.7 and 5.8. The Compliance Committee shall report directly to the Board and is charged with the responsibility of promoting reliability of the bulk power system within the FRCC through compliance related activities ~~and is charged with responsibility for the development and implementation of programs to ensure compliance for both FRCC Regional Reliability Standard and NERC Reliability Standards.~~ The

Compliance Committee is ~~not to be confused with~~ separate and distinct from the Board Compliance Committee which is primarily a “hearing body” and has a different voting structure as outlined in Exhibit D of the Delegation Agreement between the North American Electric Reliability Corporation and FRCC. The Compliance Committee may establish subcommittees and task forces as deemed necessary by its membership.

The proposed amendments were approved by the FRCC Board on May 5, 2010, and by the NERC Board of Trustees on May 12, 2010.

The first amendment in §5.4 (adopting the revised text “is charged with the responsibility of promoting reliability of the bulk power system within the FRCC through compliance related activities”), eliminates the responsibility of the FRCC Compliance Committee for developing and implementing the compliance program, which is a staff function, and replaces this responsibility with a broader charge to focus on promoting the reliability of the bulk power system within FRCC. The second amendment in §5.4 simply states somewhat more artfully than the existing text that the FRCC Compliance Committee is separate and distinct from the FRCC Board Compliance Committee.¹⁶ The third amendment in §5.4 authorizes the Compliance Committee to establish subcommittees and task forces as deemed necessary. These amendments are straightforward and should be approved by the Commission.

2. Midwest Reliability Organization Delegation Agreement and Request for Approval of Amendments to MRO Bylaws

a. Differences from Pro Forma Delegation Agreement

The following list identifies deviations or differences in the revised MRO Delegation Agreement (**Attachment 3**) from the revised pro forma Delegation Agreement, and also

¹⁶ The FRCC Board Compliance Committee is the FRCC hearing body and is described in §2.0 of Exhibit D to the revised Delegation Agreement. See point 4 in §III.C.1.a above.

identifies certain differences between the current and the revised MRO Delegation Agreements due to reasons other than the changes in the pro forma template.¹⁷

1. In §4(a) of the base Delegation Agreement, the following phrase has been deleted:

provided, that [REGIONAL ENTITY] shall not monitor and enforce compliance with Reliability Standards for [REGIONAL ENTITY] or an affiliate with respect to reliability functions for which [REGIONAL ENTITY] or an affiliate is a Registered Entity

MRO is not a Registered Entity for any functions and does not have any affiliates that are Registered Entities; therefore, the deleted text is inapplicable to MRO.

2. Similarly, the text of §4(b) (quoted below) has been deleted from the MRO Delegation Agreement, and the subsection has been marked “intentionally left blank”:

In circumstances where [REGIONAL ENTITY] or an affiliated entity is a Registered Entity, [REGIONAL ENTITY] shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce [REGIONAL ENTITY]’s or affiliate’s compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

MRO is not a Registered Entity for any functions and does not have any affiliates that are Registered Entities; therefore, the deleted text is inapplicable to MRO.

3. Similarly, deletions have been made from the first sentence of §9(j):

Exhibit E to this Agreement sets for the mechanism through which Midwest Reliability Organization shall offset penalty monies it receives (~~other than penalty monies received from an operational function or division or affiliated entity of [REGIONAL ENTITY]~~) against its next year’s annual budget for carrying out functions under this Agreement, ~~and the mechanism by which [REGIONAL ENTITY] shall transmit to NERC and penalty monies received from an operational function or division or affiliated entity of [REGIONAL ENTITY].~~

¹⁷ Although the MRO Bylaws included in Exhibit B to the revised MRO Delegation Agreement have been amended, only a clean version of the amended MRO Bylaws is included in **Attachments 3A** and **3B**. **Attachment 10** includes a redlined version of the amended MRO Bylaws, showing the amendments in legislative style. See §III.C.2.b below.

MRO is not a Registered Entity for any functions and does not have any affiliates that are Registered Entities; therefore, the deleted text is inapplicable to MRO.

4. Section 2.0 of Exhibit D to the revised MRO Delegation Agreement identifies its hearing body as “a balanced subset of its board that is appointed by the board with no more than one member from each sector.” This is a revision from §2.0 of Exhibit D of the current MRO Delegation Agreement, which specifies that MRO’s Hearing Body is its Board.

5. Section 3.0, Other Decision-Making Bodies, of Exhibit D to the revised MRO Delegation Agreement contains the following provision:

A presiding officer who presides over the reception of evidence may prepare recommendations to be used by the board of directors in preparing its decision in a compliance hearing. In addition to compliance hearings, Midwest Reliability Organization’s Hearing Body also reviews and approves settlements in a yes or no fashion, but it is not permitted to make modifications to negotiated settlements/agreements.

The first sentence appears in §3.0 to Exhibit D to the current MRO Delegation Agreement, however, the second sentence represents a change from the current MRO Delegation Agreement. In the current MRO Delegation Agreement, the second sentence reads: “Also, as described in other areas of the Agreement and in the business plan, the MRO Compliance Committee may provide technical review of alleged violations in support of staff as needed.” This sentence is being deleted because the charter of the MRO Compliance Committee has been revised to eliminate the responsibility to provide technical reviews of alleged violations. The new second sentence has been added because the MRO Board has delegated to the MRO Hearing Body the responsibility to review and approve settlement agreements with Registered Entities negotiated by MRO staff.

6. In Section 5, Application of Penalties, of Exhibit E to the revised MRO Delegation Agreement, the following deletions have been made from the pro forma language:

~~Except as otherwise approved by the Commission, all penalty monies received by Midwest Reliability Organization, other than penalty monies received from an operational function or division of affiliated entity of [Regional Entity], shall be applied as a general offset to Midwest Reliability Organization's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of [Regional Entity] shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.~~

These deletions are proposed for the same reason as the proposed deviations in §9(j) of the base agreement described in point 1 above, namely, that MRO is not a Registered Entity for any functions and does not have any affiliates that are Registered Entities; therefore, the deleted text is inapplicable to MRO.

b. Proposed Amendments to the MRO Bylaws

NERC and MRO are requesting approval of amendments to the MRO Bylaws. The amended MRO Bylaws are included in Exhibit B to the revised MRO Delegation Agreement. In accordance with the procedure for amendments set forth in the MRO Bylaws, these amendments were approved by the MRO membership on January 29, 2010. The amendments were then approved by the NERC Board of Trustees on May 12, 2010. In the interests of efficiency and avoiding multiple filings of different versions of the same document for approval, NERC has included the proposed Bylaws amendments in this Petition and requests that the Commission review and approve the Bylaws amendments in its Order on the revised Delegation Agreements. Because MRO's Bylaws are a "Regional Entity Rule" as defined in 18 C.F.R. §39.10, approval of the Bylaws amendments is requested pursuant to §215(f) of the FPA and 18 C.F.R. §39.10.

Attachment 10 contains a redlined version of the amended MRO Bylaws showing the amendments in legislative style. **Attachment 10** also includes MRO's letter to NERC requesting

approval by the NERC Board of the Bylaws amendments; this letter provides an explanation of the requirements and procedures followed by MRO for membership approval of the amendments. In addition, **Attachment 10** includes a section-by-section explanation of the basis for each amendment.¹⁸ Following is a list and brief explanation of the more significant amendments to the MRO Bylaws, listed in section order:

- In §1.14, the reference to the Mid-Continent Area Power Pool (“MAPP”) Reliability Council has been deleted because it is no longer necessary due to the formal separation between MRO and MAPP.
- In §1.18, the definition of “Organizational Standards” has been deleted, and all references to this term are deleted throughout the Bylaws. There has been no need identified for such standards.
- In §1.23 (formerly §1.25), text was removed requiring Transmission System Operators to be certified by the Commission.
- In new §1.24, a definition of “Regional Planning Entities” was added so that these entities can be specifically included in MRO membership.
- In §2.2, the term “regional differences” has been deleted because the term is not recognized by the NERC ROP, the Delegation Agreements, or by any rules and regulations of the Commission or other ERO Governmental Authorities.
- In §5.8, clarifying language has been added providing that all dues, fees and assessments of MRO will be consistent with the “regulations of applicable government authorities.”
- In §6.1, the requirement that the MRO members review the MRO budget for the ensuing year was eliminated, due to the fact that the budget is subject to review and comments before the MRO Board approves it. Given the other procedures for review and comment on a proposed budget or budget modification, and the statutory nature of the budget, this provision and the provision being eliminated from §6.5.1 (see immediately below) are unnecessary.

¹⁸ The section-by-section explanation does not include amendments that were purely typographical corrections (*see, e.g.*, the redlined amendments to §§1.2, 1.5 and 1.13 of the MRO Bylaws included in **Attachment 10**), or renumbering of sections due to deletion of existing sections or addition of new sections to the Bylaws.

- In §6.5.1, the requirement for a membership vote and approval by two-thirds of the Sector votes to approve a proposed modification to the MRO budget that has been approved by the MRO Board, has been deleted.
- §7.3 has been amended to specify that MRO directors should be individuals holding senior management or officer positions in MRO Member organizations. Some companies define “senior management” as a subset of the officer positions, which has the effect of unduly limiting the pool of candidates available to serve as MRO directors. The amendment allows either “senior management” or “officers” in Member organizations to serve as MRO directors.
- In §7.8, the quorum requirement for the MRO Board has been changed from two-thirds of the Directors to a majority of the Directors. This amendment will facilitate more timely and efficient actions by the Board.
- §8.1 has been amended to require that reviews of the efficiency and effectiveness of MRO organization groups be conducted periodically rather than annually. Annual efficiency and effectiveness reviews are not always needed, and the greater flexibility provided by the amended provision will allow for review of these groups whenever necessary.
- §18.1 and §18.2 (formerly §19.1 and §19.2) have been amended to make it clear that the hearing process, as set forth in the NERC ROP including the CMEP, will be used for disputes relating to violations of Reliability Standards; while the MRO dispute resolution process will be used for disputes between and among MRO members, or between a MRO member(s) and the MRO, relating to issues associated with business matters or interpretations of the MRO Bylaws.
- §19.1 (formerly §20.1) has been amended to provide that the MRO Board, by two-thirds vote, may amend the Bylaws as necessary and appropriate to comply with requirements of federal reliability legislation; Bylaws amendments for this purpose do not require approval by the MRO membership.

3. Northeast Power Coordinating Council Delegation Agreement

The following list identifies deviations or differences in the revised NPCC Delegation Agreement (**Attachment 4**) from the revised pro forma Delegation Agreement, and also identifies certain differences between the current and the revised NPCC Delegation Agreements due to reasons other than the changes in the pro forma template.

1. Section 1.0 of Exhibit D to the revised NPCC Delegation Agreement contains several provisions that reflect the cross-border scope of NPCC’s activities. Section 1.1 states

that NPCC will implement the NERC CMEP, Appendix 4 to the NERC ROP, within “the U.S. portion of” NPCC’s boundaries. Section 1.2 states:

Compliance monitoring and enforcement programs will be implemented within the Canadian portion of NPCC’s geographic area, consistent with individual Canadian Provincial Memoranda of Understanding (MOU) or Agreements and Canadian laws. All executed MOU’s and Agreements will be provided to NERC as allowable under Canadian law.

2. Section 2.0 of Exhibit D provides that the NPCC Compliance Committee, which reports to the NPCC Board, will be responsible for impaneling a Hearing Body when required. Section 2.0 further describes the composition and voting procedures of the NPCC Hearing Body as follows:

The Hearing Body will consist of five voting members of the NPCC Compliance Committee plus two alternates and business will always be conducted by five voting members as described in the *NPCC Hearing Procedure* (each member of the Hearing Body will be from a different voting sector). An independent Hearing Officer, who is not a member of the Compliance Committee, the NPCC Board, or NPCC Staff, will conduct the hearing. Committee members who represent the Registered Entity involved in the Hearing cannot participate on the Hearing Body. The Hearing Body will utilize a simple majority vote to resolve issues. This voting rule, along with the structure of the Hearing Body, fully supports the requirement that no two stakeholder sectors may control, and no single stakeholder sector may veto, a matter before the Hearing Body.

The above-described provisions of §2.0 of Exhibit D to the revised NPCC Delegation Agreement are essentially the same as the provisions in §2.0 of Exhibit D to the current NPCC Delegation Agreement.

3. Section 3.0, Other Decision-Making Bodies, of Exhibit D to the revised NPCC Delegation Agreement contains the following text:

NPCC Compliance Staff will be the sole decision making body to review and make final determinations on compliance submittals from Registered Entities related to Self-Certification; Self-Reporting; Exception Reporting; and Periodic Data Submittals. NPCC Compliance Staff will initially review all submittals received to assure that the information forwarded is accurate and complete. This process will be conducted by the staff members and may require contact via e-

mail or phone to confirm information. If after, initially receiving a compliance submittal, the Compliance Staff identifies an instance of non-compliance, a Notice of Possible Violation (NOPV), without penalty, is issued to the registered entity and NERC while the Compliance Staff continues its more detailed and comprehensive review of the submittal. It is during this review that the Compliance Staff confirms the violation, calculates an appropriate penalty or sanction and issues a Notice of Confirmed Violation (NOCV)

The reference to use of the Notice of Possible Violation by NPCC Compliance Staff is consistent with the adoption of this notice, at this stage of the compliance enforcement process, in the revised NERC uniform CMEP. Other, more extensive discussion of NPCC's CMEP processes that is contained in §3.0 of Exhibit D to the current NPCC Delegation Agreement has been deleted in deference to the use of the NERC uniform CMEP.

Among other things, the following provision in §3.0 of Exhibit D to the current NPCC Delegation Agreement, providing for the use of technical committees in the compliance enforcement process, has been deleted:

The Compliance Staff may consult with technical committees on a non-decisional basis for advice regarding a complex technical matter only, not a matter of compliance/non-compliance determinations, before the Compliance Staff renders its final decision and issues a Notice of Alleged Violation with Penalty or Sanction (NOAV) to the Registered Entity and NERC. This consultation process may only be initiated by the NPCC Compliance Staff and is not used in anyway to determine appropriate proposals for penalties or sanctions for violations. The use of technical committees on a non-decisional basis is not an inherent part of the review process, but instead is used on an ad hoc basis to provide technical expertise when the NPCC Compliance Staff determined it is necessary. The past experience of using these technical committees to address and resolve complex technical matters has always proven to be invaluable to NPCC. Any information furnished to a non-decisional technical committee will not include the identity of the specific Registered Entity but will include generic facts needed to resolve or clarify a particular technical matter. The NPCC independent Compliance Staff as well as the aforementioned technical committees will be bound by the antitrust guidelines, code of conduct, conflict of interest, confidentiality and any other applicable polices as referenced in the NERC Compliance Monitoring and Enforcement Program.

The deletion of this provision addresses concerns over references in Exhibit D to consultations by NPCC compliance staff with NPCC technical committees in the compliance enforcement

process, that have previously been raised by the Commission.¹⁹ The Commission previously directed NERC and NPCC to submit a filing on or before June 30, 2010, proposing a schedule for the termination of the technical committee consultations or a detailed justification for their continuation.²⁰ The deletion of the text quoted above from Exhibit D to the revised NPCC Delegation Agreement satisfies this directive by eliminating the technical committee consultations with NPCC compliance staff.

4. Section 6, Budget and Funding for NPCC's Non-Statutory Activities, of Exhibit E to the revised NPCC Delegation Agreement, contains a listing of NPCC's non-statutory activities (*i.e.*, the functions of NPCC's Criteria Services Division), and an extensive description of the methods and procedures used by NPCC to keep its funding mechanisms for its Regional Entity division separate from its funding mechanisms for its Criteria Services Division and to record the costs it incurs in performance of its non-statutory functions separately from the costs it incurs in performance of its statutory functions. This text is the same as the text on these topics in §5 of Exhibit E to the current NPCC Delegation Agreement.

4. ReliabilityFirst Delegation Agreement

The following list identifies deviations or differences in the revised ReliabilityFirst Delegation Agreement (**Attachment 5**) from the revised pro forma Delegation Agreement, and also identifies certain differences between the current and the revised ReliabilityFirst Delegation Agreements due to reasons other than the changes in the pro forma template.

¹⁹ See April 19, 2007 Order at P 312; Order Addressing Revised Delegation Agreements, 122 FERC ¶ 61,245 (2008), at P 174; Order Accepting Compliance Filings, Subject to Conditions, 125 FERC ¶ 61,330 (2008), at PP 92-94.

²⁰ Order Accepting Compliance Filings, Subject to Conditions, 125 FERC ¶ 61,330 (2008), at P 94.

1. The first sentence in the Exhibit B cover page is modified to include a reference to ReliabilityFirst's Standards Development Process as well as its Bylaws: "Exhibit B shall set forth the Regional Entity's bylaws, which, along with portions of the Standards Development Process as set out in Exhibit C, NERC agrees demonstrates that the Regional Entity meets the following criteria:" The reference to the ReliabilityFirst Standards Development Process is necessary because the ReliabilityFirst Bylaws do not address the provision of Criterion 3, "that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards;" however, the criterion is addressed in the Standards Development Process.²¹ A similar reference is found in Exhibit B to the current ReliabilityFirst Delegation Agreement.

2. Section 2.0 of Exhibit D to the revised ReliabilityFirst Delegation Agreement identifies the ReliabilityFirst hearing body as "a composition of members of the ReliabilityFirst Compliance Committee as established by the Board of Directors of ReliabilityFirst as set out in the ReliabilityFirst Compliance Committee Charter." Further, §2.0 specifies that the hearing body is subject to the requirement that "No two industry sectors may control any decision and no single segment may veto any matter brought before the Hearing Body either before or after any recusals or disqualifications." This provision is a revision from §2.0 of Exhibit D to the current ReliabilityFirst Delegation Agreement, which states:

ReliabilityFirst shall establish a hearing body with authority to conduct and render decisions in a formal compliance hearing of a Registered Entity who is the subject of a notice of alleged violation, proposed penalty or sanction, contested mitigation plan or contested remedial action directive. ReliabilityFirst's hearing body generally will be the Board Compliance Committee (CC), which is a portion of the full Board of Directors. The CC is comprised of five (5) Directors, three (3) of which are independent Board of Director members, and two (2) that are

²¹ See "Openness" on page 9 of the ReliabilityFirst Standards Development Process included in Exhibit C to the revised ReliabilityFirst Delegation Agreement (**Attachment 5**).

stakeholder Board of Director members. For the Hearing Body to take action at a hearing, a quorum must be present. A quorum is a majority of the members of the Hearing Body, provided that at least two independent directors are present. If a quorum of the Hearing Body does not remain after any recusals and rulings on motions for disqualification, the compliance committee shall appoint a new member to the Hearing Body from among other directors to create a quorum. Each Hearing Body member shall have one vote with respect to matters presented at a hearing. Action may be taken at a hearing at which a quorum is present upon the vote of the majority of members present.

Section 2.0 has been revised to refer to the Reliability*First* Compliance Committee Charter because the Compliance Committee Charter contains the provisions governing the composition and the attendance, quorum and voting requirements for the Compliance Committee.²² Specifically, the Compliance Committee Charter provides:

COMPOSITION

The Committee shall be comprised of five (5) directors, three (3) of whom shall be independent directors according to independence standards established under the governance guidelines adopted by the Board. Committee members shall be elected by the Board at its annual meeting and shall serve until their successors are duly elected and qualified. The Committee shall have a chair and a vice chair. The vice chair shall assume the duties of the chair in the absence of the chair at any meeting. The Committee's chair and vice chair shall both be independent directors designated by the full Board upon the recommendation of the Nominating and Governance Committee.

* * * * *

ATTENDANCE AND VOTING

Members of the Committee should endeavor to be present, in person or by telephone, at all meetings; however, three (3) Committee members shall constitute a quorum, provided the majority of the members at a meeting are independent directors. Each member of the Committee, including the chair, shall be entitled to one vote on each matter presented before the Committee. Action by the Committee may be taken at any duly called meeting at which a quorum is present upon the vote of a majority of the members present.

²² For information, a copy of the Reliability*First* Compliance Committee Charter is provided in **Attachment 5C**.

ReliabilityFirst's Bylaws allow ReliabilityFirst to add another independent director to its Board by resolution of the Board.²³ If another independent director is added, ReliabilityFirst can make corresponding revisions to the Compliance Committee Charter without having to amend the Delegation Agreement.

5. SERC Reliability Corporation Delegation Agreement

The following list identifies deviations or differences in the revised SERC Delegation Agreement (**Attachment 6**) from the revised pro forma Delegation Agreement, and also identifies certain differences between the current and revised SERC Delegation Agreements due to reasons other than the changes in the pro forma template.

1. Section 6 of the revised base SERC Delegation Agreement contains an additional subsection 6(j) that is not included in the revised pro forma Delegation Agreement:

(j) SERC may also perform compliance monitoring and enforcement activities outside of the Region shown on **Exhibit A**, on behalf of NERC and/or other Regional Entities, such activities to be undertaken pursuant to a contract between SERC and each such other Regional Entity that is approved by NERC and by the Commission.

This provision authorizes SERC to engage in cross-regional compliance monitoring activities such as the SERC-FRCC and SERC-SPP RE CMEP Agreements that are pending approval by the Commission in Docket No. RR10-7-000. The above text has also been proposed as an amendment to the current SERC Delegation Agreement (as §6(k)) in the *SERC-FRCC-SPP CMEP Agreements Filing* and is also pending approval by the Commission in Docket No. RR10-7-000. The Commission should take action on this provision in the revised SERC Delegation Agreement consistent with the determination it makes on this provision in Docket No. RR10-7-000.

²³ See §7.4(a) and (d) to the ReliabilityFirst Bylaws, which are included in **Attachment 5A**.

2. In Exhibit A to the revised SERC Delegation Agreement, a revision has been made to a portion of the description of the SERC Regional Boundaries, from the description found in Exhibit A to the current SERC Delegation Agreement:

The area in N.E. Florida (part of Baker and Nassau counties) ~~is~~ served by Okefenoke Rural Electric Membership Corporation (OREMC), a member of Georgia Systems Operations Corporation, and facilities physically located in Baker County, Florida owned by Georgia Transmission Corporation are ~~and is therefore~~ part of the SERC Region and not the FRCC Region.

This revision reflects that SERC will serve as the CEA for certain facilities located in Florida within the geographic boundaries of FRCC. This revision corresponds to the revision to Exhibit A to the FRCC Delegation Agreement described in point 2 in §III.C.1.a above.

3. Also in Exhibit A to the revised SERC Delegation Agreement, the following provision is added:

SERC may also perform compliance and enforcement activities outside of the Region, on behalf of NERC and/or other Regional Entities, such activities to be undertaken pursuant to a contract between the Regional Entities that is approved by the Board Executive Committee, NERC and the Federal Energy Regulatory Commission.

This provision has been added in light of the agreements between SERC and FRCC and SERC and SPP RE for SERC to perform the CEA functions in the FRCC and SPP RE regions with respect to the Registered Entity functions performed by FRCC and by Southwest Power Pool, respectively. As described in points 1, 3, 5 and 6 in §III.C.1.a above with respect to FRCC, the SERC-FRCC and SERC-SPP RE CMEP agreements, as well as this proposed amendment to Exhibit A to the SERC Delegation Agreement, are currently pending before the Commission for approval in Docket No. RR10-7-000. The Commission should take action on this provision in Exhibit A to the revised SERC Delegation Agreement consistent with the determination it makes

on this point in its order in Docket No. RR10-7-000 on the *SERC-FRCC-SPP CMEP Agreements Filing*.

4. The SERC Bylaws included in Exhibit B to the revised SERC Delegation Agreement include the following new Section 4.3:

4.3 Other Statutory Activities. The Corporation may also perform statutory functions outside of the Region, on behalf of NERC or other Regional Entities, such activities to be undertaken pursuant to a contract that is approved by the Board Executive Committee.

The purpose of this new section is to provide the internal corporate authority for SERC to engage in CMEP functions outside the SERC region. This proposed amendment to the SERC Bylaws has been submitted for Commission approval in the *SERC-FRCC-SPP RE CMEP Agreements Filing* and is pending approval in Docket No. RR10-7-000. The Commission should rule on this provision in Exhibit A to the revised SERC Delegation Agreement consistent with the determination it makes on this point in its order in Docket No. RR10-7-000 on the *SERC-FRCC-SPP CMEP Agreements Filing*.

5. Section 2.0 of Exhibit D to the revised SERC Delegation Agreement identifies SERC's Hearing Body as a balanced compliance panel reporting directly to the SERC Board, specifically, as the Board Compliance Committee or a subset of the Board Compliance Committee. Section 2.0 then provides a detailed description of the composition, quorum and voting requirements for the Hearing Body. This text is identical to the text appearing in §2.0 of Exhibit D to the current SERC Delegation Agreement.

6. Section 6 of Exhibit E to the revised SERC Delegation Agreement contains the following paragraph:

Costs associated with Cross-Regional Compliance Monitoring. The costs associated with any Cross-Regional Compliance Monitoring performed by SERC pursuant to section 6(j) of this Agreement with respect to registered functions of

another Regional Entity are to be funded by payments from the NERC or the Regional Entity contracting with SERC for such services, in accordance with the contract between SERC and NERC or the other Regional Entity. Where such a contract has been entered into SERC will include a description of the resources it has budgeted to perform such services, and its estimated costs (including an appropriate allocation of SERC's General and Administrative costs) to perform such services, in each budget year, in SERC's annual business plan and budget that is submitted to NERC and to the Commission for approval.

This provision addresses the funding for SERC's costs in performing the CEA functions for the FRCC and Southwest Power Pool Registered Entity function pursuant to the SERC-FRCC and SERC-SPP RE CMEP Agreements. Approval for this provision was requested in the *SERC-FRCC-SPP CMEP Agreements Filing* and is pending before the Commission in Docket No. RR10-7-000. The Commission should take action on this provision in Exhibit E to the revised SERC Delegation Agreement consistent with the determination it makes on this point in its order in Docket No. RR10-7-000 on the *SERC-FRCC-SPP CMEP Agreements Filing*.

6. Southwest Power Pool Regional Entity Delegation Agreement

The following list identifies deviations or differences in the revised SPP RE Delegation Agreement (**Attachment 7**) from the revised pro forma Delegation Agreement, and also identifies certain differences between the current and revised SPP RE Delegation Agreements due to reasons other than the changes in the pro forma template.

1. In the first sentence of §9(j) of the base agreement, text has been deleted as shown below:

Exhibit E to this Agreement sets for the mechanism through which SPP shall offset penalty monies it receives (~~other than penalty monies received from an operational function or division or affiliated entity of [REGIONAL ENTITY]~~) against its next year's annual budget for carrying out functions under this Agreement, ~~and the mechanism by which [REGIONAL ENTITY] shall transmit to NERC and penalty monies received from an operational function or division or affiliated entity of [REGIONAL ENTITY].~~

This text has been deleted because SPP RE has entered into an agreement with SERC, which is pending before the Commission in Docket No. RR10-7-000, pursuant to which SERC will perform the CEA functions with respect to those registered functions for which Southwest Power Pool, Inc., is the Registered Entity in the SPP RE region. That proposed agreement, like the SERC-FRCC CMEP Agreement discussed in point 1 in §III.C.1.a above, provides that penalties collected by SERC from Southwest Power Pool for violations of Reliability Standards applicable to Southwest Power Pool's registered functions, shall be used to reduce the portion of the SPP RE ERO assessment to be paid by LSEs and designees in the SPP RE region for the subsequent fiscal year. The *SERC-FRCC-SPP CMEP Agreements Filing* also requests approval for the same amendment to §8(k) of the current SPP RE Delegation Agreement as is proposed in §9(j) of the revised SPP RE Delegation Agreement (which addresses the same subject matter as §8(k) of the current agreement). As explained in the *SERC-FRCC-SPP CMEP Agreements Filing*, NERC, FRCC and SPP RE believe it is appropriate for LSEs in the SPP RE region to receive the benefit of any penalties paid by Southwest Power Pool as a Registered Entity, through reduced assessments in a future year, due to the fact that the LSEs in the SPP RE region will be paying, through the annual SPP RE assessment, SERC's costs to perform the CEA functions with respect to Southwest Power Pool's registered functions.²⁴ The Commission should rule on the proposed deviation in §9(j) of the revised SPP RE Delegation Agreement consistent with the determination it makes on this point in its order on the *SERC-FRCC-SPP CMEP Agreements Filing*.

2. Exhibit A to the revised SPP RE Delegation Agreement also contains the following statement:

²⁴ *SERC-FRCC-SPP CMEP Agreements Filing* at 20.

Within the SPP Region, compliance monitoring and enforcement functions with respect to reliability functions for which SPP is the registered entity are performed by SERC Reliability Corporation (SERC) pursuant to a contract between SPP and SERC dated as of (DATE).

This provision refers to the SERC-SPP RE CMEP Agreement and is one of the amendments to the current SPP RE Delegation Agreement for which approval has been requested in the *SERC-FRCC-SPP CMEP Agreements Filing* and is pending in Docket No. RR10-7-000.

3. Section 2.0 of Exhibit D to the revised SPP RE Delegation Agreement identifies the SPP RE hearing body as the SPP Regional Entity Trustees. This is the same hearing body identified in §2.0 of Exhibit D to the current SPP RE Delegation Agreement.

4. Section 3.0, Other Decision-Making Bodies, of Exhibit D to the revised SPP RE Delegation Agreement contains the following statement:

SPP has engaged the SERC Reliability Corporation (SERC) to oversee the compliance monitoring and enforcement responsibility within the SPP Region as related to SPP's compliance with Reliability Standards requirements that are applicable to the functions for which SPP is a Registered Entity.

This change is due to the proposed SERC-SPP RE CMEP Agreement, and has also been proposed in the *SERC-FRCC-SPP CMEP Agreements Filing* and is pending approval in Docket No. RR10-7-000. The Commission should rule on this provision in Exhibit D to the revised SPP RE Delegation Agreement consistent with the determination it makes on this point in its order in Docket No. RR10-7-000 on the *SERC-FRCC-SPP CMEP Agreements Filing*.

5. In Section 5, Application of Penalties, of Exhibit E to the revised SPP RE Delegation Agreement, the following deletions have been made from the pro forma language:

Except as otherwise approved by the Commission, all penalty monies received by SPP, ~~other than penalty monies received from an operational function or division of affiliated entity of [Regional Entity],~~ shall be applied as a general offset to SPP's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. ~~Except as~~

~~otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of [Regional Entity] shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.~~

These deletions are proposed for the same reason as the proposed deviations in §9(j) of the base agreement described in point 1 above. These same deletions have been proposed to §4 of the current SPP RE Delegation Agreement (which is comparable to §5 of the revised Delegation Agreement) in the *SERC-FRCC-SPP CMEP Agreements Filing*. As with the proposed text deletions to §9(j) of the base agreement described in point 1 above, the Commission should rule on the proposed deviation in §5 of Exhibit E to the revised SPP RE Delegation Agreement consistent with the determination it makes on this point in its order on the *SERC-FRCC-SPP CMEP Agreements Filing* in Docket No. RR10-7-000.

6. In §6, Budget and Funding for SPP's Non-Statutory Activities, of Exhibit E, the revised SPP RE Delegation Agreement includes detailed descriptions of Southwest Power Pool's non-statutory activities and of the methods and procedures used by SPP RE and Southwest Power Pool to keep funding mechanisms for SPP RE's statutory activities separate from funding mechanisms for Southwest Power Pool's non-statutory activities and to record the costs Southwest Power Pool incurs in performance of non-statutory functions separately from the costs SPP RE incurs in performance of statutory activities. These descriptions are essentially the same as the text on these topics in §5 of Exhibit E to the current SPP RE Delegation Agreement. Two notable revisions are the following:

- In the current SPP RE Delegation Agreement, the first sentence of the fourth paragraph of the text describing how SPP RE keeps its funding sources for statutory and non-statutory activities separate reads as follows: "As provided in section 3(b) of this Exhibit E, on a quarterly basis, **SPP will invoice NERC**, an amount equal to one-fourth of the current year approved annual funding amount for SPP's statutory activities." (Emphasis added.) In the

revised Delegation Agreement, this sentence has been revised to read: “As provided in section 4(c) of this Exhibit E, on a quarterly basis, **NERC will pay SPP** an amount equal to one-fourth of the current year approved annual funding amount for SPP’s statutory activities.” This revision is consistent with §4(c) of Exhibit E to the revised pro forma Delegation Agreement.

- The following sentence has been added to the end of the fourth paragraph of the description of the methods and procedures used to keep statutory and non-statutory funding separate: “The RE General Manager shall have sole authority to approve all withdrawal of funds from the SPP Regional Entity bank account.”

7. Texas Reliability Entity Delegation Agreement

The following list identifies deviations or differences in the revised Texas RE Delegation Agreement (**Attachment 8**) from the revised pro forma Delegation Agreement, and also identifies certain differences, due to reasons other than the changes in the pro forma template, between the revised Texas RE Delegation Agreement and the Texas RE Delegation Agreement that was approved by the Commission on May 6, 2010, in Docket No. RR10-6-000.²⁵

1. Section 2.0 of Exhibit D to the revised Texas RE Delegation Agreement identifies the Texas RE Hearing Body as the Public Utility Commission of Texas (“PUCT”). However, although the PUCT is the Hearing Body for Texas RE, and conducts any compliance-related hearings, the PUCT only issues a recommendation to the Texas RE Board, which makes the final determination, as stated in the following two excerpt from §2.0:

Texas RE will use the PUCT as its Hearing Body, and the PUCT (as Hearing Body) will issue recommendations to the Texas RE Board of Directors (“Board”) which will make final decisions following regional hearing of compliance matters.

²⁵ In a letter Order issued May 6, 2010, in Docket RR10-6-000, the Commission approved the proposed Delegation Agreement between NERC and Texas RE, as the successor to Old Texas RE as the Regional Entity for the ERCOT region. NERC and Texas RE anticipate that Texas RE will assume its responsibilities as the Regional Entity, and the Delegation Agreement approved by the Commission in Docket No. RR10-6-000 will go into effect, on July 1, 2010. The Texas RE Delegation Agreement in **Attachment 8** includes the approved Bylaws (in Exhibit B) and the approved Standards Development Process (in Exhibit C) of Texas RE.

* * * * *

Texas RE shall establish the PUCT as the hearing body, with authority to conduct compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan. The PUCT will issue a final recommendation to the Board rather than a final order.

Section 2.0 contains extensive discussion of the PUCT's hearing procedures and its policies and requirements concerning holding hearings in public and treatment of confidential information. Section 2.0 refers to Attachment 1 – Texas RE Regional Hearing Process, and Attachment 2 – Texas RE Rules of Procedure, both of which are included as attachments to Exhibit D. The text in §2.0 and in Attachments 1 and 2 is the same as in §1.2 and Attachments 1 and 2 to Exhibit D to the Texas RE Delegation Agreement approved in Docket RR10-6-000, although the organization of some of the text in §2.0 has been changed to conform to the organization of §2.0 of Exhibit D to the revised pro forma Delegation Agreement.

2. In Exhibit E to the revised Texas RE Delegation Agreement, the following sentence has been added to §3, Allocation of Costs:

NERC and Texas RE agree that for purposes of Section 3 and 4 of this Exhibit E, Electric Reliability Council of Texas (ERCOT ISO), as the sole independent system operator and Balancing Authority, is the only load-serving entity or designee in Texas RE's region and shall be invoiced for the entire NERC and Texas RE assessments approved for collection.

As the designated sole LSE in the region, ERCOT ISO will be billed by NERC for the entire NERC and Texas RE assessment amounts, and then will bill and collect the assessments from the LSEs and "Qualified Scheduling Entities" that are participants in the ERCOT market.

3. Section 6, Budget and Funding for Texas RE's Non-Statutory Activities, of Exhibit E contains the following paragraph:

Texas RE does not anticipate auditing or investigating market participants' compliance with ERCOT Protocols and Operating Guides in 2011. Texas RE will, however, need to respond to subpoenas and provide testimony and support to

the Public Utility Commission of Texas (PUCT) regarding Texas RE's ERCOT Protocol and Operating Guide compliance and enforcement audits, investigations, and reports from the period in which Texas RE conducted the compliance investigations.

This paragraph replaces text in Exhibit E to the Texas RE Delegation Agreement approved in Docket RR10-6-000, stating that Texas RE's non-statutory activities, at least through December 31, 2010, would include investigation of market participants' compliance with the ERCOT Protocols and Operating Guides which contain the Regional criteria for planning and operating reliable interconnected bulk electrical systems in the ERCOT region, assistance or cooperation in enforcement of violations, and development of policies, processes, standards, and procedures to implement these ERCOT compliance activities. Texas RE no longer expects to engage in these activities after December 31, 2010.

4. Section 6 of Exhibit E of the revised Texas RE Delegation Agreement also includes a detailed description of the methods and procedures Texas RE will employ to keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and to record the costs it incurs in performance of its non-statutory functions separately from the costs it incurs in performance of its statutory functions. This description is the same as in Exhibit E to the Texas RE Delegation Agreement that was approved in Docket No. RR10-6-000.

8. Western Electricity Coordinating Council Delegation Agreement

The following list identifies deviations or differences in the revised WECC Delegation Agreement (**Attachment 9**) from the revised pro forma Delegation Agreement, and also identifies certain differences between the current and revised WECC Delegation Agreements due to reasons other than the changes in the pro forma template.

1. In §1.0 of Exhibit D to the revised WECC Delegation Agreement, WECC adopts the NERC CMEP, Appendix 4C to the NERC ROP, but with the single proviso that §5.3(vii) of the WECC CMEP does not refer to “shortened hearing procedures.” This is because the WECC hearing procedures, which are an Attachment to Exhibit D, do not use the shortened hearing procedures that are contained in the NERC uniform Hearing Procedures.²⁶

2. Section 2.0 of Exhibit D to the revised WECC Delegation Agreement states that WECC’s Hearing Body is the Compliance Hearing Body as established under the WECC Compliance Hearing Body Charter. Section 2.0 contains a description of the composition of the Compliance Hearing Body and a description of the manner in which the specific five-member or three-member Hearing Panel is selected for each hearing.

3. Section 2.0 of Exhibit D to the revised WECC Delegation Agreement also states that WECC will conduct compliance hearings in accordance with the hearing procedures which are included as the Attachment to Exhibit D. The WECC Hearing Procedures have previously been authorized by the Commission, and were most recently filed with the Commission in a compliance filing dated February 17, 2009.²⁷ The only change being made to the current version of the WECC Hearing Procedures is the deletion of three definitions from §1.1.4: “Bulk-Power System,” “Reliable Operation,” and “Reliability Standards.” These three definitions are also

²⁶ NERC and WECC acknowledge that the Commission has questioned why the WECC Hearing Procedures does not provide for a shortened hearing procedure as in the NERC uniform Hearing Procedures, and that they are required to file a report with the Commission by December 31, 2010 addressing the merits of retaining this deviation. *See* Letter Order issued August 26, 2009, in Docket Nos. RR06-1-022 and RR07-7-008.

²⁷ *Compliance Filing of the North American Electric Reliability Corporation in Response to December 19, 2008 Order*, filed February 17, 2009, in Docket Nos. RR06-1-021 *et al.* The Commission accepted this compliance filing in a letter order issued June 1, 2009. *Order on Compliance Filing*, 127 FERC ¶ 61,209 (2009).

being deleted from the Definitions section of the NERC uniform Hearing Procedures (*see* §IV.A.2 below and **Attachments 14A-14B**).²⁸

4. Section 3.0, Other Decision-Making Bodies, of Exhibit D to the revised WECC Delegation Agreement states that “The WECC Compliance Committee provides general oversight and policy guidance but does not have decision-making authority with respect to compliance matters.”

5. Section 1 of Exhibit E to the revised WECC Delegation Agreement contains additional descriptions of WECC’s statutory activities beyond the listing included in §1 of Exhibit E to the revised pro forma Delegation Agreement:

- Under “Compliance Enforcement,” Exhibit E to the revised WECC Delegation Agreement contains the following text: “This category will encompass WECC’s Compliance Monitoring and Enforcement Program, including activities under the WECC Reliability Management System.” This text (with the addition of the words “Compliance Monitoring”) is included in Exhibit E to the current WECC Delegation Agreement.
- Under “Reliability Assessment and Performance Analysis (including necessary data gathering activities),” Exhibit E to the revised WECC Delegation Agreement contains the following text: “This category includes WECC’s Transmission Expansion Planning Program, and Loads and Resources Activities, and all necessary supporting activities.” This text (with the addition of the words “and all necessary supporting activities”) is included in Exhibit E to the current WECC Delegation Agreement.
- Under “Training and Education,” Exhibit E to the revised WECC Delegation Agreement contains the following text: “This category includes WECC’s Training Program.” This text is also included in Exhibit E to the current WECC Delegation Agreement.
- Under “Situation Awareness,” Exhibit E to the revised WECC Delegation Agreement contains the following text: “This category includes WECC’s Reliability Coordinator Functions, Western Interconnection Synchrophasor Program, WECC Interchange Tool, and all necessary supporting activities.” The reference to “WECC’s Reliability Coordinator Functions” is included in Exhibit E to the current WECC Delegation

²⁸ These three definitions are being deleted from the NERC Hearing Procedures, Attachment 2 to Appendix 4C to the NERC ROP, because the terms are defined in §200 of the NERC ROP, and Appendix 4C is incorporating definitions in §200 of the ROP rather than restating them.

Agreement. The additional references to “Western Interconnection Syncrophasor Program and WECC Interchange Tool” have been proposed for approval in Docket No. RR10-9-000, where NERC and WECC are requesting Commission approval for (among other things) an amendment to §1 of Exhibit E to the current WECC Delegation Agreement.²⁹ The additional text “and all necessary supporting activities” is new, and is intended to make it clear that supporting activities for the three expressly-listed activities are also statutory activities that will be funded through the ERO funding mechanism.

6. Section 3 of Exhibit E to the revised WECC Delegation Agreement includes additional text regarding the options available to LSEs and Balancing Authorities in the WECC Region regarding the annual billing of the NERC and WECC assessments: either to have WECC bill and collect the assessments directly from the LSEs in the Balancing Authority’s area, or to have WECC bill only the Balancing Authority which in turn bills and collects the assessment from the LSEs in its area and remits the payments to WECC. These provisions are included in §2 of Exhibit E to the current WECC Delegation Agreement.

7. Section 4, Collection of Funding, in Exhibit E to the revised WECC Delegation Agreement differs from the revised pro forma Delegation Agreement to reflect the particular billing, collection and remittance procedures previously established between NERC and WECC and approved by the Commission. Specifically, WECC, acting as the billing and collection agent, bills LSEs and Balancing Authorities in the WECC region one time per year, prior to November 15 of the preceding year, for the entire assessment amount for the year for NERC, WECC and the Western Interconnection Regional Advisory Body (“WIRAB”). WECC remits its collections to NERC, by electronic funds transfer, once per week, along with a breakdown of the collections among NERC statutory funding, WECC statutory funding, and WIRAB statutory

²⁹ See *Petition of the North American Electric Reliability Corporation for Approval of Amended 2010 Business Plan and Budget of the Western Electricity Coordinating Council and Amendment to Exhibit E to Delegation Agreement with the Western Electricity Coordinating Council*, filed April 22, 2010 in Docket No. RR10-9-000. A corrected version of the proposed amendment to Exhibit E was filed in that Docket on May 11, 2010.

funding. Within three business days following receipt of an electronic transfer of collected assessments from WECC, NERC electronically transfers to WECC the portion of the payment received from WECC constituting WECC statutory funding, and electronically transfers to WIRAB the portion of the payment received from WECC constituting WIRAB statutory funding. The provisions implementing this process are already included in Exhibit E to the current WECC Delegation Agreement.³⁰ In addition, §4(c) of Exhibit E to the revised pro forma Delegation Agreement is deleted from §4 of Exhibit E to the revised WECC Delegation Agreement, because it is unnecessary in light of the particular arrangements for billing, collecting and remitting the WECC statutory assessment.³¹

8. Section 6 of Exhibit E to the revised WECC Delegation Agreement identifies the Western Renewable Generation Information System as a non-statutory activity of WECC, and provides a description of the methods and procedures used by WECC to keep its funding mechanism for statutory activities separate from its funding mechanisms for non-statutory activities and to record the costs it incurs in performance of non-statutory functions separately from the costs it incurs in performance of its statutory functions. Exhibit E to the current WECC Delegation Agreement also contains a description of these methods and procedures; the description in the revised WECC Delegation Agreement has been updated.

³⁰ See, e.g., *Order Accepting Compliance Filings, Subject to Conditions*, 125 FERC ¶ 61,330 (2008), at PP 11 and 122.

³¹ Section 4(c) of Exhibit E to the revised pro forma Delegation Agreement states: “Upon approval by ERO Governmental Authorities of [Regional Entity]’s annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay [Regional Entity]’s annual assessment to the Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.”

IV. AMENDMENTS TO THE NERC RULES OF PROCEDURE

A. Process for Development of Proposed Amendments

NERC and the Regional Entities developed a set of proposed amendments to the NERC ROP in conjunction with their development of the revised pro forma Delegation Agreement. The origin of the development of the revisions to the ROP was the same as the origin of the revisions to the Delegation Agreement, namely, issues identified in the preparation of the *Three-Year ERO Assessment Report*. Revisions have been developed, and are proposed for approval in this filing, to the following sections of and appendices to the NERC ROP:

- Section 400 – Compliance Enforcement
- Section 500 – Organization Registration and Certification
- Section 800 – Reliability Assessment and Performance Analysis
- Section 1000 – Situation Awareness and Infrastructure
- Section 1100 – Annual NERC Business Plans and Budgets
- Section 1200 – Regional Delegation Agreements
- Appendix 4A – *Audit of Regional Entity Compliance Programs*
- Appendix 4B – *Sanction Guidelines*
- Appendix 4C – *Compliance Monitoring and Enforcement Program*

In addition, NERC is proposing to add the *Statement of Compliance Registry Criteria* as an Appendix, identified as Appendix 5B to the ROP, with no changes to the existing text; and to re-label Appendix 5 – *Organization Registration and Certification Manual* as Appendix 5A, with no changes to the existing text.

As required by its Bylaws, NERC posted a set of proposed amendments to the ROP, including to Appendices 4A, 4B and 4C, on March 16, 2010, for a 45-day stakeholder comment

period ending April 30, 2010.³² Comments were received from a total of 17 individuals and organizations. NERC and the Regional Entities considered these comments and made a number of revisions to the proposed amendments based on the comments. The proposed amendments were then submitted to the NERC Board of Trustees for consideration and approval. On May 12, 2010, the NERC Board approved the amendments to the ROP for which the Commission's approval is requested in this Petition.

B. Amendments to the NERC Rules of Procedure Sections 100-1600

The following discussion identifies and explains the revisions to Sections 200, 400, 500, 800, 1000, 1100 and 1200 of the NERC ROP on a section-by-section basis. Clean and redlined versions of amended Sections 100 – 1600 of the ROP are provided in **Attachments 11A** and **11B**.

1. Amendments to Section 200 – Definitions

The definition of “Confirmed Violation” has been amended to include a violation that the entity has admitted to in a settlement agreement. In addition, a reference to the “appeals process” has been changed to the “hearings and appeals process.” These amendments are consistent with amendments to the definition of this term in §1.1.9 in Appendix 4C.

2. Amendments to Section 400 – Compliance Enforcement

Two recurring reasons for amendments in §400 are: (1) to adopt new or revised terminology adopted in amended Appendix 4C, such as the terms “possible violation,” “alleged violation” and “confirmed violation” and the change of “compliance violation investigation” to “compliance investigation;” and (2) to delete material that is covered in detail in Appendix 4C.

³² Article XI, section 2 of the NERC Bylaws requires that proposed amendments to the NERC ROP must be publicly posted for a 45-day comment period before being considered for approval by the NERC Board of Trustees.

The coverage of certain topics in detail in both §400 of the ROP and in Appendix 4C presented the potential for confusion and inconsistency. Therefore, in a number of sections of §400, substantive text (in some cases an entire subsection) has been deleted and replaced with references to Appendix 4C.

Section 401, Scope of the NERC Compliance Enforcement Program. Several topics of a generally applicable nature that were previously covered in other parts of §400 have been moved to §401. New §401.10 addresses the treatment of confidential information in the Compliance Monitoring and Enforcement Program, and provides that information will be treated as confidential, and where applicable as critical energy infrastructure information, in accordance with §1500 of the ROP. These provisions have been moved from current §408.3, which is being deleted. New Section 401.11 addresses the public posting of compliance-related information, and provides that when the affected bulk power system owner, operator, or user either agrees to a possible or alleged violation of a reliability standard or a report of a compliance audit or investigation, or the time for submitting an appeal is expired, or all appeals processes are complete, NERC shall, subject to the confidentiality requirements of the ROP, publicly post each confirmed violation, penalty or sanction, and final compliance audit or compliance investigation report, on its web site. Section 401.11 details the information to be included in the public posting, including a statement by the bulk power system owner, operator or user if it elects to provide one. The provisions of §401.11 have been moved from current §408.6, which is being deleted. New §401.12 provides that NERC compliance monitoring and enforcement program staff shall periodically review and analyze all reports of possible, alleged and confirmed violations to identify trends and other pertinent issues; these provisions have been moved from current §408.5, which is being deleted.

Section 401.9 has been amended to use the terminology possible, alleged and confirmed violations.

Section 402, NERC Oversight of the Regional Entity Compliance Enforcement Programs. Section 402.1.3 has been amended to provide that once every five years, rather than once every three years, NERC shall conduct an audit to evaluate how each Regional Entity compliance enforcement program implements the NERC CMEP. Now that the Regional Entity compliance enforcement programs have been established and functioning for approximately three years, and an initial round of NERC audits has been conducted, NERC and the Regional Entities determined that the frequency of these audits could be lengthened to a maximum of five years. Section 402.1.3 has also been amended to state explicitly that such audits will be based on (among other things) Appendix 4C and any directives in effect pursuant to the delegation agreement.³³ Further, the following text has been added to §402.1.3 to clarify the scope of such audits of cross-border Regional Entities:

In addition, audits of cross-border regional entities shall cover applicable requirements imposed on the regional entity by statute, regulation, or order of, or agreement with, provincial governmental and/or regulatory authorities for which NERC has auditing responsibilities over the regional entity's compliance with such requirements within Canada or Mexico. Participation of a representative of an applicable ERO governmental authority shall be subject to the limitations of sections 3.1.6 and 8.0 of Appendix 4C of these rules of procedure regarding disclosures of non-public compliance information related to other jurisdictions.

Section 402.1.3.2 has been eliminated. This subsection specified that NERC would re-audit Registered Entities that had been audited by a Regional Entity to verify the findings of the Regional Entity's compliance audit and to evaluate how well the Regional Entity compliance program is meeting its delegated authority and responsibilities. This program was time-

³³ As described in §III.B.2.a above, §8(c) of the amended pro forma Delegation Agreement provides for the development and issuance of directives to the Regional Entity(ies).

consuming for NERC and the Regional Entities and a burden to the Registered Entities that were re-audited. NERC and the Regional Entities jointly concluded that this program did not represent an efficient use of resources and that NERC has sufficient other tools available to monitor the effectiveness of the Regional Entities' compliance enforcement programs.

In §402.2, §402.2.1, §402.2.2 and §402.4, specific references have been added to Appendix 4C of the ROP. Section 402.2.2 has also been amended to change the text “NERC shall develop a single, uniform compliance monitoring and enforcement program” to “NERC shall maintain a single, uniform compliance monitoring and enforcement program,” which better describes NERC's obligation in this regard going forward.

Section 402.4 has been amended to replace a reference to “the reporting and disclosure process in Section 408” with “the reporting and disclosure process in **Appendix 4C.**” Existing §408 is being deleted because its subject matter is covered in Appendix 4C. Section 402.4 has also been revised to use the new term “possible violations.”

In §402.5, a sentence describing the authority to issue remedial action directives has been revised as follows:

Remedial action directives may be issued by NERC or a regional entity that is aware of a bulk power system owner, operator, or user that is about to engage in an act or practice that would result in noncompliance with a reliability standard, where such directive is immediately necessary to protect the reliability of the bulk power system from an imminent threat.

The added text makes the sentence consistent with the definition of “remedial action directive” in Appendix 4C.

Section 402.6 has been amended to update a cross-reference due to reordering and renumbering of later sections in §400.

Section 402.8, concerning confidentiality, has been amended to encompass all information obtained by NERC or a Regional Entity through any CMEP process:

To maintain the integrity of the NERC Compliance Monitoring and Enforcement Program, NERC and regional entity staff, audit team members, and committee members shall maintain the confidentiality of information obtained and shared during compliance monitoring and enforcement processes including investigations, audits, spot checks, drafting of reports, appeals, and closed meetings.

Section 402.9, concerning Auditor Training, has been amended to delete references to “volunteers” and add a reference to “industry subject matter experts.” NERC and the Regional Entities are continuing to phase out the use of industry volunteers in compliance audits, but will continue to use industry subject matter expertise where resort to such expertise is necessary and appropriate.

Section 403, Required Attributes of Regional Entity Compliance Enforcement Programs. The initial paragraph of §403 has been amended to require that each regional Entity compliance enforcement program must (1) conform to and comply with the NERC uniform CMEP in Appendix 4C, except to the extent of any deviations that are stated in the Regional Entity’s delegation agreement,³⁴ and (2) meet all of the attributes set forth in §403.

In a number of subsections of §403, express references to Appendix 4C have been added.

Section 403.3 has been amended to state, as an additional exception to the prohibition on a Regional Entity sub-delegating its compliance enforcement program duties to entities or persons other than the Regional Entity compliance enforcement program staff, that sub-delegations may occur “by agreement with express approval of NERC and of FERC or other appropriate ERO governmental authority, to another regional entity.” This exception allows for

³⁴ Any such deviation would be stated in Exhibit D to the Regional Entity’s delegation agreement. *See* Exhibit D to the revised pro forma Delegation Agreement in **Attachment 1**.

arrangements such as the SERC-FRCC and SERC-SPP RE CMEP Agreements now pending before the Commission for approval in Docket No. RR10-7-000.

Section 403.4 has been amended to add compliance hearings in which the registered entity contests a mitigation plan component, to the list of compliance hearings which the Regional Entity's board or compliance panel should have authority to conduct.

Sections 403.5, 403.6, 403.6.2, 403.6.3, 403.6.4, 403.7, 403.10.6 (formerly 403.10.5), 403.11.2, and 403.16 (formerly 403.21) have been amended to refer to the compliance monitoring and enforcement program," consistent with the description of this program used throughout §400 and Appendix 4C.

Section 403.6.1 has been amended to expand the scope of the compliance processes in which Regional Entity compliance enforcement program staff shall not have a conflict of interest in the outcome, to all compliance monitoring and enforcement processes, not just compliance violation investigations, compliance audits, reports and sanctions. Similarly, §403.6.2 has been amended to specify that Regional Entity CMEP staff shall have the authority and responsibility to carry out all compliance monitoring and enforcement processes, not just investigations and audits; and should have authority to make determinations of compliance or noncompliance, not just "initial determinations." Additionally, §403.6.2 has been amended to delete a reference to "regional members," and add a reference to industry "subject matter" experts, assisting in compliance monitoring and enforcement processes.

Section 403.6.3 has been amended to specify that Regional Entity CMEP staff may call upon independent technical subject matter experts, who have no conflict of interest in the outcome of the compliance monitoring and enforcement process, to provide technical advice in determinations of compliance and noncompliance.

Section 403.7 has been amended to provide for the use of industry subject matter experts, as well as Regional Entity members, to provide technical expertise in CMEP activities. The reference to “volunteers” has been deleted from §403.7.3. Section 403.7.3 has also been amended to provide that industry subject matter experts, Regional Entity members, or Regional Entity committees shall not make determinations (not just “initial” determinations) of noncompliance or levy penalties, sanctions or remedial actions, and that authority and responsibility for evaluating and determining compliance or noncompliance and for levying penalties, sanctions and remedial actions shall not be delegated to any person or entity other than the Regional Entity compliance staff.

Section 403.7.5 has been amended to replace the term “compliance violation investigations” with the new term “compliance investigations.”

Sections 403.8 and 403.9 have been amended to expand references to the regional entity’s compliance enforcement program to the compliance monitoring and enforcement program.

Section 403.10 has been amended as follows:

Information Submittal — All bulk power system owners, operators, and users within the regional entity responsible for complying with reliability standards shall submit timely and accurate information when requested by the regional entity or NERC, ~~in accordance with established procedures of NERC and the regional entity.~~

In carrying out compliance monitoring and enforcement processes, NERC and Regional Entity compliance staffs need to be able to request and receive information from Registered Entities without necessarily having to base the request on an “established procedure.” Similarly, a new §403.10.2 has been added, as follows:

The regional entity or NERC has the authority to request information from bulk power system owners, operators, and users pursuant to section 401.3 or this

section 403.10 without invoking a specific compliance monitoring and enforcement process in **Appendix 4C**, for purposes of determining whether to pursue one such process in a particular case and/or validating in the enforcement phase of a matter the conclusions reached through the compliance monitoring and enforcement process(es).

NERC and Regional Entity compliance staffs need to be able to request information from Registered Entities without having to specify that the request is based on one of the eight specific compliance monitoring and enforcement processes detailed in Appendix 4C. As the text of new §403.10.2 indicates, in some instances the CMEP staff needs to request and review information from the Registered Entity in order to be able to determine which of the eight CMEP processes is most appropriately used.

Section 403.10.1 has been amended to eliminate potentially ambiguous use of a pronoun.

Section 403.10.3 (formerly §403.10.2) has been amended to state that Regional Entities shall report information to NERC “when required or requested,” and “in accordance with **Appendix 4C** and other NERC procedures.”

Section 403.10.4 (formerly §403.10.3) has been amended (1) to replace the terms “self-reported, alleged, or confirmed” violations with the new terms “possible, alleged and confirmed” violations; (2) to change the reference to “enforcement authority or enforcement responsibilities” of the Regional Entity to “compliance monitoring and enforcement authority;” and (3) to delete a reference to Section 408, which has been deleted, and replace it with a reference to Appendix 4C.

Section 403.10.5 (formerly §403.10.4) has been amended to state that the regional Entity compliance staff shall review a Registered Entity’s mitigation plan in accordance with Appendix 4C, rather than in accordance with §403.18. The previously-referenced §403.18 has been deleted because the topic of review and approval of mitigation plans is fully covered in Appendix 4C. In

addition, the last sentence of §403.10.5, stating that Regional Entity compliance staff may issue remedial action directives, has been deleted. This sentence was out of place in §403.10, the topic of which is “Information Submittal,” and it is covered in §7.0 of Appendix 4C.

Section 403.10.7 (formerly §403.10.6) has been amended to delete the term “spot check,” which limited the processes the Regional Entity could use to verify compliance information submitted by bulk power system owners, operators, and users.

Section 403.11 has been amended to specify that each Regional Entity must “maintain and implement” a program of proactive compliance audits of bulk power system owners, operators, and users responsible for complying with Reliability Standards, and to specify that the audit program must be implemented in accordance with Appendix 4C.

Section 403.11.1 and 403.11.2 have been amended to state expressly what was stated by implication previously, namely, that compliance audits of entities registered as balancing authorities, reliability coordinators or transmission operators will be performed every three years, and will include a component conducted on the Registered Entity’s site. Compliance audits of all other registered entities will be performed on a schedule established by NERC.

Section 403.11.3 has been amended to state that a compliance audit shall include a review of supporting documentation and evidence used by the Registered Entity to “demonstrate” compliance for “an appropriate period prior to the compliance audit.” Currently the subsection states that an audit will include review of documentation and evidence used by the Registered Entity for its self-certifications since its last compliance audit, which was a more narrowly-focused requirement.

Section 403.11.4, concerning NERC staff and ERO governmental authority participation on compliance audit teams, has been deleted, as this topic is covered in §3.1.5.3 of amended Appendix 4C.

Current §403.12, Compliance Audit Results, and §403.13, Compliance Violation Investigations, have been deleted, as these topics are covered in §3.1.6 and §3.4, respectively, of amended Appendix 4C. (The term “Compliance Violation Investigation” has been replaced with the term “Compliance Investigation” in Appendix 4C and elsewhere.)

Section 403.12 (formerly §403.14) has been amended to specify that “all compliance monitoring and enforcement processes, and information obtained from such processes,” are to be non-public “and treated as confidential in accordance with Section 1500 and Appendix 4C” of the ROP, unless the Regional Entity, NERC, the Commission or another applicable governmental authority determines a need to conduct a compliance monitoring and enforcement process on a public basis, or unless advance authorization is obtained from an applicable governmental authority to make a compliance monitoring and enforcement process, or information from a process, public. The current version of this section only encompasses compliance audits and compliance violation investigations, not all CMEP processes. This section has also been amended to specify that NERC and the Regional Entities shall publish (i) schedules of compliance audits scheduled each year, (ii) a public report of each compliance audit, and (iii) notices of penalty and settlement agreements (this provision is consistent with the current provisions of Appendix 4C). Finally, this section has been amended to specify that the prohibition on making information from a compliance monitoring and enforcement process public does not prohibit NERC or a Regional Entity from publicly disclosing “information of general applicability and usefulness to owners, operators, and users of the bulk power system

concerning reliability and compliance matters,” so long as specific allegations or conclusions regarding possible or alleged violations are not included in such disclosures.

Current §403.15, Report all Violations, has been deleted, as the requirements for Regional Entities to report possible, alleged, and confirmed violations are covered in detail in §5.0 and §8.0 of amended Appendix 4C.

Section 403.14 (formerly §403.17) has been amended to identify the *Sanction Guidelines* as Appendix 4B to the ROP, and to specify that all confirmed violations, penalties and sanctions will be provided to NERC for review and filing with applicable ERO governmental authorities as a notice of penalty “in accordance with Appendix 4C.”

Current §403.18, Mitigation of Violations, and current §403.19, Settlement Process, have been deleted, as these topics are covered in detail in §6.0 and §5.6, respectively, of Appendix 4C.

Section 403.15 (formerly §403.20), Regional Hearing Process, has been amended to expressly refer to the hearing process in Attachment 2 to Appendix 4C and the Regional Entity’s delegation agreement, as follows:

Each regional entity compliance enforcement program shall establish and maintain a fair, independent, and nondiscriminatory process for hearing contested violations and any penalties or sanctions levied, in conformance with Attachment 2 to **Appendix 4C** to these rules of procedure and any deviations therefrom that are set forth in the regional entity’s delegation agreement ~~where authorized by applicable legislation or agreement.~~

This subsection has also been amended to add proposed remedial action directives and components of proposed mitigation plans to the list of matters that bulk power system owners, operators and users may use the hearing process to contest. This subsection has been further amended to delete the provision that “in ERCOT, the Public Utility Commission of Texas may act as the final adjudicator” in the Regional Entity hearing process; the delegation agreement between NERC and Texas RE now specifies that the PUCT will act as the hearing body, but the

Texas RE Board will be the decision-making body. (*See* §III.C.7 above.) Finally, this section has been amended to state that a bulk power system owner, operator, or user may appeal the outcome of the Regional Entity hearing process to NERC “in accordance with Section 409 of these rules of procedure.”

Section 403.16 (formerly §403.21) has been amended to add a reference to Appendix 4C. Additionally, this section has been amended to remove the phrase “with delegated authority” after “regional entity”, since all Regional Entities have delegated authority pursuant to their delegation agreements with NERC to carry out the CMEP.

Section 404, NERC Monitoring of Compliance for Regional Entities or Bulk Power Owners, Operators, or Users. Revisions have been made in this section to (i) add references to Appendix 4C, (ii) use the phrase “compliance monitoring and enforcement”, (iii) replace the term “compliance violation investigation” with the new term “compliance investigation,” and (iv) replace the term “Compliance Monitor” with “Compliance Enforcement Authority.”

The initial paragraph of §404 has been amended to state that “industry subject matter experts” may be used as appropriate in compliance activities.

Current §404.2, Mitigation Plans, has been deleted because this topic is covered in detail in §6.0 of Appendix 4C.

Section 404.2 (formerly §404.3) has been amended to replace a reference to Section 408 with a reference to Appendix 4C. Current §408 is being deleted because its subject matter is covered in Appendix 4C.

Section 404.3 (formerly §404.4) has been amended to add mitigation plan components imposed by NERC to the list of matters that may be appealed. In addition, the reference to the

applicable provisions for such appeals has been changed to Sections 408 through 410, reflecting the deletion and renumbering of sections.

Section 405, Monitoring of Standards and Other Requirements Applicable to NERC. This section has been amended to replace a reference to Section 408 with a reference to Appendix 4C. Current §408 is being deleted because its subject matter is covered in Appendix 4C.

Section 406, Independent Audits of the NERC Compliance Monitoring and Enforcement Program. Section 406.3 has been amended to replace a reference to Section 408 with a reference to Appendix 4C. Current §408 is being deleted because its subject matter is covered in Appendix 4C.

Section 407, Penalties, Sanctions, and Remedial Actions. Section 407.1 has been revised as follows:

NERC Review of Regional Penalties and Sanctions — NERC shall review all penalties, sanctions, and remedial actions imposed by each regional entity for violations of reliability standards to determine if the regional entity's determination is supported by a sufficient record compiled by the regional entity, is consistent with the *Sanction Guidelines* incorporated into these rules as **Appendix 4B** and with other directives, guidance and directions issued by NERC pursuant to the delegation agreement, and is consistent with penalties, sanctions and remedial actions imposed by the regional entity and other regional entities for consistency with similar violations involving the same or similar facts and circumstances and fairness in application.

As revised, §407.1 is consistent with the criteria for NERC review of Regional Entity dispositions of compliance matters specified in §6(d) of the revised pro forma Delegation Agreement.

Section 407.2 has been amended to refer to the “regional entity compliance monitoring and enforcement program staff,” and to use the correct title of Appendix 4B.

Current §407.3, Hearing Processes, has been deleted. The requirement for a Regional Entity hearing process is covered in §403.15 of the amended ROP as well as in Exhibit D to the pro forma Delegation Agreement.

[Current] Section 408, Reporting and Disclosure Process. This section is being deleted in its entirety because the Regional Entity’s reporting obligations with respect to compliance monitoring and enforcement process matters are covered in detail in §5.0 and §8.0 of amended Appendix 4C. In addition, (i) the provisions of current §408.3 relating to Confidential Information have been moved to new §401.10 of the amended ROP; (ii) the provisions of §408.5, Violation Information Review, have been moved to new §401.12; and (ii) the provisions of §408.6, Public Posting, have been moved to new §401.11.

Section 408, Review of NERC Decisions (formerly §409). Section 408.1 has been amended to provide an updated cross-reference to §409 as the section covering appeals by Registered Entities of decisions of Regional Entity hearing bodies. There are no other amendments to renumbered §408.

Section 409, Appeals from Final Decisions of Regional Entities (formerly §410). The only amendments to this section are in §409.1, where the term “compliance violation investigation” has been replaced by the new term “compliance investigation,” and the description of the compliance determinations of Regional Entities that can be appealed to NERC has been generalized with the addition of the phrase “other compliance monitoring and enforcement process.”

Section 410, Hold Harmless (formerly §411). In this section (i) cross-references to §409 and §410 have been changed to §408 and §409, to reflect renumbering of those sections,

and (ii) the reference to “industry volunteers” has been replaced by a reference to “industry subject matter experts.”

Section 411, Requests for Technical Feasibility Exceptions to NERC Critical Infrastructure Protection Standards (formerly §412). This section has been renumbered, but has not otherwise been amended.

3. Amendments to Section 500 – Organization Registration and Certification

Throughout §500, references to Appendix 5, the NERC *Organization Registration and Certification Manual*, have been changed to Appendix 5A to reflect the renumbering of that Appendix.

Section 501, Scope of the Organization Registration and Certification Program. In §501.1.1, the list of types of Registered Entities has been deleted. This amendment removes the need to amend this section if a new category of Registered Entity (*i.e.*, a new reliability functional category) is created or an existing one is deleted. In addition, text has been added to require bulk power system owners, operators, and users to

Provide NERC and the applicable regional entity with timely updates to information concerning the registered entity’s ownership, operations, contact information, and other information that may affect the registered entity’s registration status or other information recorded in the compliance registry.

Section 501.1.2 has been amended to read as follows:

NERC and regional entities assisting NERC in the development of the compliance registry shall ~~consider the following factors in determining~~ which organizations should be placed in the registry based on the criteria provided in the NERC *Statement of Compliance Registry Criteria*, which is incorporated into these rules as **Appendix 5B**.

The specific factors listed in current §501.1.2.1 through §501.1.2.6 have been deleted. With the proposed addition of the *Statement of Compliance Registry Criteria* as an Appendix to the ROP, it would be duplicative and potentially confusing and inconsistent to also continue to list the

criteria, in a considerably more summary fashion than in the *Statement of Compliance Registry Criteria*, in §501. Following these deleted subsections, the text of §501.1.2 continues with the text concerning Joint Registration Organizations that was formerly numbered as §501.1.2.7.

Section 501.3, Delegation and Oversight, has been amended to make minor grammatical revisions, and to specify that “The regional entity shall administer an organization registration and certification program in accordance with such delegation [from NERC] to meet NERC’s program goals and requirements.” Further, in §501.3.3, which requires NERC to develop and maintain a program to monitor and oversee Regional Entity registration and certification programs, subsection 501.3.3.1 has been amended to specify that “This program shall monitor whether the regional entity carries out its organization registration and certification responsibilities ~~program~~ in accordance with NERC requirements”

Section 502, ERO Organization Registration and Certification Program Requirements. Section 502.1.2 has been amended to add the delegation agreement to the list of documents specifying the NERC requirements for the Organization Registration and Certification Program, that a Regional Entity must follow in carrying out its delegated authority for the program. Section 502.2 has been amended to state: “To ensure consistency and fairness of the program, NERC shall develop procedures to be used by all regional entities in carrying out their organization registration and certification ~~programs~~ responsibilities” This is consistent with the amendment to §501.3.3.1 described above.

Section 502.2.2.6, which requires NERC to develop and provide training in auditing skills to individuals who participate in certification audits, has been amended to delete references to “industry volunteers” participating in certification audits, and to add a reference to “industry subject matter experts” participating in such audits.

Section 503, Regional Entity Implementation of Organization Registration and Certification Program Requirements. In §503.2, which lists the organization registration activities to be performed by the Regional Entities, current subsection 503.2.1, which states “Entities seeking registration shall contact the regional entity in which they operate to become registered and, if necessary, certified,” has been deleted. As provided in §7(b) of the revised pro forma Delegation Agreement, NERC will be responsible for maintaining the single consolidated Compliance Registry and will use information provided by the Regional Entities to register owners, operators, and users of the Bulk Power System on the Compliance Registry.

Section 504, Appeals. The first sentence of §504.2 has been amended as follows: “Each regional entity with delegated responsibilities for certification shall establish and maintain a fair, independent, and nondiscriminatory appeals process.” Currently this provision applies to both registration and certification, however, as noted earlier in the discussion of §7(b) of the revised pro forma Delegation Agreement, the Regional Entities will no longer be responsible for maintaining Regional Compliance Registries to register entities. Additionally, in §504.2, the statement “in ERCOT, the Public Utility Commission of Texas may act as the final adjudicator” has been deleted. Under the Delegation Agreement between NERC and Texas RE, the PUCT will be the hearing body but the Texas RE Board will be the final decision-making body. (*See* §III.C.7 above.)

Section 505, Program Maintenance. There are no amendments to this section.

Section 506, Independent Audit of NERC Organization and Certification Program. Section 506.3 has been amended to delete a reference to “the reporting and disclosure process in Section 408,” since §408 of the ROP is being deleted.

Section 507, Provisions Relating to Joint Registrations and Joint Registration Organizations. Section 507.7 has been amended to use the new terms “possible violation, alleged violation and confirmed violation” that are being adopted in amended Appendix 4C.

4. Amendments to Section 800 – Reliability Assessment and Performance Analysis

The amendments to §800 are in §807 and §808. Section 807, Analysis of Major Events, has been amended to add a new subsection (c) (with the subsequent subsections re-lettered accordingly), and §808, Analysis of Off-Normal Events, Potential System Vulnerabilities, and System Performance, has been amended by the addition of a new subsection 3, each with the same text:

Each user, owner, and operator of the bulk power system shall provide NERC and the applicable regional entities with such information as is necessary to enable NERC and the applicable regional entities to carry out their responsibilities under this section.

These amendments are intended to clarify NERC’s and the Regional Entities’ authority to request and obtain information from bulk power system owners, operators, and users necessary to enable NERC and the Regional Entities to respond to, investigate, analyze, and develop “lessons learned” information concerning, major system events, off-normal events, potential bulk power system vulnerabilities, and bulk power system performance. Authority for these added provisions with respect to U.S. entities is found in the Commission’s regulations at 18 C.F.R. §39.2(d).

In addition, §808.1 and §808.2 have been amended to add references to regional entities, as well as to NERC, having responsibilities for the activities and analyses described in these subsections.

5. Amendments to Section 1000 – Situation Awareness and Infrastructure Security

The only amendment to §1000 is in §1003.2.5, to change the reference to “Cyber Security Standard” to “Cyber Security Standards.” This revision is appropriate to recognize that there are now nine Critical Infrastructure Protection standards in effect.

6. Amendments to Section 1100 – Annual NERC Business Plans and Budgets

The amendments to §1100 are intended to be consistent with the expanded provisions in §9 and Exhibit E of the revised pro forma Delegation Agreement on the annual NERC and Regional Entity business plans and budgets (*see* §§III.B.2.a and f above). There are no amendments to §1101 and §1102.

Section 1103, NERC Budget Development. Section 1103.1 has been amended to delete the provision that the NERC annual budget process “shall be initiated in March” for the following year, and to specify instead that the annual budget process shall be scheduled and conducted so as to allow sufficient time for all necessary actions in the budget development process, leading up to and including “timely submission of the proposed budget to FERC for approval in accordance with FERC regulations.” As the NERC (and Regional Entity) business planning and budgeting process has evolved, it typically begins early in the preceding year (or even late in the second preceding year).

Section 1103.3, which lists the information to be included in NERC’s annual budget submissions to the Commission and other ERO governmental authorities, has been amended to list information that NERC, based on experience in preparing annual budgets for governmental approvals for 2007, 2008, 2009 and 2010, has found to be appropriate for, and desired by the governmental authorities to be provided in, the budget submissions:

The NERC annual budget submittal to ERO governmental authorities shall include description and explanation of NERC's proposed ERO program activities for the year; the following information: (1) budget component justification based on statutory or other authorities; (2) explanation of how each the budgeted activity lends itself to the accomplishment of the statutory or other authorities; sufficiency of resources provided for in the budget to carry out the ERO program responsibilities; explanation of the (3) methods of calculationsing and budget estimates; identification and explanation of changes in budget components from the previous year's budget; information on staffing and organization charts; and such other information as is required by FERC and other ERO governmental authorities having authority to approve the proposed budget (4) who prioritizes competing needs; (5) how the budget meets the objectives of affordability, sustainability, and efficiency and effectiveness of expenditures; (6) implementation to meet international standards; (7) transparency; and (8) accountability and execution in accordance with operating plan, performance measures, and shifting priorities.

Section 1104, Submittal of Regional Entity Budgets to NERC. Section 1104.1 has been amended to more fully describe the cycle of business plan and budget preparation by the Regional Entities working with NERC. The current text only requires the Regional Entity to submit its proposed business plan and budget to NERC by June 1 of the preceding year so that the business plan and budget can be approved by the NERC Board and filed with the Commission for approval by the date established in the Commission's regulations.³⁵ In practice, NERC and the Regional Entities work collaboratively on the preparation of the Regional Entity business plans and budgets for 8 to 10 months prior to the filing date, with several drafts being exchanged and reviewed during this process. The amendments also specify that the Regional Entity's budget shall include supporting materials in accordance with the format developed by NERC and the Regional Entities (including content listed in the existing text of this section, which is specified in 18 C.F.R. §39.4). The specific amendments to §1104.1 are as follows:

Each regional entity shall submit its proposed annual budget for carrying out its delegated authority functions as well as all other activities and funding to NERC in accordance with a schedule developed by NERC and the regional entities,

³⁵ 18 C.F.R. §39.4(b).

which shall provide for the regional entity to submit its final budget that has been approved by its board of directors or other governing body no later than ~~June 4~~ July 1 of the prior year, in order to provide sufficient time for NERC's review and comment on the proposed budget and approval of the regional entity budget by the NERC Board of Trustees in time for the NERC and regional budgets to be submitted to FERC and other ERO governmental authorities for approval in accordance with their regulations. The regional entity's budget shall include, ~~together with~~ supporting materials in accordance with the budget and reporting format developed by NERC and the regional entities, including the regional entity's complete business plan and organization chart, explaining the proposed collection of all dues, fees, and charges and the proposed expenditure of funds collected in sufficient detail to justify the requested funding collection and budget expenditures.

Section 1104.3, concerning NERC's right to review the financial books and records of each Regional Entity, has been deleted. NERC's right to review the Regional Entity's financial records is established by the Delegation Agreement (*see* §8 of Exhibit E to the revised pro forma Delegation Agreement), and therefore §1104.3 was deemed to be unnecessary.

Section 1105, Submittal of NERC and Regional Entity Budgets to Governmental Authorities for Approval. Section 1105.1 has been amended to delete the requirement that the budget filing with ERO governmental authorities must include “the previous year's audited financial statements” [of NERC and the Regional Entities]. In accordance with the Commission's Order issued June 29, 2009 approving NERC's proposal to file the annual comparison of the NERC and Regional Entity actual costs to budgets for the preceding year by May 30 (rather than April 1) so that the comparisons can be based on NERC's and the Regional Entities' audited financial statements for the preceding year, NERC will now include its and the Regional Entities' audited financial statements for the preceding years in the May 30 filings, rather than in the annual business plan and budget filings.³⁶

³⁶ *North American Electric Reliability Corporation, Order Conditionally Accepting Compliance Filing*, 127 FERC ¶ 61,307 (2009), at PP 23-24. NERC recently filed the annual comparison of actual costs to budgets for 2009, including the NERC and Regional Entity audited financial

Section 1106, NERC and Regional Entity Billing and Collections. The footnote to §1106 has been amended as follows:

A regional entity ~~shall~~ may allocate funding obligations using an ~~NERC approved~~ alternative method approved by NERC and by FERC and other appropriate ERO governmental authorities, as ~~stated~~ provided for in the regional delegation agreement.

The amended text makes it clear that any alternative allocation method to the preferred NEL-based method must be approved by NERC and by the Commission and other appropriate governmental authorities.

Section 1107, Penalty Applications. Section 1107.1 has been amended (1) to change references to an “investigation” that leads to imposition of a penalty to a “compliance monitoring and enforcement process,” thereby broadening the scope of the provision; and (2) to add a proviso that a different disposition of penalty monies is permitted if it “is provided for in the delegation agreement, or in a contract or a disposition of the violation that is approved by NERC and FERC.” This additional text makes it clear that any alternative disposition of penalty monies must be approved by both NERC and the Commission (whether through approval of a provision in a delegation agreement or of a separate agreement).

Sections 1107.2 and 1107.3 have also been amended to change references to an “investigation” that leads to imposition of a penalty to a “compliance monitoring and enforcement process.” In addition, §1107.2 has been amended to specify that penalty monies shall be applied as a general offset to the budget of the entity (*i.e.*, NERC or a Regional Entity) receiving the penalty payment for the subsequent fiscal year if received by July 1, or for the second subsequent fiscal year if received on or after July 1. This amendment formalizes in the

reports for 2009. *North American Electric Reliability Corporation’s Report of Comparisons of Budgeted to Actual Costs for 2009 for NERC and the Regional Entities*, filed June 1, 2010 in Docket No. RR10-10-000.

ROP the policy that NERC and the Regional Entities have followed to determine the budget year for which penalty payments should be used as a budget offset.

Section 1107.4, concerning exceptions to the general rule for application of penalty payments, has been amended as follows:

Exceptions or alternatives to the foregoing provisions ~~policy due to statutory or regulatory restrictions~~ will be ~~considered on a case-by-case basis~~ allowed if approved by NERC and by FERC and any other applicable ERO governmental authority.

As amended, this section provides for a broader availability of alternative treatment to the general rule for application of penalty payments, but requires approval of any alternative by NERC and by the Commission and any other applicable ERO governmental authority. An alternative treatment could include, among other possibilities, using a large penalty payment (or a large aggregate amount of penalty payments received in one year) as a general offset to the receiving entity's budget over two or more years, rather than in a single year as provided by the general rule.

Section 1108, Special Assessments. Section 1108 has been amended to expressly recognize the possibility of a filing for approval of an amended or supplemental budget, including if necessary a special or additional assessment for statutory functions, of NERC or a Regional Entity. As amended, this section makes it clear that an amended or supplemental budget and/or assessment request can be filed by NERC for a Regional Entity. The amended provision is consistent with new §7 of Exhibit E to the revised pro forma Delegation Agreement (*see* §III.B.2.f above).

7. Amendments to Section 1200 – Regional Delegation Agreements

Section 1205, Sub-delegation. Section 1205 has been amended to remove the absolute prohibition on sub-delegation by a Regional Entity of its delegated responsibilities and

authorities, to allow for sub-delegation to another Regional Entity, with approval by NERC and by the Commission and other applicable ERO governmental authorities. The amendment also makes it clear that Regional Entities may share resources so long as the sharing does not result in cross-subsidization or sub-delegation:

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

Section 1207, Regional Entity Audits. Section 1207 has been amended to specify that NERC will audit each Regional Entity approximately every five years, rather than approximately every three years, to verify that the Regional Entity continues to comply with the NERC ROP and the obligations of the delegation agreement. This change is consistent with the revised Delegation Agreements that provide for renewal terms of five years (rather than the initial term of three years). In addition, with the Regional Entities having been in operation for approximately three years carrying out delegated authorities, and with NERC having conducted an initial round of audits, NERC and the Regional Entities believe that, going forward, the NERC audits (and the concomitant expenditure of NERC and Regional Entity time and resources) can be conducted with reduced frequency. Additionally, text has been added to §1207 specifying the scope and methods of conducting the audits:

Audits of regional entities shall be conducted, to the extent practical, based on professional auditing standards recognized in the U.S., including Generally Accepted Auditing Standards, Generally Accepted Government Auditing Standards, and standards sanctioned by the Institute of Internal Auditors, and if applicable to the coverage of the audit, may be based on Canadian or other international standards. The audits required by this section 1207 shall not duplicate the audits of regional entity compliance monitoring and enforcement

programs provided for in **Appendix 4A**, Audit of Regional Compliance Programs, to these rules of procedure.

Section 1208, Process for Considering Registered Entity Requests to Transfer to Another Regional Entity. A new §1208 has been added to the ROP to establish a formal process for considering, evaluating, and approving (or rejecting) requests by a Registered Entity that is registered in the region of one Regional Entity to have its registration transferred to a different Regional Entity. NERC and Regional Entities have received such requests and concluded that it would be useful and appropriate to have a process for addressing such requests established in the ROP. As detailed in new §1208, the process requires:

- a written request by the Registered Entity to the two Regional Entities, including a statement of reasons justifying the proposed transfer and discussion of impacts on other bulk power system owners, operators, and users;
- posting of the request on the Regional Entities' web sites for a 21-day public comment period;
- consultation between the Regional Entities; §1208.2 specifies factors the regional Entities are to consider in evaluating the request;
- notice to the Registered Entity of the Regional Entity's decision (which may be approval, rejection, or disagreement over whether the proposed transfer should be approved);
- if the Regional Entities agree that the transfer is appropriate, submission of a written request for approval to the NERC Board; §1208.3 specifies the information to be included in the request and considered by the NERC Board;
- if the Regional Entities do not agree that the transfer is appropriate, submission by the Regional Entity that agrees with the transfer of a written request for approval to the NERC Board, with the opportunity for the other Regional Entity to submit a written statement to the NERC Board explaining why the transfer is not appropriate;
- Prior to action by the NERC Board, posting of information on the proposed transfer, including the submission(s) from the Regional Entity(ies), on the NERC web site for a 21-day public comment period; and
- if the proposed transfer is approved by the NERC Board, submission of appropriate amendments to the two Regional Entities' Delegation Agreements to the Commission for approval.

Section 1208 also specifies that if the NERC Board disapproves a proposed transfer, the Regional Entity(ies) that believe the transfer would be appropriate may, if requested by the Registered Entity, file a petition with the Commission pursuant to 18 C.F.R. §39.8(f) and (g) requesting that the Commission order amendments to the delegation agreements of the two Regional Entities to effectuate the proposed transfer.

Section 1208 specifies that no transfer of a Registered Entity shall be effective (i) unless approved by the Commission, and (ii) any earlier than January 1 of the second calendar year following approval by the Commission, unless an earlier effective date is agreed to by both Regional Entities and NERC and is approved by the Commission. The provision that a transfer cannot be effective until January 1 of the second calendar year following approval (absent agreement to a different effective date) is intended to allow any impacts of the transfer on the two Regional Entities to be addressed in their budgets and assessments. This amount of lead time is necessary in light of the fact that Regional Entity budgets and assessments for a year are developed during the first 6 or 7 months of the preceding year, submitted to the NERC Board for approval in late July or early August, and submitted to the Commission for approval by approximately August 24.

C. Amendments to Appendix 4A to the NERC Rules of Procedure

Appendix 4A, *Audit of Regional Entity Compliance Programs*, has been amended to establish more detailed provisions for NERC's audits of Regional Entity compliance monitoring and enforcement programs. Although the amendments are discussed below on a section-by-section basis, Appendix 4A has in fact been comprehensively re-evaluated and rewritten by NERC and the Regional Entities. Clean and redlined versions of amended Appendix 4A are provided in **Attachments 12A** and **12B**.

The first section of amended Appendix 4A, titled “Overview, Objective, and Scope” (expanded from the current title “Overview”), has been amended to use several defined terms and acronyms used elsewhere in the ROP. The section has also been amended to specify that a purpose of the audit is to determine whether the CMEP, “as implemented by the regional entity, effectively meets the requirements under the CMEP, the NERC Rules of Procedure (ROP), and the corresponding annual implementation plan.” As amended, it also specifies that each year, NERC will establish which standards requirements will be placed into the CMEP “through its annual implementation plan.” The amended section further specifies:

The scope of the regional entity audits includes the CMEP, related sections of the ROP, the annual implementation plan as approved by NERC, and additional directives provided by NERC for implementing the CMEP and related ROP sections.

The second section of amended Appendix 4A, titled “Scheduling,” has been amended to specify that each Regional Entity compliance program will be audited at least once every five years, rather than once every three years. This amendment is consistent with the amendment to §402.1.3 of the ROP. This section has also been amended to specify that the schedule for the Regional Entity audit program is approved by NERC staff, rather than by NERC staff and the NERC Compliance and Certification Committee (“CCC”). NERC believes establishing the audit schedule should be a staff function, without stakeholder participation.

The third section of amended Appendix 4A is a new section, titled “Audit Team,” and consists largely of new text. This section provides that:

- A NERC staff member will be designated Audit Team Lead (“ATL”) for the Regional Entity audits, with responsibility to maintain oversight of the auditing process, and coordinate and facilitate the audit process steps with applicable ERO governmental authorities, the CCC and the audited Regional Entity.
- NERC staff will conduct the audit, in whole or in part, but NERC may also use external, independent auditors to conduct the audit, in whole or in part.

- At the discretion of the CCC, a representative from the CCC may participate as an observer; representatives from applicable ERO governmental authorities may also participate as observers, but subject to the limitations of §3.1.6 and §8.0 of Appendix 4C regarding disclosure of non-public compliance information related to other jurisdictions.
- Compliance staff from other Regional Entities may participate as observers, with consent of NERC and the compliance manager of the Regional Entity being audited.

The requirements in current Appendix 4A that the audit team shall include at least one representative from the CCC (one of whom shall serve as the ATL) and at least one compliance manager from another Regional Entity, have been deleted. Although this section still allows for a CCC representative to participate on the audit team as an observer, at the direction of the CCC, the ATL role should be a NERC staff function. Additionally, the following provision was deleted as unnecessary: “Audit team members shall not be from the regional entity being audited.” Amended Appendix 4A provides that the entire universe of persons who may participate on audit teams consists of NERC staff and independent auditors, and (as observers) representatives of the CCC, applicable ERO Governmental Authorities, and (with consent) compliance staff of other Regional Entities, and does not provide for representatives of the Regional Entity being audited to participate on the audit team.

The fourth section of amended Appendix 4A is titled “Planning or Pre-Audit” (expanded from “Pre-Audit” in current Appendix 4A). It provides for NERC to send a Notification of Intent to Audit letter to the CEO of the Regional Entity to be audited at least 60 days prior to the on-site audit, setting forth the scope of the audit and key audit dates. The NERC ATL will also send a pre-audit questionnaire(s) and request(s) for information to the Regional Entity, which are to be completed and returned, with the requested documentation, 30 days prior to the on-site audit. This section also provides that the Regional Entity may request a planning conference

with NERC to review audit scope, logistics, and other coordination matters to effectuate an efficient audit process.

The fifth section of amended Appendix 4A, titled “On-Site Audit and Fieldwork” (expanded from “On-Site Audit” in the current Appendix 4C), specifies that NERC shall evaluate the Regional Entity’s controls, physical security, tools, staff training and internal procedures to meet the requirements of the Regional Entity audit program scope. The section provides that detailed questions related to the Regional Entity’s completed questionnaire(s) and requests for information are evaluated along with a random sampling of applicable evidence, and that the evidentiary review of Regional Entity documentation is used to determine whether the Regional Entity’s program is effective and meeting the requirements specified under “Overview, Objective, and Scope.”

The sixth section of amended Appendix 4A, titled “Reporting” (revised from “Preparation and Posting of the Audit Report” in the current Appendix 4A), provides for the following sequence of events:

- Upon completion of on-site fieldwork, the audit team will provide an exit briefing which will include any preliminary findings and/or results from the examination.
- Within 30 business days following the last day of on-site fieldwork, NERC will provide the Regional Entity with a draft report including a review of the scope, methodology and evaluation of internal controls.
- The Regional Entity has 30 business days to respond to the draft audit report, and may request a conference with NERC to address concerns with the draft report.
- NERC will issue a final report to the Regional Entity 45 business days after receipt of the Regional Entity’s comments on the draft report.
- The Regional Entity is provided an opportunity to respond to the conclusions in the final audit report.
- NERC presents the final audit report to the NERC Board of Trustees Compliance Committee (“BOTCC”).

- After the presentation to the BOTCC, the final report and the Regional Entity's response are posted on the NERC website.
- If there are exceptions to the identified audit scope, the Regional Entity develops a corrective action plan to resolve the exceptions, and provides quarterly updates to NERC on the status of the corrective actions, until completed.

This section also provides that until NERC issues the final audit report, the draft report and the information provided and discussions held will be kept confidential.

D. Amendments to Appendix 4B to the NERC Rules of Procedure

The amendments to Appendix 4B, *Sanction Guidelines of the North American Electric Reliability Corporation*, are largely for the purpose of consistency with other provisions of the ROP and Appendix 4C that are being amended, including to more consistently use defined terms; and not for the purpose of making substantive changes to the manner in which, or the basis upon which, penalties and sanctions for violations of Reliability Standard are determined. Clean and redlined versions of amended Appendix 4B are provided in **Attachments 13** and **13B**.

Section 2, Document Scope and Exclusions, of Appendix 4B has been amended (i) to use consistently the new terms "possible violation" and "confirmed violation;" (ii) to provide appropriate (and more specific) cross-references to the NERC Compliance Monitoring and Enforcement Program in Appendix 4C (and to delete references to §400 of the ROP) and; (iii) to replace the awkward term "dispel" a violation with "dismiss." The amendments to this section eliminate the reference to "applicable regional entity program documents" as a source of the steps a Regional Entity will follow to process a violation from possible to confirmed violation status, as all Regional Entities have now agreed to adopt the NERC uniform CMEP in Appendix 4C for these actions.

Section 3.2, Settlement of Compliance Violations, has been amended (i) to use the new term "possible violation," and (ii) to replace a reference to §403.19, Settlement Process, of the

ROP, which has been deleted, with a reference to Appendix 4C, which sets forth the procedures for settlement of a compliance enforcement matter.

Section 3.3, Settlement Request, has been amended to specify that an entity found in or being investigated for a violation may request settlement negotiations at any time, including prior to issuance of a notice of alleged violation; however, NERC or the Regional Entity may decline to enter into or continue settlement negotiations after the possible violation or alleged violation becomes a confirmed violation. As amended, this section is consistent with §5.6 of amended Appendix 4C. The basis for this provision is explained in the discussion of the amendments to Appendix 4C. (*See* §IV.E.5 below.)

Section 3.5, Timing of Determination of Penalty, Sanction or Remedial Action, has been amended (i) to use the new terms “possible violation” and “alleged violation;” (ii) to replace the term “dispelled” (violation) with “dismissed;” and (iii) to specify that the penalty, sanction, or other remedial action for a violation will be determined when the violation becomes a confirmed violation or is resolved as part of a settlement agreement.

Section 3.6, Determining Party, has been amended to specify that “the determination of a penalty, sanction or other remedial action for a violation will generally be undertaken by the same entity determining the violation to be a confirmed violation, but subject to review by NERC if the determination is made by a regional entity.” As amended, this section is consistent with §5.8 and §5.9 of amended Appendix 4C.

In §6, Remedial Action, §6.1, Definition and Anticipated Use has been amended to make it more consistent with the definition of and provisions applicable to Remedial Action Directives in Appendix 4C. Specifically, the first paragraph of this section has been amended as follows:

Remedial actions are directives that may be issued to a bulk power system owner, operator, or user to resolve an alleged violation of a reliability standard by

addressing conditions, practices, or any other relevant action or activity that is immediately necessary to terminate or correct to protect the reliability of the bulk power system from an imminent threat. A remedial action directive will be issued when NERC or the regional entity identifies an alleged violation of a reliability standard that must be corrected immediately to promptly reduce protect the reliability of the bulk power system from the imminent ~~the reliability~~ threat that NERC or the regional entity has identified ~~poses to the reliability of the bulk power system~~.

Additionally, §6.4, Scope of Application, has been amended to specify that:

The scope of remedial action directives issued by NERC or the regional entity will be limited to conditions, practices, or any other relevant actions or activities resulting in noncompliance, or that NERC or the regional entity considers at significant risk of becoming noncompliant, to requirements of the reliability standards, and that present an imminent threat to the reliability of the bulk power system.

Further, §6.5, Availability, has been amended to specify that “NERC or the regional entity may issue remedial action directives to entities in the United States regarding a violation that is immediately necessary to terminate or correct to protect the reliability of the bulk power system from an imminent threat, irrespective of whether that violation is ultimately verified or ~~dispelled~~ dismissed by NERC or the regional entity’s investigation of the violation.” Finally, §6.7, Types of Remedial Actions, has been amended to refer to the need to reduce or eliminate “imminent” threats to the reliability of the bulk power system. As amended, these provisions in §6 are consistent with the definition of “Remedial Action Directive” in §1.1.25, and with §7.0, of amended Appendix 4C.

E. Amendments to Appendix 4C to the NERC Rules of Procedure

Appendix 4C, *Compliance Monitoring and Enforcement Program*, has been extensively revised. In addition to the changes to the text described in the section-by-section discussion below, all the process flow charts have been removed from Appendix 4C. References in the text to the process charts have also been deleted. These charts were cumbersome to maintain in the

document, and presented the potential for inconsistency with the text (which should control), and therefore for confusion and misunderstanding. Therefore, NERC and the Regional Entities agreed that the charts should be removed from Appendix 4C.

In addition, revisions have been made throughout Appendix 4C (including Attachment 2, Hearing Procedures) to more consistently use defined terms (capitalized to indicate the term is a defined term) and acronyms. Further, because a number of new sections have been added throughout Appendix 4C and other sections have been reordered, cross-references have been revised as necessary throughout Appendix 4C.

Clean and redlined versions of amended Appendix 4C are provided in **Attachments 14A** and **14B**.

1. Section 1.0 – Introduction

In the initial paragraph of §1.0, the sentence “This is accomplished through compliance monitoring and rigorous proactive Compliance Audits” (referring to monitoring, assessing and enforcing compliance with Reliability Standards) has been deleted, since the CMEP is comprised of more than just Compliance Audits.

At the start of §1.1, Definitions, a statement has been added that capitalized terms used in Appendix 4C shall have the meanings set forth in this section or in §200 of the ROP. This sentence recognizes that some defined terms have been imported from §200 of the ROP. As a result, some terms formerly not capitalized in Appendix 4C are capitalized in amended Appendix 4C, because they are defined in §200 of the ROP (*e.g.*, Bulk Power System).

A number of new defined terms have been added, and some existing defined terms have been modified, to incorporate the progression of steps in the compliance enforcement process embodied in revised Appendix 4C, *i.e.*, a compliance enforcement matter starts with a

Preliminary Screen and moves to Possible Violation, then to Alleged Violation, and finally to Confirmed Violation. New or modified definitions for this purpose include Alleged Violation (§1.1.1³⁷), Confirmed Violation (§1.1.9), Notice of Alleged Violation (§1.1.15), Notice of Completion of Enforcement Action (§1.1.16), Notice of Confirmed Violation (§1.1.17), Notice of Possible Violation (§1.1.19), Possible Violation (§1.1.21), and Preliminary Screen (§1.1.22):

- A Preliminary Screen is “an initial evaluation of evidence indicating potential noncompliance with a Reliability Standard has occurred or is occurring, conducted by the Compliance Enforcement Authority for the purpose of determining whether a Possible Violation exists.” It consists of “an evaluation of whether (1) the entity allegedly involved in the potential noncompliance is registered, and (2) the Reliability Standard requirement to which the evidence of potential noncompliance relates is applicable to the entity and is enforceable.” (§1.1.22)
- A Possible Violation is the identification, using one of the compliance monitoring and enforcement processes in Section 3.0 of Appendix 4C, of a possible failure by a Registered Entity to comply with a Reliability Standard that is applicable to the Registered Entity. (§1.1.21) The defined term “Possible Violation” has been added to achieve consistency among the Regional Entities. The concept of a “possible violation” is not new, and in practical terms does not add a new step to the compliance enforcement process. From the beginning of the CMEP, the Commission has required that NERC and the Regional Entities report possible violations of Reliability Standards to the Commission on a non-public basis.
- A Notice of Possible Violation is issued to the Registered Entity and states that a Possible Violation has been identified, provides a brief description of the Possible Violation, and directs the Registered Entity to retain and preserve all data and records relating to the Possible Violation. (§1.1.19)
- An Alleged Violation is a Possible Violation for which the Compliance Enforcement Authority has determined, based on an assessment of the facts and circumstances surrounding the Possible Violation, that evidence exists to indicate a Registered Entity has violated a Reliability Standard. (§1.1.1)
- A Notice of Alleged Violation is issued by the Compliance Enforcement Authority to the Registered Entity pursuant to §5.3 of Appendix 4C. (§1.1.15)
- A Confirmed Violation is an Alleged Violation for which an entity has (1) accepted the finding of the violation and will not seek an appeal, or (2) completed the hearing and appeal process within NERC, or (3) allowed the time for requesting a hearing or

³⁷ Section numbers cited in this discussion are the section numbers in the amended Appendix 4C.

submitting an appeal to expire, or (4) admitted to the violation in a settlement agreement. (§1.1.9)

- A Notice of Confirmed Violation is a notice issued by the Compliance Enforcement Authority to a Registered Entity confirming the violation of one or more Reliability Standards, as a result of (1) the Registered Entity accepting a Notice of Alleged Violation and the proposed penalty or sanction, or (2) the finding of a violation through a hearing and appeal; or (3) expiration of the period for requesting a hearing or appeal, or (4) the Registered Entity admitting the violation as part of an executed settlement agreement. (§1.1.17)
- A Notice of Penalty is a notice prepared by NERC and filed with the Commission, following approval by NERC of a Notice of Confirmed Violation or a settlement agreement, stating the penalty or sanction imposed or agreed to for the Confirmed Violation or as part of the settlement. (§1.1.18)
- A Notice of Completion of Enforcement Action is a notice issued by the Compliance Enforcement Authority to a Registered Entity, pursuant to Section 5.10 of amended Appendix 4C, stating that an enforcement action is closed. (§1.1.16)

The defined term “Compliance Violation Investigation,” which is one of the compliance monitoring processes, has been changed to “Compliance Investigation.” (§1.1.8)

The defined term “End Date” has been added, as the last date of the period to be covered by a Compliance Audit. (§1.1.10)

The definition of Exception Reporting has been expanded to include “Information provided to the Compliance Enforcement Authority by a Registered Entity indicating that a violation of a Reliability Standard has occurred . . . or enabling the Compliance Enforcement Authority to ascertain the Registered Entity’s compliance.” In addition, the sentence “Some Reliability Standards require Exception Reporting” has been deleted as not appropriately included in a definition. (§1.1.11)

The definition of Mitigation Plan has been internally reorganized for clarity and to reduce it to one sentence, with no substantive change. (§1.1.12)

The definition of NERC Compliance Registry (§1.1.13) is now essentially the same as the definition of “Regional Compliance Registry” in current Appendix 4C (with the phrase

“maintained by NERC” added). The defined term “Regional Compliance Registry” has been deleted, since the Regional Entities will no longer maintain compliance registries. (The definition of “NERC Compliance Registry” in the current Appendix 4C stated it was “a compilation of the Regional Compliance Registries”).

The definition of Registered Entity has been amended to use the defined term Bulk Power System and to delete a reference to the deleted term Regional Compliance Registry. (§1.1.24)

The definition of Remedial Action Directive has been amended to use the defined term Bulk Power System. (§1.1.25)

The definition of Required Date has been amended to delete the sentence “Such date shall provide the Registered Entity a reasonable period of time in which to take the required action, given the circumstances and the action required.” The deleted sentence was not appropriately included in a definition. (§1.1.26)

The definition of Self-Certification has been revised for minor grammatical improvements. (§1.1.27)

The definition of Self-Reporting has been amended to read: “A report by a Registered Entity stating (1) that the Registered Entity believes it has violated a Reliability Standard, and (2) the actions that have been taken or will be taken to resolve the violation.” (§1.1.28) The definition in current Appendix 4C implied that the Registered Entity would make a determination that a violation had occurred, which is a determination to be made by the Compliance Enforcement Authority.

The definition of Spot Checking has been revised to make it only one sentence. The sentence “Spot Checking may require an on-site review to complete” has been deleted as not appropriately included in a definition. (§1.1.29)

2. Section 2.0 – Identification of Organizations Responsible for Complying with Reliability Standards

The revisions to the first five paragraphs of §2.0 reflect the revised roles of NERC and the Regional Entities in registering entities and maintaining the Compliance Registry. NERC will now be responsible for maintaining the single, consolidated Compliance Registry for the entire Bulk Power System; the Regional Entities will no longer maintain individual regional compliance registries. NERC will register entities based on application of the criteria in the *NERC Statement of Compliance Registry Criteria* (which is being incorporated into the ROP as Appendix 5B) to information on owners, operators, and users of the Bulk Power System gathered and provided by the Regional Entities. In addition, in the event of a registration appeal to NERC or an Applicable Governmental Authority, the Regional Entity will provide information requested by NERC concerning how the Registered Entity meets the registration criteria or is otherwise material to the reliability of the Bulk Power System.

In addition, amended §2.0 specifies that “Organizations are responsible to register and to comply with Reliability Standards if they are owners, operators, and users of the Bulk Power System, perform a function listed in the functional types identified in Section II of Appendix 5B, and are material to the reliable operation of the Bulk Power System as defined by the criteria and notes in Appendix 5B.” This affirmative obligation is consistent with the Commission-approved *Statement of Compliance Registry Criteria*. Amended §2.0 also requires the Registered Entity to inform NERC or the applicable Regional Entity promptly of changes to the Registered Entity’s registration information.

Amended §2.0 provides that NERC will notify organizations of their inclusion on the NERC Compliance Registry, and shall inform the Registered Entity at the time of registration of the Reliability Standards that are applicable to the reliability functions for which the Registered

Entity is registered. Further, NERC will maintain on its website a current listing of Reliability Standards that are applicable to all Registered Entities. NERC will also provide the Commission and other Applicable Governmental Authorities monthly updates to the NERC Compliance Registry.

Section 2.0 has been amended in several places to replace references to “Compliance Enforcement Authority” with “NERC and [or] the applicable [each] Regional Entity,” for greater clarity. Finally, the sixth and final paragraph of §2.0 has been amended to show the term Bulk Power System as a defined term.

3. Section 3.0 – Compliance Monitoring and Enforcement Processes

The initial paragraph of §3.0 has been shortened by deleting the list of the individual compliance monitoring processes.

a. Section 3.1 – Compliance Audits

Section 3.1.1, Compliance Audit Process Steps. In the process step listed in §3.1.1, a reference to “the member” has been changed to “the new audit team member(s)” for greater clarity. The fifth and sixth process steps have been revised to use new defined terms, and the fifth step has also been revised to specify that the Compliance Enforcement Authority will conduct a Preliminary Screen for Possible Violations based on the potential noncompliances identified in the audit report. The process step “The Compliance Enforcement Authority provides the final audit report to the Registered Entity and to NERC” has been moved to be the last step listed in sequence.

Section 3.1.3, Frequency of Compliance Audits. A grammatical error has been corrected.

Section 3.1.4, Scope of Compliance Audits. The existing text (as amended) of §3.1.4 has been captioned as §3.1.4.1, Reliability Standards, and two new subsections with new text have been added. As amended, §3.1.4.1 specifies that a Compliance Audit shall include those Reliability Standards applicable to the Registered Entity that are identified in the NERC Implementation Plan for the current year (rather than for the current and three previous years), may include other Reliability Standards applicable to the Registered Entity that are identified in the Regional Entity's Regional Implementation Plan for the current year, and may include any other Reliability Standards that are applicable to the Registered Entity. The statement "If a Reliability Standard does not require retention of data for the full period of the Compliance Audit, the Compliance Audit will be applicable to the data retention period specified in the Reliability Standard," has been deleted from this subsection and is addressed in the next subsection (§3.1.4.2).

New §3.1.4.2, Period Covered, addresses the time period to be covered in a Compliance Audit, and specifies as follows:

The Registered Entity's data and information should show compliance with the Reliability Standards that are the subject of the Compliance Audit for the period beginning with the day after the prior audit by the Compliance Enforcement Authority ended (or the later of June 18, 2007 or the Registered Entity's date of registration if the Registered Entity has not previously been subject to a Compliance Audit), and ending with the End Date for the Compliance Audit. However, if another Compliance Monitoring and Enforcement process has been conducted with respect to the Registered Entity subsequent to the date that would otherwise be the start of the period, the period covered by the Compliance Audit may, in the Regional Entity's discretion, begin with the completion of that Compliance Monitoring and Enforcement process for those Reliability Standards requirements that were the subject of the Compliance Monitoring and Enforcement process. The End Date will be stated in the Compliance Enforcement Authority's notification of the Compliance Audit issued to the Registered Entity pursuant to Section 3.1.1. The Registered Entity will be expected to demonstrate compliance for the entire period described above. However, if a Reliability Standard specifies a document retention period that does not cover the entire period described above, the Registered Entity will not be

found in noncompliance solely on the basis of the lack of specific information that has rightfully not been retained based on the retention period specified in the Reliability Standard. However, in such cases, the Compliance Enforcement Authority will require the Registered Entity to demonstrate compliance through other means.

The time period to be covered by a Compliance Audit, and in particular the starting date for the coverage period, has been a subject of considerable controversy and confusion among Registered Entities and Regional Entities, and the extensive text that has been added in §3.1.4.2 is intended to bring greater clarity and certainty to this topic. An issue of particular concern in the industry relates to the fact that some Reliability Standards specify document retention periods such as one year, six months, or shorter periods, that are less than the time period since the Registered Entity's last Compliance Audit. While a Registered Entity cannot specifically be faulted for failing to retain documents for a longer period than the document retention period stated in the Reliability Standard, there is a need from a compliance monitoring perspective to be able to verify compliance for the time period since the previous compliance monitoring process took place. The text in §3.1.4.2 is intended to balance these concerns by providing that a Registered Entity will not be found in noncompliance solely on the basis of lack of specific information or documentation that has rightfully not been retained based on the retention period specified in the Reliability Standard, but that the Compliance Enforcement Authority will require the Registered Entity to demonstrate compliance by other means.

Finally, new subsection 3.1.4.3 has been added to specify that a Compliance Audit will include a review of any Mitigation Plans which the Registered Entity has not yet completed, for the purpose of determining whether the Registered Entity is making adequate progress towards completion of the Mitigation Plans.

Section 3.1.5, Conduct of Compliance Audits. Section 3.1.5 has also been separated into several subsections, with subsection 3.1.5.3 comprised of new text.

Subsection 3.1.5.1, Composition of Compliance Audit Teams, specifies that the audit team shall be comprised of staff from the Compliance Enforcement Authority and such other persons as are included in the audit team pursuant to (new) subsection 3.1.5.3, which addresses observers and other participants. Text stating that NERC compliance staff, the Commission, and other regulatory bodies may participate on the audit team has been deleted from this subsection, as this topic is covered in subsection 3.1.5.3. Additionally, a reference to “industry volunteers” as audit team members has been changed to “industry subject matter experts.”

In subsection 3.1.5.2, Requirements for Compliance Audit Team Members, a sentence referring to a transitional matter applicable to Compliance Audits conducted prior to January 1, 2008 has been deleted. Additionally, the fourth point in this subsection has been reorganized to be structurally consistent with the first three points.

Subsection 3.1.5.3 addresses participation in a Compliance Audit by persons other than the audit team of the Regional Entity conducting the audit:

- NERC staff (which may include contractors to NERC) may participate either as observers or as audit team members.
- Members of the Regional Entity’s compliance staff, in addition to the audit team, may participate as observers.
- With permission of the Regional Entity, compliance staff from other Regional Entities may participate as observers or as audit team members.
- Representatives of Applicable Governmental Authorities, including the Commission, to whose reliability jurisdiction the Registered Entity is subject, may participate as observers or as audit team members.
- At the request of the Registered Entity, the Regional Entity may allow representatives of other Registered Entities to attend the audit for educational purposes.

The audit team leader or other staff of the Regional Entity conducting the audit will communicate in advance with observers or other attendees to ensure there are no undue disruptions to the audit, no conflicts of interest, and no other considerations that may be detrimental to the conduct and quality of the audit. The audit team leader will work with proposed observers and attendees to facilitate observation in a less disruptive manner, or to schedule their participation in, observation of, or attendance at another Compliance Audit in which such issues are not presented.

Finally, in subsection 3.1.5.4, Registered Entity Objections to Compliance Audit Team, only a minor grammatical revision has been made to the existing text of Appendix 4C.

Section 3.1.6, Compliance Audit Reports. In the first and third paragraphs of this section, references to “Alleged Violations” have been changed to “evidence of possible noncompliance with Reliability Standards” found by the audit team or to “Possible Violations.” Based on the new progression of steps in the compliance enforcement process in amended Appendix 4C, the Compliance Audit team would not identify “Alleged Violations” but at most “Possible Violations.”

In the second paragraph of this section, revisions have been made to reflect that Bulk Power System is now a defined term in amended Appendix 4C.

The third paragraph of this section specifies that if the final audit report identifies Possible Violations, the audit report, or the portions identifying the Possible Violations, shall not be made public until (i) the Possible Violation is dismissed prior to becoming a Confirmed Violation, (ii) NERC submits a Notice of Penalty to the Commission or other Applicable Governmental Authority, or (iii) the Registered Entity admits to a violation or enters into a settlement agreement.

b. Section 3.2 – Self-Certification

Section 3.2 has been revised, consistent with the new progression of steps in the compliance enforcement process in amended Appendix 4C, to specify that “If the Compliance Enforcement Authority concludes, after completing a Preliminary Screen(s), that there is a Possible Violation of a Reliability Standard, it shall send the Registered Entity a Notice of Possible Violation.” Additionally, a provision stating that “Regional Entities will notify NERC of any Alleged Violations as required by Section 8.0” has been deleted as redundant; the reporting and disclosure requirements are covered in §8.0.

c. Section 3.3 – Spot Checking

Throughout §3.3, revisions have been made for greater clarity, to effect grammatical corrections, and to correctly reflect “Spot Checking” as a defined term. In addition, the final process step for Spot Checking has been revised, consistent with the new progression of steps in the compliance enforcement process in amended Appendix 4C, to specify that “If the Compliance Enforcement Authority concludes, after completing a Preliminary Screen(s), that there is a Possible Violation of a Reliability Standard, it shall send the Registered Entity a Notice of Possible Violation.” Also, a provision stating that “Regional Entities will notify NERC of any Alleged Violations as required by Section 8.0” has been deleted as redundant; the reporting and disclosure requirements are covered in §8.0.

d. Section 3.4 – Compliance Investigations

Revisions have been made throughout §3.4 to reflect that the name of this compliance monitoring process has been changed from “Compliance Violation Investigation” to “Compliance Investigation,” as well as to correctly reflect other defined terms.

In footnote 4, the term “possible violation” has been changed to the non-defined and more generally-applicable term “potential noncompliance,” to avoid confusion with the defined term “Possible Violation.” A similar revision has been made in the first process step listed in §3.4.1 to avoid confusion with the defined term “Possible Violation.”

The sequence of the fifth and sixth process steps in §3.4.1 has been reversed, to reflect that an on-site visit would typically occur after the Registered Entity has provided data or documentation requested by the Compliance Enforcement Authority.

The process step in §3.4.1 specifying that the Registered Entity may be required to support information it provides by a verification or attestation, or produce officers, employees or other authorized representatives to provide testimony, has been revised and expanded to read as follows:

In conducting the Compliance Investigation, the Compliance Enforcement Authority may require the Registered Entity to (i) provide a verification under oath by an officer, employee, attorney or other authorized representative of the Registered Entity attesting to the accuracy, completeness and truth of the Registered Entity’s responses to the Compliance Enforcement Authority’s requests for information; and (ii) produce one or more officers, employees or other authorized representatives of the Registered Entity who are familiar with the matter(s) that are the subject of the Compliance Investigation, to be interviewed or to provide testimony under oath concerning such matters. The Compliance Enforcement Authority shall determine in each case (i) whether representatives of the Registered Entity shall be allowed to be present when an interview is taking place or testimony is being taken, and (ii) whether, and by what method, the interview or testimony shall be recorded; provided, that counsel for the person being interviewed or giving testimony may be present when the interview is being conducted or testimony is being taken (regardless of whether such counsel also represents the Registered Entity).

The last sentence in the above provision is based on the Commission’s conclusions in a previous order concerning the processes for gathering information in a compliance (violation) investigation.³⁸

The next-to-last process step for Compliance Investigations has been revised, consistent with the new progression of steps in the compliance enforcement process in amended Appendix 4C, to specify that “If the Compliance Enforcement Authority concludes, at any time during the Compliance Investigation, and after completing a Preliminary Screen(s), that there is a Possible Violation of a Reliability Standard, it shall send the Registered Entity a Notice of Possible Violation.” Additionally, a process step stating that “Regional Entities will notify NERC of any Alleged Violations as required by Section 8.0” has been deleted as redundant; the reporting and disclosure requirements are covered in §8.0.

e. Section 3.5 – Self Reporting

The final process step for Self-Reporting in §3.5.1 has been revised, consistent with the new progression of steps in the compliance enforcement process in amended Appendix 4C, to specify that “If the Compliance Enforcement Authority concludes, after conducting a Preliminary Screen(s), that there is a Possible Violation of a Reliability Standard, it shall send the Registered Entity a Notice of Possible Violation.” Additionally, a process step stating that “Regional Entities will notify NERC of any Alleged Violations as required by Section 8.0” has been deleted as redundant; the reporting and disclosure requirements are covered in §8.0.

³⁸ *April 19, 2007 Order* at P 71. The Commission there noted that the procedures it was describing, which are now being incorporated into §3.4.1, are similar to the Commission’s own investigative rules at 18 C.F.R. §1b.16(b).

f. Section 3.6 – Periodic Data Submittals

The fifth process step for Periodic Data Submittals in §3.6.1 has been revised to state that if the Compliance Enforcement Authority’s assessment, based on the Periodic Data Submittal, of the Registered Entity’s compliance indicates there may be a Possible Violation, the Registered Entity will be provided an opportunity to comment on the assessment before it is finalized. Additionally, the process step that specified the Compliance Enforcement Authority notifies the Registered Entity of the completion of the assessment has been deleted. Further, the final process step for has been revised, consistent with the new progression of steps in the compliance enforcement process in amended Appendix 4C, to specify that “If the Compliance Enforcement Authority concludes, after conducting a Preliminary Screen(s), that there is a Possible Violation of a Reliability Standard, it shall send the Registered Entity a Notice of Possible Violation.” With these revisions, an assessment that does not indicate any Possible Violations would not be provided to the Registered Entity for comment, nor would the Registered Entity be notified of the results of the assessment.

Finally, a process step stating that “Regional Entities will notify NERC of any Alleged Violations as required by Section 8.0” has been deleted as redundant; the reporting and disclosure requirements are covered in §8.0.

g. Section 3.7 – Exception Reporting

There are no revisions to §3.7.

h. Section 3.8 -- Complaints

The initial paragraph of §3.8 has been revised to state that a Complaint received by a Regional Entity will be reviewed to determine if the Complaint provides sufficient basis for initiating another Compliance Monitoring and Enforcement process (rather than a Compliance

Violation Investigation), as any one of the other compliance monitoring and enforcement processes could be appropriately used to further investigate the matters raised in a Complaint. Similar revisions have been made in the rest of §3.8, §3.8.1 and §3.8.2 to change “Compliance Violation Investigation” to “Compliance Monitoring and Enforcement process.” Additionally, references to “the applicable provisions of Section 3.4” (the section of Appendix 4C pertaining to Compliance Investigation) have been changed to “the applicable provisions of Section 3.0.”

In §3.8.2, Anonymous Complainant Notification Procedure, two references to “possible violation” have been changed to “the information” and “information indicating violations of Reliability Standards,” to avoid confusion with the defined term “Possible Violation.”

4. Section 4.0 – Annual Implementation Plans

There are no revisions to §4.0.

5. Section 5.0 – Enforcement Actions³⁹

Section 5.0 has been extensively revised to present the revised, standardized progression of steps for processing evidence of a potential noncompliance discovered by the Compliance Enforcement Authority (*i.e.*, the Regional Entity or NERC, as applicable) through one of the compliance monitoring processes set forth in §3.0, through to Confirmed Violation stage if applicable.⁴⁰ Although the Regional Entities and NERC have generally been using these process steps, the revisions to §5.0 (along with the accompanying definitions in §1.1) will standardize

³⁹ In the second paragraph of §5.0, a reference to requesting a written determination from “the NERC compliance program officer” concerning a data or information request, has been changed to “NERC director of enforcement,” to reflect the NERC staff member who is now responsible for receiving such requests.

⁴⁰ A sentence has been added to §5.0, before the first subsection, specifying that “The following enforcement process is undertaken by the Compliance Enforcement Authority following identification, through one of the Compliance Monitoring and Enforcement processes set forth in Section 3.0, of evidence of noncompliance with a Reliability Standard by a Registered Entity.”

these process steps, result in the use of consistent terminology, and provide a clear statement of the process steps in Appendix 4C for the benefit of Registered Entities. Under the revised process steps, upon discovery of evidence of a potential noncompliance with a Reliability Standard, the Compliance Enforcement Authority (the Regional Entity or NERC, as applicable) will follow the following process steps:

- Preliminary Screen to determine if there is a Possible Violation. The Preliminary Screen consists of determining whether (i) the entity allegedly involved in the potential noncompliance is a Registered Entity, and (ii) the Reliability Standard requirement to which the potential noncompliance relates is applicable to the entity and is enforceable. The Compliance Enforcement Authority shall maintain records of all Preliminary Screens. (§5.1)
- Issuance of Notice of Possible Violation to the Registered Entity (assuming the Preliminary Screen results in an affirmative determination).⁴¹ The Notice of Possible Violation states that a Possible Violation by the Registered Entity has been identified, provides a brief description of the Possible Violation, including the Reliability Standard requirement(s) and the date(s) involved, and instructs the Registered Entity to retain and preserve all data and records relating to the Possible Violation. At this point the Compliance Enforcement Authority enters the Possible Violation into the NERC compliance reporting and tracking system (thereby reporting it to NERC⁴²); NERC in turn reports the Possible Violation to the NERC BOTCC and to the Commission, on a confidential basis.⁴³ (§5.1)

⁴¹ Although this process step is not included in the current Appendix 4C, the Regional Entities have follow the practice of issuing “initial notices of violation,” “preliminary notices of alleged violation,” and similarly-titled notices to Registered Entities, upon initially identifying a possible violation of a Reliability Standard requirement. Under revised Appendix 4C, such notices will consistently be captioned by the Regional Entities as “Notice of Possible Violation.”

⁴² Entry of the Possible Violation (and, subsequently, the Alleged Violation and the Confirmed Violation) into the NERC compliance violation and tracking system will result in the actual Notices becoming accessible to NERC. Because NERC compliance staff will continuously monitor the compliance reporting and tracking system, the entry of the Possible Violation (as well as the entry of subsequent actions in the enforcement process) into the compliance reporting and tracking system serves to notify NERC of the Regional Entity’s action, and eliminates the need to require the Regional Entity to make a separate report to NERC.

⁴³ The revised process steps will provide a more consistent and more readily identifiable point at which evidence of a possible violation is to be reported to NERC and, in turn, to the Commission. This is discussed further under §8.0, Reporting and Disclosure, below.

- Assessment of the Possible Violation. After issuing the Notice of Possible Violation, the Compliance Enforcement Authority conducts an assessment of the facts and circumstances surrounding the Possible Violation to determine whether evidence exists to indicate the Registered Entity has violated the subject Reliability Standard requirement(s), or whether the Possible Violation should be dismissed. The Compliance Enforcement Authority may consider additional information in performing this assessment. (§5.2)
- Issuance of Notice of Alleged Violation to the Registered Entity. If the Compliance Enforcement Authority determines that evidence exists to indicate the Registered Entity has violated the subject Reliability Standard requirement(s), and the Registered Entity has not yet entered into settlement negotiations, the Compliance Enforcement Authority issues a Notice of Alleged Violation to the Registered Entity.⁴⁴ The Notice of Alleged Violation must include the Compliance Enforcement Authority's proposed penalty or sanction, if any, for the Alleged Violation. Other than the requirement that the proposed penalty or sanction must be included in the Notice, the required contents of the Notice of Alleged Violation (as listed in §5.3) have not been changed. (§5.3)
- Reporting the Alleged Violation to NERC and to the Commission. Upon issuing the Notice of Alleged Violation to the Registered Entity, the Compliance Enforcement Authority will also enter the Alleged Violation into the NERC compliance reporting and tracking system. NERC, in turn, within two business days, will provide a copy of the Notice of Alleged Violation to the Commission and, if the Alleged Violation pertains to a portion of the Bulk Power System over which another Applicable Governmental Authority has jurisdiction, to such other Applicable Governmental Authority.⁴⁵ (§5.3)
- Registered Entity response contesting the Alleged Violation. If the Registered Entity contests the Alleged Violation or the proposed penalty or sanction, it must submit a response explaining its position together with any supporting information and documents. The Compliance Enforcement Authority will schedule a conference with the Registered Entity within 10 business days after receipt of the response. If the Compliance Enforcement Authority and the Registered Entity cannot resolve all issues within 40 days (which may be extended by agreement) following the response,

⁴⁴ The provision postponing issuance of a Notice of Alleged Violation if the Compliance Enforcement Authority and Registered Entities have entered into settlement negotiations has been added because some Registered Entities have expressed a desire not to receive a Notice of Alleged Violation (which may result in reporting and disclosure requirements for the Registered Entity) if they are actively engaged in settlement negotiations.

⁴⁵ The conditional prohibitions on disclosure of non-public U.S. compliance information to another Applicable Governmental Authority and on disclosure of non-public non-U.S. compliance information to the Commission, that are found in §5.1 of current Appendix 4C, are preserved in §5.3 of revised Appendix 4C.

the Registered Entity may request a hearing, or else the Alleged Violation will become a Confirmed Violation. (§5.4)

- Appeal of a Regional Entity Hearing Body decision. If the Registered Entity contests the Alleged Violation and/or proposed penalty or sanction, and requests a hearing, but the Hearing Body rules against the Registered Entity, the Registered Entity may appeal the Hearing Body's decision to NERC in accordance with §409 of the ROP. (§5.7)
- Settlement discussions. The Registered Entity may also request settlement discussions at any time in the process, including prior to issuance of a Notice of Alleged Violation; however, the Compliance Enforcement Authority may decline to engage in or continue settlement negotiations once the Possible Violation or Alleged Violation becomes a Confirmed Violation.⁴⁶ NERC must be notified of and may participate in any settlement negotiations. Any settlement agreement must ensure that the reliability of the Bulk Power System will not be compromised, and that no violation of a Reliability Standards will occur, as the result of the settlement, and must provide for waiver of the Registered Entity's right to further hearing and appeal. The Registered Entity may submit an explanatory statement to be included in the settlement agreement, which shall be subject to the consent of the Compliance Enforcement Authority as part of the negotiated agreement. The settlement agreement may state that the Registered Entity (i) admits, or (ii) does not contest, or (iii) neither admits nor denies the Alleged Violation, but may not state that the Registered Entity denies the Alleged Violation. (§5.6)
- Dismissal. If the Compliance Enforcement Authority dismisses a Possible Violation or Alleged Violation before it becomes a Confirmed Violation, the Compliance Enforcement Authority will issue a Notice of Completion of Enforcement Action to the Registered Entity. (§5.10)
- Issuance of Notice of Confirmed Violation. If the Registered Entity (i) accepts (or fails to respond to) the Notice of Alleged Violation, or (ii) contests the Alleged Violation but fails to request a hearing within the ensuing 40-day period, the Compliance Enforcement Authority will issue a Notice of Confirmed Violation or other enforcement action to the Registered Entity and enter the Confirmed Violation into the NERC compliance reporting and tracking system. The Compliance Enforcement Authority and the Registered Entity may agree in writing to extend the

⁴⁶ The provision has been added specifying that NERC or the Regional Entity may decline to engage in or to continue settlement negotiations when the violation becomes a Confirmed Violation, so that Registered Entities will have a strong incentive to enter into settlement negotiations upon receiving a Notice of Possible Violation or Notice of Confirmed Violation. Further, the objective of expeditiously completing the enforcement process will be defeated if a Registered Entity can do nothing until after a violation reaches the Confirmed Violation stage, and then initiate settlement discussions with the Compliance Enforcement Authority.

- 40-day period. (§§5.3-5.4) The Notice of Confirmed Violation will include a detailed record of the enforcement action, including the facts and circumstances analyzed and the information on which the Compliance Enforcement Authority relied in proposing the penalty or sanction. (§5.8)
- Written statement from the Registered Entity. The Registered Entity will also be notified of its right to submit a written explanatory statement to accompany the Notice of Confirmed Violation. The explanatory statement must include the name, title and signature of an officer, employee, attorney or other authorized representative of the Registered Entity. (§5.4)
 - NERC review of Notice of Confirmed Violation. NERC will review the Notice of Confirmed Violation and use the information in it to prepare a Notice of Penalty. NERC will advise the Regional Entity of any additional detail or further development of factual findings NERC deems necessary before the Notice of Penalty can be issued. If NERC directs the Regional Entity to revise the penalty determination, either the Registered Entity or the Regional Entity compliance staff may reopen the proceedings on any issue on which the penalty was based, irrespective of whether the issues was previously litigated, settled, or unopposed. (§5.8)
 - NERC preparation of Notice of Penalty. NERC will provide a draft Notice of Penalty to the Regional Entity, which in turn will advise the Registered Entity that the Notice of Penalty is pending public filing. NERC will file the Notice of Penalty, along with any written statement provided by the Registered Entity, with the Commission and any other Applicable Governmental Authority no sooner than five business days after NERC approves the Notice of Confirmed Violation or settlement agreement.⁴⁷ The penalty or sanction will be effective upon expiration of the 30 day period after the Notice of Penalty is filed, or such longer period as ordered by the Commission. (§5.9; see also §8.0)
 - Payment due invoice and receipt of payment of penalty. Following Commission approval of, or expiration of the period for action by the Commission on, the Notice of Penalty, the Compliance Enforcement Authority will issue a payment due notice and invoice to the Registered Entity for any penalty, specifying that payment is due 30 days from the date of the notice and invoice. Upon receipt of payment, the Compliance Enforcement Authority will issue a notice confirming payment to the Registered Entity. (§5.10)
 - Notice of Completion of Enforcement Action. After completion by the Registered Entity of all requirements in the Notice of Penalty and any settlement agreement, the

⁴⁷ The conditional prohibitions on disclosure of non-public U.S. compliance information to another Applicable Governmental Authority and on disclosure of non-public non-U.S. compliance information to the Commission, that are found in §5.6 of current Appendix 4C, are preserved in §5.9 of revised Appendix 4C.

Compliance Enforcement Authority will issue a Notice of Completion of Enforcement Action to the Registered Entity, which will include a release of any data retention directives previously issued. Upon issuance of the Notice of Completion of Enforcement Action, the enforcement action is closed. (§5.10)

None of the notices or other issuances or developments throughout the above-described enforcement process are made public except for, and until, the filing and posting of the Notice of Penalty and/or any settlement agreement.

6. Section 6.0 – Mitigation of Violations of Reliability Standards⁴⁸

a. Section 6.1 – Requirement for Submission of Mitigation Plans

Section 6.1 has been revised to specify that in addition to being required to submit a Mitigation Plan upon being found in violation of a Reliability Standard, a Registered Entity may also submit a proposed Mitigation Plan at any other time, including with a Self-Report; or, without admitting it has committed a violation, in response to a Notice of Possible Violation of Notice of Alleged Violation.

b. Section 6.2 – Contents of Mitigation Plans

Section 6.2 has been revised to incorporate use of the terms “Possible Violation,” “Alleged Violation,” and “Confirmed Violation, and to use other defined terms. In addition, a provision has been added to specify that a proposed Mitigation Plan must include “the Registered Entity’s action plan to correct the cause of the Possible, Alleged or Confirmed Violation,” as well as its plan to correct the violation itself.

⁴⁸ In the initial paragraph of §6.0, a reference to requesting a written determination from “the NERC compliance program officer” concerning a data or information request, has been changed to “NERC director of enforcement,” to reflect the NERC staff member who is now responsible for receiving such requests.

c. Section 6.3 – Timetable for Completion of Mitigation Plans

Section 6.3 has been revised to specify that a Mitigation Plan “should encompass actions necessary to prevent a recurring violation of the Reliability Standard requirements underlying the Possible, Alleged or Confirmed Violation(s).”

d. Section 6.4 – Submission of Mitigation Plans

Section 6.4 has been revised to specify that a Registered Entity may submit a Mitigation Plan in response to a Notice of Possible Violation, without being deemed to have admitted the violation or the appropriateness of a penalty or sanction. This section has also been revised to properly use defined terms.

e. Section 6.5 – Review and Acceptance or Rejection of Mitigation Plans

A minor revision for clarity has been made to the first sentence of the first paragraph in §6.5. Additionally, a paragraph has been added to §6.5 to provide for the provisional acceptance of a proposed Mitigation Plan by the Regional Entity before it has completed its review of the facts and circumstances underlying the violation:

If a Registered Entity submits a Mitigation Plan prior to issuance of a Notice of Confirmed Violation or entry into a settlement, such as with a Self-Report or in response to a Notice of Possible Violation, the Regional Entity may provisionally accept the proposed Mitigation Plan. If the Regional Entity subsequently determines, upon completing its assessment of the Possible Violation, that the facts and circumstances are different than those on which the accepted Mitigation Plan was based, the Regional Entity may, by notice to the Registered Entity and to NERC, require the Registered Entity to submit a revised Mitigation Plan that fully addresses the facts and circumstances of the violation. The Regional Entity’s notice shall state the additional or different facts and circumstances that need to be addressed in the revised Mitigation Plan. The Registered Entity shall submit a revised Mitigation Plan in response to the notice within thirty (30) days following the date of the notice, unless the Regional Entity specifies or allows a longer time period. The Registered Entity’s revised Mitigation Plan shall be subject to review and acceptance or rejection by the Regional Entity and by NERC in accordance with this Section 6.5. If the Regional Entity issues a Notice of Confirmed Violation or enters into a settlement with the Registered Entity and does not identify a need to request modifications to the provisionally-accepted Mitigation

Plan based on additional or different facts and circumstances, the Regional Entity shall issue a notice to the Registered Entity, with a copy to NERC, stating that the “provisional” nature of the acceptance is terminated and the acceptance is final. The Regional Entity shall issue such notice within five (5) business days of issuance of the Notice of Confirmed Violation or entry into the settlement.

This provision allows the Regional Entity to provisionally approve a proposed Mitigation Plan before the Regional Entity has completed its investigation or assessment of the noncompliance, so that the Registered Entity can proceed to implement the actions in the Mitigation Plan. Allowing the Registered Entity to proceed to implement its corrective actions as soon as possible, rather than requiring the Registered Entity to wait until the Regional Entity has completed its assessment of the matter, is beneficial to the reliability of the Bulk Power System. However, if the Regional Entity subsequently determines, upon completing its investigation or assessment of the noncompliance, that there are additional or different underlying facts and circumstances that necessitate additional mitigating actions, there needs to be a process by which the Regional Entity can require the Registered Entity to modify or expand the actions in its Mitigation Plan. This new provision in §6.5 provides that process.

Additionally, the last sentence of §6.5 has been revised to specify that NERC will publicly post an approved Mitigation Plan as part of the public posting of the Notice of Penalty in accordance with §8.0 of Appendix 4C or the posting of the settlement in accordance with §5.6.

f. Section 6.6 – Completion/Confirmation of Implementation of Mitigation Plans

In the second paragraph of §6.6, a reference to the Compliance Enforcement Authority verifying that the Registered Entity has completed its Mitigation Plan and is in compliance with the subject Reliability Standard, has been changed to Reliability Standard requirement(s). The provisions of a Mitigation Plan will typically relate to specific requirements of Reliability Standards that were found to have been violated.

g. Section 6.7 -- Recordkeeping

Section 6.7 has been revised to use the new defined terms Notice of Possible Violation and Notice of Alleged Violation.

7. Section 7.0 – Remedial Action Directives

Section 7.0 has been amended to incorporate new defined terms in amended Appendix 4C.

8. Section 8.0 – Reporting and Disclosure

Section 8.0 has been revised to provide that Regional Entities shall report all Possible Violations, Alleged Violations and Confirmed Violations to NERC by promptly entering the item into the NERC compliance reporting and tracking system.⁴⁹ The current version of this provision states, in accordance with previous Commission directives,⁵⁰ that Regional Entities “shall report to NERC . . . any allegations or evidence of violations of Reliability Standards regardless of significance, whether verified or still under investigation, that are received or obtained by the Regional Entity through any means” within specified time periods. Consistent with the revised enforcement process steps based on Possible Violations, Alleged Violations and Confirmed Violations, requiring Regional Entities to submit reports to NERC at the “Possible Violation” stage will standardize this reporting process as well. The Possible Violation stage is the stage at which the Regional Entity first has identified a possible failure by a Registered Entity

⁴⁹ The Regional Entity’s entry of the item into the compliance reporting and tracking system being implemented by NERC and the Regional Entities will immediately provide NERC, electronically, with the relevant Notice. Therefore, it is no longer necessary to specify that a Regional Entity must separately provide NERC with “a copy” of the Notice of Possible Violation, Alleged Violation or Confirmed Violation within a specific time period (*e.g.*, 2 days/48 hours). Upon the Regional Entity entering the item into the compliance reporting and tracking system, NERC will have received the report.

⁵⁰ *See, e.g., April 19, 2007 Order* at PP 200-201, citing 18 C.F.R. §39.7(d).

to comply with a Reliability Standard that is applicable to the Registered Entity, but the Regional Entity has not taken the additional investigative or assessment steps to determine that the matter is an Alleged Violation.⁵¹ The reports are to include information regarding the nature of the Possible Violation, Alleged Violation or Confirmed Violation, the name of the Registered Entity involved, the status of any ongoing review and assessment, the name of a knowledgeable Regional Entity staff person to serve as a contact, and in the case of an Alleged Violation or Confirmed Violation, its potential impact on Bulk Power System Reliability.⁵²

In P 201 of the *April 19, 2007 Order*, the Commission stated that “NERC cannot adequately exercise its oversight of Regional Entity compliance programs unless it receives information on all allegations of violations, and in particular, those for which Regional Entities have declined enforcement action. Nor are we [the Commission] in a position to monitor NERC and the Regional Entities in this regard unless NERC provides us with timely information on all allegations of violation.” Under the revised compliance enforcement process steps in §5.0 of amended Appendix 4C, evidence of potential noncompliance with a Reliability Standard that is identified or obtained by a Regional Entity will become a Possible Violation (resulting in issuance of a Notice of Possible Violation) unless the Regional Entity’s Preliminary Screen shows the potential noncompliance is not a Possible Violation. However, the only grounds on which, as the result of the Preliminary Screen, evidence of a potential noncompliance will not become a Possible Violation, are that (i) the entity involved in the matter is not a Registered

⁵¹ The Regional Entity’s additional review of the matter after a Notice of Possible Violation is issued may result in a determination that no violation has occurred and the matter should be dismissed before reaching the Alleged Violation stage.

⁵² At the Possible Violation stage, before the Regional Entity has conducted an assessment, it is not expected that the Regional Entity would have sufficient information to report the potential impact of the Possible Violation on Bulk Power System reliability.

Entity, (ii) the Reliability Standard requirement to which the evidence relates is not applicable to the entity (*e.g.*, it is applicable to a reliability function for which the Registered Entity is not registered), or (iii) the requirement is not enforceable.⁵³ (*See* §5.1.)

Section 8.0 has also been revised to delete references to submission of required reports in accordance with (current) §403.15, 403.17 and 403.19 of the ROP. Current §403.15 and §403.19 are being deleted, and current §403.17 (renumbered as §403.14) has been revised to refer to Appendix 4C for the filing and reporting requirements. (*See* §IV.B.1 above.)

Text relating to the contents of Confirmed Violations, including the Registered Entity's statement, has been deleted because this subject is covered in §5.0. However, §8.0 has been revised to specify that the Regional Entity shall report a Confirmed Violation to NERC at the same time the Notice of Confirmed Violation is issued to the Registered Entity, and that NERC will publicly post each Notice of Penalty on its Web site, with the identity of the violator, together with any statement submitted by the Registered Entity, when NERC files the Notice of Penalty with the Commission. A provision that "NERC will publish public reports quarterly on its Web site of all Confirmed Violations of Reliability Standards during the quarter just completed, with the identity of the violator," has been deleted as unnecessary, since the individual Notices of Penalty are posted on the web site when filed with the Commission.

Finally, other revisions have been made to §8.0 to incorporate newly defined terms in Appendix 4C.

⁵³ In addition, amended §5.1 requires the Compliance Enforcement Authority to maintain records of all Preliminary Screens, which will allow its determinations (if any) not to issue a Notice of Possible Violation based on a Preliminary Screen to be audited.

9. Section 9.0 – Data Retention and Confidentiality

In §9.2, a reference to “Compliance Violation Investigations” has been changed to the new defined term, “Compliance Investigations.” In §9.3.2, a reference to “industry volunteers” has been changed to “industry subject matter experts,” consistent with revisions made elsewhere in §400 of the ROP and Appendix 4C. In §9.3.3, a reference to §1500 of the ROP has been added in connection with a requirement that critical energy infrastructure information shall be redacted.

10. Attachment 2 – Hearing Procedures

Revisions have been made throughout Attachment 2 in order to consistently capitalize defined terms and to remove capitalization from terms that are not defined terms. These revisions include capitalizing some terms that have become defined terms as the result of the revisions to the text of the Compliance Monitoring and Enforcement Program in Appendix 4C (*e.g.*, “Possible Violation”). In addition, cross-references to sections of the ROP have been revised where necessary due to renumbering of sections in the ROP.

In §1.1.5, Definitions, the definitions of Bulk-Power System, Reliable Operation, and Reliability Standards have been deleted. These terms have been deleted because they are now defined terms in the CMEP pursuant to §1.1 of the CMEP, and therefore do not need to be separately defined in the Hearing Procedures. (Section 1.1.5 specifies that “as used in these Hearing Procedures, definitions in Section 1.1 of the NERC Compliance Monitoring and Enforcement Program shall apply.”)

Section 1.8, Settlement, has been revised as follows:

Settlements may be entered into at any time pursuant to Section 5.6 of the NERC Compliance Monitoring and Enforcement Program and the Compliance Enforcement Authority’s settlement procedures, provided, that the Compliance Enforcement Authority may decline to engage in or continue settlement

negotiations after a Possible Violation or Alleged Violation becomes a Confirmed Violation.

This revision conforms to the revision to §5.6, Settlement Process, of the CMEP (*see* discussion in §IV.E.5 above).

F. Amendment to Appendix 5A to the NERC Rules of Procedure

The NERC *Statement of Compliance Registry Criteria* is being added as an Appendix to the NERC ROP. As a result, current Appendix 5, *Organization Registration and Certification Manual*, is being re-numbered as Appendix 5A. No textual changes are being proposed to the *Organization Registration and Certification Manual* from the current version, other than the re-numbering of Appendix 5 to Appendix 5A. **Attachment 15** is a copy of the *Organization Registration and Certification Manual*, renumbered as Appendix 5A.

G. New Appendix 5B to the NERC Rules of Procedure

The NERC *Statement of Compliance Registry Criteria* is being incorporated into the NERC ROP as Appendix 5B. Incorporation of the *Statement of Compliance Registry Criteria* into the ROP enables provisions in §500 of the ROP on criteria for registration to be deleted, with the result that the registration criteria are stated in one place, Appendix 5B. (*See* §IV.B.2 above.) No textual changes are being proposed from the current version of the *Statement of Compliance Registry Criteria*, Version 5.0, as last approved by the Commission.⁵⁴ Incorporation of the *Statement of Compliance Registry Criteria* into the ROP will not change the process used to revise it; NERC already posts proposed revisions to the *Statement of Compliance Registry Criteria* for a notice and comment period, and then submits the revisions for approval by the

⁵⁴ Version 5.0 of the *Statement of Compliance Registry Criteria* was submitted to the Commission in a compliance filing dated July 31, 2008 in Docket Nos. RC07-4-003, RC07-6-003 and RC07-7-003 (*Compliance Filing of the North American Electric Reliability Corporation in Response to December 20, 2007 Order*) and approved by a Letter Order issued October 16, 2008 in those dockets.

NERC Board of Trustees and then by the Commission. **Attachment 16** is Version 5.0 of the *Statement of Compliance Registry Criteria*, with a cover page added showing it as Appendix 5B to the ROP.

V. CONCLUSION

For the reasons stated in this filing, the North American Electric Reliability Corporation respectfully requests that the Commission, after providing notice and opportunity for public comment in accordance with §215(e)(4) of the FPA and 18 C.F.R. §39.8, issue an order approving the revised pro forma Delegation Agreement (**Attachment 1**) and revised Delegation Agreements between NERC and the eight Regional Entities (**Attachments 2 through 9**).

NERC also respectfully requests that the Commission, after providing notice and opportunity for public comment in accordance with §215(f) of the FPA and 18 C.F.R. §39.10, issue an order approving the proposed amendments to the Bylaws of FRCC (included in Exhibit B to **Attachment 2**) and MRO (**Attachment 10**).

NERC also respectfully requests that the Commission, after providing notice and opportunity for public comment in accordance with §215(f) of the FPA and 18 C.F.R. §39.10, issue an order approving the proposed revisions to Sections 400, 400, 800, 1000, 1100 and 1200 of the NERC ROP (**Attachment 11**), the proposed revisions to Appendices 4A, 4B, 4C and 5A to the ROP (**Attachments 12 through 15**), and proposed new Appendix 5B to the ROP (**Attachment 16**).

Finally, NERC requests that the Commission approve the revised Delegation Agreements and the proposed revisions and additions to the NERC ROP to be effective January 1, 2011.

Respectfully submitted,

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ATTACHMENT 1A

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED PRO FORMA DELEGATION AGREEMENT

CLEAN VERSION

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND [REGIONAL ENTITY]**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”) made as of [January 1, 2011], between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and [REGIONAL ENTITY], an organization established to develop and enforce Reliability Standards within the geographic boundaries identified on **Exhibit A** to this Agreement, and for other purposes. NERC and [REGIONAL ENTITY] may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824n) (hereafter “the Act”), which, among other things, provides for the establishment of an electric reliability organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as [REGIONAL ENTITY] provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, [REGIONAL ENTITY] [is/is not] organized on an Interconnection-wide basis and therefore [is/is not] entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through [REGIONAL ENTITY] to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that [REGIONAL ENTITY] meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and [REGIONAL ENTITY], having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and [REGIONAL ENTITY] agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to [REGIONAL ENTITY] to propose and enforce Reliability Standards pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, [REGIONAL ENTITY] hereby represents and warrants to NERC that:

(i) [REGIONAL ENTITY] is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. [REGIONAL ENTITY] is governed in accordance with its bylaws by [*select appropriate*: an independent board/a balanced stakeholder board/ a combination independent and balanced stakeholder board]. Pursuant to these bylaws, no two industry sectors can control any [REGIONAL ENTITY] decision and no single industry sector can veto any [REGIONAL ENTITY] decision. The relevant portions of such bylaws are attached hereto in **Exhibit B**¹, and as so attached are in full force and effect. No other such corporate governance documents are binding upon [REGIONAL ENTITY].

(ii) As set forth in **Exhibit C** hereto², [REGIONAL ENTITY] has developed a standards development procedure, which provides the process that [REGIONAL ENTITY] may use to develop Regional Reliability Standards [and Regional Variances, if the regional entity is organized on an Interconnection-wide basis] that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, [REGIONAL ENTITY] has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within [REGIONAL ENTITY]'s geographic boundaries as shown on **Exhibit A**.

(b) NERC hereby represents and warrants to [REGIONAL ENTITY] that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

¹ The **Exhibit B** from [REGIONAL ENTITY] shall meet the requirements contained in **Exhibit B** to this Agreement.

² The **Exhibit C** from [REGIONAL ENTITY] shall meet the requirements contained in **Exhibit C** to this Agreement.

3. Covenants.

(a) During the term of this Agreement, [REGIONAL ENTITY] shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC's approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of [REGIONAL ENTITY] under this Agreement without first obtaining the consent of [REGIONAL ENTITY], which consent shall not be unreasonably withheld or delayed.

(c) During the term of this Agreement, NERC and [REGIONAL ENTITY] shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of [REGIONAL ENTITY] in Sections 2 and 3 above, the corporate governance documents set forth in **Exhibit B**, the standards development process set forth in **Exhibit C**, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to [REGIONAL ENTITY] for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth on **Exhibit A**, *provided*, that [REGIONAL ENTITY] shall not monitor and enforce compliance with Reliability Standards for [REGIONAL ENTITY] or an affiliated entity with respect to reliability functions for which [REGIONAL ENTITY] or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to

[REGIONAL ENTITY] within, or additions to this delegation of authority to [REGIONAL ENTITY] beyond, the geographic boundaries set forth on **Exhibit A** are stated on **Exhibit A**.

(b) In circumstances where [REGIONAL ENTITY] or an affiliated entity is a Registered Entity, [REGIONAL ENTITY] shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce [REGIONAL ENTITY]'s or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit [REGIONAL ENTITY] from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified on **Exhibit A** that is within the United States. Any delegation of authority by ERO Governmental Authorities in Canada or Mexico shall be governed by a separate agreement and is outside the scope of this Agreement; provided, however, that both [REGIONAL ENTITY] and NERC shall endeavor to ensure that this Agreement and such separate agreements are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, [REGIONAL ENTITY] shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, [REGIONAL ENTITY] shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords [REGIONAL ENTITY] reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards [and Regional Variances, if Regional Entity is organized on an Interconnection-wide basis] through [REGIONAL ENTITY]'s process as set forth in **Exhibit C**. Proposals approved through [REGIONAL ENTITY]'s process shall be reviewed by the NERC Board after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. [REGIONAL ENTITY] may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, [REGIONAL ENTITY] shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the geographic boundaries set forth, or as otherwise specified, in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and [REGIONAL ENTITY] agree that this compliance monitoring and

enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, *inter alia*, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. [REGIONAL ENTITY] may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, [REGIONAL ENTITY] agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) [REGIONAL ENTITY] shall report promptly to NERC any Possible Violation, Alleged Violation, or Confirmed Violation of a Reliability Standard, and its eventual disposition by [REGIONAL ENTITY]. Such report shall include the owner's, operator's, or user's name, which Reliability Standard or Reliability Standards were the subject of the Possible Violation, Alleged Violation, or Confirmed Violation, when the Possible Violation, Alleged Violation, or Confirmed Violation occurred, other pertinent facts including circumstances surrounding the Possible Violation, Alleged Violation, or Confirmed Violation with any known risk to the Bulk-Power System, when the Possible Violation, Alleged Violation, or Confirmed Violation was or will be mitigated, the name of a person knowledgeable about the Possible Violation, Alleged Violation, or Confirmed Violation to serve as a point of contact with the Commission, and any other information required by NERC compliance program procedures. NERC shall promptly forward such report to the Commission. NERC and [REGIONAL ENTITY] shall cooperate in filing such periodic summary reports as the Commission shall from time to time direct on Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards and summary analyses of such Possible Violations, Alleged Violations, and Confirmed Violations.

(c) Each Possible Violation, Alleged Violation, or Confirmed Violation shall be treated as nonpublic unless the matter is filed with the Commission as a Notice of Penalty, or, if disclosure is required, dismissed. The disposition of each Possible Violation, Alleged Violation, or Confirmed Violation that relates to a Cybersecurity Incident or that would

jeopardize the security of the Bulk-Power System if publicly disclosed shall remain nonpublic unless the Commission directs otherwise.

(d) All dispositions by [REGIONAL ENTITY] of Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards shall be reported to NERC for review and, in the case of Confirmed Violations, penalties or sanctions, and settlements, for approval. Following approval of a disposition by NERC, NERC shall file the disposition with the Commission, if required by, and in accordance with, Section 215(e) of the Act and Section 39.7 of the ERO Regulations. NERC shall review [REGIONAL ENTITY]'s dispositions based on the following criteria:

(i) whether the disposition is supported by a sufficient record compiled by [REGIONAL ENTITY] in accordance with the NERC Rules of Procedure, NERC directives and Commission requirements, taking into account the nature of the Possible Violation, Alleged Violation, or Confirmed Violation,

(ii) whether the disposition is consistent with any applicable directives issued pursuant to Section 8(c) of this Agreement, any applicable directions or guidance issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, or other applicable NERC guidance, concerning the Reliability Standards to which the Possible Violation, Alleged Violation, or Confirmed Violation relates,

(iii) if the disposition is a Confirmed Violation or settlement, whether it provides for a penalty or sanction, or a determination of no penalty or sanction, determined in accordance with the NERC Sanction Guidelines, Appendix 4B to the NERC Rules of Procedure, and

(iv) whether the disposition is reasonably consistent with other dispositions by [REGIONAL ENTITY] and by other Regional Entities of Possible Violations, Alleged Violations, and Confirmed Violations involving the same or similar facts and circumstances.

NERC may reject any disposition, with an explanation of why NERC believes the disposition does not meet the above criteria. [REGIONAL ENTITY] may submit a disposition requiring NERC approval that has been rejected by NERC, or a revised disposition following a rejection, directly to the NERC Board Compliance Committee for approval without revising the disposition to address all the grounds on which NERC originally rejected the disposition. The

final approval of [REGIONAL ENTITY]'s disposition of a Possible Violation, Alleged Violation, or Confirmed Violation shall be made by the NERC Board Compliance Committee, provided, that the NERC Board or NERC Board Compliance Committee may, by appropriate resolution, delegate authority for final approval of dispositions of specified categories of Possible Violations, Alleged Violations, or Confirmed Violations to the NERC President.

(e) All appeals of penalties imposed by [REGIONAL ENTITY] as a result of a decision by [REGIONAL ENTITY]'s Hearing Body shall be filed with, heard by and disposed of by, NERC in accordance with the NERC Rules of Procedure.

(f) [REGIONAL ENTITY] shall maintain the capability to conduct investigations of Possible Violations and Alleged Violations of Reliability Standards and to conduct such investigations in a confidential manner.

(g) [REGIONAL ENTITY] shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan.

(h) As part of its compliance monitoring and enforcement program, [REGIONAL ENTITY] shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(i) As often as NERC deems necessary, but no less than every five years, NERC shall review [REGIONAL ENTITY]'s compliance monitoring and enforcement program to determine that: (i) the program meets all applicable legal requirements; (ii) actual practices reflect the requirements; and (iii) the program administered pursuant to the Delegated Authority promotes consistent interpretations across North America of Reliability Standards and comparable levels of sanctions and penalties for violations of Reliability Standards constituting comparable levels of threat to reliability of the Bulk-Power System.

7. **Delegation-Related Activities.**

NERC will engage [REGIONAL ENTITY] on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed on **Exhibit E**. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (f), each of which shall be considered a statutory activity:

(a) Certification of Bulk-Power System Entities. The NERC Board shall set criteria for certification in accordance with the NERC Rules of Procedure. [REGIONAL ENTITY] shall issue certifications in accordance with the NERC Rules of Procedure.

(b) Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.

(i) The NERC Board shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by [REGIONAL ENTITY] and other Regional Entities. [REGIONAL ENTITY] shall provide timely and accurate information relating to registrations to NERC, on at least a monthly basis, to enable NERC to maintain a registration database that is accurate and up-to-date.

(iii) The NERC Board Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) Reliability Assessment and Performance Analysis. [REGIONAL ENTITY] shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. [REGIONAL ENTITY] shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable

Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives. NERC shall develop data-gathering quality control procedures, forms and reporting mechanisms, which shall be used by [REGIONAL ENTITY] and other Regional Entities in carrying out their responsibilities under this subsection (c).

(d) Event Analysis and Reliability Improvement. [REGIONAL ENTITY] shall conduct event analysis pursuant to the NERC Rules of Procedure and applicable governmental regulations. NERC and [REGIONAL ENTITY] shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, [REGIONAL ENTITY] shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) Training and Education. [REGIONAL ENTITY] may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) Situation Awareness and Infrastructure Security.

(i) [REGIONAL ENTITY] shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure and applicable governmental regulations, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System

(ii) [REGIONAL ENTITY] shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of [REGIONAL ENTITY]'s performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and [REGIONAL ENTITY] that matters relating to NERC's oversight of [REGIONAL ENTITY]'s performance of its Delegated Authority and related activities shall be established or resolved by collaboration

between NERC and [REGIONAL ENTITY] and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with [REGIONAL ENTITY] and other Regional Entities, performance goals, measures and other parameters (including, without limiting the scope of such goals, measures and parameters, financial performance goals, measures and parameters), and performance reports, which shall be used to measure NERC's and [REGIONAL ENTITY]'s performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. [REGIONAL ENTITY] shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate [REGIONAL ENTITY]'s performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters and performance reports to evaluate [REGIONAL ENTITY]'s performance of its delegated functions and related activities and to provide advice and direction to [REGIONAL ENTITY] on performance improvements. The performance goals, measures and other parameters and the values of such goals, measures and parameters, shall be reviewed by NERC, [REGIONAL ENTITY] and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, [REGIONAL ENTITY] shall be required to develop, submit for NERC approval, and implement action plans to address areas of its performance that are reasonably determined by NERC, based on analysis of [REGIONAL ENTITY]'s performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring [REGIONAL ENTITY] to adopt and implement an action plan or other remedial action, NERC shall issue a notice to [REGIONAL ENTITY] of the need and basis for an action plan or other remedial action and provide an opportunity for [REGIONAL ENTITY] to submit a written response contesting NERC's evaluation of [REGIONAL ENTITY]'s performance and the need

for an action plan. [REGIONAL ENTITY] may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board review and reconsider the request. NERC and [REGIONAL ENTITY] shall work collaboratively as needed in the development and implementation of [REGIONAL ENTITY]'s action plan. A final action plan submitted by [REGIONAL ENTITY] to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to [REGIONAL ENTITY] standardized training and education programs, which shall be designed taking into account input from [REGIONAL ENTITY] and other Regional Entities, for [REGIONAL ENTITY] personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to [REGIONAL ENTITY] concerning the manner in which [REGIONAL ENTITY] shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with [REGIONAL ENTITY] and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and [REGIONAL ENTITY] and, if applicable, other Regional Entities are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President; *provided*, that before the NERC President issues a directive pursuant to this paragraph (ii), [REGIONAL ENTITY] and, if applicable, other Regional Entities, shall be given a reasonable opportunity to present their positions on, and a suggested alternative version or versions of, the proposed directive to the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, [REGIONAL ENTITY], subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by [REGIONAL ENTITY], the NERC Board (or a committee of the Board to which the Board

delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without [REGIONAL ENTITY]'s agreement, *provided*, that [REGIONAL ENTITY] shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and [REGIONAL ENTITY] and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which [REGIONAL ENTITY], and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The Board or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the Board or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. [REGIONAL ENTITY], either individually or in conjunction with other Regional Entities, may request that the NERC Board or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with [REGIONAL ENTITY], either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) Any audits of [REGIONAL ENTITY] performed by NERC shall be limited to an examination of [REGIONAL ENTITY]'s compliance with this Agreement, NERC's Rules of

Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c)

9. **Funding.** [REGIONAL ENTITY] and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed on **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) [REGIONAL ENTITY] shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. [REGIONAL ENTITY]'s proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, [REGIONAL ENTITY] to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E**. [REGIONAL ENTITY]'s business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) [REGIONAL ENTITY] and NERC agree that the portion of [REGIONAL ENTITY]'s approved budget for the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by [REGIONAL ENTITY] and approved by NERC and the Commission. If [REGIONAL ENTITY] proposes to use a formula other than Net Energy for Load beginning in the following year, [REGIONAL ENTITY] shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and [REGIONAL ENTITY] to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the

Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide [REGIONAL ENTITY] with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) [REGIONAL ENTITY] shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed on Exhibit E, as well as for all other activities of [REGIONAL ENTITY], to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund [REGIONAL ENTITY]'s performance of its Delegated Authority and related activities in accordance with [REGIONAL ENTITY]'s Commission-approved business plan and budget, in the amount of [REGIONAL ENTITY]'s assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting [REGIONAL ENTITY]'s approved assessments from end users and other entities and payment of the approved assessment amount to [REGIONAL ENTITY], unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon [REGIONAL ENTITY] that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without [REGIONAL ENTITY]'s consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and [REGIONAL ENTITY] fiscal year budget with the actual results at the NERC and Regional Entity levels. [REGIONAL ENTITY] shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the

Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) [REGIONAL ENTITY] shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) [REGIONAL ENTITY] shall submit audited financial statements annually, including supporting materials, in a form provided by NERC no later than May 1 of the following year.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which [REGIONAL ENTITY] shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of [REGIONAL ENTITY]) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which [REGIONAL ENTITY] shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of [REGIONAL ENTITY]. *Provided*, that, subject to approval by NERC and the Commission, [REGIONAL ENTITY] may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. [REGIONAL ENTITY] may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit [REGIONAL ENTITY] from contracting with other entities to assist it in carrying out its Delegated Authority, provided [REGIONAL ENTITY] retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if

such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on [January 1, 2011] (the “Effective Date”).

(b) The term of the Agreement shall be five (5) years from the Effective Date, prior to which time NERC shall conduct an audit pursuant to subsection 6(i) to ensure that [REGIONAL ENTITY] continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. If [REGIONAL ENTITY] meets such requirements, this Agreement may be renewed for another five (5) year term. This Agreement may be renewed for successive additional five (5) year renewal terms provided that prior to the end of each renewal term, NERC shall conduct an audit pursuant to subsection 6(i) to ensure that [REGIONAL ENTITY] continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. Provided, that either Party may terminate this Agreement as of the end of a term by giving written notice to terminate at least one (1) year prior to the end of the term. If this Agreement is not renewed or becomes subject to termination for any reason, the Parties shall work to provide for a transition of [REGIONAL ENTITY]’s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement. The termination of this Agreement shall not take effect until such transition has been effected, unless the

transition period exceeds one year, at which time [REGIONAL ENTITY] may unilaterally terminate.

(c) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by [REGIONAL ENTITY] and NERC.

(d) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. [REGIONAL ENTITY] and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and [REGIONAL ENTITY] shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of the [REGIONAL ENTITY]'s or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that the [REGIONAL ENTITY] or NERC is found liable for gross negligence or intentional misconduct, in which case [REGIONAL ENTITY] or NERC

shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party.

15. Confidentiality. During the course of the Parties' performance under this Agreement, a Party may receive Confidential Information, as defined in Section 1500 of NERC's Rules of Procedure. Except as set forth herein, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information. In addition, each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein. This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of [REGIONAL ENTITY] under this Agreement without first obtaining the consent of [REGIONAL ENTITY], which consent shall not be unreasonably withheld or delayed. To the extent [REGIONAL ENTITY] does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of [REGIONAL ENTITY] under this Agreement, [REGIONAL ENTITY] shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by [REGIONAL ENTITY] to NERC and the Commission, or at such other time as may be mutually agreed by [REGIONAL ENTITY] and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and [REGIONAL ENTITY] (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to [REGIONAL ENTITY]'s performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. [REGIONAL ENTITY] shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, *provided*, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), *provided*, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. *Provided, however*, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to

resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. Whether expressly so stated or not, all notices, demands, requests, and other communications required or permitted by or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand or reputable overnight courier:

If to NERC:

North American Electric
Reliability Corporation
116-390 Village Blvd.
Princeton, NJ 08540-5721
Attn: General Counsel
Facsimile: (609) 452-9550

If to [REGIONAL ENTITY]:

Attn:
Facsimile:

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of New Jersey without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in New Jersey. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in New Jersey for the purpose of hearing and determining any action not heard and determined by the Commission.

21. **Headings.** The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.
22. **Savings Clause.** Nothing in this Agreement shall be construed to preempt or limit any authority that [REGIONAL ENTITY] may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.
23. **Entire Agreement.** This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.
24. **Execution of Counterparts.** This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN
ELECTRIC RELIABILITY CORPORATION

[REGIONAL ENTITY]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A — Regional Boundaries

Exhibit A to the delegation agreement for each Regional Entity receiving Delegated Authority shall describe the geographic or electrical boundaries covered by the proposed delegation of authority. **Exhibit A** for each Regional Entity shall reflect coordination with neighboring Regional Entities, as appropriate, to ensure that all relevant areas are either included within the geographic boundaries of a Regional Entity or specifically identified as not being within the geographic boundaries of any Regional Entity. Any exclusions of geographic or electrical areas or of Registered Entities from the scope of the Regional Entity's Delegated Authority within the geographic or electrical boundaries shown on **Exhibit A**, and any additions of geographic or electrical areas or of Registered Entities located outside the boundaries shown on **Exhibit A** to the scope of the Regional Entity's Delegated Authority, shall be specifically stated or described in **Exhibit A**.

Exhibit B – Governance

Exhibit B shall set forth the Regional Entity’s bylaws, which NERC agrees demonstrate that the Regional Entity meets the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence of the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Exhibit C – Regional Standard Development Procedure

Exhibit C shall set forth the Regional Entity’s standards development procedure, which NERC agrees meets the following common attributes:

COMMON ATTRIBUTE 1

Proposed regional reliability standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA [add reference to any applicable authorities in Canada and Mexico]. No regional reliability standard shall be effective within the [Regional Entity Name] area unless filed by NERC with FERC [and applicable authorities in Canada and Mexico] and approved by FERC [and applicable authorities in Canada and Mexico].

COMMON ATTRIBUTE 2

[Regional Entity Name] regional reliability standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. A [Regional Entity Name] reliability standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. A regional reliability standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

COMMON ATTRIBUTE 3

[Regional Entity Name] regional reliability standards, when approved by FERC [add applicable authorities in Canada], shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the [Regional Entity Name] area, regardless of membership in the region.

COMMON ATTRIBUTE 4

Requester — The requester is the sponsor of the regional reliability standard request and may assist in the development of the standard. Any member of [Regional Entity Name], or group within [Regional Entity Name] shall be allowed to request that a regional reliability standard be developed, modified, or withdrawn. Additionally, any entity (person, organization, company, government agency, individual, etc.) that is directly and materially affected by the reliability of the bulk power system in the [Regional Entity Name] area shall be allowed to request a regional reliability standard be developed, modified, or withdrawn.

COMMON ATTRIBUTE 5

[Standards or other named] committee — The [Regional Entity Name] [standards] committee manages the standards development process. The [standards] committee will consider which requests for new or revised standards shall be assigned for development (or existing standards considered for deletion). The [standards] committee will advise the [Regional Entity Name] board on standards presented for adoption.

COMMON ATTRIBUTE 6

[Alternative 6A: For a Regional Entity that chooses to vote using a balanced stakeholder committee.]

The [standards] committee is a balanced stakeholder committee, inclusive of all stakeholder interests that provide for or are materially impacted by the reliability of the bulk power system. [The [standards] committee votes to approve standards.] See Appendix A for the representation model of the [standards] committee.

[Alternative 6B: For a Regional Entity that chooses to vote using a balanced ballot body of stakeholders.]

[Registered ballot body] — The registered ballot body comprises all entities or individuals that qualify for one of the stakeholder segments; are registered with [Regional Entity Name] as potential ballot participants in the voting on standards; and are current with any designated fees. Each member of the registered ballot body is eligible to vote on standards. [Each standard action has its own ballot pool formed of interested members of the registered ballot body. Each ballot pool comprises those members of the registered ballot body that respond to a pre-ballot survey for that particular standard action indicating their desire to participate in such a ballot pool.] The representation model of the registered ballot body is provided in Appendix A.]

COMMON ATTRIBUTE 7

[Regional Entity Name] will coordinate with NERC such that the acknowledgement of receipt of a standard request identified in step 1, notice of comment posting period identified in step 4, and notice for vote identified in step 5 below are concurrently posted on both the [Regional Entity Name] and NERC websites.

COMMON ATTRIBUTE 8

An acceptable standard request shall contain a description of the proposed regional reliability standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed standard.

COMMON ATTRIBUTE 9

Within [no greater than 60] days of receipt of a completed standard request, the [standards] committee shall determine the disposition of the standard request.

COMMON ATTRIBUTE 10

The [standards] committee may take one of the following actions:

- Accept the standard request as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The [standards] committee may, at its discretion, expand or narrow the scope of the standard request under consideration. The [standards] committee shall prioritize the development of standard in relation to other proposed standards, as may be required based on the volume of requests and resources.
- Reject the standard request. If the [standards] committee rejects a standard request, a written explanation for rejection will be delivered to the requester within [no greater than 30] days of the decision.
- Remand the standard request back to the requester for additional work. The standards process manager will make reasonable efforts to assist the requester in addressing the deficiencies identified by the [standards] committee. The requester may then resubmit the modified standard request using the process above. The requester may choose to withdraw the standard request from further consideration prior to acceptance by the [standards] committee.

COMMON ATTRIBUTE 11

Any standard request that is accepted by the [standards] committee for development of a standard (or modification or deletion of an existing standard) shall be posted for public viewing on the [Regional Entity Name] website within [no greater than 30] days of acceptance by the committee.

COMMON ATTRIBUTE 12

The standards process manager shall submit the proposed members of the drafting team to the [standards] committee. The [standards] committee shall approve the drafting team membership within 60 days of accepting a standard request for development, modifying the recommendations of the standards process manager as the committee deems appropriate, and assign development of the proposed standard to the drafting team.

COMMON ATTRIBUTE 13

At the direction from the [standards] committee, the standards process manager shall facilitate the posting of the draft standard on the [Regional Entity Name] website, along with a draft implementation plan and supporting documents, for a no less than a [30]-day comment period. The standards process manager shall provide notice to [Regional Entity Name] stakeholders and other potentially interested entities, both within and outside of the [Regional Entity Name] area, of the posting using communication procedures then currently in effect or by other means as deemed appropriate.

COMMON ATTRIBUTE 14

The drafting team shall prepare a summary of the comments received and the changes made to the proposed standard as a result of these comments. The drafting team shall summarize comments that were rejected by the drafting team and the reason(s) that these comments were rejected, in part or whole. The summary, along with a response to each comment received will be posted on the [Regional Entity Name] website no later than the next posting of the proposed standard.

COMMON ATTRIBUTE 15

Upon recommendation of the drafting team, and if the [standards] committee concurs that all of the requirements for development of the standard have been met, the standards process manager shall post the proposed standard and implementation plan for ballot and shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

COMMON ATTRIBUTE 16

The standards process manager shall schedule a vote by the [Regional Entity Name] [registered ballot body/[standards] committee]. The vote shall commence no sooner than [15] days and no later than [30] days following the issuance of the notice for the vote.

COMMON ATTRIBUTE 17

[Alternative 17A: For an RE that chooses to vote using a balanced stakeholder committee.]

The [standards] committee shall give due consideration to the work of the drafting team, as well as the comments of stakeholders and minority objections, in approving a proposed regional reliability standard for submittal to the [Regional Entity Name] board. The [standards]

committee may vote to approve or not approve the standard. Alternatively, the [standards] committee may remand the standard to the drafting team for further work or form a new drafting team for that purpose.

[Alternative 17B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

The [Regional Entity Name] registered ballot body shall be able to vote on the proposed standard during a period of [not less than 10] days.

COMMON ATTRIBUTE 18

[Alternative 18A: For an RE that chooses to vote using a balanced stakeholder committee.]

The [standards] committee may not itself modify the standard without issuing a new notice to stakeholders regarding a vote of the modified standard.

[Alternative 18B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

All members of [Regional Entity Name] are eligible to participate in voting on proposed new standards, standard revisions or standard deletions. [Alternatively: Each standard action requires formation of a ballot pool of interested members of the registered ballot body.]

COMMON ATTRIBUTE 19

[Alternative 19A: For an RE that chooses to vote using a balanced stakeholder committee.]

Actions by the committee shall be recorded in the regular minutes of the committee.

[Alternative 19B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

Approval of the proposed regional reliability standard shall require a [two thirds] majority in the affirmative (affirmative votes divided by the sum of affirmative and negative votes). Abstentions and non-responses shall not count toward the results, except that abstentions may be used in the determination of a quorum. A quorum shall mean [XX%] of the members of the [registered ballot body/ballot pool] submitted a ballot.

COMMON ATTRIBUTE 20

Under no circumstances may the board substantively modify the proposed regional reliability standard.

COMMON ATTRIBUTE 21

Once a regional reliability standard is approved by the board, the standard will be submitted to NERC for approval and filing with FERC [and applicable authorities in Canada and Mexico.]

COMMON ATTRIBUTE 22

- **Open** - Participation in the development of a regional reliability standard shall be open to all organizations that are directly and materially affected by the [Regional Entity Name] bulk power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in [Regional Entity Name], and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to the [Regional Entity Name] members and others.

COMMON ATTRIBUTE 23

- **Balanced** - The [Regional Entity Name] standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.

COMMON ATTRIBUTE 24

- **Inclusive** — Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the [Regional Entity Name] area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.

COMMON ATTRIBUTE 25

- **Fair due process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.

COMMON ATTRIBUTE 26

- **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.

COMMON ATTRIBUTE 27

- Does not unnecessarily delay development of the proposed reliability standard.

COMMON ATTRIBUTE 28

Each standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

COMMON ATTRIBUTE 29

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all regional reliability standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

COMMON ATTRIBUTE 30

To ensure uniformity of regional reliability standards, a regional reliability standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

COMMON ATTRIBUTE 31

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

COMMON ATTRIBUTE 32

Applicability	<p>Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions.</p> <p>If not applicable to the entire [Regional Entity Name] area, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.</p>
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COMMON ATTRIBUTE 33

Measure(s)	<p>Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.</p>
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COMMON ATTRIBUTE 34

Compliance Monitoring Process	<p>Defines for each measure:</p> <ul style="list-style-type: none"> • The specific data or information that is required to measure performance or outcomes. • The entity that is responsible for providing the data or information for measuring performance or outcomes. • The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes. • The entity that is responsible for evaluating data or
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	<p>information to assess performance or outcomes.</p> <ul style="list-style-type: none">• The time period in which performance or outcomes is measured, evaluated, and then reset.• Measurement data retention requirements and assignment of responsibility for data archiving.
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EXHIBIT D – COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

[**REGIONAL ENTITY**] will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within [**REGIONAL ENTITY**]'s geographic or electrical boundaries, and such other scope, set forth on **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

[**REGIONAL ENTITY**] shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either [**REGIONAL ENTITY**]'s board or a balanced compliance panel reporting directly to [**REGIONAL ENTITY**]'s board. [**REGIONAL ENTITY**]'s hearing body is [its board] [if not the board, insert the name of the committee or group serving as the hearing body].

[If the hearing body is a compliance panel other than the board, provide here a description of how the members of the compliance panel are selected and the qualifications to be selected for the compliance panel.]

[**REGIONAL ENTITY**] shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: [Describe any deviations, or state "None". If there are deviations from the NERC pro forma Hearing Procedures, [**REGIONAL ENTITY**]'s Hearing Procedures shall be included as a separate attachment to this Exhibit D.]

3.0 OTHER DECISION-MAKING BODIES

If [*Regional Entity*] uses other decision-making bodies within its compliance program, provide here a description of the function of that body to the extent not described elsewhere in the Agreement or exhibits, how the members of that body are selected, and the qualifications to be selected for that body.]

Exhibit E — Funding

1. Scope of activities funded through the ERO funding mechanism

[Regional Entity] shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and [Regional Entity], in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of [Regional Entity's] business plan and budget. The annual schedule for the preparation of business plans and budgets shall require [Regional Entity] (i) to submit to NERC draft(s) of [Regional Entity]'s proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by [Regional Entity] Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of [Regional Entity]'s business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The [Regional Entity] business plan and budget submission shall include supporting materials, including [Regional Entity]'s complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. [Regional Entity]'s business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve [Regional Entity]'s proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct [Regional Entity] to make such revisions as NERC deems appropriate prior to approval. NERC shall submit [Regional Entity]'s approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of [REGIONAL ENTITY]'s delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. [Regional Entity] shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying [Regional Entity's] assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of [Regional Entity's] assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

[IF NERC WILL BILL AND COLLECT ASSESSMENTS DIRECTLY FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):]

(a) NERC shall submit invoices to the load-serving entities or designees identified by [Regional Entity] covering the NERC and [Regional Entity] assessments approved for collection.

[IF THE REGIONAL ENTITY WILL ACT AS THE BILLING AND COLLECTION AGENT ON BEHALF OF NERC TO BILL AND COLLECT ASSESSMENTS FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):]

(a) NERC and [Regional Entity] agree that [Regional Entity] shall act as the billing and collection agent on behalf of NERC to bill and collect [Regional Entity]'s assessments from load-serving entities and designees (or such other entities as agreed by NERC and [Regional Entity]). [Regional Entity] agrees that it shall (i) issue all invoices to load-serving entities and other entities in a prompt and timely manner after receipt from NERC of the information needed to issue the invoices; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC in a timely manner, as follows: Prior to the start of each calendar quarter, and once per week thereafter until all billings for the quarter are collected, [Regional Entity] will electronically transfer to NERC, in immediately available funds, all payments received by [Regional Entity] from load-serving entities or other entities for payment of invoices. On the same day that [Regional Entity] makes each electronic transfer of funds to NERC, [Regional Entity] shall send an e-mail to the Chief Financial Officer or Controller of NERC detailing the collections being transmitted, including a listing of the load-serving entities or other entities from which payments were collected and the amount collected from each entity. [Note: If NERC and Regional Entity have a different collection and payment arrangement, the preceding two sentences will be modified accordingly to describe it.]

[Regional Entity] agrees that it shall not in any way use its position as billing and collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of Reliability Standards (including Regional Reliability Standards and Regional Variances), administration of the compliance monitoring and enforcement program and other compliance and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of [Regional Entity's] budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this Agreement.

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from ERO Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, [Regional Entity] shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, [Regional Entity] is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within [REGIONAL ENTITY]'s region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within [Regional Entity]'s region.

(c) Upon approval by ERO Governmental Authorities of [Regional Entity]'s annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay [Regional Entity's] annual assessment to Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by [Regional Entity], other than penalty monies received from an operational function or division or affiliated entity of [Regional Entity], shall be applied as a general offset to [Regional Entity]'s budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of [Regional Entity] shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for [Regional Entity's] Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), [Regional Entity] performs the following other functions and activities (such other functions and activities being

referred to in this Section 6 as "non-statutory activities"): [List and describe all non-statutory activities performed by Regional Entity, or state "None".]

[Regional Entity] shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: [List and describe the methods and procedures Regional Entity employs to keep costs and funding of statutory activities separate from costs and funding of non-statutory activities, including at a minimum a description of how Regional Entity's bank accounts and receivables/payables procedures are set up for both statutory and non-statutory functions, a description of how Regional Entity ensures each employee involved in both statutory and non-statutory functions keeps accurate time records reflecting his/her activities, and a description of how Regional Entity's general and administrative costs are allocated between statutory activities and non-statutory activities. If the necessary descriptions are lengthy they may be provided in a separate attachment labeled "Attachment E-1", and state here "See Attachment E-1." If Regional Entity has listed no non-statutory functions in the preceding paragraph, state here "Not applicable."]

[Regional Entity] shall provide its budget for such non-statutory activities to NERC at the same time that [Regional Entity] submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. [Regional Entity's] budget for non-statutory activities that is provided to NERC shall contain a detailed list of [Regional Entity's] non-statutory activities and a description of the funding sources for the non-statutory activities. [Regional Entity] agrees that no costs (which shall include a reasonable allocation of [Regional Entity]'s general and administrative costs) of non-statutory activities are to be included in the calculation of [Regional Entity's] assessments, dues, fees, and other charges for its statutory activities.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if [Regional Entity] determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, [Regional Entity] shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in [Regional Entity]'s approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct [Regional Entity] to make such revisions as NERC deems appropriate prior to approval. NERC shall submit [Regional Entity]'s approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Statements

NERC shall conduct reviews of the quarterly and annual financial statements submitted by [Regional Entity] pursuant to Section 9(h) and (i) of the Agreement. [Regional Entity] shall

4-14-2010

provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC based on its reviews.

ATTACHMENT 1B

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED PRO FORMA DELEGATION AGREEMENT

REDLINED AGAINST

CURRENT PRO FORMA DELEGATION AGREEMENT

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND [REGIONAL ENTITY]**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”) made ~~this ___ day of _____ 2008,~~ as of [January 1, 2011], between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the ~~bulk power system~~ Bulk-Power System, and ~~the~~ [REGIONAL ENTITY], an organization established to develop and enforce Reliability Standards within the geographic boundaries identified on **Exhibit A** to this Agreement, and for other purposes. NERC and [REGIONAL ENTITY] may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824n) (hereafter “the Act”) ~~and, which,~~ which, among other things, provides for the establishment of an electric reliability organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the ~~bulk power system~~ Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part ~~39, as adopted by Commission Order No. 672 in Docket No. RM05-30-000 on February 3, 2006 (114 FERC ¶ 61,104; hereafter “Order 672~~ 39 (the “ERO Regulations”));

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the ~~bulk power system~~ Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ~~Commission's regulations~~ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities ("Regional Entities") such as [REGIONAL ENTITY] provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of ~~bulk power system~~Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, [REGIONAL ENTITY] [is/is not] organized on an Interconnection-wide basis and therefore [is/is not] entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through [REGIONAL ENTITY] to carry out certain of its activities in furtherance of its responsibilities as the ~~electric reliability organization~~ERO under the Act; ~~and~~

WHEREAS, NERC has concluded that [REGIONAL ENTITY] meets all requirements of the Act, the ~~Commission's regulations~~ERO Regulations, and the NERC Rules of Procedure as approved by the Commission ("NERC Rules of Procedure") necessary to qualify for delegation; and

WHEREAS, NERC and [REGIONAL ENTITY], having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and [REGIONAL ENTITY]; agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ~~Commission's regulations, or~~ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as ~~follows~~set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to [REGIONAL ENTITY] to propose and enforce Reliability Standards pursuant to the Act and to undertake

related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

~~(d) — [REGIONAL ENTITY] Rules means the bylaws, a rule of procedure or other organizational rule or protocol of [REGIONAL ENTITY].~~

~~(e) — Reliability Standard means a requirement approved by the Commission under Section 215 of the Federal Power Act to provide for reliable operation of the bulk power system. The term includes requirements for the operation of existing bulk power system facilities, including cyber security protection, and the design of planned additions or modifications to such facilities to the extent necessary for reliable operation of the bulk power system; but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.~~

2. Representations.

(a) For purposes of its Delegated Authority, [REGIONAL ENTITY] hereby represents and warrants to NERC that:

(i) [REGIONAL ENTITY] is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. [REGIONAL ENTITY] is governed in accordance with its bylaws by [*select appropriate: an independent board/a balanced stakeholder board/ a combination independent and balanced stakeholder board*]. Pursuant to these bylaws, no two industry sectors can control any [REGIONAL ENTITY] decision and no single industry sector can veto any [REGIONAL ENTITY] decision. The relevant portions of such bylaws are attached hereto in **Exhibit B**¹, and as so attached are in full force and effect. No other such corporate governance documents are binding upon [REGIONAL ENTITY].

¹ The **Exhibit B** from ~~each Regional Entity~~ [REGIONAL ENTITY] shall meet the requirements contained in **Exhibit B** to this ~~pro forma~~ Agreement.
Amended and Restated Pro Forma Regional Delegation Agreement
~~Amended and Restated for July 21, 2008 Compliance Filing~~

(ii) As set forth in **Exhibit C** hereto², [REGIONAL ENTITY] has developed a standards development procedure, which provides the process that [REGIONAL ENTITY] may use to develop Regional Reliability Standards [and Regional Variances, if the regional entity is organized on an Interconnection-wide basis] that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto³, [REGIONAL ENTITY] has ~~developed a regional compliance enforcement program~~adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within ~~its~~[REGIONAL ENTITY]'s geographic boundaries as shown on Exhibit A.

(b) NERC hereby represents and warrants to [REGIONAL ENTITY] that:

(i) ~~It~~NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) ~~It~~NERC has been certified as the ERO by the Commission pursuant to the Act.

3. Covenants.

(a) During the term of this Agreement, [REGIONAL ENTITY] shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend ~~the [REGIONAL ENTITY]its Regional Entity~~ Rules without NERC's approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) During the term of this ~~agreement~~Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections

² The **Exhibit C** from ~~each Regional Entity~~[REGIONAL ENTITY] shall meet the requirements contained in **Exhibit C** to this pro forma Agreement.

~~³ The **Exhibit D** from each Regional Entity shall meet the requirements contained in **Exhibit D** to this pro forma Agreement.~~

~~1617~~ and ~~1718~~ of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of [REGIONAL ENTITY] under this Agreement without first obtaining the consent of [REGIONAL ENTITY], which consent shall not be unreasonably withheld or delayed.

- (c) During the term of this ~~agreement~~Agreement, NERC and [REGIONAL ENTITY]

shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of [REGIONAL ENTITY] in Sections 2 and 3 above, the corporate governance documents set forth in **Exhibit B**, the standards development process set forth in **Exhibit C**, and the ~~regional~~ compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to [REGIONAL ENTITY] for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries ~~set forth on Exhibit A. No further redelegation of authority or responsibility, in total or in part, under this Agreement is allowed without NERC's express consent.~~ and such other scope set forth on Exhibit A, provided, that [REGIONAL ENTITY] shall not monitor and enforce compliance with Reliability Standards for [REGIONAL ENTITY] or an affiliated entity with respect to reliability functions for which [REGIONAL ENTITY] or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to [REGIONAL ENTITY] within, or additions to this delegation of authority to [REGIONAL ENTITY] beyond, the geographic boundaries set forth on Exhibit A are stated on Exhibit A.

(b) In circumstances where [REGIONAL ENTITY] or an affiliated entity is a Registered Entity, [REGIONAL ENTITY] shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce [REGIONAL ENTITY]'s or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit [REGIONAL ENTITY] from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) ~~(b)~~ For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified on **Exhibit A** that is within the United States. Any delegation of authority by ~~governmental authorities~~ ERO Governmental Authorities in Canada or Mexico shall be governed by a separate agreement and is outside the scope of this Agreement; provided, however, that both [REGIONAL ENTITY] and NERC shall endeavor to ensure that this Agreement and such separate agreements are compatible.

(e) ~~(e)~~ As a condition to this delegation of authority and subject to the provisions of ~~section 16~~ Section 17 of this Agreement, [REGIONAL ENTITY] shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, [REGIONAL ENTITY] shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords [REGIONAL ENTITY] reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards [and Regional Variances, if Regional Entity is organized on an Interconnection-wide basis] through [REGIONAL ENTITY]'s process as set forth in **Exhibit C**. Proposals approved through [REGIONAL ENTITY]'s process shall be reviewed by the NERC Board ~~of Trustees~~ after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule ~~313, section 3.1~~ of Procedure 312.3 as it may be amended from time to time. The NERC ~~board of trustees~~ Board shall promptly thereafter consider such

proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed ~~standard~~Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. [REGIONAL ENTITY] may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the ~~[INTERCONNECTION-WIDE REGIONAL ENTITY]~~Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the ~~[INTERCONNECTION-WIDE REGIONAL ENTITY]~~Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, [REGIONAL ENTITY] shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the geographic boundaries set forth, or as otherwise specified, in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and [REGIONAL ENTITY] agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 ~~and of~~ the Commission's ~~regulations~~, and the ERO Regulations, including, *inter alia*, the requirement for an audit program pursuant to Section 39.7(a) of the ~~Commission's regulations~~ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ~~Commission's regulations~~ERO Regulations and the requirements for due process. [REGIONAL ENTITY] may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the

approval of the Commission. Subject to the rights and limitations ~~of specified in~~ Sections ~~1617~~ and ~~1718~~ of this Agreement, [REGIONAL ENTITY] agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) [REGIONAL ENTITY] shall report promptly to NERC any ~~self-reported violation or investigation of a violation or an alleged violation~~ Possible Violation, Alleged Violation, or Confirmed Violation of a Reliability Standard, and its eventual disposition by [REGIONAL ENTITY]. Such report shall include the owner's, operator's, or user's name, which Reliability Standard or Reliability Standards were ~~violated or allegedly violated, when the violation or alleged violation~~ the subject of the Possible Violation, Alleged Violation, or Confirmed Violation, when the Possible Violation, Alleged Violation, or Confirmed Violation occurred, other pertinent facts ~~about the violation~~ including circumstances surrounding the ~~violation~~ Possible Violation, Alleged Violation, or Confirmed Violation with any known risk to the ~~bulk power system~~ Bulk-Power System, when the ~~violation~~ Possible Violation, Alleged Violation, or Confirmed Violation was or will be mitigated, the name of a person knowledgeable about the ~~violation or alleged violation~~ Possible Violation, Alleged Violation, or Confirmed Violation to serve as a point of contact with the Commission, and any other information required by NERC compliance program procedures. NERC shall promptly forward such report to the Commission. NERC and [REGIONAL ENTITY] shall cooperate in filing such periodic summary reports as the Commission shall from time to time direct on ~~violations~~ Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards and summary analyses of such ~~violations~~ Possible Violations, Alleged Violations, and Confirmed Violations.

(c) Each ~~violation or alleged violation~~ Possible Violation, Alleged Violation, or Confirmed Violation shall be treated as nonpublic ~~until~~ unless the matter is filed with the Commission as a ~~notice of penalty or resolved by an admission that the owner, operator, or user of the bulk power system violated a Reliability Standard or by a settlement or other negotiated disposition. The disposition of each violation or alleged violation~~ Notice of Penalty, or, if disclosure is required, dismissed. The disposition of each Possible Violation, Alleged Violation, or Confirmed Violation that relates to a Cybersecurity Incident or that would

jeopardize the security of the ~~bulk power system~~ Bulk-Power System if publicly disclosed shall ~~be~~ remain nonpublic unless the Commission directs otherwise.

(d) All dispositions by [REGIONAL ENTITY] of Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards shall be reported to NERC for review and, in the case of Confirmed Violations, penalties or sanctions, and settlements, for approval. Following approval of a disposition by NERC, NERC shall file the disposition with the Commission, if required by, and in accordance with, Section 215(e) of the Act and Section 39.7 of the ERO Regulations. NERC shall review [REGIONAL ENTITY]'s dispositions based on the following criteria:

(i) whether the disposition is supported by a sufficient record compiled by [REGIONAL ENTITY] in accordance with the NERC Rules of Procedure, NERC directives and Commission requirements, taking into account the nature of the Possible Violation, Alleged Violation, or Confirmed Violation,

(ii) whether the disposition is consistent with any applicable directives issued pursuant to Section 8(c) of this Agreement, any applicable directions or guidance issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, or other applicable NERC guidance, concerning the Reliability Standards to which the Possible Violation, Alleged Violation, or Confirmed Violation relates,

(iii) if the disposition is a Confirmed Violation or settlement, whether it provides for a penalty or sanction, or a determination of no penalty or sanction, determined in accordance with the NERC Sanction Guidelines, Appendix 4B to the NERC Rules of Procedure, and

(iv) whether the disposition is reasonably consistent with other dispositions by [REGIONAL ENTITY] and by other Regional Entities of Possible Violations, Alleged Violations, and Confirmed Violations involving the same or similar facts and circumstances.

NERC may reject any disposition, with an explanation of why NERC believes the disposition does not meet the above criteria. [REGIONAL ENTITY] may submit a disposition requiring NERC approval that has been rejected by NERC, or a revised disposition following a rejection, directly to the NERC Board Compliance Committee for approval without revising the disposition to address all the grounds on which NERC originally rejected the disposition. The

final approval of [REGIONAL ENTITY]'s disposition of a Possible Violation, Alleged Violation, or Confirmed Violation shall be made by the NERC Board Compliance Committee, provided, that the NERC Board or NERC Board Compliance Committee may, by appropriate resolution, delegate authority for final approval of dispositions of specified categories of Possible Violations, Alleged Violations, or Confirmed Violations to the NERC President.

(e) All appeals of penalties imposed by [REGIONAL ENTITY] as a result of a decision by [REGIONAL ENTITY]'s Hearing Body shall be filed with, heard by and disposed of by, NERC; in accordance with the NERC Rules of Procedure.

(f) ~~(e)~~ [REGIONAL ENTITY] shall maintain the capability to conduct investigations of ~~potential violations~~ Possible Violations and Alleged Violations of Reliability Standards and to conduct such investigations in a confidential manner.

(g) ~~(f)~~ [REGIONAL ENTITY] shall maintain a program of proactive monitoring and enforcement ~~audits including procedures for spot checks of self-reported compliance and periodic audits of all responsible entities as defined in Exhibit D~~ of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan.

(h) ~~(g)~~ As part of its compliance monitoring and enforcement program, [REGIONAL ENTITY] shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and ~~the~~ independence of the persons or decision-making bodies making final determinations in compliance ~~program staff from those subject to~~ enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(i) ~~(h)~~ As often as NERC deems necessary, but no less than every ~~three~~ five years, NERC shall review [REGIONAL ENTITY]'s compliance monitoring and enforcement program to ~~ensure~~ determine that: (i) the program meets all applicable legal requirements; (ii) actual practices reflect the requirements; and (iii) the program administered pursuant to the Delegated Authority promotes consistent interpretations across North America of Reliability Standards and comparable levels of sanctions and penalties ~~to~~ for violations of Reliability Standards

constituting comparable levels of threat to reliability of the ~~bulk power system~~Bulk-Power System.

~~(i) [REGIONAL ENTITY] shall modify its compliance enforcement program as needed to reflect additions to, deletions from, or modifications of Reliability Standards and, subject to the rights and limitations of Sections 16 and 17 of this Agreement, shall modify its compliance enforcement program as needed: (i) to reflect amendments to the NERC Rules; (ii) to comply with NERC directives resulting from the review of compliance enforcement programs as provided in Section 6(h) of this Agreement; or (iii) to resolve a conflict with a function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission.~~

~~(j) NERC shall conduct a review with the Regional Entities that provides for the exchange of information on practices, experiences, and lessons learned in the implementation of compliance enforcement programs.~~

7. Delegation-Related Activities.

~~7. Delegation-Related Services.~~ NERC will engage [REGIONAL ENTITY] on its behalf to carry out certain of its activities that are in furtherance of ~~its~~Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of ~~delegated functions~~the Delegated Authority, as specified in the NERC Rules of Procedure and listed on **Exhibit E**. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (f), each of which shall be considered a statutory activity:

(a) Certification of Bulk-Power System Entities. The NERC Board shall set criteria for certification in accordance with the NERC Rules of Procedure. [REGIONAL ENTITY] shall issue certifications in accordance with the NERC Rules of Procedure.

(b) Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.

(i) The NERC Board shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by [REGIONAL ENTITY] and other Regional Entities. [REGIONAL ENTITY] shall provide timely and accurate information relating to registrations to NERC, on at least a monthly basis, to enable NERC to maintain a registration database that is accurate and up-to-date.

(iii) The NERC Board Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) Reliability Assessment and Performance Analysis. [REGIONAL ENTITY] shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. [REGIONAL ENTITY] shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives. NERC shall develop data-gathering quality control procedures, forms and reporting mechanisms, which shall be used by [REGIONAL ENTITY] and other Regional Entities in carrying out their responsibilities under this subsection (c).

(d) Event Analysis and Reliability Improvement. [REGIONAL ENTITY] shall conduct event analysis pursuant to the NERC Rules of Procedure and applicable governmental regulations. NERC and [REGIONAL ENTITY] shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, [REGIONAL ENTITY] shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) Training and Education. [REGIONAL ENTITY] may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide

training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) Situation Awareness and Infrastructure Security.

(i) [REGIONAL ENTITY] shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure and applicable governmental regulations, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System

(ii) [REGIONAL ENTITY] shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of [REGIONAL ENTITY]'s performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and [REGIONAL ENTITY] that matters relating to NERC's oversight of [REGIONAL ENTITY]'s performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and [REGIONAL ENTITY] and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with [REGIONAL ENTITY] and other Regional Entities, performance goals, measures and other parameters (including, without limiting the scope of such goals, measures and parameters, financial performance goals, measures and parameters), and performance reports, which shall be used to measure NERC's and [REGIONAL ENTITY]'s performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. [REGIONAL ENTITY] shall provide data, information and reports to NERC, in accordance with established schedules, to

enable NERC to calculate [REGIONAL ENTITY]'s performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters and performance reports to evaluate [REGIONAL ENTITY]'s performance of its delegated functions and related activities and to provide advice and direction to [REGIONAL ENTITY] on performance improvements. The performance goals, measures and other parameters and the values of such goals, measures and parameters, shall be reviewed by NERC, [REGIONAL ENTITY] and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, [REGIONAL ENTITY] shall be required to develop, submit for NERC approval, and implement action plans to address areas of its performance that are reasonably determined by NERC, based on analysis of [REGIONAL ENTITY]'s performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring [REGIONAL ENTITY] to adopt and implement an action plan or other remedial action, NERC shall issue a notice to [REGIONAL ENTITY] of the need and basis for an action plan or other remedial action and provide an opportunity for [REGIONAL ENTITY] to submit a written response contesting NERC's evaluation of [REGIONAL ENTITY]'s performance and the need for an action plan. [REGIONAL ENTITY] may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board review and reconsider the request. NERC and [REGIONAL ENTITY] shall work collaboratively as needed in the development and implementation of [REGIONAL ENTITY]'s action plan. A final action plan submitted by [REGIONAL ENTITY] to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to [REGIONAL ENTITY] standardized training and education programs, which shall be designed taking into account input from [REGIONAL ENTITY] and other Regional Entities, for [REGIONAL ENTITY] personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to [REGIONAL ENTITY] concerning the manner in which [REGIONAL ENTITY] shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered “directives.” NERC shall initiate the development of a directive through a collaborative process with [REGIONAL ENTITY] and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and [REGIONAL ENTITY] and, if applicable, other Regional Entities are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President; *provided*, that before the NERC President issues a directive pursuant to this paragraph (ii), [REGIONAL ENTITY] and, if applicable, other Regional Entities, shall be given a reasonable opportunity to present their positions on, and a suggested alternative version or versions of, the proposed directive to the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, [REGIONAL ENTITY], subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by [REGIONAL ENTITY], the NERC Board (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without [REGIONAL ENTITY]’s agreement, *provided*, that [REGIONAL ENTITY] shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and [REGIONAL ENTITY] and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President

makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which [REGIONAL ENTITY], and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The Board or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the Board or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. [REGIONAL ENTITY], either individually or in conjunction with other Regional Entities, may request that the NERC Board or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with [REGIONAL ENTITY], either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) Any audits of [REGIONAL ENTITY] performed by NERC shall be limited to an examination of [REGIONAL ENTITY]'s compliance with this Agreement, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c)

9. ~~8.~~ **Funding.** [REGIONAL ENTITY] and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed on Exhibit E have reasonable and adequate funding and resources by undertaking the following:

(a) ~~NERC shall fund [REGIONAL ENTITY]~~ [REGIONAL ENTITY] shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. [REGIONAL ENTITY]'s proposed business plan and

budget shall describe the activities necessary for, and provide a budget with adequate resources for, [REGIONAL ENTITY] to carry out its Delegated Authority under this Agreement, including the functions ~~listed on Exhibit E, and shall not impose any obligation or requirement regarding Delegated Authority upon [REGIONAL ENTITY] without providing appropriate funding to carry out such mandates;~~ and activities described in Sections 5, 6 and 7 and listed on Exhibit E. [REGIONAL ENTITY]'s business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) [REGIONAL ENTITY] and NERC agree that ~~costs~~the portion of ~~carrying out [REGIONAL ENTITY]'s responsibilities under the Delegation Agreement~~[REGIONAL ENTITY]'s approved budget for the functions and activities described in Sections 5, 6 and 7 and listed on Exhibit E that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on ~~net energy~~Net Energy for ~~load~~Load, or through such other formula as is proposed by [REGIONAL ENTITY] and approved by NERC and the Commission. If [REGIONAL ENTITY] proposes to use a formula other than ~~net energy~~Net Energy for ~~load~~Load beginning in the following year, [REGIONAL ENTITY] shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval ~~by May 15,~~ and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and ~~[Regional Entity~~REGIONAL ENTITY] to the Commission pursuant to ~~18 C.F.R. §39.4~~the ERO Regulations for such year;

(c) NERC ~~will ensure~~shall determine that the assessments to fund the costs for its ~~responsibilities~~statutory functions in its Commission-approved budget are first allocated fairly among the ~~interconnections~~Interconnections and regions according to the applicability of this work to those ~~interconnections~~Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a ~~net energy~~Net Energy for ~~load~~Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide [REGIONAL ENTITY] with the form ~~for budget submittal no later than April 30 of the prior year, or forms for business plan and budget submittal, and any~~

accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) [REGIONAL ENTITY] shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed on Exhibit E, as well as for all other activities of [REGIONAL ENTITY], to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund [REGIONAL ENTITY]'s performance of its Delegated Authority and related activities in accordance with [REGIONAL ENTITY]'s Commission-approved business plan and budget, in the amount of [REGIONAL ENTITY]'s assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting [REGIONAL ENTITY]'s approved assessments from end users and other entities and payment of the approved assessment amount to [REGIONAL ENTITY], unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon [REGIONAL ENTITY] that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without [REGIONAL ENTITY]'s consent.

(g) ~~(e) [REGIONAL ENTITY] shall submit its annual budget for carrying out its Delegated Authority functions and related activities listed on **Exhibit E**, as well as all other [REGIONAL ENTITY] activities and funding to NERC no later than June 1 of the prior fiscal year such that NERC may submit its budget to the Commission 130 days in advance of the beginning of each fiscal year. The [REGIONAL ENTITY] budget submission shall include supporting materials, including [REGIONAL ENTITY]'s complete business plan and organization chart, explaining the proposed collection of all dues, fees and charges, and the proposed expenditure of funds collected in sufficient detail to justify the requested funding collection and budget expenditures.~~ NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and [REGIONAL ENTITY]

fiscal year budget with the actual results at the NERC and Regional Entity ~~level~~levels.
[REGIONAL ENTITY] shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

~~(f) [REGIONAL ENTITY]'s funding system shall include reasonable reserve funding for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.~~

~~(g) NERC shall review and approve [REGIONAL ENTITY]'s budget for meeting its responsibilities under the Delegation Agreement.~~

(h) [REGIONAL ENTITY] shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) [REGIONAL ENTITY] shall submit audited financial statements annually, including supporting materials, in a form provided by NERC no later than ~~150 days after the end~~May 1 of the ~~fiscal~~following year.

~~(j) NERC shall have the right to review from time to time, in reasonable intervals but no less than every three years, the financial records of [REGIONAL ENTITY] in order to ensure that the documentation fairly represents in all material respects appropriate funding under this Agreement.~~
~~(k)~~ **Exhibit E** to this Agreement sets forth the mechanism through which [REGIONAL ENTITY] shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of [REGIONAL ENTITY]) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which [REGIONAL ENTITY] shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of [REGIONAL ENTITY]. Provided, that, subject to approval by NERC and the Commission, [REGIONAL ENTITY] may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

9.10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this

Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. [REGIONAL ENTITY] may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit [REGIONAL ENTITY] from contracting with other entities to assist it in carrying out its Delegated Authority, provided [REGIONAL ENTITY] retains control and responsibility for such Delegated Authority.

10.11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this ~~article~~, Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section ~~17~~18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this ~~article~~ Section 11 will survive termination of this Agreement.

11.12. Term and Termination.

(a) This Agreement shall become effective ~~thirty (30) days after the date of issuance of a final Commission order approving this Agreement without requiring any changes to this Agreement unacceptable to either Party~~ on [January 1, 2011] (the "Effective Date").

(b) The ~~initial~~ term of the Agreement shall be ~~three~~five (35) years from the ~~original effective date of May XX, 2007~~, Effective Date, prior to which time NERC shall conduct an audit pursuant to ~~subsections 6(e) and 7~~ subsection 6(i) to ensure that [REGIONAL ENTITY]

continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. If [REGIONAL ENTITY] meets such requirements, this Agreement may be renewed for another five (5) year term. This Agreement may be renewed for successive additional five (5) year renewal terms provided that prior to the end of each renewal term, NERC shall conduct an audit pursuant to subsection 6(i) to ensure that [REGIONAL ENTITY] continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. Provided, that either Party may terminate this Agreement as of the end of a term by giving written notice to terminate at least one (1) year prior to the end of the term. If this Agreement is not renewed or becomes subject to termination for any reason, the Parties shall work to ~~ensure~~provide for a transition of [REGIONAL ENTITY]'s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement. The termination of this Agreement shall not take effect until such transition has been effected, unless the transition period exceeds one year, at which time [REGIONAL ENTITY] may unilaterally terminate.

(c) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by [REGIONAL ENTITY] and NERC.

(d) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section ~~12~~13), No Third Party Beneficiaries (Section ~~13~~14) and Confidentiality (Section ~~14~~15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

12.13. Limitation of Liability. [REGIONAL ENTITY] and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and [REGIONAL ENTITY] shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of the [REGIONAL ENTITY]'s or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that the [REGIONAL ENTITY] or NERC is found liable for gross negligence or intentional misconduct, in which case [REGIONAL ENTITY] or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

13.14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party.

14.15. Confidentiality. During the course of the Parties' performance under this Agreement, a Party may receive Confidential Information, as defined in Section 1500 of NERC's Rules of Procedure. Except as set forth herein, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the

recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information. In addition, each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein. This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement.

15.16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. ~~+6.~~ Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of [REGIONAL ENTITY] under this Agreement without first obtaining the consent of [REGIONAL ENTITY], which consent shall not be unreasonably withheld or delayed. To the extent [REGIONAL ENTITY] does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section ~~17~~18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of [REGIONAL ENTITY] under this Agreement, [REGIONAL ENTITY] shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by [REGIONAL ENTITY] to NERC and the Commission, or at such other time as may be mutually agreed by [REGIONAL ENTITY] and NERC.

17.18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and [REGIONAL ENTITY]; (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to [REGIONAL ENTITY]'s performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties ~~with authority to settle the dispute shall meet~~

~~and confer in good faith in an effort to resolve the dispute in a timely manner. In the event the designated representatives are unable to resolve the dispute within thirty (30) days or such other period as the Parties may agree upon, each Party shall have all rights to pursue all remedies, except as expressly limited by the terms of this Agreement. Neither Party shall have the right to pursue other remedies until the Dispute Resolution procedures of this Section 17 have been exhausted. This Section 17 shall not apply to enforcement actions against individual entities.~~ in the normal course of operations, the Parties shall use the following procedures (“Dispute Resolution”) to attempt to resolve the dispute. [REGIONAL ENTITY] shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party’s position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party’s designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party’s position with respect to the dispute, and naming the Party’s designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party’s notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, *provided*, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), provided, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. Provided, however, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

~~18-19~~ Notice. Whether expressly so stated or not, all notices, demands, requests, and other communications required or permitted by or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall

designate for itself in writing in accordance with this Section, and shall be delivered by hand or reputable overnight courier:

If to NERC:

North American Electric
Reliability Corporation
116-390 Village Blvd.
Princeton, NJ 08540-5721
Attn: ~~David Nevius~~ General Counsel
Facsimile: (609) 452-9550

If to [REGIONAL ENTITY]:

Attn:
Facsimile:

19.20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of New Jersey without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in New Jersey. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in New Jersey for the purpose of hearing and determining any action not heard and determined by the Commission.

20.21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

21.22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that [REGIONAL ENTITY] may have to adopt reliability requirements or take other actions to ~~ensure~~maintain reliability of the ~~bulk power system~~Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the ~~authority delegated from NERC~~Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

~~22~~23. **Entire Agreement.** This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

~~23~~24. **Execution of Counterparts.** This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the ~~date first above written~~Effective Date.

NORTH AMERICAN
ELECTRIC RELIABILITY CORPORATION

[REGIONAL ENTITY]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A — Regional Boundaries

Exhibit A to the delegation agreement for each Regional Entity receiving Delegated Authority shall describe the geographic or electrical boundaries covered by the proposed delegation of authority. **Exhibit A** for each Regional Entity shall reflect coordination with neighboring Regional Entities, as appropriate, to ensure that all relevant areas are either included within the geographic boundaries of a Regional Entity or specifically identified as not being within the geographic boundaries of any Regional Entity. Any exclusions of geographic or electrical areas or of Registered Entities from the scope of the Regional Entity's Delegated Authority within the geographic or electrical boundaries shown on **Exhibit A**, and any additions of geographic or electrical areas or of Registered Entities located outside the boundaries shown on **Exhibit A** to the scope of the Regional Entity's Delegated Authority, shall be specifically stated or described in **Exhibit A**.

Exhibit B – Governance

Exhibit B shall set forth the Regional Entity’s bylaws, which NERC agrees demonstrate that the Regional Entity meets the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence of the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Exhibit C – Regional Standard Development Procedure

Exhibit C shall set forth the Regional Entity’s standards development procedure, which NERC agrees meets the following common attributes:

COMMON ATTRIBUTE 1

Proposed regional reliability standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA [add reference to any applicable authorities in Canada and Mexico]. No regional reliability standard shall be effective within the [Regional Entity Name] area unless filed by NERC with FERC [and applicable authorities in Canada and Mexico] and approved by FERC [and applicable authorities in Canada and Mexico].

COMMON ATTRIBUTE 2

[Regional Entity Name] regional reliability standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. A [Regional Entity Name] reliability standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. A regional reliability standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

COMMON ATTRIBUTE 3

[Regional Entity Name] regional reliability standards, when approved by FERC [add applicable authorities in Canada], shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the [Regional Entity Name] area, regardless of membership in the region.

COMMON ATTRIBUTE 4

Requester — The requester is the sponsor of the regional reliability standard request and may assist in the development of the standard. Any member of [Regional Entity Name], or group within [Regional Entity Name] shall be allowed to request that a regional reliability standard be developed, modified, or withdrawn. Additionally, any entity (person, organization, company, government agency, individual, etc.) that is directly and materially affected by the reliability of the bulk power system in the [Regional Entity Name] area shall be allowed to request a regional reliability standard be developed, modified, or withdrawn.

COMMON ATTRIBUTE 5

[Standards or other named] committee — The [Regional Entity Name] [standards] committee manages the standards development process. The [standards] committee will consider which requests for new or revised standards shall be assigned for development (or existing standards considered for deletion). The [standards] committee will advise the [Regional Entity Name] board on standards presented for adoption.

COMMON ATTRIBUTE 6

[Alternative 6A: For a Regional Entity that chooses to vote using a balanced stakeholder committee.]

The [standards] committee is a balanced stakeholder committee, inclusive of all stakeholder interests that provide for or are materially impacted by the reliability of the bulk power system. [The [standards] committee votes to approve standards.] See Appendix A for the representation model of the [standards] committee.

[Alternative 6B: For a Regional Entity that chooses to vote using a balanced ballot body of stakeholders.]

[Registered ballot body] — The registered ballot body comprises all entities or individuals that qualify for one of the stakeholder segments; are registered with [Regional Entity Name] as potential ballot participants in the voting on standards; and are current with any designated fees. Each member of the registered ballot body is eligible to vote on standards. [Each standard action has its own ballot pool formed of interested members of the registered ballot body. Each ballot pool comprises those members of the registered ballot body that respond to a pre-ballot survey for that particular standard action indicating their desire to participate in such a ballot pool.] The representation model of the registered ballot body is provided in Appendix A.]

COMMON ATTRIBUTE 7

[Regional Entity Name] will coordinate with NERC such that the acknowledgement of receipt of a standard request identified in step 1, notice of comment posting period identified in step 4, and notice for vote identified in step 5 below are concurrently posted on both the [Regional Entity Name] and NERC websites.

COMMON ATTRIBUTE 8

An acceptable standard request shall contain a description of the proposed regional reliability standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed standard.

COMMON ATTRIBUTE 9

Within [no greater than 60] days of receipt of a completed standard request, the [standards] committee shall determine the disposition of the standard request.

COMMON ATTRIBUTE 10

The [standards] committee may take one of the following actions:

- Accept the standard request as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The [standards] committee may, at its discretion, expand or narrow the scope of the standard request under consideration. The [standards] committee shall prioritize the development of standard in relation to other proposed standards, as may be required based on the volume of requests and resources.
- Reject the standard request. If the [standards] committee rejects a standard request, a written explanation for rejection will be delivered to the requester within [no greater than 30] days of the decision.
- Remand the standard request back to the requester for additional work. The standards process manager will make reasonable efforts to assist the requester in addressing the deficiencies identified by the [standards] committee. The requester may then resubmit the modified standard request using the process above. The requester may choose to withdraw the standard request from further consideration prior to acceptance by the [standards] committee.

COMMON ATTRIBUTE 11

Any standard request that is accepted by the [standards] committee for development of a standard (or modification or deletion of an existing standard) shall be posted for public viewing on the [Regional Entity Name] website within [no greater than 30] days of acceptance by the committee.

COMMON ATTRIBUTE 12

The standards process manager shall submit the proposed members of the drafting team to the [standards] committee. The [standards] committee shall approve the drafting team membership within 60 days of accepting a standard request for development, modifying the recommendations of the standards process manager as the committee deems appropriate, and assign development of the proposed standard to the drafting team.

COMMON ATTRIBUTE 13

At the direction from the [standards] committee, the standards process manager shall facilitate the posting of the draft standard on the [Regional Entity Name] website, along with a draft implementation plan and supporting documents, for a no less than a [30]-day comment period. The standards process manager shall provide notice to [Regional Entity Name] stakeholders and other potentially interested entities, both within and outside of the [Regional Entity Name] area, of the posting using communication procedures then currently in effect or by other means as deemed appropriate.

COMMON ATTRIBUTE 14

The drafting team shall prepare a summary of the comments received and the changes made to the proposed standard as a result of these comments. The drafting team shall summarize comments that were rejected by the drafting team and the reason(s) that these comments were rejected, in part or whole. The summary, along with a response to each comment received will be posted on the [Regional Entity Name] website no later than the next posting of the proposed standard.

COMMON ATTRIBUTE 15

Upon recommendation of the drafting team, and if the [standards] committee concurs that all of the requirements for development of the standard have been met, the standards process manager shall post the proposed standard and implementation plan for ballot and shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

COMMON ATTRIBUTE 16

The standards process manager shall schedule a vote by the [Regional Entity Name] [registered ballot body/[standards] committee]. The vote shall commence no sooner than [15] days and no later than [30] days following the issuance of the notice for the vote.

COMMON ATTRIBUTE 17

[Alternative 17A: For an RE that chooses to vote using a balanced stakeholder committee.]

The [standards] committee shall give due consideration to the work of the drafting team, as well as the comments of stakeholders and minority objections, in approving a proposed regional reliability standard for submittal to the [Regional Entity Name] board. The [standards]

committee may vote to approve or not approve the standard. Alternatively, the [standards] committee may remand the standard to the drafting team for further work or form a new drafting team for that purpose.

[Alternative 17B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

The [Regional Entity Name] registered ballot body shall be able to vote on the proposed standard during a period of [not less than 10] days.

COMMON ATTRIBUTE 18

[Alternative 18A: For an RE that chooses to vote using a balanced stakeholder committee.]

The [standards] committee may not itself modify the standard without issuing a new notice to stakeholders regarding a vote of the modified standard.

[Alternative 18B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

All members of [Regional Entity Name] are eligible to participate in voting on proposed new standards, standard revisions or standard deletions. [Alternatively: Each standard action requires formation of a ballot pool of interested members of the registered ballot body.]

COMMON ATTRIBUTE 19

[Alternative 19A: For an RE that chooses to vote using a balanced stakeholder committee.]

Actions by the committee shall be recorded in the regular minutes of the committee.

[Alternative 19B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

Approval of the proposed regional reliability standard shall require a [two thirds] majority in the affirmative (affirmative votes divided by the sum of affirmative and negative votes). Abstentions and non-responses shall not count toward the results, except that abstentions may be used in the determination of a quorum. A quorum shall mean [XX%] of the members of the [registered ballot body/ballot pool] submitted a ballot.

COMMON ATTRIBUTE 20

Under no circumstances may the board substantively modify the proposed regional reliability standard.

COMMON ATTRIBUTE 21

Once a regional reliability standard is approved by the board, the standard will be submitted to NERC for approval and filing with FERC [and applicable authorities in Canada and Mexico.]

COMMON ATTRIBUTE 22

- **Open** - Participation in the development of a regional reliability standard shall be open to all organizations that are directly and materially affected by the [Regional Entity Name] bulk power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in [Regional Entity Name], and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to the [Regional Entity Name] members and others.

COMMON ATTRIBUTE 23

- **Balanced** - The [Regional Entity Name] standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.

COMMON ATTRIBUTE 24

- **Inclusive** — Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the [Regional Entity Name] area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.

COMMON ATTRIBUTE 25

- **Fair due process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.

COMMON ATTRIBUTE 26

- **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.

COMMON ATTRIBUTE 27

- Does not unnecessarily delay development of the proposed reliability standard.

COMMON ATTRIBUTE 28

Each standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

COMMON ATTRIBUTE 29

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all regional reliability standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

COMMON ATTRIBUTE 30

To ensure uniformity of regional reliability standards, a regional reliability standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

COMMON ATTRIBUTE 31

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

COMMON ATTRIBUTE 32

Applicability	<p>Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions.</p> <p>If not applicable to the entire [Regional Entity Name] area, then a clear identification of the portion of the bulk power system to which the standard applies.</p> <p>Any limitation on the applicability of the standard based on electric facility requirements should be described.</p>
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COMMON ATTRIBUTE 33

Measure(s)	<p>Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.</p>
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COMMON ATTRIBUTE 34

Compliance Monitoring Process	<p>Defines for each measure:</p> <ul style="list-style-type: none"> • The specific data or information that is required to measure performance or outcomes. • The entity that is responsible for providing the data or information for measuring performance or outcomes. • The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes. • The entity that is responsible for evaluating data or
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	<p>information to assess performance or outcomes.</p> <ul style="list-style-type: none">• The time period in which performance or outcomes is measured, evaluated, and then reset.• Measurement data retention requirements and assignment of responsibility for data archiving.• Violation severity levels.
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EXHIBIT D – COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

~~1.1 Obligations of [Fill in Name of Regional Entity]~~

~~[Fill in Name of Regional Entity REGIONAL ENTITY] will implement the NERC Compliance Monitoring and Enforcement Program, (Appendix 4C to the NERC Rules of Procedure) (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within [Fill in Name of Regional Entity REGIONAL ENTITY]'s geographic or electrical boundaries, and such other scope, set forth on Exhibit A of this Agreement, subject to any deviations from the NERC Compliance Monitoring and Enforcement Program described in Section 1.2 below (the "Compliance Program").~~

~~1.2 Deviations from the NERC Compliance Monitoring and Enforcement Program~~

~~[Describe each deviation from the NERC Compliance Monitoring and Enforcement Program required by the Regional Entity. Identify each NERC Compliance Monitoring and Enforcement Program section from which a deviation is required by the Regional Entity. For each section describe how the Regional Entity will implement its alternative, why the alternative is necessary, and how that alternative meets the obligations set forth in the NERC Rules of Procedure and Section 39.7 of FERC Order 672. Separate attachments to this Exhibit D may be used if the information is voluminous.]~~

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

~~[Fill in Name of Regional Entity REGIONAL ENTITY] shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either [Fill in Name of Regional Entity REGIONAL ENTITY]'s board or a balanced compliance panel reporting directly to [Fill in Name of Regional Entity REGIONAL ENTITY]'s board. [Fill in Name of Regional Entity REGIONAL ENTITY]'s hearing body is [its board] [if not the board, insert the name of the committee or group serving as the hearing body].~~

~~[If the hearing body is a compliance panel other than the board, provide here a description of how the members of the compliance panel are selected and the qualifications to be selected for the compliance panel.]~~

[REGIONAL ENTITY] shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: [Describe any deviations, or state "None". If there are deviations from the NERC pro forma Hearing Procedures, [REGIONAL ENTITY]'s Hearing Procedures shall be included as a separate attachment to this Exhibit D.]

3.0 OTHER DECISION-MAKING BODIES

If [~~Fill in Name of Regional Entity~~] uses other decision-making bodies within its compliance program, provide here a description of the function of that body to the extent not described elsewhere in the Agreement or exhibits, how the members of that body are selected, and the qualifications to be selected for that body.]

Exhibit E — Funding

1. Scope of activities funded through the ERO funding mechanism

[Regional Entity] shall include in its annual budget submission to NERC amounts for costs it will incur in ~~support of performing its~~ delegated ~~activities~~functions and related activities ~~that are in furtherance of NERC's responsibilities as the ERO under the Act, as specified in the NERC Rules~~ as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development ~~(Section 300)~~
- Compliance Monitoring and Enforcement ~~(Section 400)~~
- Organization Registration and Certification ~~(Section 500)~~
- ~~Reliability Readiness Evaluation and Improvement (Section 700)~~
- Reliability Assessment and Performance Analysis (~~Section 800~~) ~~(including necessary data gathering activities)~~
- Event Analysis and Reliability Improvement
- Training and Education ~~(Section 900)~~
- Situation Awareness
- ~~Situational Awareness and~~ Infrastructure Security ~~(Section 1000)~~

2. Preparation of Annual Business Plan and Budget

(a) NERC and [Regional Entity], in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of [Regional Entity's] business plan and budget. The annual schedule for the preparation of business plans and budgets shall require [Regional Entity] (i) to submit to NERC draft(s) of [Regional Entity]'s proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by [Regional Entity] Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of [Regional Entity]'s business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The [Regional Entity] business plan and budget submission shall include supporting materials, including [Regional Entity]'s complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. [Regional Entity]'s business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve [Regional Entity]'s proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this Exhibit E, or shall direct [Regional Entity] to make such revisions as NERC deems appropriate prior to approval. NERC shall submit [Regional Entity]'s approved business plan and budget and proposed assessments to the Commission for approval as part of

NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

~~[Regional Entity] shall allocate its dues, fees, and other charges for its~~ Assessments to fund the costs of [REGIONAL ENTITY]'s delegated functions and related activities pursuant to the ~~delegation agreement~~ Agreement shall be allocated among all load-serving entities on the basis of ~~net energy-Net Energy~~ for load ~~Load~~, unless a different method(s) of allocating and calculating such ~~dues, fees and charges~~ assessments has been submitted to and approved by NERC and the Commission in accordance with Section 89(b) of the ~~delegation agreement~~ Agreement. [Regional Entity] shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries ~~and their~~ that shall be responsible for paying [Regional Entity's] assessment and the load-serving entities' proportionate ~~net energy~~ Net Energy for ~~load~~ Load, and such other data and information as is necessary to allocate and calculate the allocation of [Regional Entity's] ~~dues, fees and charges under any such different~~ assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

3.4. Collection of Funding

[IF NERC WILL BILL AND COLLECT ASSESSMENTS DIRECTLY FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 34(a):]

(a) NERC shall submit invoices to the load-serving entities or designees identified by [Regional Entity] covering the NERC and [Regional Entity] ~~budgets~~ assessments approved for collection.

~~NERC shall pursue any non-payments and shall request assistance from applicable governmental authorities as necessary to secure collection.~~

[IF THE REGIONAL ENTITY WILL ACT AS THE BILLING AND COLLECTION AGENT ON BEHALF OF NERC TO BILL AND COLLECT ASSESSMENTS FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 34(a):]

(a) NERC and [Regional Entity] agree that [Regional Entity] shall act as the billing and collection agent on behalf of NERC to bill and collect [Regional Entity]'s assessments ~~for the costs of activities under the Act~~ from load-serving entities and designees (or such other entities as agreed by NERC and [Regional Entity]). [Regional Entity] agrees that it shall (i) issue all invoices to load-serving entities and other entities in a prompt and timely manner after receipt from NERC of the information needed to issue the invoices; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC in a timely manner, as follows: ~~Once~~ Prior to

the start of each calendar quarter, and once per week thereafter until all billings for the quarter are collected, [Regional Entity] will electronically transfer to NERC, in immediately available funds, all payments received by [Regional Entity] from load-serving entities or other entities ~~during that week~~ for payment of invoices. On the same day that [Regional Entity] makes each electronic transfer of funds to NERC, [Regional Entity] shall send an e-mail to the Chief Financial Officer or Controller of NERC detailing the collections being transmitted, including a listing of the load-serving entities or other entities from which payments were collected and the amount collected from each entity. [Note: If NERC and Regional Entity have a different collection and payment arrangement, the preceding two sentences will be modified accordingly to describe it.]

[Regional Entity] agrees that it shall not in any way use its position as billing and collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of ~~reliability standards~~ Reliability Standards (including ~~regional standards and differences~~ Regional Reliability Standards and Regional Variances), administration of the compliance monitoring and enforcement program and other compliance and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of [Regional Entity's] budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this Agreement.

~~(b) Upon approval of the annual funding requirements by applicable governmental authorities, NERC shall fund [Regional Entity's] costs identified in Section 1 of this Exhibit E in four equal quarterly payments.~~

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from ERO Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, [Regional Entity] shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, [Regional Entity] is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within [REGIONAL ENTITY]'s region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within [Regional Entity]'s region.

(c) Upon approval by ERO Governmental Authorities of [Regional Entity]'s annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay [Regional Entity's] annual assessment to Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

4.5. Application of Penalties

~~All~~ Except as otherwise approved by the Commission, all penalty monies received by [Regional Entity], other than penalty monies received from an operational function or

division or affiliated entity of [Regional Entity], shall be applied as a general offset to ~~the~~ ~~entity~~ [Regional Entity]'s budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. ~~Any~~ Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of [Regional Entity] shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

5.6. Budget and Funding for [Regional Entity's] Non-Statutory Activities

In addition to its delegated ~~activities~~ functions and related activities ~~that are in furtherance of NERC's responsibilities as the ERO under the Act~~, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 56 as "statutory activities"), [Regional Entity] performs the following other functions and activities (such other functions and activities being referred to in this Section 56 as "non-statutory activities"): [List and describe all non-statutory activities performed by Regional Entity, or state "None".]

[Regional Entity] shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: [List and ~~described~~ describe the methods and procedures Regional Entity employs to keep costs and funding of statutory activities separate from costs and funding of non-statutory activities, including at a minimum a description of how Regional Entity's bank accounts and receivables/payables procedures are set up for both statutory and non-statutory functions ~~and~~, a description of how Regional Entity ensures each employee involved in both statutory and non-statutory functions keeps accurate time records reflecting his/her activities, and a description of how Regional Entity's general and administrative costs are allocated between statutory activities and non-statutory activities. If the necessary descriptions are lengthy they may be provided in a separate attachment labeled "Attachment E-1", and state here "See Attachment E-1." If Regional Entity has listed no non-statutory functions in the preceding paragraph, state here "Not applicable."]

[Regional Entity] shall provide its budget for such non-statutory activities to NERC at the same time that [Regional Entity] submits its proposed annual business plan and budget ~~request~~ for statutory activities to NERC pursuant to Section ~~4-9~~ 9 of the Agreement. [Regional Entity's] budget for non-statutory activities that is provided to NERC shall contain a detailed list of [Regional Entity's] non-statutory activities and a description of the funding sources for the non-statutory activities. [Regional Entity] agrees that no costs (which shall include a reasonable allocation of [Regional Entity]'s general and administrative costs) of non-statutory activities are to be included in the calculation of [Regional Entity's] assessments, dues, fees, and other charges for its statutory activities.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if [Regional Entity] determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, [Regional Entity] shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in [Regional Entity]'s approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct [Regional Entity] to make such revisions as NERC deems appropriate prior to approval. NERC shall submit [Regional Entity]'s approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Statements

NERC shall conduct reviews of the quarterly and annual financial statements submitted by [Regional Entity] pursuant to Section 9(h) and (i) of the Agreement. [Regional Entity] shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC based on its reviews.

ATTACHMENT 2A

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED DELEGATION AGREEMENT

WITH

FLORIDA RELIABILITY COORDINATING COUNCIL

CLEAN VERSION



FLORIDA RELIABILITY COORDINATING COUNCIL, INC.
1408 N. WESTSHORE BLVD. TAMPA, FL 33607-4512
PHONE 813.289.5644 FAX 813.289.5646
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May 5, 2010

Mr. David Cook
Vice President, General Counsel
NERC
1120 G St. NW, Suite 990
Washington DC 20005

RE: REVISED FRCC REGIONAL DELEGATION AGREEMENT

Dear David:

The Florida Reliability Coordinating Council (FRCC) Board of Directors, Regional Entity Division, passed the motion below regarding the Amended and Restated FRCC Regional Delegation Agreement at its board meeting today, May 5, 2010.

Motion to approve the FRCC Regional Delegation Agreement, as amended, and to authorize the FRCC President and CEO, Sarah S. Rogers, to execute the Agreement on behalf of the FRCC, and to make any non-substantive changes necessary to finalize the document for filing with NERC.

Pursuant to your request, we are providing you the Amended and Restated FRCC Regional Delegation Agreement, for presentation to the NERC Board of Trustees.

If you have any questions, please feel free to give me a call.

Sincerely,

SARAH S ROGERS
President and CEO

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND FLORIDA RELIABILITY COORDINATING COUNCIL**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”) made as of [January 1, 2011], between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and Florida Reliability Coordinating Council (“FRCC”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified on **Exhibit A** to this Agreement, and for other purposes. NERC and FRCC may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824n) (hereafter “the Act”), which, among other things, provides for the establishment of an electric reliability organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as FRCC provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, FRCC is not organized on an Interconnection-wide basis and therefore is not entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through FRCC to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that FRCC meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and FRCC, having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and FRCC agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to FRCC to propose and enforce Reliability Standards pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, FRCC hereby represents and warrants to NERC that:

(i) FRCC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. FRCC is governed in accordance with its bylaws by [a balanced stakeholder board. Pursuant to these bylaws, no two industry sectors can control any FRCC decision and no single industry sector can veto any FRCC decision. The relevant portions of such bylaws are attached hereto in **Exhibit B**¹, and as so attached are in full force and effect. No other such corporate governance documents are binding upon FRCC.

(ii) As set forth in **Exhibit C** hereto², FRCC has developed a standards development procedure, which provides the process that FRCC may use to develop Regional Reliability Standards that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, FRCC has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within FRCC's geographic boundaries as shown on **Exhibit A**.

(b) NERC hereby represents and warrants to FRCC that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

¹ The **Exhibit B** from FRCC shall meet the requirements contained in **Exhibit B** to this Agreement.

² The **Exhibit C** from FRCC shall meet the requirements contained in **Exhibit C** to this Agreement.

3. Covenants.

(a) During the term of this Agreement, FRCC shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC's approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of FRCC under this Agreement without first obtaining the consent of FRCC, which consent shall not be unreasonably withheld or delayed.

(c) During the term of this Agreement, NERC and FRCC shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of FRCC in Sections 2 and 3 above, the corporate governance documents set forth in **Exhibit B**, the standards development process set forth in **Exhibit C**, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to FRCC for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth on **Exhibit A**, *provided*, that FRCC shall not monitor and enforce compliance with Reliability Standards for FRCC or an affiliated entity with respect to reliability functions for which FRCC or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to FRCC within, or additions to this delegation of authority to FRCC beyond, the geographic boundaries set forth on **Exhibit A** are stated on **Exhibit A**.

(b) In circumstances where FRCC or an affiliated entity is a Registered Entity, FRCC shall enter into an agreement with another Regional Entity or NERC for the other

Regional Entity or NERC to monitor and enforce FRCC's or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit FRCC from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified on **Exhibit A** that is within the United States. Any delegation of authority by ERO Governmental Authorities in Canada or Mexico shall be governed by a separate agreement and is outside the scope of this Agreement; provided, however, that both FRCC and NERC shall endeavor to ensure that this Agreement and such separate agreements are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, FRCC shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

- (a) In connection with its Delegated Authority, FRCC shall be entitled to:
- (i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords FRCC reasonable notice and opportunity to be heard; and
 - (ii) develop Regional Reliability Standards through FRCC's process as set forth in **Exhibit C**. Proposals approved through FRCC's process shall be reviewed by the NERC Board after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the

rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. FRCC may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, FRCC shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the geographic boundaries set forth, or as otherwise specified, in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and FRCC agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, *inter alia*, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. FRCC may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, FRCC agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c)

of this Agreement, and with any guidance and directions issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) FRCC shall report promptly to NERC any Possible Violation, Alleged Violation, or Confirmed Violation of a Reliability Standard, and its eventual disposition by FRCC. Such report shall include the owner's, operator's, or user's name, which Reliability Standard or Reliability Standards were the subject of the Possible Violation, Alleged Violation, or Confirmed Violation, when the Possible Violation, Alleged Violation, or Confirmed Violation occurred, other pertinent facts including circumstances surrounding the Possible Violation, Alleged Violation, or Confirmed Violation with any known risk to the Bulk-Power System, when the Possible Violation, Alleged Violation, or Confirmed Violation was or will be mitigated, the name of a person knowledgeable about the Possible Violation, Alleged Violation, or Confirmed Violation to serve as a point of contact with the Commission, and any other information required by NERC compliance program procedures. NERC shall promptly forward such report to the Commission. NERC and FRCC shall cooperate in filing such periodic summary reports as the Commission shall from time to time direct on Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards and summary analyses of such Possible Violations, Alleged Violations, and Confirmed Violations.

(c) Each Possible Violation, Alleged Violation, or Confirmed Violation shall be treated as nonpublic unless the matter is filed with the Commission as a Notice of Penalty, or, if disclosure is required, dismissed. The disposition of each Possible Violation, Alleged Violation, or Confirmed Violation that relates to a Cybersecurity Incident or that would jeopardize the security of the Bulk-Power System if publicly disclosed shall remain nonpublic unless the Commission directs otherwise.

(d) All dispositions by FRCC of Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards shall be reported to NERC for review and, in the case of Confirmed Violations, penalties or sanctions, and settlements, for approval. Following approval of a disposition by NERC, NERC shall file the disposition with the Commission, if required by, and in accordance with, Section 215(e) of the Act and Section 39.7 of the ERO Regulations. NERC shall review FRCC's dispositions based on the following criteria:

(i) whether the disposition is supported by a sufficient record compiled by FRCC in accordance with the NERC Rules of Procedure, NERC directives and

Commission requirements, taking into account the nature of the Possible Violation, Alleged Violation, or Confirmed Violation,

(ii) whether the disposition is consistent with any applicable directives issued pursuant to Section 8(c) of this Agreement, any applicable directions or guidance issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, or other applicable NERC guidance, concerning the Reliability Standards to which the Possible Violation, Alleged Violation, or Confirmed Violation relates,

(iii) if the disposition is a Confirmed Violation or settlement, whether it provides for a penalty or sanction, or a determination of no penalty or sanction, determined in accordance with the NERC Sanction Guidelines, Appendix 4B to the NERC Rules of Procedure, and

(iv) whether the disposition is reasonably consistent with other dispositions by FRCC and by other Regional Entities of Possible Violations, Alleged Violations, and Confirmed Violations involving the same or similar facts and circumstances.

NERC may reject any disposition, with an explanation of why NERC believes the disposition does not meet the above criteria. FRCC may submit a disposition requiring NERC approval that has been rejected by NERC, or a revised disposition following a rejection, directly to the NERC Board Compliance Committee for approval without revising the disposition to address all the grounds on which NERC originally rejected the disposition. The final approval of FRCC's disposition of a Possible Violation, Alleged Violation, or Confirmed Violation shall be made by the NERC Board Compliance Committee, provided, that the NERC Board or NERC Board Compliance Committee may, by appropriate resolution, delegate authority for final approval of dispositions of specified categories of Possible Violations, Alleged Violations, or Confirmed Violations to the NERC President.

(e) All appeals of penalties imposed by FRCC as a result of a decision by FRCC's Hearing Body shall be filed with, heard by and disposed of by, NERC in accordance with the NERC Rules of Procedure.

(f) FRCC shall maintain the capability to conduct investigations of Possible Violations and Alleged Violations of Reliability Standards and to conduct such investigations in a confidential manner.

(g) FRCC shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan.

(h) As part of its compliance monitoring and enforcement program, FRCC shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(i) As often as NERC deems necessary, but no less than every five years, NERC shall review FRCC's compliance monitoring and enforcement program to determine that: (i) the program meets all applicable legal requirements; (ii) actual practices reflect the requirements; and (iii) the program administered pursuant to the Delegated Authority promotes consistent interpretations across North America of Reliability Standards and comparable levels of sanctions and penalties for violations of Reliability Standards constituting comparable levels of threat to reliability of the Bulk-Power System.

7. Delegation-Related Activities.

NERC will engage FRCC on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed on **Exhibit E**. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (f), each of which shall be considered a statutory activity:

(a) Certification of Bulk-Power System Entities. The NERC Board shall set criteria for certification in accordance with the NERC Rules of Procedure. FRCC shall issue certifications in accordance with the NERC Rules of Procedure.

(b) Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.

(i) The NERC Board shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by FRCC and other Regional Entities. FRCC shall provide timely and accurate information relating to registrations to NERC, on at least a monthly basis, to enable NERC to maintain a registration database that is accurate and up-to-date.

(iii) The NERC Board Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) Reliability Assessment and Performance Analysis. FRCC shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. FRCC shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives. NERC shall develop data-gathering quality control procedures, forms and reporting mechanisms, which shall be used by FRCC and other Regional Entities in carrying out their responsibilities under this subsection (c).

(d) Event Analysis and Reliability Improvement. FRCC shall conduct event analysis pursuant to the NERC Rules of Procedure and applicable governmental regulations. NERC and FRCC shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, FRCC shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) Training and Education. FRCC may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) Situation Awareness and Infrastructure Security.

(i) FRCC shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure and applicable governmental regulations, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System

(ii) FRCC shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of FRCC's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and FRCC that matters relating to NERC's oversight of FRCC's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and FRCC and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with FRCC and other Regional Entities, performance goals, measures and other parameters (including, without limiting the scope of such goals, measures and parameters, financial performance goals, measures and parameters), and performance reports, which shall be used to measure NERC's and FRCC's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. FRCC shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate FRCC's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters and performance reports to evaluate FRCC's performance of its delegated functions and related activities and to provide advice and direction to FRCC on performance improvements. The performance goals, measures and other parameters and the values of such goals, measures and parameters, shall be reviewed by NERC, FRCC and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, FRCC shall be required to develop, submit for NERC approval, and implement action plans to address areas of its performance that are reasonably determined by NERC, based on analysis of FRCC's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring FRCC to adopt and implement an action plan or other remedial action, NERC shall issue a notice to FRCC of the need and basis for an action plan or other remedial action and provide an opportunity for FRCC to submit a written response contesting NERC's evaluation of FRCC's performance and the need for an action plan. FRCC may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board review and reconsider the request. NERC and FRCC shall work collaboratively as needed in the development and implementation of FRCC's action plan. A final action plan submitted by FRCC to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to FRCC standardized training and education programs, which shall be designed taking into account input from FRCC and other Regional Entities, for FRCC personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to FRCC concerning the manner in which FRCC shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with FRCC and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and FRCC and, if applicable, other Regional Entities are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President; *provided*, that before the NERC President issues a directive pursuant to this paragraph (ii), FRCC and, if applicable, other Regional Entities, shall be given a reasonable opportunity to present their positions on, and a suggested alternative version or versions of, the proposed directive to the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, FRCC, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by FRCC, the NERC Board (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without FRCC's agreement, *provided*, that FRCC shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and FRCC and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which FRCC, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The Board or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the Board or Board committee makes a written determination stating a

specific reason for maintaining particular guidance or directions as non-public. FRCC, either individually or in conjunction with other Regional Entities, may request that the NERC Board or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with FRCC, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) Any audits of FRCC performed by NERC shall be limited to an examination of FRCC's compliance with this Agreement, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c)

9. Funding. FRCC and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed on **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) FRCC shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. FRCC's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, FRCC to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E**. FRCC's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) FRCC and NERC agree that the portion of FRCC's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by FRCC and approved by NERC and the Commission. If FRCC proposes to use a formula other than Net Energy for Load beginning in

the following year, FRCC shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and FRCC to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide FRCC with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) FRCC shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed on Exhibit E, as well as for all other activities of FRCC, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund FRCC's performance of its Delegated Authority and related activities in accordance with FRCC's Commission-approved business plan and budget, in the amount of FRCC's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting FRCC's approved assessments from end users and other entities and payment of the approved assessment amount to FRCC, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon FRCC that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without FRCC's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and FRCC fiscal year budget with the actual results at the NERC and Regional Entity levels. FRCC shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) FRCC shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) FRCC shall submit audited financial statements annually, including supporting materials, in a form provided by NERC no later than May 1 of the following year.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which FRCC shall offset penalty monies it receives (against its next year's annual budget for carrying out functions under this Agreement. *Provided*, that, subject to approval by NERC and the Commission, FRCC may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. FRCC may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit FRCC from contracting with other entities to assist it in carrying out its Delegated Authority, provided FRCC retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the

following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on [January 1, 2011] (the “Effective Date”).

(b) The term of the Agreement shall be five (5) years from the Effective Date, prior to which time NERC shall conduct an audit pursuant to subsection 6(i) to ensure that FRCC continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. If FRCC meets such requirements, this Agreement may be renewed for another five (5) year term. This Agreement may be renewed for successive additional five (5) year renewal terms provided that prior to the end of each renewal term, NERC shall conduct an audit pursuant to subsection 6(i) to ensure that FRCC continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. Provided, that either Party may terminate this Agreement as of the end of a term by giving written notice to terminate at least one (1) year prior to the end of the term. If this Agreement is not renewed or becomes subject to termination for any reason, the Parties shall work to provide for a transition of FRCC’s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement.

The termination of this Agreement shall not take effect until such transition has been effected, unless the transition period exceeds one year, at which time FRCC may unilaterally terminate.

(c) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by FRCC and NERC.

(d) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. FRCC and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and FRCC shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of the FRCC's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that the FRCC or NERC is found liable for gross negligence or intentional misconduct, in which case FRCC or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. **No Third Party Beneficiaries.** Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party.

15. **Confidentiality.** During the course of the Parties' performance under this Agreement, a Party may receive Confidential Information, as defined in Section 1500 of NERC's Rules of Procedure. Except as set forth herein, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information. In addition, each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein. This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement.

16. **Amendment.** Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. **Amendments to the NERC Rules of Procedure.** NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of FRCC

under this Agreement without first obtaining the consent of FRCC, which consent shall not be unreasonably withheld or delayed. To the extent FRCC does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of FRCC under this Agreement, FRCC shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by FRCC to NERC and the Commission, or at such other time as may be mutually agreed by FRCC and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and FRCC (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to FRCC's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. FRCC shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the

dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, *provided*, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), *provided*, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. *Provided, however*, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. Whether expressly so stated or not, all notices, demands, requests, and other communications required or permitted by or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand or reputable overnight courier:

If to NERC:

North American Electric
Reliability Corporation
116-390 Village Blvd.
Princeton, NJ 08540-5721
Attn: General Counsel
Facsimile: (609) 452-9550

If to FRCC:

Florida Reliability Coordinating
Council, Inc.
1408 N Westshore Blvd
Tampa, FL 33607
Attn: Sarah Rogers
Facsimile: (813) 289- 5646

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of New Jersey without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in New Jersey. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in New Jersey for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that FRCC may have to adopt reliability requirements or take other actions to maintain

reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN
ELECTRIC RELIABILITY CORPORATION

FLORIDA RELIABILITY
COORDINATING COUNCIL, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

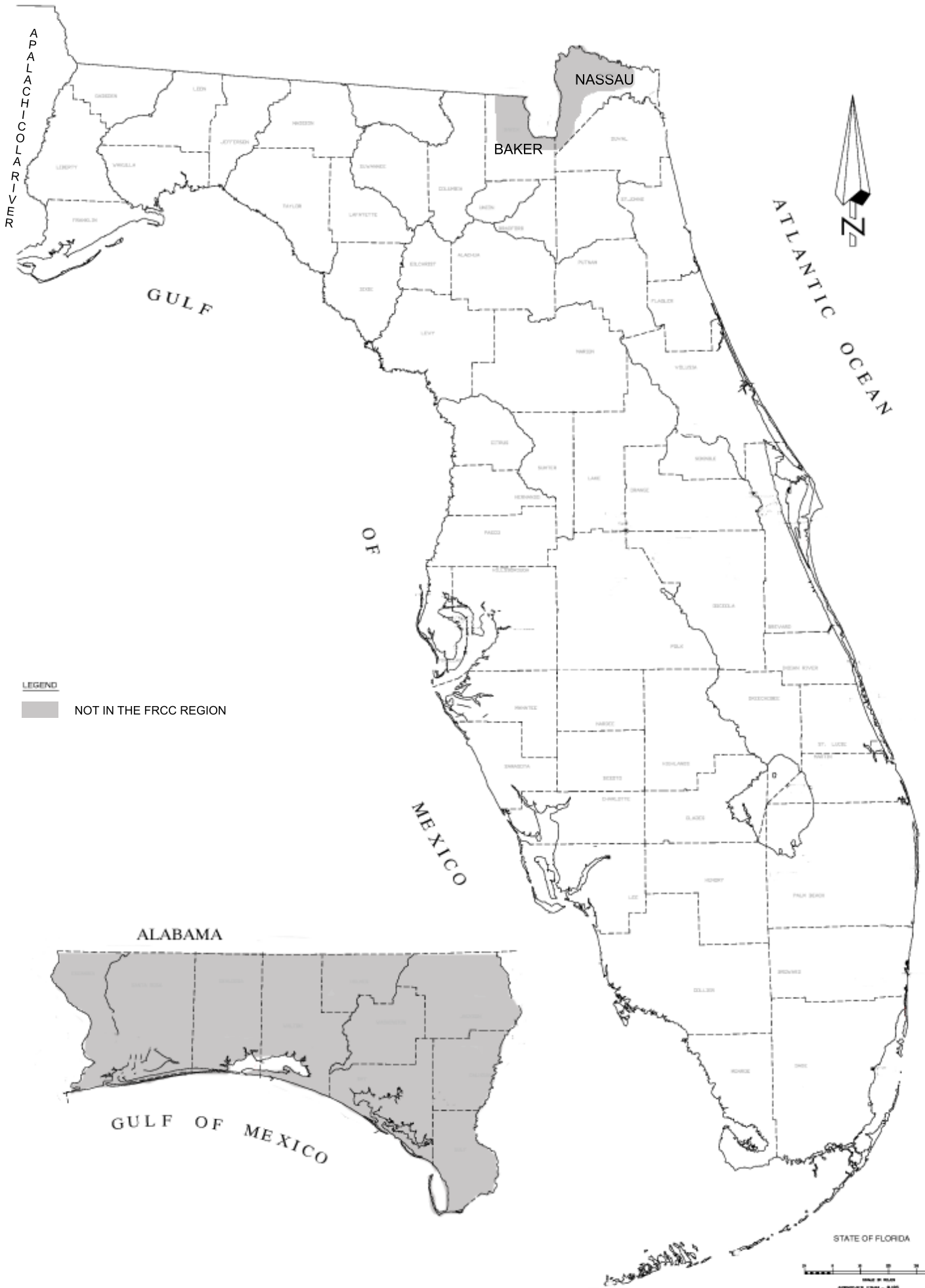
Exhibit A — FRCC Boundaries

The FRCC physical boundaries are entirely within the State of Florida. The area of the State of Florida that is within the FRCC Region is peninsular Florida east of the Apalachicola River with the exception of a small section of Baker and Nassau counties in northeast Florida. Areas west of the Apalachicola River in Florida are within the SERC Region. The entire FRCC Region is within the Eastern Interconnection. The entire FRCC Region is under the direction of the FRCC Reliability Coordinator.

The FRCC Region interconnects with the SERC Region via 10 transmission lines. The 10 lines consist of two 500 kV, four 230 kV and four 115 kV lines. These lines are referred to as the “Florida / Southern Interface”.

The areas of Baker and Nassau counties that are not part of the FRCC Region are part of the SERC Region. These sections are part of the Okefenokee Rural Electric Membership Corporation (OREMC) that is headquartered in Nahunta, GA or facilities owned by Georgia Transmission Corporation (GTC) that is headquartered in Tucker Georgia. Roughly two thirds of OREMC load is in Georgia and one third is in Florida. The majority of the OREMC load in Florida is connected directly to the Southern Company Balancing Area in the SERC Region. Part of OREMC load is connected to both the Southern Company Balancing Area and FPL Balancing Area by a Georgia Transmission Corporation 115kV transmission line and Macedonia Switching Station in Baker County. A small portion of the OREMC load, about five (5) MW to twenty five (25) MW, is supplied as a radial feed from FPL West Nassau Substation. Georgia Transmission Corporation has secured firm transmission service from JEA and/or FPL on the Florida / Southern Interface to supply this load. The OREMC schedules energy on an hourly basis to cover this load. SERC will be responsible for registration and compliance monitoring of the Georgia Transmission Corporation facilities in Baker County, Florida and of OREMC.

Within the FRCC Region, compliance monitoring and enforcement functions with respect to reliability functions for which the FRCC is a registered entity are performed by SERC Reliability Corporation (SERC) pursuant to a contract between FRCC and SERC dated as of (date).



LEGEND

NOT IN THE FRCC REGION

ALABAMA

GULF OF MEXICO

STATE OF FLORIDA

Scale bar and projection information.

Exhibit B – Governance

Exhibit B shall set forth the Regional Entity's bylaws, which NERC agrees demonstrate that the Regional Entity meets the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence of the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Draft changes for CC review and Board approval 050510

**EXHIBIT B
TO PRO FORMA DELEGATION AGREEMENT**

**BYLAWS
Florida Reliability Coordinating Council, Inc.**

Amended February 6, 2009



1408 N. Westshore Blvd., Suite 1002, Tampa, Florida 33607-4512
Phone 813.289-5644 * Fax 813.289-5646
www.frcc.com

Amended and Restated FRCC Regional Delegation Agreement
Revised for Feb 17, 2009 Compliance Filing

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**BYLAWS OF
FLORIDA RELIABILITY COORDINATING COUNCIL, INC.**

ARTICLE I

Membership

Section 1.1 Eligibility.

(a) Membership in the Florida Reliability Coordinating Council, Inc. (“FRCC”) is open to any entity, without cost, that: (i) has a material interest in the reliability of the bulk power system in the FRCC region; (ii) satisfies the criteria for membership specified in this Section 1.1; (iii) qualifies for eligibility in one or more of the Sectors identified in Section 1.2; (iv) submits a written request for membership; and (v) agrees to comply with and be bound by these FRCC Bylaws (“Bylaws”) and other rules and regulations adopted by the FRCC Board of Directors, by execution of the appropriate form of Member Agreement set forth in Appendix A to these Bylaws (“Member Agreement”). Any person or entity that meets the foregoing requirements shall become a “Member” of FRCC.

(b) FRCC shall engage in two categories of activities:

(i) FRCC shall engage in the “Regional Entity Activities” specified in Section 1 of Exhibit E of the Delegation Agreement between FRCC and the North American Electric Reliability Corporation (“NERC”) dated May 2, 2007, as amended from time to time with the agreement of NERC and the approval of the Federal Energy Regulatory Commission (“Delegation Agreement”). Under the Delegation Agreement, FRCC is the Regional Entity, as defined in Sec. 215 of the Federal Power Act, with delegated authority to propose and enforce Reliability Standards for the bulk power system in the FRCC Region. The FRCC Region is defined as the geographic area of Florida east of the Apalachicola River.

(ii) FRCC shall engage in certain “Member Services Activities,” under which it provides, coordinates or administers a variety of services relating to the planning and operation of the bulk power system in the FRCC Region for or on behalf of entities meeting the criteria in Section 1.1(c)(ii) and participating in the funding of such services as specified in these Bylaws. The “Member Services” are specified in the business plan and budget approved by the Board of Directors in accordance with these Bylaws for submission to NERC under the Delegation Agreement, and as approved by NERC and the Federal Energy Regulatory Commission (“Business Plan and Budget”). Member Services are funded as specified in Section 6.2 of these Bylaws.

(c) FRCC shall have two types of Members:

(i) All Members of FRCC shall be “Regional Entity Members.” Regional Entity Members shall be eligible to participate in the Regional Entity Activities of FRCC. Such participation shall be in accordance with these Bylaws, the Member Agreement, and the Delegation Agreement, as from time to time adopted or amended and approved, and such other requirements as govern FRCC as a Regional Entity.

(ii) All Members that participate in the generation, marketing, transmission or purchase for resale of electric energy, ancillary services or capacity on, from or to the bulk power system in the FRCC Region may choose to be “Services Members,” and may participate in FRCC Member Services Activities as specified in these Bylaws. Subject to the requirements of Section 1.2, only Members that are Services Members shall be eligible to participate in decisions governing the Member Services of FRCC, or the voting rights and funding obligations of Services Members.

Section 1.2 Voting Member. A Voting Member is a Member that is not an Affiliate Member or an Adjunct Member. All Voting Members shall be eligible to vote on questions governing Regional Entity Activities. Only Voting Members that are Services Members shall be eligible to vote on questions governing Member Services or Member Services Activities. For purposes of the following Sector classifications, “Load Serving Entity,” whether standing alone or as part of another specified term, shall mean an entity that provides electric service to persons or entities other than the Load Serving Entity itself that purchase such service for their own use and not for resale. Voting Members shall be classified into one of the following Sectors, based on the primary nature of its activities in the FRCC Region relevant to Regional Entity Activities:

(a) **Suppliers Sector** - any entity engaged in wholesale power marketing transactions in the FRCC Region; or a generating entity that is included in the NERC Compliance Registry as a generation owner or generation operator for a facility in the FRCC Region, or that owns or is developing generation greater than 20 MW located within the FRCC Region and meets any of the following: (1) an entity with FERC-approved market-based rate authority, or (2) an exempt wholesale generator, or (3) a facility selling any output pursuant to a power purchase agreement (including fuel conversion arrangements), or (4) a FERC approved Qualifying Facility.

(b) **Non-Investor Owned Utility Wholesale Sector** - generation and transmission cooperatives and municipal joint action agencies that sell electricity to non-investor owned Load Serving Entities with native load in the FRCC Region.

(c) **Load Serving Entity Sector** - any Load Serving Entity that is not investor owned and that generates less than 25% of its energy requirements for retail sales or has an annual Full Requirements Energy for Load (FREL) of 1800 GWH or less in the FRCC Region.

(d) **Generating Load Serving Entity Sector** - any Load Serving Entity that is not investor owned and that generates at least 25% of its energy requirements for retail sales, and that has an annual Full Requirements Energy for Load (FREL) greater than 1800 GWH in the FRCC Region.

(e) **Investor Owned Utility Sector** - investor owned utilities generating and serving retail native load greater than 15,000 GWH in the FRCC Region.

(f) **General Sector** - persons or entities that take delivery of energy within the FRCC Region that is not purchased for resale; agents or associations representing groups of such entities that are commercial or industrial entities; agents or advocate groups representing small customers; and other persons or entities owning assets or engaging in commercial activities in the FRCC Region.

Section 1.3 Affiliate Member. An Affiliate Member is defined as an entity that (i) otherwise qualifies as a Voting Member pursuant to Section 1.1 and 1.2 and (ii) is an Affiliate of a Voting Member. For purposes of these Bylaws, being an “Affiliate” shall mean that (1) a Voting Member controls, is controlled by or is under common control with, such Affiliate Member, and (2) for any exempt wholesale generator, as defined the Public Utility Holding Company Act of 2005, as amended, the meaning provided in Section 214 of the Federal Power Act. Affiliate Members shall have no right to vote on any matter, nor any right to be elected or appointed to the Board. Except as to funding, Affiliate Members shall be bound by the same obligations as Voting Members and Adjunct Members of FRCC. Questions as to whether an entity is an Affiliate of a Voting Member shall be resolved by the Board.

Section 1.4 Adjunct Member. A person or entity may be approved as an Adjunct Member by the Board if such entity has a material interest in the reliability of the bulk power system in the FRCC region but does not meet the definitions and requirements to join as a Voting Member or Affiliate Member. Adjunct Members shall have no right to vote on any matter, nor any right to be elected or appointed to the Board. Except as to funding, Adjunct Members shall be bound by the same obligations as Voting Members and Affiliate Members of FRCC.

Section 1.5 New Members. The Board shall review and act upon membership applications. Prior to membership, the Board shall certify that an applicant complies with the eligibility requirements.

Section 1.6 Membership Commitment. Each Member of the FRCC shall be required to execute, in counterpart, a Member Agreement, as applicable, in the form shown in Appendix A to these Bylaws.

Section 1.7 Obligations.

(a) Each Member of the FRCC shall promote, support and comply with the purposes and policies of the FRCC as set forth in its Certificate of Incorporation and Bylaws, and the other documents governing the activities of FRCC identified in the Bylaws.

(b) Each Member of the FRCC shall appoint a representative as provided herein to receive notices from the FRCC and shall give to the FRCC Chief Executive Officer (“CEO”) in writing (signed by a duly authorized representative of the Member) the name, business address and electronic address of the person thus appointed. An appointed representative of a Member who is unable to attend a meeting may designate, in writing, an alternate to act on behalf of the Member.

Section 1.8 Participation.

(a) For purposes of these Bylaws, an entity and all of its Affiliates shall be considered one "Entity." No Entity shall simultaneously hold more than one Voting Member status or have more than one voting representative on a Standing Committee, or more than one seat on the Board.

(b) An Entity may join FRCC in any Sector in which it qualifies for Membership, provided that an Entity may join as a Voting Member in only one Sector. In the event that an Entity qualifies for more than one Sector, such Entity may join such other Sectors as an Affiliate Member upon payment of any applicable Affiliate Member Annual Fees in accordance with Article VI Section 6.2(b)(ii) for each Sector in which such Entity desires to participate as an Affiliate Member. Once an Entity has elected to be a Voting Member of one Sector, the Entity must continue to vote in that Sector for a minimum of one (1) year. If, at any point, it is determined that an Entity no longer meets the qualifications for the Sector it selected, the Entity may not vote in that Sector; however, that Entity may then immediately elect to become a Voting Member in any Sector for which it does qualify. Questions as to whether an Entity meets the qualifications of a Sector shall be resolved by the Board.

(c) Subject to the requirements of these Bylaws and the Articles of Incorporation, each Voting Member in good standing is entitled to vote on each matter submitted to a vote of the Voting Members. A Member in good standing is one that (i) meets all qualifications for membership as provided in these Bylaws, (ii) is not in arrears for payment of any applicable annual fees for membership or payment of any other fees owed to FRCC unless such payment is being disputed in good faith, and (iii) has not been found by a court to be in breach of any contract with FRCC. Voting Members that are not in good standing are not entitled to vote on any matter until they have regained good standing.

ARTICLE II

Meetings of Voting Members

Section 2.1 Annual Meeting of Voting Members. Voting Members shall meet at least annually on a date and at a place to be established by the Board ("Annual Meeting"). The Voting Members from each Sector shall elect, by majority vote, each Voting Member having one (1) vote, Directors to the Board who will represent their Sector. The Voting Members shall conduct such other business as may be properly brought before them. Meetings may be held by telephone conferencing, video conferencing or by other means enabling all participants in the meeting to communicate with each other. The Annual Meeting shall be open to Affiliate Members and Adjunct Members, and such other invitees as the Board may deem appropriate, provided that the Services Members, along with Affiliate and Adjunct Members that have paid the fees specified in Section 6.2(b)(ii) or (iii), may meet separately to consider matters relating to Member Services.

Section 2.2 Special Meetings. Special meetings of the Voting Members, for any purpose or purposes, unless otherwise prescribed by the laws of the State of Florida, or by the

Articles of Incorporation, may be called by the Chair of the Board. Special meetings of the Regional Entity Members shall be called upon request of six (6) or more Voting Members representing three (3) or more Sectors. Special meetings of the Services Members shall be called upon request of six (6) or more Voting Members that are Services Members representing three (3) or more Sectors. Notice of a special meeting stating the place, date, hour and agenda for the special meeting shall be given to the Voting Members not less than three (3) business days before the meeting. Such request for a special meeting shall state the purpose or purposes of the proposed special meeting, which shall be included as part of an agenda to be distributed to the Voting Members not less than three (3) business days before the meeting. Meetings may be held by telephone conferencing, video conferencing or by other means enabling all participants in the meeting to communicate with each other.

Section 2.3 Place of Meeting. All meetings shall be held at or near the principal office of the FRCC in Tampa, Florida, or at such other place within or outside the State of Florida as shall be determined from time to time by the Board.

Section 2.4 Notice of Meetings.

(a) Notice of the Annual Meeting or any regular or special meeting of the Voting Members shall be sent by mail or electronic means to each Member's representative at the business or electronic address specified in accordance with Section 1.7(b) at least ten (10) business days before the date of the meeting. The notice shall set forth a proposed agenda for the meeting, but any matter may be considered and acted upon at any meeting, whether or not the matter was listed in the proposed agenda, if addition of the item to the agenda is approved at the meeting by the vote of the eligible Voting Members whose votes equal sixty percent (60%) or more of the total weighted sector vote of the eligible Voting Members; provided, however, that at least three (3) Sectors are represented in the affirmative. Meetings may be held at any time without notice if all of the eligible Voting Members are present, or if those not present waive notice in writing either before or after the meeting.

(b) The record date for determining Members entitled to notice shall be one month prior to the meeting date.

Section 2.5 Quorum. Representation at any meeting of the Regional Entity Members of more than 50% of the Voting Members, or representation at any meeting of the Services Members of more than 50% of the Voting Members that are Services Members, shall constitute a quorum for the transaction of business at such meeting; provided, however, that in each case at least four (4) eligible Sectors are represented.

Section 2.6 Voting. Voting by Voting Members shall be by the six (6) Sectors as defined in Section 1.2, except as otherwise provided herein. Each Voting Member within a Sector has one non-divisible vote. Each Sector shall have a “Sector Vote” in proportion to the voting rights specified in Section 3.2(e), which is to be split into an affirmative and a negative component, in the proportion that each component bears to the total votes of the Voting Members within that Sector. Action by the Voting Members shall require affirmative Sector Votes greater than 6.50.

Section 2.7 Action without Meeting. Any action that may be taken at a meeting of the Regional Entity Members or the Services Members may be taken without a meeting if consent in writing, setting forth the action so to be taken, shall be signed by all Voting Members eligible to vote in such meeting before the action is taken.

Section 2.8 Remote Attendance. Any Member otherwise eligible may participate in any meeting by telephone, videoconference communications equipment, or other means enabling all persons participating in the meeting to communicate with each other. A Member participating in a meeting by such means shall be deemed present in person at such meeting.

Section 2.9 Termination of Members.

(a) A Member may be terminated for non-payment of fees or monies due FRCC as provided in Section 6.3, or for a significant violation of obligations as set forth in Section 1.7. The Board may, by resolution, establish a fair and reasonable procedure to terminate a Member.

(b) A Member whose membership has been terminated shall be liable to FRCC for fees and any other monies due FRCC as a result of obligations incurred or commitments made prior to termination.

Section 2.10 Withdrawal. Any other provision of these Bylaws notwithstanding, any Member may withdraw from participation in the activities of FRCC at any time upon written notice to the CEO, whereupon it shall cease to be a Member and shall cease to be entitled or obligated to participate in the activities of the Board, Standing Committees, or any subcommittees, and shall have no further obligations as a Member; provided, however, that if such notice is given more than thirty (30) days after such Member's receipt of its statement of fees and expenses for a fiscal year, the Member shall be obligated to pay its fees and other monies due to FRCC for the full fiscal year within which such termination is effective.

Section 2.11 Reinstatement. A former Member shall be required to apply for Membership as set forth in Section 1.1. The Board may reinstate Membership on any reasonable terms that the Board deems appropriate.

Section 2.12 Property Ownership and Control. Subject to applicable laws, rules, regulations, agreements, and FRCC protocols, each Member shall retain sole control of its own facilities and the use thereof, and nothing in these Bylaws shall require a Member to construct or dedicate facilities for the benefit of any other electric system or allow its facilities to be used by any other Member or to construct or provide any facilities for its own use, and nothing herein shall be deemed to impair the ability or right of any Member to take such actions or to fail to act, as it deems necessary or desirable, with respect to the management, extension, construction, maintenance and operation of its own facilities, present and future. A Member has no interest in the property of FRCC and waives the right to require a partition of any FRCC property.

ARTICLE III

Board of Directors

Section 3.1 Powers. The affairs of FRCC shall be managed by the Board of Directors ("Board"). The Board may exercise all such powers of the FRCC and do all such lawful acts and things as are not prohibited by the laws of the State of Florida, by the Federal Power Act, by the Articles of Incorporation or by these Bylaws.

Section 3.2 Number, Election, Tenure and Governance.

(a) Number. The Board shall include (16) Directors allocated among the Sectors as follows, and such other Directors as provided in by Section 3.2(b)(4):

- (1) Suppliers Sector- three (3) Directors
- (2) Non-Investor Owned Utility Wholesale Sector - two (2) Directors
- (3) Load Serving Entity Sector-
- Municipal - one (1) Director
- Cooperative - one (1) Director
- (4) Generating Load Serving Entity Sector - three (3) Directors

- (5) Investor Owned Utility Sector - Three (3) Directors
- (6) General Sector - Two (2) Directors
- (7) The CEO of FRCC - an ex-officio non-voting Director.

(b) Election.

(1) Directors, with the exception of the CEO, shall be elected as described herein.

(2) Within each Sector, only Voting Members from a given Sector may elect Directors for that Sector.

(3) Within the Load Serving Entity Sector, Director(s) representing 0.5 votes shall all be from a municipal and Director(s) representing 0.5 votes shall be from a cooperative.

(4) Within each Sector, Voting Members from a given Sector may, by majority vote, elect additional Directors subject to a maximum of five (5) Directors representing such Sector. The total votes of the Directors for such Sector shall not exceed the total votes of the Directors of such Sector specified in Section 3.2(a).

(c) Alternate Director. Any Director unable to attend a meeting may designate, in writing, an alternate to act on behalf of the Director.

(d) Term. The term for all Directors shall be two (2) years. Any Director may be reelected for consecutive terms, without limitation. Directors within a Sector shall have staggered terms as determined by the Sector.

(e) Voting Rights.

(1) Except as provided for in subsections (2) and (3) below, each Sector shall have the number of votes as specified below:

- Suppliers Sector 2.5 Votes
- Non-Investor Owned Utility Wholesale Sector 2.0 Votes
- Load Serving Entity Sector
 - Municipal 0.5 Votes
 - Cooperative 0.5 Votes
- Generating Load Serving Entity Sector 3.0 Votes
- Investor Owned Utility Sector 3.5 Votes
- General Sector 1.0 Vote

Total 13.0 Votes

(2) Each Director, as defined in Section 3.2(a) and 3.2 (b), shall have an equal proportional vote of that Sector's total voting strength. This provision shall

apply separately to the municipal and cooperative Directors of the Load Serving Entity Sector.

- (3) If the majority of the Voting Members of a Sector are Services Members, Directors elected by that sector shall be deemed "Services Member Directors." Only Services Member Directors shall be eligible to vote on questions governing Member Services or Member Services Activities. Deliberations on such matters may be limited to Services Member Directors, Voting Members that are Services Members, and Affiliate and Adjunct Members that have paid the fees specified in Section 6.2(b)(ii) or (iii), upon the vote of the Services Member Directors.
- (4) The CEO of FRCC shall not have a vote.

(f) **Limitations.** Each person or alternate serving on the Board shall be a representative of a Voting Member. Unless otherwise provided in these Bylaws, if a representative of a Voting Member is elected to serve on the Board, such person shall only be eligible to serve in such capacity so long as such person remains the representative of said Voting Member. A Voting Member shall not have more than one (1) officer, employee or agent serving as a Director.

Section 3.3 Meetings. Regular meetings of the Board shall be held at such times and places, within or outside the State of Florida, as may be determined by the Board. Special meetings of the Board may be called by the Chair. Special meetings shall be called upon request of six (6) or more Directors. Regular or Special Meetings may be held by telephone conferencing, video conferencing or by other means enabling all participants in the meeting to communicate with each other. Except as specified in Section 3.2(e)(3), the meetings of the Board shall be open to all Members, and such other invitees as the Board may deem appropriate. The Board may meet in closed session to discuss matters of a confidential nature, including but not limited to personnel matters, litigation, or commercially sensitive information of any person or entity.

Section 3.4 Notice of Meetings. Notice of any regular or special meeting of the Board shall be sent by mail or electronic means to each Director, and to each Member, at such Director's and Member's usual place of business at least (ten) 10 business days, in the case of a regular meeting, or (five) 5 business days, in the case of a special meeting, before the date of the meeting. Such notice shall also be sent to the observers of the Board specified in Section 8.1. The notice shall set forth a proposed agenda for the meeting. Subject to the requirements of Section 3.2(e)(3), no agenda item may be added to the agenda at any meeting of the Board which requires action by the Board unless all Directors are present and all agree to allow such an item to be put to a vote. Meetings may be held at any time without notice if all of the Directors of the Board are present, or if those not present waive notice in writing either before or after the meeting.

Section 3.5 Quorum. The presence at a meeting of the Directors whose votes equal sixty percent (60%) or more of the total voting strength of the Board, or in the case of matters governed by Section 3.2(e)(3), votes equal to sixty percent (60%) or more of the total voting

strength of the Directors eligible to vote, shall constitute a quorum for any action of the Board, provided, however, that in each case at least one Director from at least four (4) Sectors are present. If at any meeting a quorum shall fail to attend, a majority of those Directors present at the meeting may adjourn that meeting without further notice until a quorum shall attend. Once a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called.

Section 3.6 Voting. Action by the Board shall require approval of sixty percent (60%) or more of the total eligible voting strength of the Board.

Section 3.7 Remote Attendance. Directors shall be deemed present and voting at a meeting of the Board if participating in the meeting by means of a conference telephone, video conferencing, or other means enabling all persons participating in the meeting to communicate with each other.

Section 3.8 Action without Meeting. Any action that may be taken at a meeting of the Board may be taken without a meeting if consent in writing, setting forth the action so to be taken, shall be signed before the action by all Directors eligible to participate in such action.

Section 3.9 Vacancies and Removal. A Director may be removed with cause at any time by an affirmative vote of 60% of the Voting Members of the Sector that elected that Director. In addition, the Board may remove a Director for cause, upon at least seventy-five percent (75%) affirmative votes of the remaining total voting strength of the Board. The right to elect Directors may not be assigned, sold, pledged or transferred in any manner. A vacancy may be filled only by the Voting Members of the Sector in which the vacancy occurs. Any Director so chosen shall hold office until his or her successor is duly elected and qualified or until his or her earlier resignation, ineligibility or removal.

Section 3.10 Officers. At the Board of Directors meeting following the Annual Meeting of the Voting Members, the Board shall elect a Chair, Vice Chair, and Secretary-Treasurer, who shall be the officers of the FRCC. No two officers of FRCC shall be officers, employees or agents of Voting Members of the same Sector or its Affiliates. The CEO of FRCC may not be elected to act as Chair, Vice-Chair or Secretary/Treasurer.

(a) Term of Office. Each officer of the Board of Directors shall hold office for two (2) fiscal years, and until his or her successor is duly elected and qualified.

(b) Removal of Officers. Any officer of the Board of Directors may be removed with or without cause at any time by the affirmative vote of seventy percent (70%) of the total voting strength of the Board.

(c) Compensation. There shall be no compensation paid to any officer of the Board of Directors of FRCC, provided that an officer serving on the staff of FRCC may be compensated for their services on the staff of FRCC.

Section 3.11 Responsibilities of Board of Director Officers

(a) Chair. The Chair shall serve as the Chair of the Board. The Chair shall preside at all meetings of the Members and Board, provided that, if the Chair is not eligible to vote in a meeting governed by Section 3.2(e)(3), the Directors that are eligible shall select one of the number to preside at such meeting. The Chair shall be responsible for the preparation of the agenda for all meetings of the Members and Board. The Chair shall be a member of and preside over a Personnel and Compensation Committee, which shall have responsibilities for such matters relating to staff.

(b) Vice Chair. The Vice Chair shall, in the absence or disability of the Chair, perform the duties and exercise the powers of the Chair, subject to the provisions of Section 3.11(a), and shall perform such other duties and have such other powers as the Board may from time to time prescribe. The Vice Chair shall be a member of a Personnel and Compensation Committee, which shall have responsibilities for such matters relating to staff.

(c) Secretary-Treasurer. The Secretary-Treasurer shall be responsible to assure that the FRCC staff has adequate procedures to distribute the agenda of the meetings of the Voting Members and the Board, keep the minutes of the proceedings of said meetings, and maintain the financial books and records of the FRCC, including disbursement of the funds of the FRCC in accordance with the authorized annual budget. The Secretary-Treasurer shall be a member of the Personnel and Compensation Committee, which shall have responsibilities for such matters relating to staff.

Section 3.12 Vacancy. Any vacancy in a Board of Director Officer occurring for any reason shall be filled as specified in Section 3.9.

ARTICLE IV

Chief Executive Officer

Section 4.1 CEO. The Board shall hire the CEO who, under the Board's direction, shall carry on the general affairs of the FRCC. The CEO shall be a member of the staff of FRCC and shall be a non-voting Director. It shall be the CEO's duty to approve the expenditure of the monies appropriated by the Board in accordance with the Budget approved by the Board. The CEO shall make an annual report and periodic reports to the Board concerning the activities of FRCC. The CEO shall serve as President of FRCC. The CEO shall comply with all directives of the Board. All agents and employees shall report, and be responsible, to the CEO. The CEO shall perform such other duties as may be determined from time to time by the Board.

ARTICLE V

Standing Committees

Section 5.1 Standing Committees. There shall be a Planning Committee, an Operating Committee, a Compliance Committee, and such other committees, subcommittees,

and task forces as the Board may appoint, when deemed necessary to carry out the purposes of the FRCC.

Section 5.2 Planning Committee. Each Voting Member may appoint one (1) representative, empowered to vote on behalf of the Voting Member, to serve on the Planning Committee. A representative may, if unable to attend a meeting, designate, in writing, an alternate to act on behalf of the representative. Affiliate Members and Adjunct Members may appoint a non-voting representative to serve on the Planning Committee. Quorum and Voting Rights shall be as defined in Sections 5.7 and 5.8. The Planning Committee shall report directly to the Board and is charged with the responsibility of promoting the reliability of the bulk power system in the FRCC Region, and assessing and encouraging generation and transmission adequacy. The Planning Committee may establish subcommittees and task forces as deemed necessary by its membership.

Section 5.3 Operating Committee. Each Voting Member may appoint one (1) representative, empowered to vote on behalf of the Voting Member, to serve on the Operating Committee. A representative may, if unable to attend a meeting, designate, in writing, an alternate to act on behalf of the representative. Affiliate Members and Adjunct Members may appoint a non-voting representative to serve on the Operating Committee. Quorum and Voting Rights shall be as defined in Sections 5.7 and 5.8. The Operating Committee shall report directly to the Board and is charged with responsibility for the coordination, operations planning, operation and maintenance of the bulk power system in the FRCC Region. The Operating Committee may establish subcommittees and task forces as deemed necessary by its membership.

Section 5.4 Compliance Committee. Each Voting Member may appoint one (1) representative, empowered to vote on behalf of the Voting Member, to serve on the Compliance Committee. A representative may, if unable to attend a meeting, designate, in writing, an alternate to act on behalf of the representative. Quorum and Voting Rights shall be as defined in Sections 5.7 and 5.8. The Compliance Committee shall report directly to the Board and is charged with the responsibility of promoting reliability of the bulk power system within the FRCC through compliance related activities. The Compliance Committee is separate and distinct from the Board Compliance Committee which is primarily a “hearing body” and has a different voting structure as outlined in Exhibit D of the Delegation Agreement between the North American Electric Reliability Corporation and FRCC. The Compliance Committee may establish subcommittees and task forces as deemed necessary by its membership.

Section 5.5 Rules of Procedure. Each Standing Committee shall set its rules of procedure, provided that quorum, voting rights and voting shall be as specified in Sections 5.7 and 5.8. Such Rules of Procedure shall be as approved by the Board. All action by any Standing Committee shall be reported as prescribed herein and shall be subject to revision, alteration and approval by the Board.

Section 5.6 Quorum. Representation at any meeting of a Standing Committee of sixty percent (60%) or more of the total voting strength of the Standing Committee shall constitute a quorum for the transaction of business at such meeting; provided, however, that action on matters dealing with the scope or funding of Member Services shall require sixty

percent (60%) or more of the total voting strength of members of the Standing Committee representing Voting Members that are Services Members; and provided further that a quorum shall require that at least three (3) Sectors are represented, all three of which shall be Sectors a majority of the members of which are Services Members in the case of a quorum for action on matters governing Member Services.

Section 5.7 Voting. Voting is by Sector. Each voting representative present at a meeting is assigned a vote equal to the voting strength of his or her Sector, as provided in this section, divided by the number of voting representatives present in that Sector, except that no voting representative present at a meeting shall have more than one (1) vote, except an Investor Owned Utility Sector voting representative who may have up to 1.167 votes. Action by a Standing Committee shall require an affirmative vote equal to or greater than sixty percent (60%) of the total eligible voting strength of the Standing Committee.

Sector Votes	
(1) Suppliers Sector	2.5 Votes
(2) Non-Investor Owned Utility Wholesale Sector	2.0 Votes
(3) Load Serving Entity Sector	
Municipal	0.5 Vote
Cooperative	0.5 Vote
(4) Generating Load Serving Entity Sector	3.0 Votes
(5) Investor Owned Utility Sector	3.5 Votes
(6) General Sector	1.0 Vote
Total	13.0 Votes

Only representatives of Voting Members that are Services Members shall be eligible to vote on questions governing Member Services.

Section 5.8 Meetings. Regular meetings of the Standing Committees shall be held at such times and places, within or outside the State of Florida, as may be determined by the Standing Committees. Special meetings of the Standing Committees may be called by the Chair or upon the request of representatives from three (3) different Sectors. Regular or Special Meetings may be held by telephone conferencing, video conferencing, or by other means enabling all participants in the meeting to communicate with each other. The meetings of the Standing Committees shall be open to all Members, and such other invitees as the Board may deem appropriate.

ARTICLE VI

General Provisions

Section 6.1 Budget. The Board shall annually adopt a budget for the FRCC for administrative expenses of the FRCC, including salaries, and for the costs associated with the various committees, subcommittees, professional services, projects and studies. The Board shall

approve the scope and funding of Member Services, in accordance with the provisions of these Bylaws. The funding for Member Services special projects approved by the Board may be based on a special funding, with an equitable allocation of the costs for the special project as approved by the Board. The budget may be amended from time to time during the fiscal year as determined by the Board, subject to the filing and approval requirements applicable to FRCC as a Regional Entity under the Delegation Agreement.

Section 6.2 Funding.

(a) The funding of FRCC's Regional Entity Activities shall be in accordance with the provisions of Exhibit E and the section numbered eight (8) of the Delegation Agreement.

(b) The Member Services of FRCC shall be funded through an allocation of their costs to all Members that are Services Members in accordance with the provisions of subsections 6.2(b)(i) - (iii) below. The funding of all Member Services shall be kept separate from the funding of Regional Entity Activities as specified in the Business Plan and Budget.

(i) **Services Members.** The allocation for Voting Members that are Services Members shall be based on the following calculation; provided, however, that in no event shall the allocation be less than \$20,000 per annum.

$$\text{Services Member Allocation} = 0.25 (1/N) + 0.25 (B/C) + 0.25 (D/E) + 0.25 (F/G)$$

- N Total number of voting Services Members
- B Voting Services Member's previous-year Full Requirements Energy for Load (FREL) within the FRCC
- C Total of factor B for all voting Services Members
- D Voting Services Member's Net Summer Generating Capacity within the FRCC Region as of December 31 of the previous year, as defined in the FRCC Load and Resource Plan
- E Total of factor D for all voting Services Members
- F Sum of Circuit Miles of Transmission Facilities (69kV and above) of voting Services Members within the FRCC Region times the respective operating voltage as of December 31 of the previous year
- G Total of factor F for all voting Services Members

Full Requirements Energy for Load (FREL) The net electrical energy requirements of the Services Member's electric system, and the net electric energy requirements of all full requirements customers of the Services Member, except if a full requirements customer of a Services Member joins FRCC. In such case, the electrical energy requirements of such full requirements customer will only be counted for the funding calculation for that Services Member who is the full requirements customer, and not for the Services Member who is the supplier of the full requirements. There should be no double counting of FREL between Services Members.

Net Summer Generating Capacity The maximum summer rated capacity, modified for ambient limitations, that a generating unit can sustain over a specified period, less the capacity used to supply the demand of station service or auxiliary needs. For jointly owned units, the Net Capacity will be allocated based on the ownership share of each Services Member who is a joint owner, unless otherwise mutually agreed by the joint owner Services Members.

Circuit Miles of Transmission Facilities The distance (following the path of transmission facility) in miles between substations or switching stations times the number of circuits at the same voltage level. For jointly owned transmission facilities, the Circuit Miles of Transmission Facilities will be allocated based on the ownership share of each Services Member who is a joint owner, unless otherwise mutually agreed by the joint owner Services Members.

(ii) Affiliate Members. The fee for an Affiliate Member that wishes to participate in Member Services activities shall be \$5,000 per annum. The fee for an Affiliate Member, only participating in Regional Entity Activities, shall be waived.

(iii) Adjunct Members. The fees for an Adjunct Member that wishes to participate in Member Services activities shall be \$5,000 per annum. The fee for an Adjunct Member, only participating in Regional Entity Activities, shall be waived.

Section 6.3 Fees. The Member Services membership fee shall be due and payable concurrent with the submission of the written application for membership. The initial membership fee will be prorated on an annual basis depending upon the quarter in which a Member joins. Thereafter, membership fees shall be due and payable on or before January 1st of each year or in installments as determined by the Board. The FRCC shall notify, in writing, any Member who is delinquent in the payment of any applicable membership fee. The notice shall provide a time certain, not to exceed thirty days (30) days from the date of the written notice, during which any such delinquency may be cured. Failure to cure a delinquency within the stated time will result in the loss of all membership rights and designations. In the event of an uncured lapse in the payment of a fee, membership in the FRCC shall be terminated.

Section 6.4 Staff. The FRCC shall employ a staff, including the CEO, to carry out the objectives of the organization. The CEO shall be a non-voting Director of the Board. The duties of the CEO are as defined in Article IV, Section 4.1.

Section 6.5 Expenses. The personal expenses of each Member and Director participating in the activities of the FRCC and its committees and subcommittees shall be borne by the Member on whose behalf such person is acting, unless determined otherwise by the Board.

Section 6.6 Minimum Sector Membership. If the number of Voting Members of a Sector is not greater than one (1), such Sector shall not be entitled to a vote at the Voting Members meetings, Board of Directors meetings, or the Standing Committee meetings.

Section 6.7 Indemnification. The FRCC shall indemnify and hold harmless, to the maximum extent permitted by law, any Member, Director, Member representative, agent, officer or employee of the FRCC and the heirs, estates, successors or assigns of any of them, from any and all claims or liabilities, including costs or attorneys' fees for defending against assertion of any such claim or liability, arising from any act or failure to act of such person for, on behalf of, or at the direction of the FRCC, unless such act or failure to act constituted a willful violation of state, federal or local law, willful misconduct, or gross negligence. With the approval of the Board, the FRCC may reimburse costs, attorneys fees, and other expenses for defending against assertions of any such claims or liabilities prior to the final disposition of any such proceeding. The foregoing rights to be indemnified, held harmless, or reimbursed shall not operate in derogation or prohibition of any other rights which the person indemnified, held harmless or reimbursed may have. The FRCC, by vote of the Board, shall purchase insurance against all or any part of the liabilities which may be incurred by the FRCC and may cause the FRCC to indemnify and hold harmless as and to the extent it may deem appropriate such other person or persons as it may deem appropriate.

Section 6.8 Fiscal Year. The fiscal year of the FRCC shall be the twelve (12) month period of January 1st through December 31st.

Section 6.9 Depositories. All funds of the FRCC shall be deposited in the name of the FRCC in such bank, banks or other financial institutions as the CEO shall from time to time designate and shall be drawn out on checks, drafts or other orders signed on behalf of the FRCC by such person or persons as the Board shall from time to time designate.

ARTICLE VII

Amendments

Section 7.1 Amendments. Subject to the provision that no amendment to these Bylaws may limit the rights of a Member to resign from Membership, subject to the provisions of Section 1.2, and subject to the requirements for approval by NERC and the Federal Energy Regulatory Commission applicable to the FRCC as a Regional Entity, these Bylaws may be amended, altered, or repealed through the following procedure:

(a) Any Voting Member or Director may suggest amendments to these Bylaws. Such suggestions must include a proposed amendment, and any necessary supporting documents. They should be sent to the CEO of FRCC for placement on the agenda for a Board meeting in the time and manner prescribed by the Board.

(b) If the proposal is approved by the Board of Directors, the Board shall place the proposal on the agenda of either the next Annual Meeting of the Voting Members, or pursuant to Board discretion, at a Special Meeting of the Voting Members called for that purpose.

(c) Voting Members shall vote to enact the Board-approved amendment in accordance with Sections 2.5 and 2.6, and subject to the provisions of Section 1.2 of the Bylaws.

Section 7.2 Review of Governance. The Board shall appoint a task force to review these Bylaws, and to submit recommendations to the Board on necessary amendments, at the discretion of the Board or if any of the following events occurs. Such task force shall include representation from each Sector.

(a) The number of Voting Members in a Sector is not greater than one (1).

(b) A Regional Transmission Organization of any type is approved by the Federal Energy Regulatory Commission to operate in the FRCC Region.

(c) Any federal or state legislation or regulatory action that significantly alters the functions of the FRCC.

(d) Any new entity that has or is expected to have financial transactions in the wholesale electric market in the FRCC Region wishes to join the FRCC, and does not otherwise meet the membership requirements as then defined in these Bylaws.

ARTICLE VIII

Observers of the Board

Section 8.1 Observers of the Board. The Chairman of the Florida Public Service Commission, or designee, shall be invited to attend meetings of the Board. The Board shall invite other observers as the Board deems appropriate.

ARTICLE IX

Section 9.1 Board Compliance Committee. FRCC shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be the FRCC Board Compliance Committee (BCC), a balanced compliance panel reporting directly to the FRCC's Board of Directors.

The BCC will consist of one (1) Voting Member from each of the six (6) sectors in the FRCC, who shall be a member of the Board of Directors. Each year, two (2) members from each Sector of the FRCC Board of Directors will volunteer to serve in a BCC pool. At the time a hearing request is received, the Chair of the FRCC Board of Directors will appoint one member from each Sector to form the BCC for that hearing. The Board Member from the Registered Entity that has requested the hearing will not be selected for that BCC. In the event one (1) Sector of the FRCC declines to participate on the BCC, the Chair of the Board of Directors shall randomly select one (1) additional BCC member from the remaining five (5) Sectors to constitute the BCC. The Chair of the FRCC Board of Directors will appoint a Chair and Vice-Chair of the BCC. Terms of BCC members will be equivalent to the time it takes to complete the hearing for which they were selected. Members may be re-appointed to subsequent terms without any limits to the number of terms they serve.

FRCC Industry Sectors are as follows:

- One (1) Member from the Investor Owned Utility Sector
- One (1) Member from the Suppliers Sector
- One (1) Member from the Non-Investor Owned Utility Wholesale Sector
- One(1) Member from the Load Serving Entity Sector
- One (1) Member from the Generating Load Serving Entity Sector
- One (1) Member from the General Sector

Each member of the BCC shall be a full voting member. There will be no alternates or proxies for the BCC members. Decisions of the BCC shall require (i) a quorum to be present requiring at least fifty (50) percent of the number of members assigned to the BCC provided, however, that

in each case at least four (4) eligible Sectors are represented and (ii) a majority vote of the members of the BCC voting on the decision.

ARTICLE X

Audit

Section 10.1 Audit. The Board shall engage a certified public accounting firm to audit the books and accounts of the FRCC for each fiscal year.

ARTICLE XI

Miscellaneous Provisions

Section 11.1 Headings. The headings used in these Bylaws are for convenience and may not be considered in construing these Bylaws.

Section 11.2 Number and Gender. All singular words include the plural, and all plural words include the singular. All pronouns of one gender include reference to the other gender.

Section 11.3 Parties Bound. These Bylaws will bind and inure to the benefit of any Members, Director, Member representative, agent, officer, or employee of the FRCC and their respective administrators, legal representatives, successors, and assigns except as these Bylaws otherwise provide.

Section 11.4 Minority Positions. Any Voting Member or Standing Committee Representative who has a minority opinion on any significant issue may present the minority opinion to the Board in a manner as prescribed by the Board.

Amended: February 6, 2009

APPENDIX A

Voting Member Agreement - Division

_____, hereby agrees to comply with and be bound by, and to

(Voting Member)

promote and support, the Florida Reliability Coordinating Council Articles of Incorporation and Bylaws, and all acts, decisions or obligations of the Florida Reliability Coordinating Council applicable to Voting Member taken or entered into in accordance with the foregoing documents.

(Name)

DATE: _____

WITNESS:

APPENDIX A

Affiliate Member Agreement – Division

_____, hereby agrees to comply with and be bound by, and to

(Affiliate Member)

promote and support, the Florida Reliability Coordinating Council Articles of Incorporation and Bylaws, and all acts, decisions or obligations of the Florida Reliability Coordinating Council applicable to Affiliate Member taken or entered into in accordance with the foregoing documents.

(Name)

DATE: _____

WITNESS:

APPENDIX A

Adjunct Member Agreement – _____ Division

_____, hereby agrees to comply with and be bound by, and to

(Adjunct Member)

promote and support, the Florida Reliability Coordinating Council Articles of Incorporation and Bylaws, and all acts, decisions or obligations of the Florida Reliability Coordinating Council applicable to Adjunct Member taken or entered into in accordance with the foregoing documents.

(Name)

DATE: _____

WITNESS:

HISTORY OF REVISIONS

January, 1998

Amended December 19, 2001

Amended March 2, 2006

Amended September 25, 2007

Amended June 27, 2008

Amended February 6, 2009

Exhibit C – Regional Standard Development Procedure

Exhibit C shall set forth the Regional Entity's standards development procedure, which NERC agrees meets the following common attributes:

COMMON ATTRIBUTE 1

Proposed regional reliability standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA [add reference to any applicable authorities in Canada and Mexico]. No regional reliability standard shall be effective within the [Regional Entity Name] area unless filed by NERC with FERC [and applicable authorities in Canada and Mexico] and approved by FERC [and applicable authorities in Canada and Mexico].

COMMON ATTRIBUTE 2

[Regional Entity Name] regional reliability standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. A [Regional Entity Name] reliability standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. A regional reliability standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

COMMON ATTRIBUTE 3

[Regional Entity Name] regional reliability standards, when approved by FERC [add applicable authorities in Canada], shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the [Regional Entity Name] area, regardless of membership in the region.

COMMON ATTRIBUTE 4

Requester — The requester is the sponsor of the regional reliability standard request and may assist in the development of the standard. Any member of [Regional Entity Name], or group within [Regional Entity Name] shall be allowed to request that a regional reliability standard be developed, modified, or withdrawn. Additionally, any entity (person, organization, company, government agency, individual, etc.) that is directly and materially affected by the reliability of the bulk power system in the [Regional Entity Name] area shall be allowed to request a regional reliability standard be developed, modified, or withdrawn.

COMMON ATTRIBUTE 5

[Standards or other named] committee — The [Regional Entity Name] [standards] committee manages the standards development process. The [standards] committee will consider which requests for new or revised standards shall be assigned for development (or existing standards considered for deletion). The [standards] committee will advise the [Regional Entity Name] board on standards presented for adoption.

COMMON ATTRIBUTE 6

[Alternative 6A: For a Regional Entity that chooses to vote using a balanced stakeholder committee.]

The [standards] committee is a balanced stakeholder committee, inclusive of all stakeholder interests that provide for or are materially impacted by the reliability of the bulk power system. [The [standards] committee votes to approve standards.] See Appendix A for the representation model of the [standards] committee.

[Alternative 6B: For a Regional Entity that chooses to vote using a balanced ballot body of stakeholders.]

[Registered ballot body] — The registered ballot body comprises all entities or individuals that qualify for one of the stakeholder segments; are registered with [Regional Entity Name] as potential ballot participants in the voting on standards; and are current with any designated fees. Each member of the registered ballot body is eligible to vote on standards. [Each standard action has its own ballot pool formed of interested members of the registered ballot body. Each ballot pool comprises those members of the registered ballot body that respond to a pre-ballot survey for that particular standard action indicating their desire to participate in such a ballot pool.] The representation model of the registered ballot body is provided in Appendix A.]

COMMON ATTRIBUTE 7

[Regional Entity Name] will coordinate with NERC such that the acknowledgement of receipt of a standard request identified in step 1, notice of comment posting period identified in step 4, and notice for vote identified in step 5 below are concurrently posted on both the [Regional Entity Name] and NERC websites.

COMMON ATTRIBUTE 8

An acceptable standard request shall contain a description of the proposed regional reliability standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed standard.

COMMON ATTRIBUTE 9

Within [no greater than 60] days of receipt of a completed standard request, the [standards] committee shall determine the disposition of the standard request.

COMMON ATTRIBUTE 10

The [standards] committee may take one of the following actions:

- Accept the standard request as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The [standards] committee may, at its discretion, expand or narrow the scope of the standard request under consideration. The [standards] committee shall prioritize the development of standard in relation to other proposed standards, as may be required based on the volume of requests and resources.
- Reject the standard request. If the [standards] committee rejects a standard request, a written explanation for rejection will be delivered to the requester within [no greater than 30] days of the decision.
- Remand the standard request back to the requester for additional work. The standards process manager will make reasonable efforts to assist the requester in addressing the deficiencies identified by the [standards] committee. The requester may then resubmit the modified standard request using the process above. The requester may choose to withdraw the standard request from further consideration prior to acceptance by the [standards] committee.

COMMON ATTRIBUTE 11

Any standard request that is accepted by the [standards] committee for development of a standard (or modification or deletion of an existing standard) shall be posted for public viewing on the [Regional Entity Name] website within [no greater than 30] days of acceptance by the committee.

COMMON ATTRIBUTE 12

The standards process manager shall submit the proposed members of the drafting team to the [standards] committee. The [standards] committee shall approve the drafting team membership within 60 days of accepting a standard request for development, modifying the recommendations of the standards process manager as the committee deems appropriate, and assign development of the proposed standard to the drafting team.

COMMON ATTRIBUTE 13

At the direction from the [standards] committee, the standards process manager shall facilitate the posting of the draft standard on the [Regional Entity Name] website, along with a draft implementation plan and supporting documents, for a no less than a [30]-day comment period. The standards process manager shall provide notice to [Regional Entity Name] stakeholders and other potentially interested entities, both within and outside of the [Regional Entity Name] area, of the posting using communication procedures then currently in effect or by other means as deemed appropriate.

COMMON ATTRIBUTE 14

The drafting team shall prepare a summary of the comments received and the changes made to the proposed standard as a result of these comments. The drafting team shall summarize comments that were rejected by the drafting team and the reason(s) that these comments were rejected, in part or whole. The summary, along with a response to each comment received will be posted on the [Regional Entity Name] website no later than the next posting of the proposed standard.

COMMON ATTRIBUTE 15

Upon recommendation of the drafting team, and if the [standards] committee concurs that all of the requirements for development of the standard have been met, the standards process manager shall post the proposed standard and implementation plan for ballot and shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

COMMON ATTRIBUTE 16

The standards process manager shall schedule a vote by the [Regional Entity Name] [registered ballot body/[standards] committee]. The vote shall commence no sooner than [15] days and no later than [30] days following the issuance of the notice for the vote.

COMMON ATTRIBUTE 17

[Alternative 17A: For an RE that chooses to vote using a balanced stakeholder committee.]

The [standards] committee shall give due consideration to the work of the drafting team, as well as the comments of stakeholders and minority objections, in approving a proposed regional reliability standard for submittal to the [Regional Entity Name] board. The [standards]

committee may vote to approve or not approve the standard. Alternatively, the [standards] committee may remand the standard to the drafting team for further work or form a new drafting team for that purpose.

[Alternative 17B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

The [Regional Entity Name] registered ballot body shall be able to vote on the proposed standard during a period of [not less than 10] days.

COMMON ATTRIBUTE 18

[Alternative 18A: For an RE that chooses to vote using a balanced stakeholder committee.]

The [standards] committee may not itself modify the standard without issuing a new notice to stakeholders regarding a vote of the modified standard.

[Alternative 18B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

All members of [Regional Entity Name] are eligible to participate in voting on proposed new standards, standard revisions or standard deletions. [Alternatively: Each standard action requires formation of a ballot pool of interested members of the registered ballot body.]

COMMON ATTRIBUTE 19

[Alternative 19A: For an RE that chooses to vote using a balanced stakeholder committee.]

Actions by the committee shall be recorded in the regular minutes of the committee.

[Alternative 19B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

Approval of the proposed regional reliability standard shall require a [two thirds] majority in the affirmative (affirmative votes divided by the sum of affirmative and negative votes). Abstentions and non-responses shall not count toward the results, except that abstentions may be used in the determination of a quorum. A quorum shall mean [XX%] of the members of the [registered ballot body/ballot pool] submitted a ballot.

COMMON ATTRIBUTE 20

Under no circumstances may the board substantively modify the proposed regional reliability standard.

COMMON ATTRIBUTE 21

Once a regional reliability standard is approved by the board, the standard will be submitted to NERC for approval and filing with FERC [and applicable authorities in Canada and Mexico.]

COMMON ATTRIBUTE 22

- **Open** - Participation in the development of a regional reliability standard shall be open to all organizations that are directly and materially affected by the [Regional Entity Name] bulk power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in [Regional Entity Name], and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to the [Regional Entity Name] members and others.

COMMON ATTRIBUTE 23

- **Balanced** - The [Regional Entity Name] standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.

COMMON ATTRIBUTE 24

- **Inclusive** — Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the [Regional Entity Name] area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.

COMMON ATTRIBUTE 25

- **Fair due process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.

COMMON ATTRIBUTE 26

- **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.

COMMON ATTRIBUTE 27

- Does not unnecessarily delay development of the proposed reliability standard.

COMMON ATTRIBUTE 28

Each standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

COMMON ATTRIBUTE 29

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all regional reliability standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

COMMON ATTRIBUTE 30

To ensure uniformity of regional reliability standards, a regional reliability standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

COMMON ATTRIBUTE 31

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

COMMON ATTRIBUTE 32

Applicability	<p>Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions.</p> <p>If not applicable to the entire [Regional Entity Name] area, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.</p>
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COMMON ATTRIBUTE 33

Measure(s)	<p>Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.</p>
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COMMON ATTRIBUTE 34

Compliance Monitoring Process	<p>Defines for each measure:</p> <ul style="list-style-type: none"> • The specific data or information that is required to measure performance or outcomes. • The entity that is responsible for providing the data or information for measuring performance or outcomes. • The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes. • The entity that is responsible for evaluating data or
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	<p>information to assess performance or outcomes.</p> <ul style="list-style-type: none">• The time period in which performance or outcomes is measured, evaluated, and then reset.• Measurement data retention requirements and assignment of responsibility for data archiving.
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EXHIBIT C
TO PRO FORMA DELEGATION AGREEMENT

**FRCC REGIONAL RELIABILITY STANDARD
DEVELOPMENT PROCESS**

Amended September 25, 2007



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I. Introduction and Background

Purpose

This manual establishes the process for development, revision, withdrawal and approval of FRCC Regional Reliability Standards for the FRCC Region. FRCC Regional Reliability Standards apply to the reliability planning and reliable operation of the Bulk Power System in the FRCC Region. Proposed FRCC Regional Reliability Standards shall be subject to approval by the North American Electric Reliability Corporation (NERC), as the electric reliability organization, and by the Federal Energy Regulatory Commission (FERC) before becoming mandatory and enforceable under Section 215 of the Federal Power Act. FRCC Regional Reliability Standards, when approved by FERC, shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators and users within the FRCC Region, regardless of membership in the region.

The FRCC Regional Reliability Standards Development Process is based on providing an open and fair process that ensures all interested and affected parties have an opportunity to participate in the development of FRCC Regional Reliability Standards. Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the reliability of the FRCC Bulk Power System has a right to participate by: a) expressing a position and its basis, b) having that position considered, c) voting on and d) having the right to appeal.

FRCC Regional Reliability Standard Principles

FRCC Regional Reliability Standards go beyond, add detail to, or implement NERC Reliability Standards, or cover matters not addressed in NERC Reliability Standards. FRCC Regional Reliability Standards shall not be inconsistent with or less stringent than NERC Reliability Standards.

FRCC Regional Reliability Standards are based on NERC's Reliability Principles and Market Interface Principles. Each FRCC Regional Reliability Standard shall enable or support one or more of NERC's Reliability Principles and must accommodate competitive electricity markets by being consistent with NERC's Market Interface Principles.

The FRCC Regional Reliability Standard Development Process defines the fair and open process for development, revision, withdrawal and approval of FRCC Regional Reliability Standards for the FRCC Region and has the following characteristics:

- **Due Process** – Any interested party, or any entity that is directly and materially affected by the reliability of the FRCC Bulk Power System has a right to participate in this process as indicated in this manual.
- **Openness** – Participation is open to any interested party or any entity that is directly and materially affected by the reliability of the FRCC Bulk Power System. Participation shall not be conditional upon membership in the FRCC. All FRCC Regional Reliability Standard development meetings will be open and noticed on the FRCC website.

- **Balance** – The FRCC Regional Reliability Standard Development Process shall have a balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.

II. FRCC Regional Reliability Standard Definition, Characteristics, and Elements

Definition

A FRCC Regional Reliability Standard defines certain obligations or requirements of all owners, operators and users of the FRCC Bulk Power System regardless of membership in the FRCC. The obligations or requirements must be material to reliability and measurable. Each obligation and requirement shall support one or more of the NERC reliability principles and shall be consistent with all of the NERC reliability and market interface principles.

FRCC Regional Reliability Standards go beyond, add detail to, or implement NERC reliability standards, or cover matters not addressed in NERC reliability standards. FRCC Regional Reliability Standards shall not be inconsistent with or less stringent than NERC reliability standards.

Characteristics

A FRCC Regional Reliability Standard shall have the following characteristics:

- **Material to Reliability** - A FRCC Regional Reliability Standard shall be material to the reliability of the FRCC Bulk Power System. If the reliability of the FRCC Bulk Power System could be compromised without a particular standard or by a failure to comply with that standard, then the standard is material to reliability.
- **Measurable** - A FRCC Regional Reliability Standard shall establish technical or performance requirements that can be practically measured.
- **Relative to NERC Reliability Standards** - A FRCC Regional Reliability Standard must go beyond, add detail to, or implement NERC reliability standards, or cover matters not addressed in NERC reliability standards.

Although FRCC Regional Reliability Standards have a common format and process, several types of Reliability Standards may exist, each with a different approach to measurement:

- **Technical standards** related to the provision, maintenance, operation, or state of Bulk Power System will likely contain measures of physical parameters and will often be technical in nature.
- **Performance standards** related to the actions of entities providing for or impacting the reliability of the FRCC Bulk Power System will likely contain measures of the results of such actions, or the nature of the performance of such actions.
- **Preparedness standards** related to the actions of entities to be prepared for conditions that are unlikely to occur but are critical to reliability will likely contain measures of such preparations or the state of preparedness.

Elements

A FRCC Regional Reliability Standard shall consist of the elements identified in this section of this manual. These elements are intended to apply a systematic discipline in the development and revision of Reliability Standards. The format allows a clear statement of the purpose, requirements, measures, and compliance elements associated with each Reliability Standard. Supporting documents to aid in the implementation of a Reliability Standard may be referenced by the Reliability Standard but are not part of the Reliability Standard itself.

Performance Elements of a FRCC Regional Reliability Standard

Identification Number	A unique identification number assigned in accordance with an administrative classification system to facilitate tracking and reference.
Title	A brief, descriptive phrase identifying the topic of the Reliability Standard.
Applicability	Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions. If not applicable to the entire FRCC, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.
Effective Date and Status	The effective date of the Reliability Standard or, the proposed effective date.
Purpose	The purpose of the Reliability Standard. The purpose shall explicitly state what outcome will be achieved or is expected by this Reliability Standard.
Requirement(s)	Explicitly stated technical, performance, and preparedness requirements. Each requirement identifies what entity is responsible and what action is to be performed or what outcome is to be achieved. Each statement in the requirements section shall be a statement for which compliance is mandatory. Any additional comments or statements for which compliance is not mandatory, such as background or explanatory information should be placed in a separate document and referenced.
Risk Factor(s)	The potential reliability significance of each requirement, designated as a High, Medium or Lower Risk Factor in accordance with the criteria listed below: A Lower Risk Factor requirement is administrative in nature and (a) is a requirement that, if violated, would not be expected to affect the electrical state or capability of the FRCC Bulk Power System, or the ability to effectively monitor and control the FRCC Bulk Power System; or (b) is a requirement in a planning time frame that, if violated, would not, under the emergency, abnormal, or restorative

	<p>conditions anticipated by the preparations, be expected to affect the electrical state or capability of the FRCC Bulk Power System, or the ability to effectively monitor, control, or restore the FRCC Bulk Power System.</p> <p>A Medium Risk Factor requirement (a) is one that, if violated, could directly affect the electrical state or the capability of the FRCC Bulk Power System but is unlikely to lead to FRCC Bulk Power System instability, separation, or cascading failures; or (b) is a requirement in the planning time frame that , if violated, could under emergency, abnormal, or restorative conditions anticipated by the preparations, directly affect the electrical state or capability of the FRCC Bulk Power System, or the ability to effectively monitor and control the FRCC Bulk Power System but is unlikely, under emergency, abnormal, or restoration conditions anticipated by the preparations, to lead to FRCC Bulk Power System instability, separation, or cascading failures, nor to hinder restoration to a normal condition.</p> <p>A High Risk Factor requirement (a) is one that, if violated, could directly cause or contribute to FRCC Bulk Power System instability, separation, or a cascading sequence of failures, or could place the FRCC Bulk Power System at an unacceptable risk of instability, separation, or cascading failures, or (b) is a requirement in a planning time frame that, if violated, could under emergency, abnormal, or restorative conditions anticipated by the preparations, directly cause or contribute to FRCC Bulk Power System instability, separation, or a cascading sequence of failures, or could place the FRCC Bulk Power System at an unacceptable risk of instability, separation, or cascading failures, or could hinder restoration to a normal condition.</p>
Measure(s)	<p>Each requirement shall be addressed by one or more measures. Measures that will be used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure identifies to whom the measure applies and the expected level of performance or outcomes required to demonstrate compliance. Each measure shall be tangible, practical, and as objective as is practical. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.</p>
Compliance Monitoring Process	<p>The compliance elements define:</p> <ul style="list-style-type: none"> • The specific data or information that is required to measure performance or outcomes. • The entity that is responsible to provide the data or information for measuring performance or outcomes. • The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes.

	<ul style="list-style-type: none"> • The entity that is responsible for evaluating data or information to assess performance or outcomes. • The time period in which performance or outcomes is measured, evaluated, and then reset. • Measurement data retention requirements and assignment of responsibility for data archiving.
<p>Violation Severity Levels</p>	<p>Defines the degree to which compliance with a requirement was not achieved. The violation severity levels, are part of the standard and are approved with the standard.</p>

III. Roles in the FRCC Regional Reliability Standard Development Process

Nomination, Modification, or Withdrawal of A Regional Standard

Any member of the FRCC, or group (i.e. committee, subcommittee, working group or task force) within the FRCC, shall be allowed to request that a FRCC Regional Reliability Standard be developed, modified, or withdrawn. Additionally, any interested party or any entity that is directly and materially affected by the reliability of the FRCC Bulk Power System shall be allowed to request that a FRCC Regional Reliability Standard be developed, modified, or withdrawn.

Standard Development Process Roles

FRCC Board of Directors – The FRCC Board of Directors shall consider for adoption as FRCC Regional Reliability Standards, those Standards that have been developed and approved by this process. Once the Board adopts a FRCC Regional Reliability Standard, such Standard shall be submitted to NERC for approval. When approved by NERC, it will be submitted to FERC for approval.

Registered Ballot Body (RBB) – The registered ballot body votes to approve FRCC Regional Reliability Standards. The RBB comprises all entities or persons that qualify for one of the FRCC Industry Sectors as defined in Section 1.2 of the FRCC Bylaws, and are registered with FRCC as potential ballot participants in the voting on standards. FRCC membership is not a requirement to participate in the development of and voting on FRCC Regional Reliability Standards. Any entity or person that has a material interest in the reliability of the FRCC Bulk Power System shall be allowed to register as potential ballot participants in the RBB. (See Appendix C)

Ballot Pool (BP) – Each standard action has its own BP formed of interested members of the RBB. The BP comprises those members of the RBB that respond to a pre-ballot survey for that particular standard that indicates their desire to participate in the ballot of that standard. The BP will vote to approve each FRCC Regional Reliability Standard.

FRCC Operating Committee (OC) and FRCC Planning Committee (PC) – The FRCC OC and the FRCC PC (both of which are balanced stakeholder committees, see Appendix C) shall have the primary responsibility for the development, modification or withdrawal of FRCC Regional Reliability Standards.

FRCC Standards Process Manager – The FRCC Regional Reliability Standard Development Process shall be administered by the FRCC Standards Process Manager. The FRCC Standards Process Manager will ensure the integrity of the process and the consistency of quality and completeness of the FRCC Regional Reliability Standards. The FRCC Standards Process Manager will facilitate all steps in this process, and will coordinate with NERC to ensure required information is posted on both NERC and FRCC websites.

Standard Drafting Team – A team of technical experts, such as FRCC Subcommittees, Working Groups, Task Forces, or the FRCC Staff, will be appointed by the FRCC OC and/or PC, that will:

- Develop the details of the FRCC Regional Reliability Standard,
- Consider and respond to industry comments,
- Participate in forums to help build consensus on draft FRCC Regional Reliability Standards,
- Assist in the implementation of approved FRCC Regional Reliability Standards,
- Provide technical oversight in response to changing industry conditions,
- Assist in the identification of the need for new FRCC Regional Reliability Standards.

FRCC Compliance Staff – The FRCC compliance staff provides input and comments during the standard development process to ensure the requirements are not ambiguous, that measures will be effective and that the compliance elements of a standard can be practically implemented.

IV. Steps in Developing a FRCC Regional Reliability Standard

Step 1 – Request a new FRCC Regional Reliability Standard or modification to, or withdrawal of an existing FRCC Regional Reliability Standard

A request to develop, modify or withdraw a FRCC Regional Reliability Standard shall be submitted to the FRCC Standards Process Manager (via email to FRCCStandard@frcc.com) by any member of the FRCC, or group (i.e. committee, subcommittee, working group or task force) within the FRCC, or any interested party or any entity that is directly and materially affected by reliability of the FRCC Bulk Power System. The FRCC Standards Process Manager will acknowledge receipt of the request within fifteen (15) calendar days of its receipt.

Step 2 – Assignment of FRCC Regional Reliability Standard Request

The FRCC Standards Process Manager will assign the request to the FRCC OC, the FRCC PC, or both as appropriate.

Step 3 – Posting of FRCC Regional Reliability Standard Request

The request for standard development, modification or withdrawal will be posted for notification and comment on the FRCC public website for a period of fifteen (15) calendar days, and will be reviewed by the FRCC OC and/or PC. A notice of the posting for comment will be sent to (1) the Registered Ballot Body, (2) the FRCC standing committees, subcommittees and working groups, (3) the Florida Public Service Commission, and (4) the SERC Southern Sub-region Reliability Coordinator to seek input on the proposed request.

Step 4 – Acceptance of a FRCC Regional Reliability Standard Request

The FRCC OC and/or the PC will review the request and any comments submitted to determine if the request received will be accepted or rejected within sixty (60) days of its submission. The decision will be posted and, if accepted, the OC and/or the PC will assign and direct a Standard Drafting Team to develop the draft Regional Reliability Standard. If the request is rejected, the FRCC Standards Process Manager will send notification to the entity making the request and to all entities that received the notice in Step 3 above.

Step 5 – Drafting and Posting of a FRCC Regional Reliability Standard

The FRCC OC and/or PC will assign a Standard Drafting Team, within 60 days of acceptance of the request, to develop, in a timely manner, a draft FRCC Regional Reliability Standard that will address the accepted request. The FRCC OC and/or PC may provide a timeframe that is desired for completion of the standard development.

Under the direction of the FRCC OC and/or PC, the Standard Drafting Team, will consider all comments received on the posting of the standard request and will develop a draft FRCC Regional Reliability Standard and corresponding implementation plan.

The draft FRCC Regional Reliability Standard, implementation plan and any supporting documents shall be posted for comments on the FRCC public website for a period of fifteen (15) calendar days, or such longer period as determined by the drafting team or as directed by the FRCC OC and/or the PC. Notice of the posting will go out to (1) the Registered Ballot Body, (2) the FRCC standing committees, subcommittees and working groups, (3) the Florida Public

Service Commission, and (4) the SERC Southern Sub-region Reliability Coordinator to seek comments.

Comments shall be submitted (via email) to the FRCC Standards Process Manager (FRCCStandard@frcc.com). All comments are due by the close of business on the 15th calendar day of posting, or such later date as determined by the drafting team or as directed by the FRCC OC and/or PC. If the comment due date falls on a weekend or nationally recognized holiday, the comments shall be due by the close of business on the next regularly scheduled business day.

Step 6 – Standards Drafting Team Review of Comments

All comments should be submitted electronically to the FRCC Standards Process Manager who will forward to the Standard Drafting Team for consideration. All timely comments will be considered.

Under the direction given by the FRCC OC and/or the PC, the Standard Drafting Team will review the comments received and revise the draft FRCC Regional Reliability Standard and/or implementation plan as needed. The Standard Drafting Team will develop written responses to each comment received.

All responses to the submitted comments will be documented and posted on the FRCC public website. If needed, a second draft of the FRCC Regional Reliability Standard will be posted for another comment period. Such comment period shall be fifteen (15) calendar days, or such longer period as determined by the drafting team or as directed by the FRCC OC and/or PC.

Notice of the posting will go out to (1) the Registered Ballot Body, (2) the FRCC standing committees, subcommittees and working groups, (3) the Florida Public Service Commission, and (4) the SERC Southern Sub-region Reliability Coordinator to seek comments.

Based on comments received to the posting, Step 6 will be repeated as necessary until the Standards Drafting Team believes the draft FRCC Regional Reliability Standard is ready to submit to the Ballot Pool for approval.

Step 7 –Establishment of Ballot Pool

The Standard Drafting Team shall submit the final draft of the proposed FRCC Regional Reliability Standard, along with any minority opinions, and all comments and written responses received during the posting(s), to the FRCC Standards Process Manager. The FRCC Standards Process Manager shall establish a Ballot Pool for standard action at least fifteen (15) calendar days prior to the start of a ballot. A pre-ballot survey will be sent to each entity of the RBB to determine their desire to be placed in the Ballot Pool. Once the ballot period opens, the Ballot Pool will be closed and changes to the Ballot Pool participation will not be allowed.

Step 8 – Ballot of the new or revised FRCC Regional Reliability Standard

The FRCC Standards Process Manager will post the final draft of the standard on the FRCC website at least fifteen (15) calendar days before a ballot can begin. The Ballot Pool shall have a minimum of ten (10) calendar days to vote on a standard. The Ballot Pool may vote to approve or not approve the standard. If approved, the FRCC Standards Process Manager will submit the FRCC Regional Reliability Standard, proposed implementation plan, and any supporting documents to the FRCC Board of Directors for adoption.

If approval by the Ballot Pool is not obtained, the PC and/or OC will determine if the draft standard is to be sent back to the standard drafting team to repeat step 6 to incorporate any comments, or to take no further action.

If no further action is taken, the reason for such will be posted on the FRCC public website. A notice of the posting will be sent to (1) the Registered Ballot Body, (2) the FRCC standing committees, subcommittees and working groups, (3) the Florida Public Service Commission, and (4) the SERC Southern Sub-region Reliability Coordinator.

Step 9 – Adoption of FRCC Regional Reliability Standards by the FRCC Board of Directors

At a regular or special meeting, the FRCC Board of Directors may consider adoption of the proposed FRCC Regional Reliability Standard that has been approved by the RBB Ballot Pool. A FRCC Regional Reliability Standard submitted for adoption by the FRCC Board of Directors must be posted for notification and comment on the FRCC public website at least ten (10) calendar days prior to action by the FRCC Board of Directors. Notice of the posting will be sent to (1) the Registered Ballot Body, (2) the FRCC standing committees, subcommittees and working groups, (3) the Florida Public Service Commission, and (4) the SERC Southern Sub-region Reliability Coordinator. The FRCC Board of Directors shall consider the comments received, the responses provided, and any dissenting opinions. The FRCC Board of Directors shall adopt or reject a FRCC Regional Reliability Standard as submitted, but may not modify the proposed FRCC Regional Reliability Standard. If the FRCC Board of Directors chooses not to adopt a FRCC Regional Reliability Standard, it shall provide its reasons for not doing so.

If the FRCC Board of Directors chooses not to adopt the proposed FRCC Regional Reliability Standard, the reason for such decision will be posted on the FRCC public website. Notice of the posting will be sent to (1) the Registered Ballot Body, (2) the FRCC standing committees, subcommittees and working groups, (3) the Florida Public Service Commission, and (4) the SERC Southern Sub-region Reliability Coordinator.

Step 10 – Submission to NERC and FERC

Once the FRCC Regional Reliability Standard is adopted by the FRCC Board of Directors, the FRCC Standard Process Manager shall submit the FRCC Regional Reliability Standard to NERC for approval. When approved by NERC, it shall be submitted by NERC to FERC for approval. If NERC or FERC rejects the FRCC Regional Reliability Standard, the FRCC Board of Directors will determine if the standard is to be sent back to the OC and/or PC to incorporate their comments or to take no further action on the standard. A FRCC Regional Reliability Standard that is adopted by the FRCC Board of Directors, approved by NERC and FERC, shall become effective on a date designated by FERC.

V. Special Procedures

Urgent Action

Under certain conditions, the entity making the request or the FRCC OC and/or the PC may designate a proposed or revised FRCC Regional Reliability Standard as requiring urgent action. Urgent action may be appropriate when a delay in implementing a proposed or revised FRCC Regional Reliability Standard will materially impact reliability of the Bulk Power System in the FRCC Region. The FRCC OC and/or the PC must use its judgment carefully to ensure an urgent action is truly necessary and not simply an expedient way to change or implement a FRCC Regional Reliability Standard.

The entity making the request, or the FRCC OC and/or the PC, will prepare a draft of the proposed FRCC Regional Reliability Standard and submit it to the Standards Process Manager for urgent action. The submission must include a justification for the urgent action. The Standards Process Manager shall immediately post the draft as specified in Step 5. The posting shall be a minimum of ten (10) calendar days before the RBB can consider the draft for approval. All comments received during the posting will be considered. Once approved by the RBB, the proposed urgent FRCC Regional Reliability Standard will be sent to the FRCC Board of Directors for adoption.

A FRCC Regional Reliability Standard that is adopted by the FRCC Board of Directors, as an urgent action shall have a termination date specified that shall not exceed 180 days from the approved date. Should there be a need to make the FRCC Regional Reliability Standard permanent, the replacement FRCC Regional Reliability Standard would be required to go through the full standards development process.

An urgent action FRCC Regional Reliability Standard that expires may be renewed by the FRCC Board of Directors using the urgent action process again, in the event a permanent FRCC Regional Reliability Standard has not been adopted. In determining whether to authorize the extension of an urgent action FRCC Regional Reliability Standard, the FRCC OC and/or the PC shall consider the impact to the reliability of the FRCC Bulk Electric System of not continuing the FRCC Regional Reliability Standard. In addition, consideration will be given to whether expeditious progress is being made toward a permanent replacement.

The FRCC OC and/or the PC shall not request the FRCC Board of Directors to extend an urgent action FRCC Regional Reliability Standard if there is insufficient progress toward adopting a permanent replacement FRCC Regional Standard or if the FRCC OC and/or the PC lack confidence that a reasonable completion date is achievable. The intent is to ensure that an urgent action FRCC Regional Reliability Standard does not in effect take on a degree of permanence due to the lack of an expeditious effort to develop a permanent replacement FRCC Regional Reliability Standard. With these principles, there is no pre-determined limit on the number of times an urgent action may be renewed. However, each urgent action FRCC Regional Reliability Standard renewal shall be effective only upon adoption by the FRCC Board of Directors, and approval by NERC and FERC.

Interpretations of Standards

Any member of the FRCC, or group within the FRCC, or an entity that is directly and materially affected by reliability of the FRCC Bulk Power System shall be permitted to request an interpretation of a FRCC Regional Reliability Standard. The entity requesting an interpretation shall send a request to the FRCC Standards Process Manager explaining the specific circumstances surrounding the request and what clarifications are required as applied to those circumstances. The request should indicate the material impact to the requesting party, or others, caused by the lack of clarity or a possible incorrect interpretation of the FRCC Regional Reliability Standard. The FRCC Standards Process Manager will assemble a team with the relevant expertise to address the clarification.

As soon as practical (but not more than thirty (30) calendar days following the receipt of the request), the team will draft a written interpretation of the FRCC Regional Reliability Standard addressing the issues raised. The FRCC Standards Process Manager will submit the written interpretation to the OC and/or PC for review and approval. If approved by the FRCC OC and/or the PC, the interpretation is appended to the FRCC Regional Reliability Standard and is effective immediately. The interpretation will stand until such time as the FRCC Regional Reliability Standard is revised through the normal process, at which time the FRCC Regional Reliability Standard will be modified to incorporate the clarifications provided by the interpretation.

Appeals

Any member of the FRCC, or group within the FRCC, or any entity that is directly and materially affected by reliability of the FRCC Bulk Power System, and who feel they have been or will be adversely affected by any substantive or procedural action or inaction related to the development, approval, revision, or withdrawal of a FRCC Regional Reliability Standard shall have the right to appeal. This appeals process applies only to the FRCC Regional Reliability Standards Process as defined in this document

The burden of proof to show adverse effect shall be on the appellant. Appeals shall be made within thirty (30) calendar days of the date of the action purported to cause the adverse effect. The final decisions of any appeal shall be documented in writing and posted on the FRCC public website. Notice of the posting will be sent to (1) the Registered Ballot Body, (2) the FRCC standing committees, subcommittees and working groups, (3) the Florida Public Service Commission, and (4) the SERC Southern Sub-region Reliability Coordinator .

The appeals process provides two levels, with the goal of expeditiously resolving the issue to the satisfaction of the participants:

Level 1 Appeal

Level 1 is the required first step in this appeals process. The appellant submits to the FRCC Standards Process Manager a complaint in writing that describes the substantive or procedural action associated with a FRCC Regional Reliability Standard or the FRCC Regional Reliability Standards Process. The appellant describes in the complaint the actual or potential adverse impact to the appellant. Assisted by any necessary staff and committee resources, the FRCC Standards Process Manager shall prepare a written

response addressed to the appellant as soon as practical but not more than forty-five (45) calendar days after receipt of the complaint. If the appellant accepts the response as a satisfactory resolution of the issue, both the complaint and response will be made a part of the record associated with the FRCC Regional Reliability Standard.

Level 2 Appeal

If after the Level 1 Appeal, the appellant remains unsatisfied with the resolution, notification shall be made in writing to the FRCC Standards Process Manager. Within thirty (30) calendar days of receiving the notification, the FRCC Standards Process Manager shall convene a Level 2 Appeals Panel. This panel shall consist of five members appointed by the FRCC Board of Directors. In all cases, Level 2 Appeals Panel members shall have no direct affiliation with the participants in the appeal.

The FRCC Standards Process Manager shall post on the FRCC public website the notice of the Level 2 appeal and other relevant materials. Notice of the posting will be sent to (1) the Registered Ballot Body, (2) the FRCC standing committees, subcommittees and working groups, (3) the Florida Public Service Commission, and (4) the SERC Southern Sub-region Reliability Coordinator. At least fifteen (15) calendar days notice of the meeting of the Level 2 Appeals Panel will be made. In addition to the appellant, any entity that is directly and materially affected by the reliability of the FRCC Bulk Power System, and who is directly and materially affected by the substantive or procedural action referenced in the complaint shall be heard by the panel.

The Level 2 Appeals Panel shall not consider any expansion of the scope of the appeal that was not presented in the Level 1 Appeal. The Level 2 Appeals Panel may in its decision find for the appellant and remand the issue to the FRCC OC and/or the PC for resolution with a statement of the issues and facts in regard to which fair and equitable action was not taken. The Level 2 Appeals Panel may find against the appellant with a specific statement of the facts that demonstrate fair and equitable treatment of the appellant and the appellant's objections.

The Level 2 Appeals Panel may not, however, revise, approve, disapprove, or adopt a FRCC Regional Reliability Standard, as these responsibilities remain with the FRCC Board of Directors. The actions of the Level 2 Appeals Panel shall be posted on the FRCC public website. Notice of the posting will be sent to (1) the Registered Ballot body, (2) the FRCC standing committees, subcommittees and working groups, (3) the Florida Public Service Commission, and (4) the SERC Southern Sub-region Reliability Coordinator.

VI. Maintenance of the FRCC Regional Reliability Standards and Process

Requests to Revise the FRCC Regional Reliability Standard Development Process

Any member of the FRCC, or group (i.e. committee, subcommittee, working group or task force) within the FRCC, or any entity that is directly and materially affected by the reliability of the FRCC Bulk Power System may submit a written request to modify the FRCC Regional Reliability Standard Development Process Manual. The FRCC Standards Process Manager shall oversee the handling of the request. The FRCC OC and/or the PC shall review the request and submit recommendations to the FRCC Board of Directors for consideration. The FRCC Board of Directors, on its own motion, may amend the FRCC Regional Reliability Standard Process.

Five-Year Review

Each FRCC Regional Reliability Standard shall be reviewed at least once every five (5) years. The review date will be determined from the effective date or the latest revision date whichever is later. The review process shall be conducted in accordance with Steps 1 through 10 of the FRCC Regional Reliability Standard Development Process Manual. As a result of this review, a FRCC Regional Reliability Standard shall be reaffirmed, revised, or withdrawn.

Filing of FRCC Regional Standards with Regulatory Agencies

All adopted FRCC Regional Reliability Standards will be filed with FERC.

APPENDIX A

Email completed form to FRCCStandard@frcc.com

FRCC Regional Reliability Standard Request Form

Title of Proposed Standard
Request Date

Requestor Information	TYPE (Check a box for each one that applies)
Name	<input type="checkbox"/> New Standard
Primary Contact	<input type="checkbox"/> Revision to existing Standard
Telephone	<input type="checkbox"/> Withdrawal of existing Standard
Fax	
Email	<input type="checkbox"/> Urgent Action

Purpose (Describe the purpose of the standard – what the standard will achieve in support of reliability)

Industry Need (Provide a detailed statement justifying the need for the proposed standard, along with any supporting documentation)

Brief Description (Describe the proposed standard in sufficient detail to clearly define the scope in a manner that can be easily understood by others)

FRCC Regional Reliability Standard Request Form

The Standard will Apply to the Following Functions (Check box for each one that applies)

<input type="checkbox"/>	Reliability Coordinator	Ensures the reliability of the bulk transmission system within its Reliability Authority area.
<input type="checkbox"/>	Balancing Authority	Integrates resource plans ahead of time, and maintains load-interchange-resource balance within its metered boundary and supports system frequency in real time
<input type="checkbox"/>	Planning Authority	Plans the Bulk Electric System
<input type="checkbox"/>	Resource Planner	Develops a long-term plan for the resource adequacy of specific loads within a Planning Authority area
<input type="checkbox"/>	Transmission Planner	Develops a long-term plan for the reliability of transmission systems within its portion of the Planning Authority area
<input type="checkbox"/>	Transmission Service Provider	Provides transmission services to qualified market agreements
<input type="checkbox"/>	Transmission Owner	Owens transmission facilities
<input type="checkbox"/>	Transmission Operator	Operates and maintains the transmission facilities, and executes switching orders
<input type="checkbox"/>	Distribution Provider	Provides and operates the “wires” between the transmission system and the customer
<input type="checkbox"/>	Generator Owner	Owens and maintains generation unit(s)
<input type="checkbox"/>	Generator Operator	Operates generation units(s) and performs the functions of supplying energy and Interconnected Operations Services
<input type="checkbox"/>	Purchasing-Selling Entity	The function of purchasing or selling energy, capacity, and all necessary Interconnected Operations Services as required
<input type="checkbox"/>	Load-Serving Entity	Secures energy and transmission (and related generation services) to serve the end user

FRCC Regional Reliability Standard Request Form

NERC Reliability Principles

Applicable Reliability Principles (Check box for all that apply.)	
	1. Interconnected bulk electric systems shall be planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions as defined in the NERC Standards.
	2. The frequency and voltage of interconnected bulk electric systems shall be controlled within defined limits through the balancing of real and reactive power supply and demand.
	3. Information necessary for the planning and operation of interconnected bulk electric systems shall be made available to those entities responsible for planning and operating the systems reliably.
	4. Plans for emergency operation and system restoration of interconnected bulk electric systems shall be developed, coordinated, maintained, and implemented.
	5. Facilities for communication, monitoring, and control shall be provided, used, and maintained for the reliability of interconnected bulk electric systems.
	6. Personnel responsible for planning and operating interconnected bulk electric systems shall be trained, qualified, and have the responsibility and authority to implement actions.
	7. The security of the interconnected bulk electric systems shall be assessed, monitored, and maintained on a wide-area basis.

NERC Market Interface Principles

Does the proposed Standard comply with all of the following Market Interface Principles?	
Recognizing that reliability is an essential requirement of a robust North American economy:	
yes or no	1. A reliability standard shall not give any market participant an unfair competitive advantage.
yes or no	2. A reliability standard shall neither mandate nor prohibit any specific market structure.
yes or no	3. A reliability standard shall not preclude market solutions to achieving compliance with that standard.
yes or no	4. A reliability standard shall not require the public disclosure of commercially sensitive information. All market participants shall have equal opportunity to access commercially non-sensitive information that is required for compliance with reliability standards.

FRCC Regional Reliability Standard Request Form

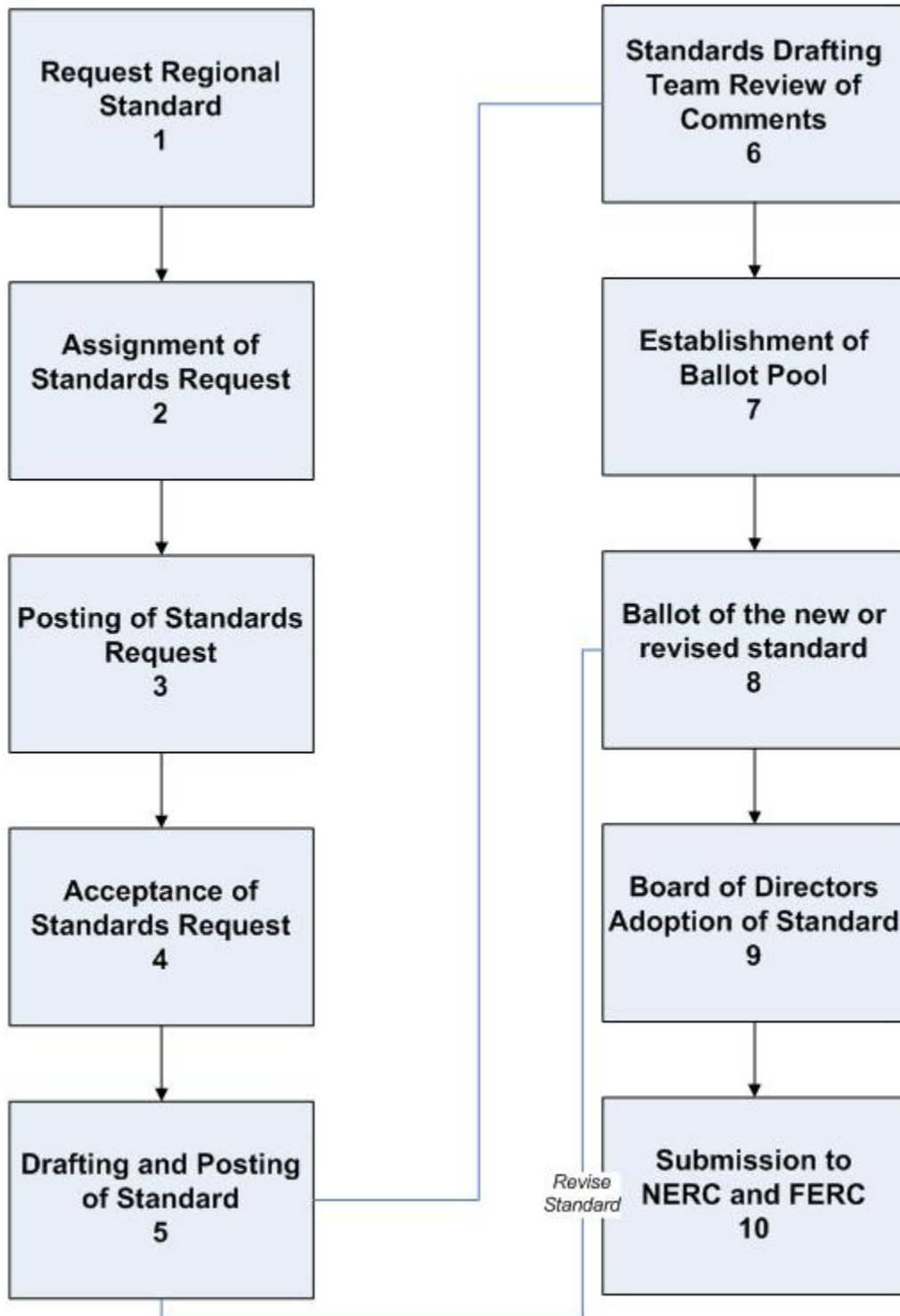
Related Standards

Standard No.	Explanation

<p>Proposed Implementation days after Board of Directors adoption or</p> <hr/> <p>On (date):</p>
--

APPENDIX B

Process Diagram



APPENDIX C

Development of and Voting of the Registered Ballot Body

1. Registration Procedures

The Registered Ballot Body (RBB) comprises all entities¹ and persons that:

- Qualify for one of the FRCC Industry Sectors, and
- Are registered with the FRCC as potential ballot participants in the voting on FRCC Regional Reliability Standards.

All registrations will be done electronically. All entities and persons will self-select to belong to the RBB. The sectors shall be identical to those in Section 1.2 of the FRCC Bylaws.

All RBB members will have the ability to vote on a standard. Voting will be done in writing (either email or facsimile) with each RBB member having one vote. The RBB representative will have the right to register and participate in ballot pools to cast their vote on a standard being considered for approval.

2. Sector Qualification Guidelines

The general guidelines are as follows:

- An entity or person may register in the RBB in any Sector in which it qualifies for provided that an entity or person registers as a potential ballot participant in only one (1) Sector.
- Any individual currently employed by an organization that is eligible to join one or more of the other five (5) sectors, shall not be qualified to join as a General Sector RBB member.

3. Ballot Pool Voting

A Ballot Pool will be established to vote on any proposed standards action. Each RBB member choosing to belong to a Ballot Pool will have one individual vote. Two-thirds of the individual votes of the Ballot Pool shall constitute a quorum.

Approval of a FRCC Regional Reliability Standard requires the affirmative vote of a two-thirds majority of the weighted sector votes cast. The number of votes cast in each sector is the sum of the affirmative and negative votes, excluding abstentions.

The following steps will be used to determine if there is sufficient affirmative votes:

1. The number of affirmative votes cast in each sector will be divided by the sum of affirmative and negative votes cast to determine the fractional affirmative vote for each sector. Abstentions will not be counted.

¹ An entity and all of its Affiliates (as defined in the FRCC Bylaws) shall be considered one entity for purposes of registering as a potential ballot participant.

2. The fractional affirmative vote for a sector will then be multiplied by the Sector Weight Factor to determine the weighted fractional affirmative vote for a sector. The Sector Weight Factors are:
 - a. Suppliers Sector: Weight Factor = 2.5
 - b. Non-Investor Owned Utility Wholesale Sector: Weight Factor = 2.0
 - c. Load Serving Entity Sector: Weight Factor = 1.0
 - d. Generating Load Serving Entity Sector: Weight Factor = 3.0
 - e. Investor Owned Utility Sector: Weight Factor = 3.5
 - f. General Sector: Weight Factor = 1.0
3. The sum of the weighted fractional affirmative votes from all sectors divided by the sum of the weights of the sectors voting will be used to determine if a two-thirds majority has been achieved. A sector will be considered as “voting” if any member of the sector in the Ballot Pool casts either an affirmative or negative vote.
4. A FRCC Regional Reliability Standard will be considered “approved” if the sum of the weighted fractional affirmative votes from all sectors divided by the sum of the weights of the voting sectors is two-thirds or greater.

History of Revisions

Approved March 2, 2006
Amended July 25, 2006
Amended October 24, 2006
Amended September 25, 2007

EXHIBIT D – COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

FRCC will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within **FRCC's** geographic or electrical boundaries, and such other scope, set forth on **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

FRCC shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be the FRCC Board Compliance Committee (BCC), a balanced compliance panel reporting directly to the FRCC's Board of Directors.

The BCC will consist of one (1) Voting Member from each of the six (6) sectors in the FRCC, who shall be a member of the Board of Directors. Each year, two (2) members from each Sector of the FRCC Board of Directors will volunteer to serve in a BCC pool. At the time a hearing request is received, the Chair of the FRCC Board of Directors will appoint one member from each Sector to form the BCC for that hearing. The Board Member from the Registered Entity that has requested the hearing will not be selected for that BCC. In the event one (1) Sector of the FRCC declines to participate on the BCC, the Chair of the Board of Directors shall randomly select one (1) additional BCC member from the remaining five (5) Sectors to constitute the BCC. The Chair of the FRCC Board of Directors will appoint a Chair and Vice-Chair of the BCC. Terms of BCC members will be equivalent to the time it takes to complete the hearing for which they were selected. Members may be re-appointed to subsequent terms without any limits to the number of terms they serve.

FRCC Industry Sectors are as follows:

- One (1) Member from the Investor Owned Utility Sector
- One (1) Member from the Suppliers Sector
- One (1) Member from the Non-Investor Owned Utility Wholesale Sector
- One(1) Member from the Load Serving Entity Sector
- One (1) Member from the Generating Load Serving Entity Sector
- One (1) Member from the General Sector

Each member of the BCC shall be a full voting member. There will be no alternates or proxies for the BCC members. Decisions of the BCC shall require (i) a quorum to be present requiring at least fifty (50) percent of the number of members assigned to the BCC provided, however, that in each case at least four (4) eligible Sectors are represented and (ii) a majority vote of the members of the BCC voting on the decision.

FRCC shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: None.

3.0 OTHER DECISION-MAKING BODIES

The FRCC has engaged the SERC Reliability Corporation (SERC) to oversee the compliance monitoring and enforcement responsibility as related to FRCC's compliance with Reliability Standard requirements that are applicable to the functions for which FRCC is a Registered Entity.

Exhibit E — Funding

1. Scope of activities funded through the ERO funding mechanism

FRCC shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and FRCC, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of [Regional Entity's] business plan and budget. The annual schedule for the preparation of business plans and budgets shall require FRCC (i) to submit to NERC draft(s) of FRCC's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by FRCC Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of FRCC's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The FRCC business plan and budget submission shall include supporting materials, including FRCC's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. FRCC's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve FRCC's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct FRCC to make such revisions as NERC deems appropriate prior to approval. NERC shall submit FRCC's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of FRCC's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. FRCC shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying [Regional Entity's] assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of [Regional Entity's] assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

(a) NERC shall submit invoices to the load-serving entities or designees identified by FRCC covering the NERC and FRCC assessments approved for collection.

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from ERO Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, FRCC shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, FRCC is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within FRCC's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within FRCC's region.

(c) Upon approval by ERO Governmental Authorities of FRCC's annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay FRCC's annual assessment to Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by FRCC shall be applied as a general offset to FRCC's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity.

6. Budget and Funding for FRCC's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and

activities referred to in this Section 6 as “statutory activities”), FRCC performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"):

Non-Statutory Activities

The Member Services division of the FRCC provides, coordinates or administers a variety of services relating to the reliable planning and operation of the bulk power system in the FRCC Region. These services are carried out by the FRCC Planning Committee (PC) and the FRCC Operating Committee (OC), and its various subcommittees, task forces and working groups.

Planning Committee (PC)

The PC promotes the reliability of the bulk power system in the FRCC Region, and assesses and encourages generation and transmission adequacy. The PC, through the FRCC Regional Transmission Planning Process, provides a vehicle for ensuring that transmission planning within the FRCC will provide for the development of a robust transmission network within the FRCC Region. The activities of the PC include the activities of the following Member Services working groups: the Stability Working Group, the Transmission Working Group, the Resources Working Group, the ATC Working Group and the Fuel Reliability Working Group. The activities of these working groups pertain to the facilitated and coordinated effort for the running of engineering studies and communications in a cost effective, open and transparent manner for the members to complete common tasks to ensure future bulk power reliability. This includes any transmission planning that allows transmission owners to meet FERC’s Order 890 requirement for wide area planning and implementation of data and reporting to the Florida Public Service Commission on resource adequacy and transmission reliability.

Operating Committee (OC)

The OC is responsible for the coordination, planning, operation and maintenance of reliable bulk power supply in the FRCC. Its primary reliability goals are the continuous improvement of the situational awareness of the operators interconnected within the FRCC, and ensuring that adequate physical, operational and cyber security objectives are in place for the Region’s shared communications network. The OC ensures reliable operations are maintained through the development and implementation of the Reliability Process for the FRCC Bulk Electric System, formerly the FRCC Security Process.

Operating Reliability Subcommittee (ORS)

The ORS provides overall administration for the development and implementation of operating procedures and other reliability matters. The ORS reviews and assesses regional import and export limits, scheduled transmission outages, real-time system reliability, events analysis, information and data exchange and other reliability issues. The ORS provides formal oversight and implementation of the Reliability Process for the FRCC Bulk Electric System, formerly the FRCC Security Process, which establishes the reliability responsibilities of the various entities within the Region and specifically monitors the agents

responsible for performing the Reliability Coordinator and Operations Planning Coordinator functions.

Data Exchange Working Group (DEWG)

The DEWG, subordinate to the ORS, supports the real-time data needs of the FRCC Reliability Coordinator and other entities identified by the FRCC ORS, and for developing methodologies to facilitate the exchange of real-time, modeling, and other operational data to help assure reliable electric power system operations. Within the FRCC, all entities provide system data via the FRCC Reliability Data Link (RDL). The FRCC RDL receives all substation topology information, line flows, voltage levels, unit parameters, etc. from the operating entities on a real-time basis. Data is available to all.

FRCC Telecommunications Subcommittee (TS)

The TS provides formal oversight over the TS budget which is included in the OC budget. The primary purpose of the TS is to ensure that adequate and redundant communications facilities are made available to the operating entities within the FRCC. The TS administers the FRCC hotline program, Satellite phone program, RDL program and also ensures that reliable and redundant communications are maintained with NERCNet, from a Regional communications perspective. All TS programs are in support of the RC function and are therefore non-statutory, with the exception of the FRCC satellite phone program which is a tool used by the Regional Entity to perform situational awareness and thus is budgeted as statutory.

Non Statutory Situation Awareness and Infrastructure Security Program

This program maintains and enhances the situational awareness of the operators of the interconnected system by supporting the tools necessary to efficiently communicate Electricity Sector Information Sharing and Analysis Center information within and outside of the FRCC Region. The program also ensures that the FRCC entity shared communications networks, include the appropriate physical, operational, and cyber security protections in order to function reliably.

FRCC shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions:

(i) Separation of funding sources for statutory activities and non-statutory activities. The FRCC maintains a separate bank account for Statutory receivable collection. The statutory billing is done at the beginning of each quarter and an invoice is rendered to NERC only for the statutory receivable. NERC wires monies due directly into the Statutory bank account. All non-statutory receivables are deposited into a separate bank account. Member Services invoices are rendered to each member quarterly and deposited into this separate account.

(ii) Separation of costs of statutory activities and non-statutory activities. FRCC has adopted the NERC Chart of Accounts for Expenses and the NERC Rules of Procedure

Categories as well as Member Services Functional Categories and utilizes these in order to correctly code each invoice received for all goods and services as well as for staff to specify where their time is spent each day for their time accounting reports. These methods are used to ensure that no statutory funds are used to pay for non-statutory expenses and that no non-statutory funds are used to pay for statutory expenses.

Each employee and officer (with the exception of the President and CEO) turns in a time sheet with their time accounted for between statutory and non-statutory functions that they personally spent their time on. Within statutory and non-statutory they further break down their time by the function areas. Each employee and officer fills out their time sheet daily and turns them in every two weeks to the Controller. The employees use the department codes to split their time according to what they did that day. These times are totaled by the Controller and Full-Time Equivalents (FTE's) for each function are calculated.

Accounting personnel route to the responsible department head all invoices pertaining to their job responsibility. The department head assigns the functional category, signs the invoices and returns it to accounting for payment processing. The accounting staff evaluates and assigns the appropriate General Ledger account number based on the Chart of Accounts and enters both the account number and the department number on the accounts payable system. Expenses such as Facilities Rent, stationary, utilities and other items of a general nature are split to each of the functions based on FTE's, on a monthly basis. Only expenses that cannot be determined to be specifically for a particular function are split on an allocated basis. Any expenses received that are for a particular function within a particular area are charged directly to that area and are not split.

All expenses are reviewed by a Department Head, an Accounting Assistant and the Controller for accuracy of coding and assignment to particular functions whether that be for Statutory or Non-statutory.

FRCC shall provide its budget for such non-statutory activities to NERC at the same time that FRCC submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. FRCC's budget for non-statutory activities that is provided to NERC shall contain a detailed list of FRCC's non-statutory activities and a description of the funding sources for the non-statutory activities. FRCC agrees that no costs (which shall include a reasonable allocation of FRCC's general and administrative costs) of non-statutory activities are to be included in the calculation of FRCC's assessments, dues, fees, and other charges for its statutory activities.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if FRCC determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, FRCC shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in FRCC's approved business plan and budget for the

fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct FRCC to make such revisions as NERC deems appropriate prior to approval. NERC shall submit FRCC's approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Statements

NERC shall conduct reviews of the quarterly and annual financial statements submitted by FRCC pursuant to Section 9(h) and (i) of the Agreement. FRCC shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC based on its reviews.

ATTACHMENT 2B

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED DELEGATION AGREEMENT

WITH

FLORIDA RELIABILITY COORDINATING COUNCIL

REDLINED AGAINST

REVISED PRO FORMA DELEGATION AGREEMENT

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND ~~REGIONAL ENTITY~~ FLORIDA RELIABILITY COORDINATING COUNCIL**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”) made as of [January 1, 2011], between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and ~~REGIONAL ENTITY~~ Florida Reliability Coordinating Council (“FRCC”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified on **Exhibit A** to this Agreement, and for other purposes. NERC and ~~REGIONAL ENTITY~~ FRCC may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824n) (hereafter “the Act”), which, among other things, provides for the establishment of an electric reliability organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as ~~REGIONAL ENTITY~~FRCC provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, ~~REGIONAL ENTITY~~FRCC ~~is/is not~~is not organized on an Interconnection-wide basis and therefore ~~is/is not~~is not entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through ~~REGIONAL ENTITY~~FRCC to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that ~~[REGIONAL ENTITY]~~FRCC meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and ~~[REGIONAL ENTITY]~~FRCC, having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and ~~[REGIONAL ENTITY]~~FRCC agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to ~~[REGIONAL ENTITY]~~FRCC to propose and enforce Reliability Standards pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, ~~[REGIONAL ENTITY]~~FRCC hereby represents and warrants to NERC that:

(i) ~~{REGIONAL ENTITY}~~FRCC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. ~~{REGIONAL ENTITY}~~FRCC is governed in accordance with its bylaws by [~~select appropriate: an independent board/a balanced stakeholder board/a combination independent and balanced stakeholder board~~]. Pursuant to these bylaws, no two industry sectors can control any ~~{REGIONAL ENTITY}~~FRCC decision and no single industry sector can veto any ~~{REGIONAL ENTITY}~~FRCC decision. The relevant portions of such bylaws are attached hereto in **Exhibit B**¹, and as so attached are in full force and effect. No other such corporate governance documents are binding upon ~~{REGIONAL ENTITY}~~FRCC.

(ii) As set forth in **Exhibit C** hereto², ~~{REGIONAL ENTITY}~~FRCC has developed a standards development procedure, which provides the process that ~~{REGIONAL ENTITY}~~FRCC may use to develop Regional Reliability Standards [~~and Regional Variances, if the regional entity is organized on an Interconnection-wide basis~~] that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, ~~{REGIONAL ENTITY}~~FRCC has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within ~~{REGIONAL ENTITY}~~FRCC's geographic boundaries as shown on **Exhibit A**.

(b) NERC hereby represents and warrants to ~~{REGIONAL ENTITY}~~FRCC that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

¹ The **Exhibit B** from ~~{REGIONAL ENTITY}~~FRCC shall meet the requirements contained in **Exhibit B** to this Agreement.

² The **Exhibit C** from ~~{REGIONAL ENTITY}~~FRCC shall meet the requirements contained in **Exhibit C** to this Agreement.

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

3. Covenants.

(a) During the term of this Agreement, ~~REGIONAL ENTITY~~FRCC shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC's approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of ~~REGIONAL ENTITY~~FRCC under this Agreement without first obtaining the consent of ~~REGIONAL ENTITY~~FRCC, which consent shall not be unreasonably withheld or delayed.

(c) During the term of this Agreement, NERC and ~~REGIONAL ENTITY~~FRCC shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of ~~REGIONAL ENTITY~~FRCC in Sections 2 and 3 above, the corporate governance documents set forth in **Exhibit B**, the standards development process set forth in **Exhibit C**, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to ~~REGIONAL ENTITY~~FRCC for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth on **Exhibit A**, *provided*, that ~~REGIONAL ENTITY~~FRCC shall not monitor and enforce compliance with Reliability Standards for ~~REGIONAL ENTITY~~FRCC or an affiliated entity with respect to reliability

functions for which ~~{REGIONAL ENTITY}~~FRCC or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to ~~{REGIONAL ENTITY}~~FRCC within, or additions to this delegation of authority to ~~{REGIONAL ENTITY}~~FRCC beyond, the geographic boundaries set forth on **Exhibit A** are stated on **Exhibit A**.

(b) In circumstances where ~~{REGIONAL ENTITY}~~FRCC or an affiliated entity is a Registered Entity, ~~{REGIONAL ENTITY}~~FRCC shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce ~~{REGIONAL ENTITY}~~FRCC's or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit ~~{REGIONAL ENTITY}~~FRCC from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified on **Exhibit A** that is within the United States. Any delegation of authority by ERO Governmental Authorities in Canada or Mexico shall be governed by a separate agreement and is outside the scope of this Agreement; provided, however, that both ~~{REGIONAL ENTITY}~~FRCC and NERC shall endeavor to ensure that this Agreement and such separate agreements are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, ~~{REGIONAL ENTITY}~~FRCC shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, ~~{REGIONAL ENTITY}~~FRCC shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process

for proposing and adopting Reliability Standards that affords ~~[REGIONAL ENTITY]~~FRCC reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards ~~and Regional Variances, if Regional Entity is organized on an Interconnection-wide basis~~ through ~~[REGIONAL ENTITY]~~FRCC's process as set forth in **Exhibit C**. Proposals approved through ~~[REGIONAL ENTITY]~~FRCC's process shall be reviewed by the NERC Board after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. ~~[REGIONAL ENTITY]~~FRCC may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, ~~[REGIONAL ENTITY]~~FRCC shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the geographic boundaries set forth, or as

otherwise specified, in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and ~~{REGIONAL ENTITY}~~FRCC agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, *inter alia*, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. ~~{REGIONAL ENTITY}~~FRCC may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, ~~{REGIONAL ENTITY}~~FRCC agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) ~~{REGIONAL ENTITY}~~FRCC shall report promptly to NERC any Possible Violation, Alleged Violation, or Confirmed Violation of a Reliability Standard, and its eventual disposition by ~~{REGIONAL ENTITY}~~FRCC. Such report shall include the owner's, operator's, or user's name, which Reliability Standard or Reliability Standards were the subject of the Possible Violation, Alleged Violation, or Confirmed Violation, when the Possible Violation, Alleged Violation, or Confirmed Violation occurred, other pertinent facts including circumstances surrounding the Possible Violation, Alleged Violation, or Confirmed Violation with any known risk to the Bulk-Power System, when the Possible Violation, Alleged Violation, or Confirmed Violation was or will be mitigated, the name of a person knowledgeable about the Possible Violation, Alleged Violation, or Confirmed Violation to serve as a point of contact with the Commission, and any other information required by NERC compliance program procedures. NERC shall promptly forward such report to the Commission. NERC and ~~{REGIONAL ENTITY}~~FRCC shall cooperate in filing such periodic summary reports as the Commission shall from time to time direct on Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards and summary analyses of such Possible Violations, Alleged Violations, and Confirmed Violations.

(c) Each Possible Violation, Alleged Violation, or Confirmed Violation shall be treated as nonpublic unless the matter is filed with the Commission as a Notice of Penalty, or, if disclosure is required, dismissed. The disposition of each Possible Violation, Alleged Violation, or Confirmed Violation that relates to a Cybersecurity Incident or that would jeopardize the security of the Bulk-Power System if publicly disclosed shall remain nonpublic unless the Commission directs otherwise.

(d) All dispositions by ~~REGIONAL ENTITY~~FRCC of Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards shall be reported to NERC for review and, in the case of Confirmed Violations, penalties or sanctions, and settlements, for approval. Following approval of a disposition by NERC, NERC shall file the disposition with the Commission, if required by, and in accordance with, Section 215(e) of the Act and Section 39.7 of the ERO Regulations. NERC shall review ~~REGIONAL ENTITY~~FRCC's dispositions based on the following criteria:

(i) whether the disposition is supported by a sufficient record compiled by ~~REGIONAL ENTITY~~FRCC in accordance with the NERC Rules of Procedure, NERC directives and Commission requirements, taking into account the nature of the Possible Violation, Alleged Violation, or Confirmed Violation,

(ii) whether the disposition is consistent with any applicable directives issued pursuant to Section 8(c) of this Agreement, any applicable directions or guidance issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, or other applicable NERC guidance, concerning the Reliability Standards to which the Possible Violation, Alleged Violation, or Confirmed Violation relates,

(iii) if the disposition is a Confirmed Violation or settlement, whether it provides for a penalty or sanction, or a determination of no penalty or sanction, determined in accordance with the NERC Sanction Guidelines, Appendix 4B to the NERC Rules of Procedure, and

(iv) whether the disposition is reasonably consistent with other dispositions by ~~REGIONAL ENTITY~~FRCC and by other Regional Entities of Possible Violations, Alleged Violations, and Confirmed Violations involving the same or similar facts and circumstances.

NERC may reject any disposition, with an explanation of why NERC believes the disposition does not meet the above criteria. ~~{REGIONAL ENTITY}~~FRCC may submit a disposition requiring NERC approval that has been rejected by NERC, or a revised disposition following a rejection, directly to the NERC Board Compliance Committee for approval without revising the disposition to address all the grounds on which NERC originally rejected the disposition. The final approval of ~~{REGIONAL ENTITY}~~FRCC's disposition of a Possible Violation, Alleged Violation, or Confirmed Violation shall be made by the NERC Board Compliance Committee, provided, that the NERC Board or NERC Board Compliance Committee may, by appropriate resolution, delegate authority for final approval of dispositions of specified categories of Possible Violations, Alleged Violations, or Confirmed Violations to the NERC President.

(e) All appeals of penalties imposed by ~~{REGIONAL ENTITY}~~FRCC as a result of a decision by ~~{REGIONAL ENTITY}~~FRCC's Hearing Body shall be filed with, heard by and disposed of by, NERC in accordance with the NERC Rules of Procedure.

(f) ~~{REGIONAL ENTITY}~~FRCC shall maintain the capability to conduct investigations of Possible Violations and Alleged Violations of Reliability Standards and to conduct such investigations in a confidential manner.

(g) ~~{REGIONAL ENTITY}~~FRCC shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan.

(h) As part of its compliance monitoring and enforcement program, ~~{REGIONAL ENTITY}~~FRCC shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(i) As often as NERC deems necessary, but no less than every five years, NERC shall review ~~{REGIONAL ENTITY}~~FRCC's compliance monitoring and enforcement program to determine that: (i) the program meets all applicable legal requirements; (ii) actual practices reflect the requirements; and (iii) the program administered pursuant to the Delegated Authority

promotes consistent interpretations across North America of Reliability Standards and comparable levels of sanctions and penalties for violations of Reliability Standards constituting comparable levels of threat to reliability of the Bulk-Power System.

7. Delegation-Related Activities.

NERC will engage ~~[REGIONAL ENTITY]~~FRCC on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed on **Exhibit E**. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (f), each of which shall be considered a statutory activity:

(a) Certification of Bulk-Power System Entities. The NERC Board shall set criteria for certification in accordance with the NERC Rules of Procedure. ~~[REGIONAL ENTITY]~~FRCC shall issue certifications in accordance with the NERC Rules of Procedure.

(b) Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.

(i) The NERC Board shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by ~~[REGIONAL ENTITY]~~FRCC and other Regional Entities. ~~[REGIONAL ENTITY]~~FRCC shall provide timely and accurate information relating to registrations to NERC, on at least a monthly basis, to enable NERC to maintain a registration database that is accurate and up-to-date.

(iii) The NERC Board Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) Reliability Assessment and Performance Analysis. ~~REGIONAL ENTITY~~FRCC shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. ~~REGIONAL ENTITY~~FRCC shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives. NERC shall develop data-gathering quality control procedures, forms and reporting mechanisms, which shall be used by ~~REGIONAL ENTITY~~FRCC and other Regional Entities in carrying out their responsibilities under this subsection (c).

(d) Event Analysis and Reliability Improvement. ~~REGIONAL ENTITY~~FRCC shall conduct event analysis pursuant to the NERC Rules of Procedure and applicable governmental regulations. NERC and ~~REGIONAL ENTITY~~FRCC shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, ~~REGIONAL ENTITY~~FRCC shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) Training and Education. ~~REGIONAL ENTITY~~FRCC may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) Situation Awareness and Infrastructure Security.

(i) ~~REGIONAL ENTITY~~FRCC shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure and applicable governmental regulations, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System

(ii) ~~[REGIONAL ENTITY]~~FRCC shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of ~~[REGIONAL ENTITY]~~FRCC's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and ~~[REGIONAL ENTITY]~~FRCC that matters relating to NERC's oversight of ~~[REGIONAL ENTITY]~~FRCC's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and ~~[REGIONAL ENTITY]~~FRCC and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with ~~[REGIONAL ENTITY]~~FRCC and other Regional Entities, performance goals, measures and other parameters (including, without limiting the scope of such goals, measures and parameters, financial performance goals, measures and parameters), and performance reports, which shall be used to measure NERC's and ~~[REGIONAL ENTITY]~~FRCC's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. ~~[REGIONAL ENTITY]~~FRCC shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate ~~[REGIONAL ENTITY]~~FRCC's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters and performance reports to evaluate ~~[REGIONAL ENTITY]~~FRCC's performance of its delegated functions and related activities and to provide advice and direction to ~~[REGIONAL ENTITY]~~FRCC on performance improvements. The performance goals, measures and other parameters and the values of such goals, measures and parameters, shall be reviewed by NERC, ~~[REGIONAL ENTITY]~~FRCC and the other Regional Entities, revised if appropriate, and made

public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, ~~{REGIONAL ENTITY}~~FRCC shall be required to develop, submit for NERC approval, and implement action plans to address areas of its performance that are reasonably determined by NERC, based on analysis of ~~{REGIONAL ENTITY}~~FRCC's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring ~~{REGIONAL ENTITY}~~FRCC to adopt and implement an action plan or other remedial action, NERC shall issue a notice to ~~{REGIONAL ENTITY}~~FRCC of the need and basis for an action plan or other remedial action and provide an opportunity for ~~{REGIONAL ENTITY}~~FRCC to submit a written response contesting NERC's evaluation of ~~{REGIONAL ENTITY}~~FRCC's performance and the need for an action plan. ~~{REGIONAL ENTITY}~~FRCC may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board review and reconsider the request. NERC and ~~{REGIONAL ENTITY}~~FRCC shall work collaboratively as needed in the development and implementation of ~~{REGIONAL ENTITY}~~FRCC's action plan. A final action plan submitted by ~~{REGIONAL ENTITY}~~FRCC to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to ~~{REGIONAL ENTITY}~~FRCC standardized training and education programs, which shall be designed taking into account input from ~~{REGIONAL ENTITY}~~FRCC and other Regional Entities, for ~~{REGIONAL ENTITY}~~FRCC personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to ~~{REGIONAL ENTITY}~~FRCC concerning the manner in which ~~{REGIONAL ENTITY}~~FRCC shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with ~~{REGIONAL ENTITY}~~FRCC and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and ~~REGIONAL ENTITY~~FRCC and, if applicable, other Regional Entities are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President; *provided*, that before the NERC President issues a directive pursuant to this paragraph (ii), ~~REGIONAL ENTITY~~FRCC and, if applicable, other Regional Entities, shall be given a reasonable opportunity to present their positions on, and a suggested alternative version or versions of, the proposed directive to the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, ~~REGIONAL ENTITY~~FRCC, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by ~~REGIONAL ENTITY~~FRCC, the NERC Board (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without ~~REGIONAL ENTITY~~FRCC's agreement, *provided*, that ~~REGIONAL ENTITY~~FRCC shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and ~~REGIONAL ENTITY~~FRCC and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which ~~REGIONAL ENTITY~~FRCC, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The Board or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power

System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the Board or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. ~~REGIONAL ENTITY~~FRCC, either individually or in conjunction with other Regional Entities, may request that the NERC Board or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with ~~REGIONAL ENTITY~~FRCC, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) Any audits of ~~REGIONAL ENTITY~~FRCC performed by NERC shall be limited to an examination of ~~REGIONAL ENTITY~~FRCC's compliance with this Agreement, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c)

9. Funding. ~~REGIONAL ENTITY~~FRCC and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed on **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) ~~REGIONAL ENTITY~~FRCC shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. ~~REGIONAL ENTITY~~FRCC's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, ~~REGIONAL ENTITY~~FRCC to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E**. ~~REGIONAL ENTITY~~FRCC's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) ~~REGIONAL ENTITY~~FRCC and NERC agree that the portion of ~~REGIONAL ENTITY~~FRCC's approved budget for the functions and activities described in Sections 5, 6

and 7 and listed on **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by ~~REGIONAL ENTITY~~FRCC and approved by NERC and the Commission. If ~~REGIONAL ENTITY~~FRCC proposes to use a formula other than Net Energy for Load beginning in the following year, ~~REGIONAL ENTITY~~FRCC shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and ~~REGIONAL ENTITY~~FRCC to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide ~~REGIONAL ENTITY~~FRCC with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) ~~REGIONAL ENTITY~~FRCC shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed on Exhibit E, as well as for all other activities of ~~REGIONAL ENTITY~~FRCC, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund ~~REGIONAL ENTITY~~FRCC's performance of its Delegated Authority and related activities in accordance with ~~REGIONAL ENTITY~~FRCC's Commission-approved business plan and budget, in the amount of ~~REGIONAL~~

~~ENTITY~~FRCC's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting ~~REGIONAL ENTITY~~FRCC's approved assessments from end users and other entities and payment of the approved assessment amount to ~~REGIONAL ENTITY~~FRCC, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon ~~REGIONAL ENTITY~~FRCC that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without ~~REGIONAL ENTITY~~FRCC's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and ~~REGIONAL ENTITY~~FRCC fiscal year budget with the actual results at the NERC and Regional Entity levels. ~~REGIONAL ENTITY~~FRCC shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) ~~REGIONAL ENTITY~~FRCC shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) ~~REGIONAL ENTITY~~FRCC shall submit audited financial statements annually, including supporting materials, in a form provided by NERC no later than May 1 of the following year.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which ~~REGIONAL ENTITY~~FRCC shall offset penalty monies it receives (~~other than penalty monies received from an operational function or division or affiliated entity of [REGIONAL ENTITY]FRCC~~) against its next year's annual budget for carrying out functions under this Agreement, ~~and the mechanism by which [REGIONAL ENTITY]FRCC shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of [REGIONAL ENTITY]FRCC.~~ *Provided*, that, subject to approval by NERC and the

Commission, ~~REGIONAL ENTITY~~FRCC may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. ~~REGIONAL ENTITY~~FRCC may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit ~~REGIONAL ENTITY~~FRCC from contracting with other entities to assist it in carrying out its Delegated Authority, provided ~~REGIONAL ENTITY~~FRCC retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on [January 1, 2011] (the “Effective Date”).

(b) The term of the Agreement shall be five (5) years from the Effective Date, prior to which time NERC shall conduct an audit pursuant to subsection 6(i) to ensure that ~~REGIONAL ENTITY~~FRCC continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. If ~~REGIONAL ENTITY~~FRCC meets such requirements, this Agreement may be renewed for another five (5) year term. This Agreement may be renewed for successive additional five (5) year renewal terms provided that prior to the end of each renewal term, NERC shall conduct an audit pursuant to subsection 6(i) to ensure that ~~REGIONAL ENTITY~~FRCC continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. Provided, that either Party may terminate this Agreement as of the end of a term by giving written notice to terminate at least one (1) year prior to the end of the term. If this Agreement is not renewed or becomes subject to termination for any reason, the Parties shall work to provide for a transition of ~~REGIONAL ENTITY~~FRCC’s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement. The termination of this Agreement shall not take effect until such transition has been effected, unless the transition period exceeds one year, at which time ~~REGIONAL ENTITY~~FRCC may unilaterally terminate.

(c) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by ~~REGIONAL ENTITY~~FRCC and NERC.

(d) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. ~~REGIONAL ENTITY~~FRCC and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and ~~REGIONAL ENTITY~~FRCC shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of the ~~REGIONAL ENTITY~~FRCC's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that the ~~REGIONAL ENTITY~~FRCC or NERC is found liable for gross negligence or intentional misconduct, in which case ~~REGIONAL ENTITY~~FRCC or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party.

15. Confidentiality. During the course of the Parties' performance under this Agreement, a Party may receive Confidential Information, as defined in Section 1500 of NERC's Rules of Procedure. Except as set forth herein, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party that provided the Confidential Information with prompt

notice of such request or requirement in order to enable such issuing Party to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information. In addition, each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein. This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of ~~REGIONAL ENTITY~~FRCC under this Agreement without first obtaining the consent of ~~REGIONAL ENTITY~~FRCC, which consent shall not be unreasonably withheld or delayed. To the extent ~~REGIONAL ENTITY~~FRCC does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of ~~REGIONAL ENTITY~~FRCC under this Agreement, ~~REGIONAL ENTITY~~FRCC shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by ~~REGIONAL ENTITY~~FRCC to NERC and the Commission, or at such other time as may be mutually agreed by ~~REGIONAL ENTITY~~FRCC and NERC.

18. **Dispute Resolution**. In the event a dispute arises under this Agreement between NERC and ~~REGIONAL ENTITY~~FRCC (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to ~~REGIONAL ENTITY~~FRCC's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. ~~REGIONAL ENTITY~~FRCC shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, *provided*, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive

officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), *provided*, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. *Provided, however*, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. Whether expressly so stated or not, all notices, demands, requests, and other communications required or permitted by or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand or reputable overnight courier:

If to NERC:

If to ~~REGIONAL ENTITY~~FRCC:

North American Electric
Reliability Corporation
116-390 Village Blvd.
Princeton, NJ 08540-5721

Florida Reliability Coordinating
Council, Inc.
1408 N Westshore Blvd
Tampa, FL 33607

Attn: General Counsel
Facsimile: (609) 452-9550

Attn: Sarah Rogers
Facsimile: (813) 289- 5646

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of New Jersey without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in New Jersey. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in New Jersey for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that ~~REGIONAL ENTITY~~FRCC may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. **Entire Agreement.** This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. **Execution of Counterparts.** This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN
ELECTRIC RELIABILITY CORPORATION
Reliability Coordinating Council, Inc.

~~{REGIONAL ENTITY}~~ Florida

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

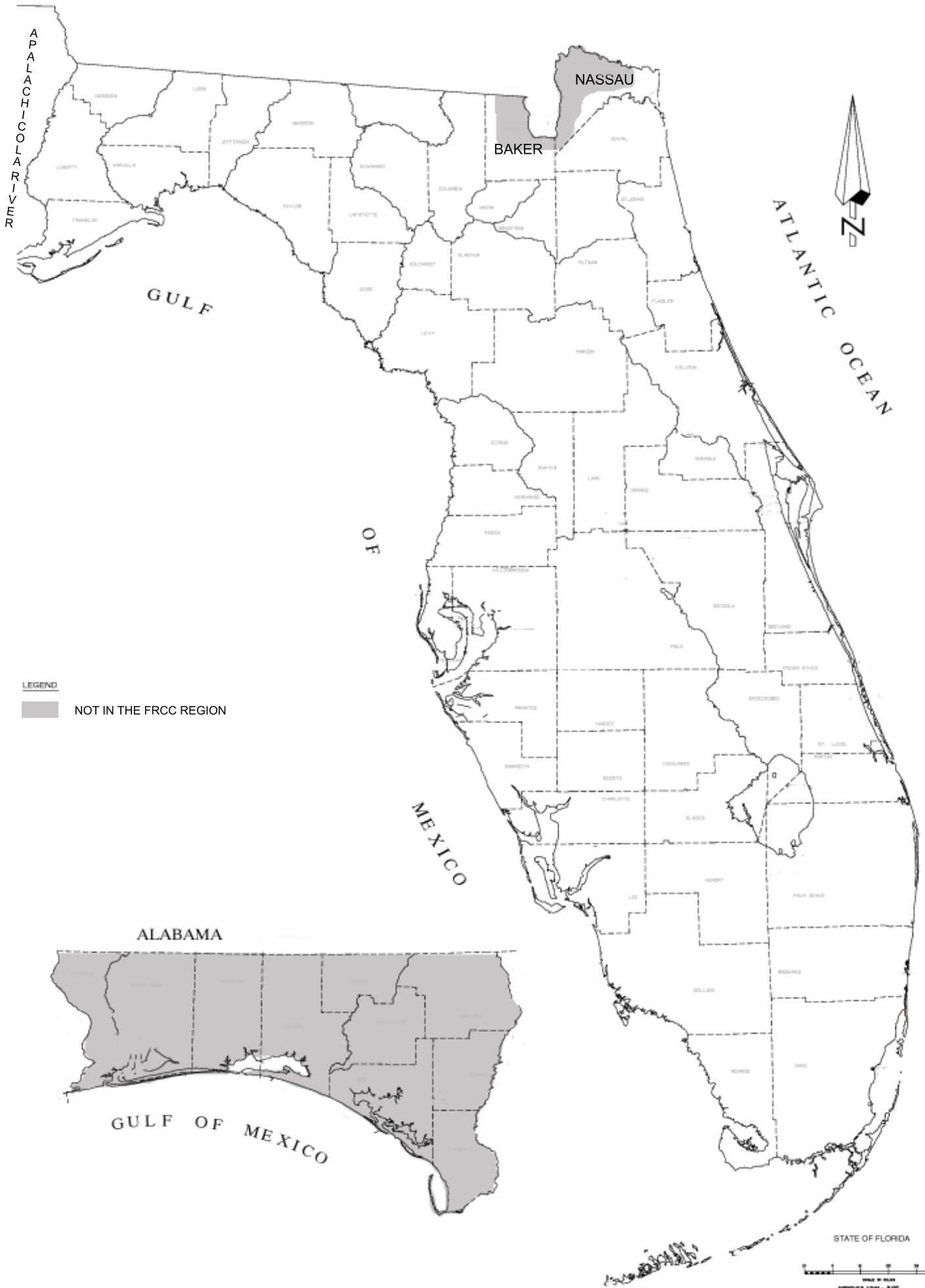
Exhibit A — ~~Regional~~ FRCC Boundaries

The FRCC physical boundaries are entirely within the State of Florida. The area of the State of Florida that is within the FRCC Region is peninsular Florida east of the Apalachicola River with the exception of a small section of Baker and Nassau counties in northeast Florida. Areas west of the Apalachicola River in Florida are within the SERC Region. The entire FRCC Region is within the Eastern Interconnection. The entire FRCC Region is under the direction of the FRCC Reliability Coordinator.

The FRCC Region interconnects with the SERC Region via 10 transmission lines. The 10 lines consist of two 500 kV, four 230 kV and four 115 kV lines. These lines are referred to as the “Florida / Southern Interface”.

The areas of Baker and Nassau counties that are not part of the FRCC Region are part of the SERC Region. These sections are part of the Okefenokee Rural Electric Membership Corporation (OREMC) that is headquartered in Nahunta, GA or facilities owned by Georgia Transmission Corporation (GTC) that is headquartered in Tucker Georgia. Roughly two thirds of OREMC load is in Georgia and one third is in Florida. The majority of the OREMC load in Florida is connected directly to the Southern Company Balancing Area in the SERC Region. Part of OREMC load is connected to both the Southern Company Balancing Area and FPL Balancing Area by a Georgia Transmission Corporation 115kV transmission line and Macedonia Switching Station in Baker County. A small portion of the OREMC load, about five (5) MW to twenty five (25) MW, is supplied as a radial feed from FPL West Nassau Substation. Georgia Transmission Corporation has secured firm transmission service from JEA and/or FPL on the Florida / Southern Interface to supply this load. The OREMC schedules energy on an hourly basis to cover this load. SERC will be responsible for registration and compliance monitoring of the Georgia Transmission Corporation facilities in Baker County, Florida and of OREMC.

Within the FRCC Region, compliance monitoring and enforcement functions with respect to reliability functions for which the FRCC is a registered entity are performed by SERC Reliability Corporation (SERC) pursuant to a contract between FRCC and SERC dated as of (date).



LEGEND

NOT IN THE FRCC REGION

ALABAMA

GULF OF MEXICO

STATE OF FLORIDA

Scale bar and projection information.

Exhibit B – Governance

Exhibit B shall set forth the Regional Entity’s bylaws, which NERC agrees demonstrate that the Regional Entity meets the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence of the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

**EXHIBIT B
TO PRO FORMA DELEGATION AGREEMENT**

**BYLAWS
Florida Reliability Coordinating Council, Inc.**

Amended February 6, 2009



1408 N. Westshore Blvd., Suite 1002, Tampa, Florida 33607-4512
Phone 813.289-5644 * Fax 813.289-5646
www.frcc.com

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**BYLAWS OF
FLORIDA RELIABILITY COORDINATING COUNCIL, INC.**

ARTICLE I

Membership

Section 1.1 Eligibility.

(a) Membership in the Florida Reliability Coordinating Council, Inc. (“FRCC”) is open to any entity, without cost, that: (i) has a material interest in the reliability of the bulk power system in the FRCC region; (ii) satisfies the criteria for membership specified in this Section 1.1; (iii) qualifies for eligibility in one or more of the Sectors identified in Section 1.2; (iv) submits a written request for membership; and (v) agrees to comply with and be bound by these FRCC Bylaws (“Bylaws”) and other rules and regulations adopted by the FRCC Board of Directors, by execution of the appropriate form of Member Agreement set forth in Appendix A to these Bylaws (“Member Agreement”). Any person or entity that meets the foregoing requirements shall become a “Member” of FRCC.

(b) FRCC shall engage in two categories of activities:

(i) FRCC shall engage in the “Regional Entity Activities” specified in Section 1 of Exhibit E of the Delegation Agreement between FRCC and the North American Electric Reliability Corporation (“NERC”) dated May 2, 2007, as amended from time to time with the agreement of NERC and the approval of the Federal Energy Regulatory Commission (“Delegation Agreement”). Under the Delegation Agreement, FRCC is the Regional Entity, as defined in Sec. 215 of the Federal Power Act, with delegated authority to propose and enforce Reliability Standards for the bulk power system in the FRCC Region. The FRCC Region is defined as the geographic area of Florida east of the Apalachicola River.

(ii) FRCC shall engage in certain “Member Services Activities,” under which it provides, coordinates or administers a variety of services relating to the planning and operation of the bulk power system in the FRCC Region for or on behalf of entities meeting the criteria in Section 1.1(c)(ii) and participating in the funding of such services as specified in these Bylaws. The “Member Services” are specified in the business plan and budget approved by the Board of Directors in accordance with these Bylaws for submission to NERC under the Delegation Agreement, and as approved by NERC and the Federal Energy Regulatory Commission (“Business Plan and Budget”). Member Services are funded as specified in Section 6.2 of these Bylaws.

(c) FRCC shall have two types of Members:

(i) All Members of FRCC shall be “Regional Entity Members.” Regional Entity Members shall be eligible to participate in the Regional Entity Activities of FRCC. Such participation shall be in accordance with these Bylaws, the Member Agreement, and the Delegation Agreement, as from time to time adopted or amended and approved, and such other requirements as govern FRCC as a Regional Entity.

(ii) All Members that participate in the generation, marketing, transmission or purchase for resale of electric energy, ancillary services or capacity on, from or to the bulk power system in the FRCC Region may choose to be “Services Members,” and may participate in FRCC Member Services Activities as specified in these Bylaws. Subject to the requirements of Section 1.2, only Members that are Services Members shall be eligible to participate in decisions governing the Member Services of FRCC, or the voting rights and funding obligations of Services Members.

Section 1.2 Voting Member. A Voting Member is a Member that is not an Affiliate Member or an Adjunct Member. All Voting Members shall be eligible to vote on questions governing Regional Entity Activities. Only Voting Members that are Services Members shall be eligible to vote on questions governing Member Services or Member Services Activities. For purposes of the following Sector classifications, “Load Serving Entity,” whether standing alone or as part of another specified term, shall mean an entity that provides electric service to persons or entities other than the Load Serving Entity itself that purchase such service for their own use and not for resale. Voting Members shall be classified into one of the following Sectors, based on the primary nature of its activities in the FRCC Region relevant to Regional Entity Activities:

(a) **Suppliers Sector** - any entity engaged in wholesale power marketing transactions in the FRCC Region; or a generating entity that is included in the NERC Compliance Registry as a generation owner or generation operator for a facility in the FRCC Region, or that owns or is developing generation greater than 20 MW located within the FRCC Region and meets any of the following: (1) an entity with FERC-approved market-based rate authority, or (2) an exempt wholesale generator, or (3) a facility selling any output pursuant to a power purchase agreement (including fuel conversion arrangements), or (4) a FERC approved Qualifying Facility.

(b) **Non-Investor Owned Utility Wholesale Sector** - generation and transmission cooperatives and municipal joint action agencies that sell electricity to non-investor owned Load Serving Entities with native load in the FRCC Region.

(c) **Load Serving Entity Sector** - any Load Serving Entity that is not investor owned and that generates less than 25% of its energy requirements for retail sales or has an annual Full Requirements Energy for Load (FREL) of 1800 GWH or less in the FRCC Region.

(d) **Generating Load Serving Entity Sector** - any Load Serving Entity that is not investor owned and that generates at least 25% of its energy requirements for retail sales, and that has an annual Full Requirements Energy for Load (FREL) greater than 1800 GWH in the FRCC Region.

(e) **Investor Owned Utility Sector** - investor owned utilities generating and serving retail native load greater than 15,000 GWH in the FRCC Region.

(f) **General Sector** - persons or entities that take delivery of energy within the FRCC Region that is not purchased for resale; agents or associations representing groups of such entities that are commercial or industrial entities; agents or advocate groups representing small customers; and other persons or entities owning assets or engaging in commercial activities in the FRCC Region.

Section 1.3 Affiliate Member. An Affiliate Member is defined as an entity that (i) otherwise qualifies as a Voting Member pursuant to Section 1.1 and 1.2 and (ii) is an Affiliate of a Voting Member. For purposes of these Bylaws, being an “Affiliate” shall mean that (1) a Voting Member controls, is controlled by or is under common control with, such Affiliate Member, and (2) for any exempt wholesale generator, as defined the Public Utility Holding Company Act of 2005, as amended, the meaning provided in Section 214 of the Federal Power Act. Affiliate Members shall have no right to vote on any matter, nor any right to be elected or appointed to the Board. Except as to funding, Affiliate Members shall be bound by the same obligations as Voting Members and Adjunct Members of FRCC. Questions as to whether an entity is an Affiliate of a Voting Member shall be resolved by the Board.

Section 1.4 Adjunct Member. A person or entity may be approved as an Adjunct Member by the Board if such entity has a material interest in the reliability of the bulk power system in the FRCC region but does not meet the definitions and requirements to join as a Voting Member or Affiliate Member. Adjunct Members shall have no right to vote on any matter, nor any right to be elected or appointed to the Board. Except as to funding, Adjunct Members shall be bound by the same obligations as Voting Members and Affiliate Members of FRCC.

Section 1.5 New Members. The Board shall review and act upon membership applications. Prior to membership, the Board shall certify that an applicant complies with the eligibility requirements.

Section 1.6 Membership Commitment. Each Member of the FRCC shall be required to execute, in counterpart, a Member Agreement, as applicable, in the form shown in Appendix A to these Bylaws.

Section 1.7 Obligations.

(a) Each Member of the FRCC shall promote, support and comply with the purposes and policies of the FRCC as set forth in its Certificate of Incorporation and Bylaws, and the other documents governing the activities of FRCC identified in the Bylaws.

(b) Each Member of the FRCC shall appoint a representative as provided herein to receive notices from the FRCC and shall give to the FRCC Chief Executive Officer (“CEO”) in writing (signed by a duly authorized representative of the Member) the name, business address and electronic address of the person thus appointed. An appointed representative of a Member who is unable to attend a meeting may designate, in writing, an alternate to act on behalf of the Member.

Section 1.8 Participation.

(a) For purposes of these Bylaws, an entity and all of its Affiliates shall be considered one "Entity." No Entity shall simultaneously hold more than one Voting Member status or have more than one voting representative on a Standing Committee, or more than one seat on the Board.

(b) An Entity may join FRCC in any Sector in which it qualifies for Membership, provided that an Entity may join as a Voting Member in only one Sector. In the event that an Entity qualifies for more than one Sector, such Entity may join such other Sectors as an Affiliate Member upon payment of any applicable Affiliate Member Annual Fees in accordance with Article VI Section 6.2(b)(ii) for each Sector in which such Entity desires to participate as an Affiliate Member. Once an Entity has elected to be a Voting Member of one Sector, the Entity must continue to vote in that Sector for a minimum of one (1) year. If, at any point, it is determined that an Entity no longer meets the qualifications for the Sector it selected, the Entity may not vote in that Sector; however, that Entity may then immediately elect to become a Voting Member in any Sector for which it does qualify. Questions as to whether an Entity meets the qualifications of a Sector shall be resolved by the Board.

(c) Subject to the requirements of these Bylaws and the Articles of Incorporation, each Voting Member in good standing is entitled to vote on each matter submitted to a vote of the Voting Members. A Member in good standing is one that (i) meets all qualifications for membership as provided in these Bylaws, (ii) is not in arrears for payment of any applicable annual fees for membership or payment of any other fees owed to FRCC unless such payment is being disputed in good faith, and (iii) has not been found by a court to be in breach of any contract with FRCC. Voting Members that are not in good standing are not entitled to vote on any matter until they have regained good standing.

ARTICLE II

Meetings of Voting Members

Section 2.1 Annual Meeting of Voting Members. Voting Members shall meet at least annually on a date and at a place to be established by the Board ("Annual Meeting"). The Voting Members from each Sector shall elect, by majority vote, each Voting Member having one (1) vote, Directors to the Board who will represent their Sector. The Voting Members shall conduct such other business as may be properly brought before them. Meetings may be held by telephone conferencing, video conferencing or by other means enabling all participants in the meeting to communicate with each other. The Annual Meeting shall be open to Affiliate Members and Adjunct Members, and such other invitees as the Board may deem appropriate, provided that the Services Members, along with Affiliate and Adjunct Members that have paid the fees specified in Section 6.2(b)(ii) or (iii), may meet separately to consider matters relating to Member Services.

Section 2.2 Special Meetings. Special meetings of the Voting Members, for any purpose or purposes, unless otherwise prescribed by the laws of the State of Florida, or by the

Articles of Incorporation, may be called by the Chair of the Board. Special meetings of the Regional Entity Members shall be called upon request of six (6) or more Voting Members representing three (3) or more Sectors. Special meetings of the Services Members shall be called upon request of six (6) or more Voting Members that are Services Members representing three (3) or more Sectors. Notice of a special meeting stating the place, date, hour and agenda for the special meeting shall be given to the Voting Members not less than three (3) business days before the meeting. Such request for a special meeting shall state the purpose or purposes of the proposed special meeting, which shall be included as part of an agenda to be distributed to the Voting Members not less than three (3) business days before the meeting. Meetings may be held by telephone conferencing, video conferencing or by other means enabling all participants in the meeting to communicate with each other.

Section 2.3 Place of Meeting. All meetings shall be held at or near the principal office of the FRCC in Tampa, Florida, or at such other place within or outside the State of Florida as shall be determined from time to time by the Board.

Section 2.4 Notice of Meetings.

(a) Notice of the Annual Meeting or any regular or special meeting of the Voting Members shall be sent by mail or electronic means to each Member's representative at the business or electronic address specified in accordance with Section 1.7(b) at least ten (10) business days before the date of the meeting. The notice shall set forth a proposed agenda for the meeting, but any matter may be considered and acted upon at any meeting, whether or not the matter was listed in the proposed agenda, if addition of the item to the agenda is approved at the meeting by the vote of the eligible Voting Members whose votes equal sixty percent (60%) or more of the total weighted sector vote of the eligible Voting Members; provided, however, that at least three (3) Sectors are represented in the affirmative. Meetings may be held at any time without notice if all of the eligible Voting Members are present, or if those not present waive notice in writing either before or after the meeting.

(b) The record date for determining Members entitled to notice shall be one month prior to the meeting date.

Section 2.5 Quorum. Representation at any meeting of the Regional Entity Members of more than 50% of the Voting Members, or representation at any meeting of the Services Members of more than 50% of the Voting Members that are Services Members, shall constitute a quorum for the transaction of business at such meeting; provided, however, that in each case at least four (4) eligible Sectors are represented.

Section 2.6 Voting. Voting by Voting Members shall be by the six (6) Sectors as defined in Section 1.2, except as otherwise provided herein. Each Voting Member within a Sector has one non-divisible vote. Each Sector shall have a “Sector Vote” in proportion to the voting rights specified in Section 3.2(e), which is to be split into an affirmative and a negative component, in the proportion that each component bears to the total votes of the Voting Members within that Sector. Action by the Voting Members shall require affirmative Sector Votes greater than 6.50.

Section 2.7 Action without Meeting. Any action that may be taken at a meeting of the Regional Entity Members or the Services Members may be taken without a meeting if consent in writing, setting forth the action so to be taken, shall be signed by all Voting Members eligible to vote in such meeting before the action is taken.

Section 2.8 Remote Attendance. Any Member otherwise eligible may participate in any meeting by telephone, videoconference communications equipment, or other means enabling all persons participating in the meeting to communicate with each other. A Member participating in a meeting by such means shall be deemed present in person at such meeting.

Section 2.9 Termination of Members.

(a) A Member may be terminated for non-payment of fees or monies due FRCC as provided in Section 6.3, or for a significant violation of obligations as set forth in Section 1.7. The Board may, by resolution, establish a fair and reasonable procedure to terminate a Member.

(b) A Member whose membership has been terminated shall be liable to FRCC for fees and any other monies due FRCC as a result of obligations incurred or commitments made prior to termination.

Section 2.10 Withdrawal. Any other provision of these Bylaws notwithstanding, any Member may withdraw from participation in the activities of FRCC at any time upon written notice to the CEO, whereupon it shall cease to be a Member and shall cease to be entitled or obligated to participate in the activities of the Board, Standing Committees, or any subcommittees, and shall have no further obligations as a Member; provided, however, that if such notice is given more than thirty (30) days after such Member's receipt of its statement of fees and expenses for a fiscal year, the Member shall be obligated to pay its fees and other monies due to FRCC for the full fiscal year within which such termination is effective.

Section 2.11 Reinstatement. A former Member shall be required to apply for Membership as set forth in Section 1.1. The Board may reinstate Membership on any reasonable terms that the Board deems appropriate.

Section 2.12 Property Ownership and Control. Subject to applicable laws, rules, regulations, agreements, and FRCC protocols, each Member shall retain sole control of its own facilities and the use thereof, and nothing in these Bylaws shall require a Member to construct or dedicate facilities for the benefit of any other electric system or allow its facilities to be used by any other Member or to construct or provide any facilities for its own use, and nothing herein shall be deemed to impair the ability or right of any Member to take such actions or to fail to act, as it deems necessary or desirable, with respect to the management, extension, construction, maintenance and operation of its own facilities, present and future. A Member has no interest in the property of FRCC and waives the right to require a partition of any FRCC property.

ARTICLE III

Board of Directors

Section 3.1 Powers. The affairs of FRCC shall be managed by the Board of Directors ("Board"). The Board may exercise all such powers of the FRCC and do all such lawful acts and things as are not prohibited by the laws of the State of Florida, by the Federal Power Act, by the Articles of Incorporation or by these Bylaws.

Section 3.2 Number, Election, Tenure and Governance.

(a) Number. The Board shall include (16) Directors allocated among the Sectors as follows, and such other Directors as provided in by Section 3.2(b)(4):

- (1) Suppliers Sector- three (3) Directors
- (2) Non-Investor Owned Utility Wholesale Sector - two (2) Directors
- (3) Load Serving Entity Sector-
- Municipal - one (1) Director
- Cooperative - one (1) Director
- (4) Generating Load Serving Entity Sector - three (3) Directors

- (5) Investor Owned Utility Sector - Three (3) Directors
- (6) General Sector - Two (2) Directors
- (7) The CEO of FRCC - an ex-officio non-voting Director.

(b) Election.

(1) Directors, with the exception of the CEO, shall be elected as described herein.

(2) Within each Sector, only Voting Members from a given Sector may elect Directors for that Sector.

(3) Within the Load Serving Entity Sector, Director(s) representing 0.5 votes shall all be from a municipal and Director(s) representing 0.5 votes shall be from a cooperative.

(4) Within each Sector, Voting Members from a given Sector may, by majority vote, elect additional Directors subject to a maximum of five (5) Directors representing such Sector. The total votes of the Directors for such Sector shall not exceed the total votes of the Directors of such Sector specified in Section 3.2(a).

(c) Alternate Director. Any Director unable to attend a meeting may designate, in writing, an alternate to act on behalf of the Director.

(d) Term. The term for all Directors shall be two (2) years. Any Director may be reelected for consecutive terms, without limitation. Directors within a Sector shall have staggered terms as determined by the Sector.

(e) Voting Rights.

(1) Except as provided for in subsections (2) and (3) below, each Sector shall have the number of votes as specified below:

- Suppliers Sector 2.5 Votes
- Non-Investor Owned Utility Wholesale Sector 2.0 Votes
- Load Serving Entity Sector
 - Municipal 0.5 Votes
 - Cooperative 0.5 Votes
- Generating Load Serving Entity Sector 3.0 Votes
- Investor Owned Utility Sector 3.5 Votes
- General Sector 1.0 Vote

Total 13.0 Votes

(2) Each Director, as defined in Section 3.2(a) and 3.2 (b), shall have an equal proportional vote of that Sector's total voting strength. This provision shall

apply separately to the municipal and cooperative Directors of the Load Serving Entity Sector.

- (3) If the majority of the Voting Members of a Sector are Services Members, Directors elected by that sector shall be deemed "Services Member Directors." Only Services Member Directors shall be eligible to vote on questions governing Member Services or Member Services Activities. Deliberations on such matters may be limited to Services Member Directors, Voting Members that are Services Members, and Affiliate and Adjunct Members that have paid the fees specified in Section 6.2(b)(ii) or (iii), upon the vote of the Services Member Directors.
- (4) The CEO of FRCC shall not have a vote.

(f) **Limitations.** Each person or alternate serving on the Board shall be a representative of a Voting Member. Unless otherwise provided in these Bylaws, if a representative of a Voting Member is elected to serve on the Board, such person shall only be eligible to serve in such capacity so long as such person remains the representative of said Voting Member. A Voting Member shall not have more than one (1) officer, employee or agent serving as a Director.

Section 3.3 Meetings. Regular meetings of the Board shall be held at such times and places, within or outside the State of Florida, as may be determined by the Board. Special meetings of the Board may be called by the Chair. Special meetings shall be called upon request of six (6) or more Directors. Regular or Special Meetings may be held by telephone conferencing, video conferencing or by other means enabling all participants in the meeting to communicate with each other. Except as specified in Section 3.2(e)(3), the meetings of the Board shall be open to all Members, and such other invitees as the Board may deem appropriate. The Board may meet in closed session to discuss matters of a confidential nature, including but not limited to personnel matters, litigation, or commercially sensitive information of any person or entity.

Section 3.4 Notice of Meetings. Notice of any regular or special meeting of the Board shall be sent by mail or electronic means to each Director, and to each Member, at such Director's and Member's usual place of business at least (ten) 10 business days, in the case of a regular meeting, or (five) 5 business days, in the case of a special meeting, before the date of the meeting. Such notice shall also be sent to the observers of the Board specified in Section 8.1. The notice shall set forth a proposed agenda for the meeting. Subject to the requirements of Section 3.2(e)(3), no agenda item may be added to the agenda at any meeting of the Board which requires action by the Board unless all Directors are present and all agree to allow such an item to be put to a vote. Meetings may be held at any time without notice if all of the Directors of the Board are present, or if those not present waive notice in writing either before or after the meeting.

Section 3.5 Quorum. The presence at a meeting of the Directors whose votes equal sixty percent (60%) or more of the total voting strength of the Board, or in the case of matters governed by Section 3.2(e)(3), votes equal to sixty percent (60%) or more of the total voting

strength of the Directors eligible to vote, shall constitute a quorum for any action of the Board, provided, however, that in each case at least one Director from at least four (4) Sectors are present. If at any meeting a quorum shall fail to attend, a majority of those Directors present at the meeting may adjourn that meeting without further notice until a quorum shall attend. Once a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called.

Section 3.6 Voting. Action by the Board shall require approval of sixty percent (60%) or more of the total eligible voting strength of the Board.

Section 3.7 Remote Attendance. Directors shall be deemed present and voting at a meeting of the Board if participating in the meeting by means of a conference telephone, video conferencing, or other means enabling all persons participating in the meeting to communicate with each other.

Section 3.8 Action without Meeting. Any action that may be taken at a meeting of the Board may be taken without a meeting if consent in writing, setting forth the action so to be taken, shall be signed before the action by all Directors eligible to participate in such action.

Section 3.9 Vacancies and Removal. A Director may be removed with cause at any time by an affirmative vote of 60% of the Voting Members of the Sector that elected that Director. In addition, the Board may remove a Director for cause, upon at least seventy-five percent (75%) affirmative votes of the remaining total voting strength of the Board. The right to elect Directors may not be assigned, sold, pledged or transferred in any manner. A vacancy may be filled only by the Voting Members of the Sector in which the vacancy occurs. Any Director so chosen shall hold office until his or her successor is duly elected and qualified or until his or her earlier resignation, ineligibility or removal.

Section 3.10 Officers. At the Board of Directors meeting following the Annual Meeting of the Voting Members, the Board shall elect a Chair, Vice Chair, and Secretary-Treasurer, who shall be the officers of the FRCC. No two officers of FRCC shall be officers, employees or agents of Voting Members of the same Sector or its Affiliates. The CEO of FRCC may not be elected to act as Chair, Vice-Chair or Secretary/Treasurer.

(a) Term of Office. Each officer of the Board of Directors shall hold office for two (2) fiscal years, and until his or her successor is duly elected and qualified.

(b) Removal of Officers. Any officer of the Board of Directors may be removed with or without cause at any time by the affirmative vote of seventy percent (70%) of the total voting strength of the Board.

(c) Compensation. There shall be no compensation paid to any officer of the Board of Directors of FRCC, provided that an officer serving on the staff of FRCC may be compensated for their services on the staff of FRCC.

Section 3.11 Responsibilities of Board of Director Officers

(a) Chair. The Chair shall serve as the Chair of the Board. The Chair shall preside at all meetings of the Members and Board, provided that, if the Chair is not eligible to vote in a meeting governed by Section 3.2(e)(3), the Directors that are eligible shall select one of the number to preside at such meeting. The Chair shall be responsible for the preparation of the agenda for all meetings of the Members and Board. The Chair shall be a member of and preside over a Personnel and Compensation Committee, which shall have responsibilities for such matters relating to staff.

(b) Vice Chair. The Vice Chair shall, in the absence or disability of the Chair, perform the duties and exercise the powers of the Chair, subject to the provisions of Section 3.11(a), and shall perform such other duties and have such other powers as the Board may from time to time prescribe. The Vice Chair shall be a member of a Personnel and Compensation Committee, which shall have responsibilities for such matters relating to staff.

(c) Secretary-Treasurer. The Secretary-Treasurer shall be responsible to assure that the FRCC staff has adequate procedures to distribute the agenda of the meetings of the Voting Members and the Board, keep the minutes of the proceedings of said meetings, and maintain the financial books and records of the FRCC, including disbursement of the funds of the FRCC in accordance with the authorized annual budget. The Secretary-Treasurer shall be a member of the Personnel and Compensation Committee, which shall have responsibilities for such matters relating to staff.

Section 3.12 Vacancy. Any vacancy in a Board of Director Officer occurring for any reason shall be filled as specified in Section 3.9.

ARTICLE IV

Chief Executive Officer

Section 4.1 CEO. The Board shall hire the CEO who, under the Board's direction, shall carry on the general affairs of the FRCC. The CEO shall be a member of the staff of FRCC and shall be a non-voting Director. It shall be the CEO's duty to approve the expenditure of the monies appropriated by the Board in accordance with the Budget approved by the Board. The CEO shall make an annual report and periodic reports to the Board concerning the activities of FRCC. The CEO shall serve as President of FRCC. The CEO shall comply with all directives of the Board. All agents and employees shall report, and be responsible, to the CEO. The CEO shall perform such other duties as may be determined from time to time by the Board.

ARTICLE V

Standing Committees

Section 5.1 Standing Committees. There shall be a Planning Committee, an Operating Committee, a Compliance Committee, and such other committees, subcommittees,

and task forces as the Board may appoint, when deemed necessary to carry out the purposes of the FRCC.

Section 5.2 Planning Committee. Each Voting Member may appoint one (1) representative, empowered to vote on behalf of the Voting Member, to serve on the Planning Committee. A representative may, if unable to attend a meeting, designate, in writing, an alternate to act on behalf of the representative. Affiliate Members and Adjunct Members may appoint a non-voting representative to serve on the Planning Committee. Quorum and Voting Rights shall be as defined in Sections 5.7 and 5.8. The Planning Committee shall report directly to the Board and is charged with the responsibility of promoting the reliability of the bulk power system in the FRCC Region, and assessing and encouraging generation and transmission adequacy. The Planning Committee may establish subcommittees and task forces as deemed necessary by its membership.

Section 5.3 Operating Committee. Each Voting Member may appoint one (1) representative, empowered to vote on behalf of the Voting Member, to serve on the Operating Committee. A representative may, if unable to attend a meeting, designate, in writing, an alternate to act on behalf of the representative. Affiliate Members and Adjunct Members may appoint a non-voting representative to serve on the Operating Committee. Quorum and Voting Rights shall be as defined in Sections 5.7 and 5.8. The Operating Committee shall report directly to the Board and is charged with responsibility for the coordination, operations planning, operation and maintenance of the bulk power system in the FRCC Region. The Operating Committee may establish subcommittees and task forces as deemed necessary by its membership.

Section 5.4 Compliance Committee. Each Voting Member may appoint one (1) representative, empowered to vote on behalf of the Voting Member, to serve on the Compliance Committee. A representative may, if unable to attend a meeting, designate, in writing, an alternate to act on behalf of the representative. Quorum and Voting Rights shall be as defined in Sections 5.7 and 5.8. The Compliance Committee shall report directly to the Board and is charged with the responsibility of promoting reliability of the bulk power system within the FRCC through compliance related activities ~~and is charged with responsibility for the development and implementation of programs to ensure compliance for both FRCC Regional Reliability Standards and NERC Reliability Standards.~~ The Compliance Committee is ~~not to be confused with~~ separate and distinct from the Board Compliance Committee which is primarily a “hearing body” and has a different voting structure as outlined in Exhibit D of the Delegation Agreement between the North American Electric Reliability Corporation and FRCC. The Compliance Committee may establish subcommittees and task forces as deemed necessary by its membership.

Section 5.5 Rules of Procedure. Each Standing Committee shall set its rules of procedure, provided that quorum, voting rights and voting shall be as specified in Sections 5.7 and 5.8. Such Rules of Procedure shall be as approved by the Board. All action by any Standing Committee shall be reported as prescribed herein and shall be subject to revision, alteration and approval by the Board.

Section 5.6 Quorum. Representation at any meeting of a Standing Committee of sixty percent (60%) or more of the total voting strength of the Standing Committee shall constitute a quorum for the transaction of business at such meeting; provided, however, that action on matters dealing with the scope or funding of Member Services shall require sixty percent (60%) or more of the total voting strength of members of the Standing Committee representing Voting Members that are Services Members; and provided further that a quorum shall require that at least three (3) Sectors are represented, all three of which shall be Sectors a majority of the members of which are Services Members in the case of a quorum for action on matters governing Member Services.

Section 5.7 Voting. Voting is by Sector. Each voting representative present at a meeting is assigned a vote equal to the voting strength of his or her Sector, as provided in this section, divided by the number of voting representatives present in that Sector, except that no voting representative present at a meeting shall have more than one (1) vote, except an Investor Owned Utility Sector voting representative who may have up to 1.167 votes. Action by a Standing Committee shall require an affirmative vote equal to or greater than sixty percent (60%) of the total eligible voting strength of the Standing Committee.

Sector Votes

(1) Suppliers Sector	2.5 Votes
(2) Non-Investor Owned Utility Wholesale Sector	2.0 Votes
(3) Load Serving Entity Sector	
Municipal	0.5 Vote
Cooperative	0.5 Vote
(4) Generating Load Serving Entity Sector	3.0 Votes
(5) Investor Owned Utility Sector	3.5 Votes
(6) General Sector	1.0 Vote
Total	13.0 Votes

Only representatives of Voting Members that are Services Members shall be eligible to vote on questions governing Member Services.

Section 5.8 Meetings. Regular meetings of the Standing Committees shall be held at such times and places, within or outside the State of Florida, as may be determined by the Standing Committees. Special meetings of the Standing Committees may be called by the Chair or upon the request of representatives from three (3) different Sectors. Regular or Special Meetings may be held by telephone conferencing, video conferencing, or by other means enabling all participants in the meeting to communicate with each other. The meetings of the Standing Committees shall be open to all Members, and such other invitees as the Board may deem appropriate.

ARTICLE VI

General Provisions

Section 6.1 Budget. The Board shall annually adopt a budget for the FRCC for administrative expenses of the FRCC, including salaries, and for the costs associated with the various committees, subcommittees, professional services, projects and studies. The Board shall approve the scope and funding of Member Services, in accordance with the provisions of these Bylaws. The funding for Member Services special projects approved by the Board may be based on a special funding, with an equitable allocation of the costs for the special project as approved by the Board. The budget may be amended from time to time during the fiscal year as determined by the Board, subject to the filing and approval requirements applicable to FRCC as a Regional Entity under the Delegation Agreement.

Section 6.2 Funding.

(a) The funding of FRCC's Regional Entity Activities shall be in accordance with the provisions of Exhibit E and the section numbered eight (8) of the Delegation Agreement.

(b) The Member Services of FRCC shall be funded through an allocation of their costs to all Members that are Services Members in accordance with the provisions of subsections 6.2(b)(i) - (iii) below. The funding of all Member Services shall be kept separate from the funding of Regional Entity Activities as specified in the Business Plan and Budget.

(i) Services Members. The allocation for Voting Members that are Services Members shall be based on the following calculation; provided, however, that in no event shall the allocation be less than \$20,000 per annum.

$$\text{Services Member Allocation} = 0.25 (I/N) + 0.25 (B/C) + 0.25 (D/E) + 0.25 (F/G)$$

- N Total number of voting Services Members
- B Voting Services Member's previous-year Full Requirements Energy for Load (FREL) within the FRCC
- C Total of factor B for all voting Services Members
- D Voting Services Member's Net Summer Generating Capacity within the FRCC Region as of December 31 of the previous year, as defined in the FRCC Load and Resource Plan

- E Total of factor D for all voting Services Members
- F Sum of Circuit Miles of Transmission Facilities (69kV and above) of voting Services Members within the FRCC Region times the respective operating voltage as of December 31 of the previous year
- G Total of factor F for all voting Services Members

Full Requirements Energy for Load (FREL) The net electrical energy requirements of the Services Member's electric system, and the net electric energy requirements of all full requirements customers of the Services Member, except if a full requirements customer of a Services Member joins FRCC. In such case, the electrical energy requirements of such full requirements customer will only be counted for the funding calculation for that Services Member who is the full requirements customer, and not for the Services Member who is the supplier of the full requirements. There should be no double counting of FREL between Services Members.

Net Summer Generating Capacity The maximum summer rated capacity, modified for ambient limitations, that a generating unit can sustain over a specified period, less the capacity used to supply the demand of station service or auxiliary needs. For jointly owned units, the Net Capacity will be allocated based on the ownership share of each Services Member who is a joint owner, unless otherwise mutually agreed by the joint owner Services Members.

Circuit Miles of Transmission Facilities The distance (following the path of transmission facility) in miles between substations or switching stations times the number of circuits at the same voltage level. For jointly owned transmission facilities, the Circuit Miles of Transmission Facilities will be allocated based on the ownership share of each Services Member who is a joint owner, unless otherwise mutually agreed by the joint owner Services Members.

(ii) Affiliate Members. The fee for an Affiliate Member that wishes to participate in Member Services activities shall be \$5,000 per annum. The fee for an Affiliate Member, only participating in Regional Entity Activities, shall be waived.

(iii) Adjunct Members. The fees for an Adjunct Member that wishes to participate in Member Services activities shall be \$5,000 per annum. The fee for an Adjunct Member, only participating in Regional Entity Activities, shall be waived.

Section 6.3 Fees. The Member Services membership fee shall be due and payable concurrent with the submission of the written application for membership. The initial membership fee will be prorated on an annual basis depending upon the quarter in which a Member joins. Thereafter, membership fees shall be due and payable on or before January 1st of each year or in installments as determined by the Board. The FRCC shall notify, in writing, any Member who is delinquent in the payment of any applicable membership fee. The notice shall provide a time certain, not to exceed thirty days (30) days from the date of the written notice, during which any such delinquency may be cured. Failure to cure a delinquency within the stated time will result in the loss of all membership rights and designations. In the event of an uncured lapse in the payment of a fee, membership in the FRCC shall be terminated.

Section 6.4 Staff. The FRCC shall employ a staff, including the CEO, to carry out the objectives of the organization. The CEO shall be a non-voting Director of the Board. The duties of the CEO are as defined in Article IV, Section 4.1.

Section 6.5 Expenses. The personal expenses of each Member and Director participating in the activities of the FRCC and its committees and subcommittees shall be borne by the Member on whose behalf such person is acting, unless determined otherwise by the Board.

Section 6.6 Minimum Sector Membership. If the number of Voting Members of a Sector is not greater than one (1), such Sector shall not be entitled to a vote at the Voting Members meetings, Board of Directors meetings, or the Standing Committee meetings.

Section 6.7 Indemnification. The FRCC shall indemnify and hold harmless, to the maximum extent permitted by law, any Member, Director, Member representative, agent, officer or employee of the FRCC and the heirs, estates, successors or assigns of any of them, from any and all claims or liabilities, including costs or attorneys' fees for defending against assertion of any such claim or liability, arising from any act or failure to act of such person for, on behalf of, or at the direction of the FRCC, unless such act or failure to act constituted a willful violation of state, federal or local law, willful misconduct, or gross negligence. With the approval of the Board, the FRCC may reimburse costs, attorneys fees, and other expenses for defending against assertions of any such claims or liabilities prior to the final disposition of any such proceeding. The foregoing rights to be indemnified, held harmless, or reimbursed shall not operate in derogation or prohibition of any other rights which the person indemnified, held harmless or reimbursed may have. The FRCC, by vote of the Board, shall purchase insurance against all or any part of the liabilities which may be incurred by the FRCC and may cause the FRCC to indemnify and hold harmless as and to the extent it may deem appropriate such other person or persons as it may deem appropriate.

Section 6.8 Fiscal Year. The fiscal year of the FRCC shall be the twelve (12) month period of January 1st through December 31st.

Section 6.9 Depositories. All funds of the FRCC shall be deposited in the name of the FRCC in such bank, banks or other financial institutions as the CEO shall from time to time designate and shall be drawn out on checks, drafts or other orders signed on behalf of the FRCC by such person or persons as the Board shall from time to time designate.

ARTICLE VII

Amendments

Section 7.1 Amendments. Subject to the provision that no amendment to these Bylaws may limit the rights of a Member to resign from Membership, subject to the provisions of Section 1.2, and subject to the requirements for approval by NERC and the Federal Energy Regulatory Commission applicable to the FRCC as a Regional Entity, these Bylaws may be amended, altered, or repealed through the following procedure:

(a) Any Voting Member or Director may suggest amendments to these Bylaws. Such suggestions must include a proposed amendment, and any necessary supporting documents. They should be sent to the CEO of FRCC for placement on the agenda for a Board meeting in the time and manner prescribed by the Board.

(b) If the proposal is approved by the Board of Directors, the Board shall place the proposal on the agenda of either the next Annual Meeting of the Voting Members, or pursuant to Board discretion, at a Special Meeting of the Voting Members called for that purpose.

(c) Voting Members shall vote to enact the Board-approved amendment in accordance with Sections 2.5 and 2.6, and subject to the provisions of Section 1.2 of the Bylaws.

Section 7.2 Review of Governance. The Board shall appoint a task force to review these Bylaws, and to submit recommendations to the Board on necessary amendments, at the discretion of the Board or if any of the following events occurs. Such task force shall include representation from each Sector.

(a) The number of Voting Members in a Sector is not greater than one (1).

(b) A Regional Transmission Organization of any type is approved by the Federal Energy Regulatory Commission to operate in the FRCC Region.

(c) Any federal or state legislation or regulatory action that significantly alters the functions of the FRCC.

(d) Any new entity that has or is expected to have financial transactions in the wholesale electric market in the FRCC Region wishes to join the FRCC, and does not otherwise meet the membership requirements as then defined in these Bylaws.

ARTICLE VIII

Observers of the Board

Section 8.1 Observers of the Board. The Chairman of the Florida Public Service Commission, or designee, shall be invited to attend meetings of the Board. The Board shall invite other observers as the Board deems appropriate.

ARTICLE IX

Section 9.1 Board Compliance Committee. FRCC shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be the FRCC Board Compliance Committee (BCC), a balanced compliance panel reporting directly to the FRCC's Board of Directors.

The BCC will consist of one (1) Voting Member from each of the six (6) sectors in the FRCC, who shall be a member of the Board of Directors. Each year, two (2) members from each Sector of the FRCC Board of Directors will volunteer to serve in a BCC pool. At the time a hearing request is received, the Chair of the FRCC Board of Directors will appoint one member from each Sector to form the BCC for that hearing. The Board Member from the Registered Entity that has requested the hearing will not be selected for that BCC. In the event one (1) Sector of the FRCC declines to participate on the BCC, the Chair of the Board of Directors shall randomly select one (1) additional BCC member from the remaining five (5) Sectors to constitute the BCC. The Chair of the FRCC Board of Directors will appoint a Chair and Vice-Chair of the BCC. Terms of BCC members will be equivalent to the time it takes to complete the hearing for which they were selected. Members may be re-appointed to subsequent terms without any limits to the number of terms they serve.

FRCC Industry Sectors are as follows:

- One (1) Member from the Investor Owned Utility Sector
- One (1) Member from the Suppliers Sector
- One (1) Member from the Non-Investor Owned Utility Wholesale Sector
- One(1) Member from the Load Serving Entity Sector
- One (1) Member from the Generating Load Serving Entity Sector
- One (1) Member from the General Sector

Each member of the BCC shall be a full voting member. There will be no alternates or proxies for the BCC members. Decisions of the BCC shall require (i) a quorum to be present requiring at least fifty (50) percent of the number of members assigned to the BCC provided, however, that

in each case at least four (4) eligible Sectors are represented and (ii) a majority vote of the members of the BCC voting on the decision.

ARTICLE X

Audit

Section 10.1 Audit. The Board shall engage a certified public accounting firm to audit the books and accounts of the FRCC for each fiscal year.

ARTICLE XI

Miscellaneous Provisions

Section 11.1 Headings. The headings used in these Bylaws are for convenience and may not be considered in construing these Bylaws.

Section 11.2 Number and Gender. All singular words include the plural, and all plural words include the singular. All pronouns of one gender include reference to the other gender.

Section 11.3 Parties Bound. These Bylaws will bind and inure to the benefit of any Members, Director, Member representative, agent, officer, or employee of the FRCC and their respective administrators, legal representatives, successors, and assigns except as these Bylaws otherwise provide.

Section 11.4 Minority Positions. Any Voting Member or Standing Committee Representative who has a minority opinion on any significant issue may present the minority opinion to the Board in a manner as prescribed by the Board.

Amended: February 6, 2009

APPENDIX A

Voting Member Agreement - Division

_____, hereby agrees to comply with and be bound by, and to

(Voting Member)

promote and support, the Florida Reliability Coordinating Council Articles of Incorporation and Bylaws, and all acts, decisions or obligations of the Florida Reliability Coordinating Council applicable to Voting Member taken or entered into in accordance with the foregoing documents.

(Name)

DATE: _____

WITNESS:

APPENDIX A

Affiliate Member Agreement – Division

_____, hereby agrees to comply with and be bound by, and to

(Affiliate Member)

promote and support, the Florida Reliability Coordinating Council Articles of Incorporation and Bylaws, and all acts, decisions or obligations of the Florida Reliability Coordinating Council applicable to Affiliate Member taken or entered into in accordance with the foregoing documents.

(Name)

DATE: _____

WITNESS:

APPENDIX A

Adjunct Member Agreement – _____ Division

_____, hereby agrees to comply with and be bound by, and to

(Adjunct Member)

promote and support, the Florida Reliability Coordinating Council Articles of Incorporation and Bylaws, and all acts, decisions or obligations of the Florida Reliability Coordinating Council applicable to Adjunct Member taken or entered into in accordance with the foregoing documents.

(Name)

DATE: _____

WITNESS:

HISTORY OF REVISIONS

January, 1998

Amended December 19, 2001

Amended March 2, 2006

Amended September 25, 2007

Amended June 27, 2008

Amended February 6, 2009

Exhibit C – Regional Standard Development Procedure

Exhibit C shall set forth the Regional Entity's standards development procedure, which NERC agrees meets the following common attributes:

COMMON ATTRIBUTE 1

Proposed regional reliability standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA [add reference to any applicable authorities in Canada and Mexico]. No regional reliability standard shall be effective within the [Regional Entity Name] area unless filed by NERC with FERC [and applicable authorities in Canada and Mexico] and approved by FERC [and applicable authorities in Canada and Mexico].

COMMON ATTRIBUTE 2

[Regional Entity Name] regional reliability standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. A [Regional Entity Name] reliability standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. A regional reliability standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

COMMON ATTRIBUTE 3

[Regional Entity Name] regional reliability standards, when approved by FERC [add applicable authorities in Canada], shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the [Regional Entity Name] area, regardless of membership in the region.

COMMON ATTRIBUTE 4

Requester — The requester is the sponsor of the regional reliability standard request and may assist in the development of the standard. Any member of [Regional Entity Name], or group within [Regional Entity Name] shall be allowed to request that a regional reliability standard be developed, modified, or withdrawn. Additionally, any entity (person, organization, company, government agency, individual, etc.) that is directly and materially affected by the reliability of the bulk power system in the [Regional Entity Name] area shall be allowed to request a regional reliability standard be developed, modified, or withdrawn.

COMMON ATTRIBUTE 5

[Standards or other named] committee — The [Regional Entity Name] [standards] committee manages the standards development process. The [standards] committee will consider which requests for new or revised standards shall be assigned for development (or existing standards considered for deletion). The [standards] committee will advise the [Regional Entity Name] board on standards presented for adoption.

COMMON ATTRIBUTE 6

[Alternative 6A: For a Regional Entity that chooses to vote using a balanced stakeholder committee.]

The [standards] committee is a balanced stakeholder committee, inclusive of all stakeholder interests that provide for or are materially impacted by the reliability of the bulk power system. [The [standards] committee votes to approve standards.] See Appendix A for the representation model of the [standards] committee.

[Alternative 6B: For a Regional Entity that chooses to vote using a balanced ballot body of stakeholders.]

[Registered ballot body] — The registered ballot body comprises all entities or individuals that qualify for one of the stakeholder segments; are registered with [Regional Entity Name] as potential ballot participants in the voting on standards; and are current with any designated fees. Each member of the registered ballot body is eligible to vote on standards. [Each standard action has its own ballot pool formed of interested members of the registered ballot body. Each ballot pool comprises those members of the registered ballot body that respond to a pre-ballot survey for that particular standard action indicating their desire to participate in such a ballot pool.] The representation model of the registered ballot body is provided in Appendix A.]

COMMON ATTRIBUTE 7

[Regional Entity Name] will coordinate with NERC such that the acknowledgement of receipt of a standard request identified in step 1, notice of comment posting period identified in step 4, and notice for vote identified in step 5 below are concurrently posted on both the [Regional Entity Name] and NERC websites.

COMMON ATTRIBUTE 8

An acceptable standard request shall contain a description of the proposed regional reliability standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed standard.

COMMON ATTRIBUTE 9

Within [no greater than 60] days of receipt of a completed standard request, the [standards] committee shall determine the disposition of the standard request.

COMMON ATTRIBUTE 10

The [standards] committee may take one of the following actions:

- Accept the standard request as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The [standards] committee may, at its discretion, expand or narrow the scope of the standard request under consideration. The [standards] committee shall prioritize the development of standard in relation to other proposed standards, as may be required based on the volume of requests and resources.
- Reject the standard request. If the [standards] committee rejects a standard request, a written explanation for rejection will be delivered to the requester within [no greater than 30] days of the decision.
- Remand the standard request back to the requester for additional work. The standards process manager will make reasonable efforts to assist the requester in addressing the deficiencies identified by the [standards] committee. The requester may then resubmit the modified standard request using the process above. The requester may choose to withdraw the standard request from further consideration prior to acceptance by the [standards] committee.

COMMON ATTRIBUTE 11

Any standard request that is accepted by the [standards] committee for development of a standard (or modification or deletion of an existing standard) shall be posted for public viewing on the [Regional Entity Name] website within [no greater than 30] days of acceptance by the committee.

COMMON ATTRIBUTE 12

The standards process manager shall submit the proposed members of the drafting team to the [standards] committee. The [standards] committee shall approve the drafting team membership within 60 days of accepting a standard request for development, modifying the recommendations of the standards process manager as the committee deems appropriate, and assign development of the proposed standard to the drafting team.

COMMON ATTRIBUTE 13

At the direction from the [standards] committee, the standards process manager shall facilitate the posting of the draft standard on the [Regional Entity Name] website, along with a draft implementation plan and supporting documents, for a no less than a [30]-day comment period. The standards process manager shall provide notice to [Regional Entity Name] stakeholders and other potentially interested entities, both within and outside of the [Regional Entity Name] area, of the posting using communication procedures then currently in effect or by other means as deemed appropriate.

COMMON ATTRIBUTE 14

The drafting team shall prepare a summary of the comments received and the changes made to the proposed standard as a result of these comments. The drafting team shall summarize comments that were rejected by the drafting team and the reason(s) that these comments were rejected, in part or whole. The summary, along with a response to each comment received will be posted on the [Regional Entity Name] website no later than the next posting of the proposed standard.

COMMON ATTRIBUTE 15

Upon recommendation of the drafting team, and if the [standards] committee concurs that all of the requirements for development of the standard have been met, the standards process manager shall post the proposed standard and implementation plan for ballot and shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

COMMON ATTRIBUTE 16

The standards process manager shall schedule a vote by the [Regional Entity Name] [registered ballot body/[standards] committee]. The vote shall commence no sooner than [15] days and no later than [30] days following the issuance of the notice for the vote.

COMMON ATTRIBUTE 17

[Alternative 17A: For an RE that chooses to vote using a balanced stakeholder committee.]

The [standards] committee shall give due consideration to the work of the drafting team, as well as the comments of stakeholders and minority objections, in approving a proposed regional reliability standard for submittal to the [Regional Entity Name] board. The [standards]

committee may vote to approve or not approve the standard. Alternatively, the [standards] committee may remand the standard to the drafting team for further work or form a new drafting team for that purpose.

[Alternative 17B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

The [Regional Entity Name] registered ballot body shall be able to vote on the proposed standard during a period of [not less than 10] days.

COMMON ATTRIBUTE 18

[Alternative 18A: For an RE that chooses to vote using a balanced stakeholder committee.]

The [standards] committee may not itself modify the standard without issuing a new notice to stakeholders regarding a vote of the modified standard.

[Alternative 18B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

All members of [Regional Entity Name] are eligible to participate in voting on proposed new standards, standard revisions or standard deletions. [Alternatively: Each standard action requires formation of a ballot pool of interested members of the registered ballot body.]

COMMON ATTRIBUTE 19

[Alternative 19A: For an RE that chooses to vote using a balanced stakeholder committee.]

Actions by the committee shall be recorded in the regular minutes of the committee.

[Alternative 19B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

Approval of the proposed regional reliability standard shall require a [two thirds] majority in the affirmative (affirmative votes divided by the sum of affirmative and negative votes). Abstentions and non-responses shall not count toward the results, except that abstentions may be used in the determination of a quorum. A quorum shall mean [XX%] of the members of the [registered ballot body/ballot pool] submitted a ballot.

COMMON ATTRIBUTE 20

Under no circumstances may the board substantively modify the proposed regional reliability standard.

COMMON ATTRIBUTE 21

Once a regional reliability standard is approved by the board, the standard will be submitted to NERC for approval and filing with FERC [and applicable authorities in Canada and Mexico.]

COMMON ATTRIBUTE 22

- **Open** - Participation in the development of a regional reliability standard shall be open to all organizations that are directly and materially affected by the [Regional Entity Name] bulk power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in [Regional Entity Name], and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to the [Regional Entity Name] members and others.

COMMON ATTRIBUTE 23

- **Balanced** - The [Regional Entity Name] standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.

COMMON ATTRIBUTE 24

- **Inclusive** — Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the [Regional Entity Name] area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.

COMMON ATTRIBUTE 25

- **Fair due process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.

COMMON ATTRIBUTE 26

- **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.

COMMON ATTRIBUTE 27

- Does not unnecessarily delay development of the proposed reliability standard.

COMMON ATTRIBUTE 28

Each standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

COMMON ATTRIBUTE 29

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all regional reliability standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

COMMON ATTRIBUTE 30

To ensure uniformity of regional reliability standards, a regional reliability standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

COMMON ATTRIBUTE 31

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

COMMON ATTRIBUTE 32

Applicability	<p>Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions.</p> <p>If not applicable to the entire [Regional Entity Name] area, then a clear identification of the portion of the bulk power system to which the standard applies.</p> <p>Any limitation on the applicability of the standard based on electric facility requirements should be described.</p>
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COMMON ATTRIBUTE 33

Measure(s)	<p>Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.</p>
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COMMON ATTRIBUTE 34

Compliance Monitoring Process	<p>Defines for each measure:</p> <ul style="list-style-type: none"> • The specific data or information that is required to measure performance or outcomes. • The entity that is responsible for providing the data or information for measuring performance or outcomes. • The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes. • The entity that is responsible for evaluating data or
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	<p>information to assess performance or outcomes.</p> <ul style="list-style-type: none">• The time period in which performance or outcomes is measured, evaluated, and then reset.• Measurement data retention requirements and assignment of responsibility for data archiving.
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EXHIBIT C
TO PRO FORMA DELEGATION AGREEMENT

**FRCC REGIONAL RELIABILITY STANDARD
DEVELOPMENT PROCESS**

Amended September 25, 2007



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I. Introduction and Background

Purpose

This manual establishes the process for development, revision, withdrawal and approval of FRCC Regional Reliability Standards for the FRCC Region. FRCC Regional Reliability Standards apply to the reliability planning and reliable operation of the Bulk Power System in the FRCC Region. Proposed FRCC Regional Reliability Standards shall be subject to approval by the North American Electric Reliability Corporation (NERC), as the electric reliability organization, and by the Federal Energy Regulatory Commission (FERC) before becoming mandatory and enforceable under Section 215 of the Federal Power Act. FRCC Regional Reliability Standards, when approved by FERC, shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators and users within the FRCC Region, regardless of membership in the region.

The FRCC Regional Reliability Standards Development Process is based on providing an open and fair process that ensures all interested and affected parties have an opportunity to participate in the development of FRCC Regional Reliability Standards. Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the reliability of the FRCC Bulk Power System has a right to participate by: a) expressing a position and its basis, b) having that position considered, c) voting on and d) having the right to appeal.

FRCC Regional Reliability Standard Principles

FRCC Regional Reliability Standards go beyond, add detail to, or implement NERC Reliability Standards, or cover matters not addressed in NERC Reliability Standards. FRCC Regional Reliability Standards shall not be inconsistent with or less stringent than NERC Reliability Standards.

FRCC Regional Reliability Standards are based on NERC's Reliability Principles and Market Interface Principles. Each FRCC Regional Reliability Standard shall enable or support one or more of NERC's Reliability Principles and must accommodate competitive electricity markets by being consistent with NERC's Market Interface Principles.

The FRCC Regional Reliability Standard Development Process defines the fair and open process for development, revision, withdrawal and approval of FRCC Regional Reliability Standards for the FRCC Region and has the following characteristics:

- **Due Process** – Any interested party, or any entity that is directly and materially affected by the reliability of the FRCC Bulk Power System has a right to participate in this process as indicated in this manual.
- **Openness** – Participation is open to any interested party or any entity that is directly and materially affected by the reliability of the FRCC Bulk Power System. Participation shall not be conditional upon membership in the FRCC. All FRCC Regional Reliability Standard development meetings will be open and noticed on the FRCC website.

- **Balance** – The FRCC Regional Reliability Standard Development Process shall have a balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.

II. FRCC Regional Reliability Standard Definition, Characteristics, and Elements

Definition

A FRCC Regional Reliability Standard defines certain obligations or requirements of all owners, operators and users of the FRCC Bulk Power System regardless of membership in the FRCC. The obligations or requirements must be material to reliability and measurable. Each obligation and requirement shall support one or more of the NERC reliability principles and shall be consistent with all of the NERC reliability and market interface principles.

FRCC Regional Reliability Standards go beyond, add detail to, or implement NERC reliability standards, or cover matters not addressed in NERC reliability standards. FRCC Regional Reliability Standards shall not be inconsistent with or less stringent than NERC reliability standards.

Characteristics

A FRCC Regional Reliability Standard shall have the following characteristics:

- **Material to Reliability** - A FRCC Regional Reliability Standard shall be material to the reliability of the FRCC Bulk Power System. If the reliability of the FRCC Bulk Power System could be compromised without a particular standard or by a failure to comply with that standard, then the standard is material to reliability.
- **Measurable** - A FRCC Regional Reliability Standard shall establish technical or performance requirements that can be practically measured.
- **Relative to NERC Reliability Standards** - A FRCC Regional Reliability Standard must go beyond, add detail to, or implement NERC reliability standards, or cover matters not addressed in NERC reliability standards.

Although FRCC Regional Reliability Standards have a common format and process, several types of Reliability Standards may exist, each with a different approach to measurement:

- **Technical standards** related to the provision, maintenance, operation, or state of Bulk Power System will likely contain measures of physical parameters and will often be technical in nature.
- **Performance standards** related to the actions of entities providing for or impacting the reliability of the FRCC Bulk Power System will likely contain measures of the results of such actions, or the nature of the performance of such actions.
- **Preparedness standards** related to the actions of entities to be prepared for conditions that are unlikely to occur but are critical to reliability will likely contain measures of such preparations or the state of preparedness.

Elements

A FRCC Regional Reliability Standard shall consist of the elements identified in this section of this manual. These elements are intended to apply a systematic discipline in the development and revision of Reliability Standards. The format allows a clear statement of the purpose, requirements, measures, and compliance elements associated with each Reliability Standard. Supporting documents to aid in the implementation of a Reliability Standard may be referenced by the Reliability Standard but are not part of the Reliability Standard itself.

Performance Elements of a FRCC Regional Reliability Standard

Identification Number	A unique identification number assigned in accordance with an administrative classification system to facilitate tracking and reference.
Title	A brief, descriptive phrase identifying the topic of the Reliability Standard.
Applicability	Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions. If not applicable to the entire FRCC, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.
Effective Date and Status	The effective date of the Reliability Standard or, the proposed effective date.
Purpose	The purpose of the Reliability Standard. The purpose shall explicitly state what outcome will be achieved or is expected by this Reliability Standard.
Requirement(s)	Explicitly stated technical, performance, and preparedness requirements. Each requirement identifies what entity is responsible and what action is to be performed or what outcome is to be achieved. Each statement in the requirements section shall be a statement for which compliance is mandatory. Any additional comments or statements for which compliance is not mandatory, such as background or explanatory information should be placed in a separate document and referenced.
Risk Factor(s)	The potential reliability significance of each requirement, designated as a High, Medium or Lower Risk Factor in accordance with the criteria listed below: A Lower Risk Factor requirement is administrative in nature and (a) is a requirement that, if violated, would not be expected to affect the electrical state or capability of the FRCC Bulk Power System, or the ability to effectively monitor and control the FRCC Bulk Power System; or (b) is a requirement in a planning time frame that, if violated, would not, under the emergency, abnormal, or restorative

	<p>conditions anticipated by the preparations, be expected to affect the electrical state or capability of the FRCC Bulk Power System, or the ability to effectively monitor, control, or restore the FRCC Bulk Power System.</p> <p>A Medium Risk Factor requirement (a) is one that, if violated, could directly affect the electrical state or the capability of the FRCC Bulk Power System but is unlikely to lead to FRCC Bulk Power System instability, separation, or cascading failures; or (b) is a requirement in the planning time frame that , if violated, could under emergency, abnormal, or restorative conditions anticipated by the preparations, directly affect the electrical state or capability of the FRCC Bulk Power System, or the ability to effectively monitor and control the FRCC Bulk Power System but is unlikely, under emergency, abnormal, or restoration conditions anticipated by the preparations, to lead to FRCC Bulk Power System instability, separation, or cascading failures, nor to hinder restoration to a normal condition.</p> <p>A High Risk Factor requirement (a) is one that, if violated, could directly cause or contribute to FRCC Bulk Power System instability, separation, or a cascading sequence of failures, or could place the FRCC Bulk Power System at an unacceptable risk of instability, separation, or cascading failures, or (b) is a requirement in a planning time frame that, if violated, could under emergency, abnormal, or restorative conditions anticipated by the preparations, directly cause or contribute to FRCC Bulk Power System instability, separation, or a cascading sequence of failures, or could place the FRCC Bulk Power System at an unacceptable risk of instability, separation, or cascading failures, or could hinder restoration to a normal condition.</p>
Measure(s)	<p>Each requirement shall be addressed by one or more measures. Measures that will be used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure identifies to whom the measure applies and the expected level of performance or outcomes required to demonstrate compliance. Each measure shall be tangible, practical, and as objective as is practical. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.</p>
Compliance Monitoring Process	<p>The compliance elements define:</p> <ul style="list-style-type: none"> • The specific data or information that is required to measure performance or outcomes. • The entity that is responsible to provide the data or information for measuring performance or outcomes. • The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes.

	<ul style="list-style-type: none"> • The entity that is responsible for evaluating data or information to assess performance or outcomes. • The time period in which performance or outcomes is measured, evaluated, and then reset. • Measurement data retention requirements and assignment of responsibility for data archiving.
Violation Severity Levels	Defines the degree to which compliance with a requirement was not achieved. The violation severity levels, are part of the standard and are approved with the standard.

III. Roles in the FRCC Regional Reliability Standard Development Process

Nomination, Modification, or Withdrawal of A Regional Standard

Any member of the FRCC, or group (i.e. committee, subcommittee, working group or task force) within the FRCC, shall be allowed to request that a FRCC Regional Reliability Standard be developed, modified, or withdrawn. Additionally, any interested party or any entity that is directly and materially affected by the reliability of the FRCC Bulk Power System shall be allowed to request that a FRCC Regional Reliability Standard be developed, modified, or withdrawn.

Standard Development Process Roles

FRCC Board of Directors – The FRCC Board of Directors shall consider for adoption as FRCC Regional Reliability Standards, those Standards that have been developed and approved by this process. Once the Board adopts a FRCC Regional Reliability Standard, such Standard shall be submitted to NERC for approval. When approved by NERC, it will be submitted to FERC for approval.

Registered Ballot Body (RBB) – The registered ballot body votes to approve FRCC Regional Reliability Standards. The RBB comprises all entities or persons that qualify for one of the FRCC Industry Sectors as defined in Section 1.2 of the FRCC Bylaws, and are registered with FRCC as potential ballot participants in the voting on standards. FRCC membership is not a requirement to participate in the development of and voting on FRCC Regional Reliability Standards. Any entity or person that has a material interest in the reliability of the FRCC Bulk Power System shall be allowed to register as potential ballot participants in the RBB. (See Appendix C)

Ballot Pool (BP) – Each standard action has its own BP formed of interested members of the RBB. The BP comprises those members of the RBB that respond to a pre-ballot survey for that particular standard that indicates their desire to participate in the ballot of that standard. The BP will vote to approve each FRCC Regional Reliability Standard.

FRCC Operating Committee (OC) and FRCC Planning Committee (PC) – The FRCC OC and the FRCC PC (both of which are balanced stakeholder committees, see Appendix C) shall have the primary responsibility for the development, modification or withdrawal of FRCC Regional Reliability Standards.

FRCC Standards Process Manager – The FRCC Regional Reliability Standard Development Process shall be administered by the FRCC Standards Process Manager. The FRCC Standards Process Manager will ensure the integrity of the process and the consistency of quality and completeness of the FRCC Regional Reliability Standards. The FRCC Standards Process Manager will facilitate all steps in this process, and will coordinate with NERC to ensure required information is posted on both NERC and FRCC websites.

Standard Drafting Team – A team of technical experts, such as FRCC Subcommittees, Working Groups, Task Forces, or the FRCC Staff, will be appointed by the FRCC OC and/or PC, that will:

- Develop the details of the FRCC Regional Reliability Standard,
- Consider and respond to industry comments,
- Participate in forums to help build consensus on draft FRCC Regional Reliability Standards,
- Assist in the implementation of approved FRCC Regional Reliability Standards,
- Provide technical oversight in response to changing industry conditions,
- Assist in the identification of the need for new FRCC Regional Reliability Standards.

FRCC Compliance Staff – The FRCC compliance staff provides input and comments during the standard development process to ensure the requirements are not ambiguous, that measures will be effective and that the compliance elements of a standard can be practically implemented.

IV. Steps in Developing a FRCC Regional Reliability Standard

Step 1 – Request a new FRCC Regional Reliability Standard or modification to, or withdrawal of an existing FRCC Regional Reliability Standard

A request to develop, modify or withdraw a FRCC Regional Reliability Standard shall be submitted to the FRCC Standards Process Manager (via email to FRCCStandard@frcc.com) by any member of the FRCC, or group (i.e. committee, subcommittee, working group or task force) within the FRCC, or any interested party or any entity that is directly and materially affected by reliability of the FRCC Bulk Power System. The FRCC Standards Process Manager will acknowledge receipt of the request within fifteen (15) calendar days of its receipt.

Step 2 – Assignment of FRCC Regional Reliability Standard Request

The FRCC Standards Process Manager will assign the request to the FRCC OC, the FRCC PC, or both as appropriate.

Step 3 – Posting of FRCC Regional Reliability Standard Request

The request for standard development, modification or withdrawal will be posted for notification and comment on the FRCC public website for a period of fifteen (15) calendar days, and will be reviewed by the FRCC OC and/or PC. A notice of the posting for comment will be sent to (1) the Registered Ballot Body, (2) the FRCC standing committees, subcommittees and working groups, (3) the Florida Public Service Commission, and (4) the SERC Southern Sub-region Reliability Coordinator to seek input on the proposed request.

Step 4 – Acceptance of a FRCC Regional Reliability Standard Request

The FRCC OC and/or the PC will review the request and any comments submitted to determine if the request received will be accepted or rejected within sixty (60) days of its submission. The decision will be posted and, if accepted, the OC and/or the PC will assign and direct a Standard Drafting Team to develop the draft Regional Reliability Standard. If the request is rejected, the FRCC Standards Process Manager will send notification to the entity making the request and to all entities that received the notice in Step 3 above.

Step 5 – Drafting and Posting of a FRCC Regional Reliability Standard

The FRCC OC and/or PC will assign a Standard Drafting Team, within 60 days of acceptance of the request, to develop, in a timely manner, a draft FRCC Regional Reliability Standard that will address the accepted request. The FRCC OC and/or PC may provide a timeframe that is desired for completion of the standard development.

Under the direction of the FRCC OC and/or PC, the Standard Drafting Team, will consider all comments received on the posting of the standard request and will develop a draft FRCC Regional Reliability Standard and corresponding implementation plan.

The draft FRCC Regional Reliability Standard, implementation plan and any supporting documents shall be posted for comments on the FRCC public website for a period of fifteen (15) calendar days, or such longer period as determined by the drafting team or as directed by the FRCC OC and/or the PC. Notice of the posting will go out to (1) the Registered Ballot Body, (2) the FRCC standing committees, subcommittees and working groups, (3) the Florida Public

Service Commission, and (4) the SERC Southern Sub-region Reliability Coordinator to seek comments.

Comments shall be submitted (via email) to the FRCC Standards Process Manager (FRCCStandard@frcc.com). All comments are due by the close of business on the 15th calendar day of posting, or such later date as determined by the drafting team or as directed by the FRCC OC and/or PC. If the comment due date falls on a weekend or nationally recognized holiday, the comments shall be due by the close of business on the next regularly scheduled business day.

Step 6 – Standards Drafting Team Review of Comments

All comments should be submitted electronically to the FRCC Standards Process Manager who will forward to the Standard Drafting Team for consideration. All timely comments will be considered.

Under the direction given by the FRCC OC and/or the PC, the Standard Drafting Team will review the comments received and revise the draft FRCC Regional Reliability Standard and/or implementation plan as needed. The Standard Drafting Team will develop written responses to each comment received.

All responses to the submitted comments will be documented and posted on the FRCC public website. If needed, a second draft of the FRCC Regional Reliability Standard will be posted for another comment period. Such comment period shall be fifteen (15) calendar days, or such longer period as determined by the drafting team or as directed by the FRCC OC and/or PC.

Notice of the posting will go out to (1) the Registered Ballot Body, (2) the FRCC standing committees, subcommittees and working groups, (3) the Florida Public Service Commission, and (4) the SERC Southern Sub-region Reliability Coordinator to seek comments.

Based on comments received to the posting, Step 6 will be repeated as necessary until the Standards Drafting Team believes the draft FRCC Regional Reliability Standard is ready to submit to the Ballot Pool for approval.

Step 7 –Establishment of Ballot Pool

The Standard Drafting Team shall submit the final draft of the proposed FRCC Regional Reliability Standard, along with any minority opinions, and all comments and written responses received during the posting(s), to the FRCC Standards Process Manager. The FRCC Standards Process Manager shall establish a Ballot Pool for standard action at least fifteen (15) calendar days prior to the start of a ballot. A pre-ballot survey will be sent to each entity of the RBB to determine their desire to be placed in the Ballot Pool. Once the ballot period opens, the Ballot Pool will be closed and changes to the Ballot Pool participation will not be allowed.

Step 8 – Ballot of the new or revised FRCC Regional Reliability Standard

The FRCC Standards Process Manager will post the final draft of the standard on the FRCC website at least fifteen (15) calendar days before a ballot can begin. The Ballot Pool shall have a minimum of ten (10) calendar days to vote on a standard. The Ballot Pool may vote to approve or not approve the standard. If approved, the FRCC Standards Process Manager will submit the FRCC Regional Reliability Standard, proposed implementation plan, and any supporting documents to the FRCC Board of Directors for adoption.

If approval by the Ballot Pool is not obtained, the PC and/or OC will determine if the draft standard is to be sent back to the standard drafting team to repeat step 6 to incorporate any comments, or to take no further action.

If no further action is taken, the reason for such will be posted on the FRCC public website. A notice of the posting will be sent to (1) the Registered Ballot Body, (2) the FRCC standing committees, subcommittees and working groups, (3) the Florida Public Service Commission, and (4) the SERC Southern Sub-region Reliability Coordinator.

Step 9 – Adoption of FRCC Regional Reliability Standards by the FRCC Board of Directors

At a regular or special meeting, the FRCC Board of Directors may consider adoption of the proposed FRCC Regional Reliability Standard that has been approved by the RBB Ballot Pool. A FRCC Regional Reliability Standard submitted for adoption by the FRCC Board of Directors must be posted for notification and comment on the FRCC public website at least ten (10) calendar days prior to action by the FRCC Board of Directors. Notice of the posting will be sent to (1) the Registered Ballot Body, (2) the FRCC standing committees, subcommittees and working groups, (3) the Florida Public Service Commission, and (4) the SERC Southern Sub-region Reliability Coordinator. The FRCC Board of Directors shall consider the comments received, the responses provided, and any dissenting opinions. The FRCC Board of Directors shall adopt or reject a FRCC Regional Reliability Standard as submitted, but may not modify the proposed FRCC Regional Reliability Standard. If the FRCC Board of Directors chooses not to adopt a FRCC Regional Reliability Standard, it shall provide its reasons for not doing so.

If the FRCC Board of Directors chooses not to adopt the proposed FRCC Regional Reliability Standard, the reason for such decision will be posted on the FRCC public website. Notice of the posting will be sent to (1) the Registered Ballot Body, (2) the FRCC standing committees, subcommittees and working groups, (3) the Florida Public Service Commission, and (4) the SERC Southern Sub-region Reliability Coordinator.

Step 10 – Submission to NERC and FERC

Once the FRCC Regional Reliability Standard is adopted by the FRCC Board of Directors, the FRCC Standard Process Manager shall submit the FRCC Regional Reliability Standard to NERC for approval. When approved by NERC, it shall be submitted by NERC to FERC for approval. If NERC or FERC rejects the FRCC Regional Reliability Standard, the FRCC Board of Directors will determine if the standard is to be sent back to the OC and/or PC to incorporate their comments or to take no further action on the standard. A FRCC Regional Reliability Standard that is adopted by the FRCC Board of Directors, approved by NERC and FERC, shall become effective on a date designated by FERC.

V. Special Procedures

Urgent Action

Under certain conditions, the entity making the request or the FRCC OC and/or the PC may designate a proposed or revised FRCC Regional Reliability Standard as requiring urgent action. Urgent action may be appropriate when a delay in implementing a proposed or revised FRCC Regional Reliability Standard will materially impact reliability of the Bulk Power System in the FRCC Region. The FRCC OC and/or the PC must use its judgment carefully to ensure an urgent action is truly necessary and not simply an expedient way to change or implement a FRCC Regional Reliability Standard.

The entity making the request, or the FRCC OC and/or the PC, will prepare a draft of the proposed FRCC Regional Reliability Standard and submit it to the Standards Process Manager for urgent action. The submission must include a justification for the urgent action. The Standards Process Manager shall immediately post the draft as specified in Step 5. The posting shall be a minimum of ten (10) calendar days before the RBB can consider the draft for approval. All comments received during the posting will be considered. Once approved by the RBB, the proposed urgent FRCC Regional Reliability Standard will be sent to the FRCC Board of Directors for adoption.

A FRCC Regional Reliability Standard that is adopted by the FRCC Board of Directors, as an urgent action shall have a termination date specified that shall not exceed 180 days from the approved date. Should there be a need to make the FRCC Regional Reliability Standard permanent, the replacement FRCC Regional Reliability Standard would be required to go through the full standards development process.

An urgent action FRCC Regional Reliability Standard that expires may be renewed by the FRCC Board of Directors using the urgent action process again, in the event a permanent FRCC Regional Reliability Standard has not been adopted. In determining whether to authorize the extension of an urgent action FRCC Regional Reliability Standard, the FRCC OC and/or the PC shall consider the impact to the reliability of the FRCC Bulk Electric System of not continuing the FRCC Regional Reliability Standard. In addition, consideration will be given to whether expeditious progress is being made toward a permanent replacement.

The FRCC OC and/or the PC shall not request the FRCC Board of Directors to extend an urgent action FRCC Regional Reliability Standard if there is insufficient progress toward adopting a permanent replacement FRCC Regional Standard or if the FRCC OC and/or the PC lack confidence that a reasonable completion date is achievable. The intent is to ensure that an urgent action FRCC Regional Reliability Standard does not in effect take on a degree of permanence due to the lack of an expeditious effort to develop a permanent replacement FRCC Regional Reliability Standard. With these principles, there is no pre-determined limit on the number of times an urgent action may be renewed. However, each urgent action FRCC Regional Reliability Standard renewal shall be effective only upon adoption by the FRCC Board of Directors, and approval by NERC and FERC.

Interpretations of Standards

Any member of the FRCC, or group within the FRCC, or an entity that is directly and materially affected by reliability of the FRCC Bulk Power System shall be permitted to request an interpretation of a FRCC Regional Reliability Standard. The entity requesting an interpretation shall send a request to the FRCC Standards Process Manager explaining the specific circumstances surrounding the request and what clarifications are required as applied to those circumstances. The request should indicate the material impact to the requesting party, or others, caused by the lack of clarity or a possible incorrect interpretation of the FRCC Regional Reliability Standard. The FRCC Standards Process Manager will assemble a team with the relevant expertise to address the clarification.

As soon as practical (but not more than thirty (30) calendar days following the receipt of the request), the team will draft a written interpretation of the FRCC Regional Reliability Standard addressing the issues raised. The FRCC Standards Process Manager will submit the written interpretation to the OC and/or PC for review and approval. If approved by the FRCC OC and/or the PC, the interpretation is appended to the FRCC Regional Reliability Standard and is effective immediately. The interpretation will stand until such time as the FRCC Regional Reliability Standard is revised through the normal process, at which time the FRCC Regional Reliability Standard will be modified to incorporate the clarifications provided by the interpretation.

Appeals

Any member of the FRCC, or group within the FRCC, or any entity that is directly and materially affected by reliability of the FRCC Bulk Power System, and who feel they have been or will be adversely affected by any substantive or procedural action or inaction related to the development, approval, revision, or withdrawal of a FRCC Regional Reliability Standard shall have the right to appeal. This appeals process applies only to the FRCC Regional Reliability Standards Process as defined in this document

The burden of proof to show adverse effect shall be on the appellant. Appeals shall be made within thirty (30) calendar days of the date of the action purported to cause the adverse effect. The final decisions of any appeal shall be documented in writing and posted on the FRCC public website. Notice of the posting will be sent to (1) the Registered Ballot Body, (2) the FRCC standing committees, subcommittees and working groups, (3) the Florida Public Service Commission, and (4) the SERC Southern Sub-region Reliability Coordinator .

The appeals process provides two levels, with the goal of expeditiously resolving the issue to the satisfaction of the participants:

Level 1 Appeal

Level 1 is the required first step in this appeals process. The appellant submits to the FRCC Standards Process Manager a complaint in writing that describes the substantive or procedural action associated with a FRCC Regional Reliability Standard or the FRCC Regional Reliability Standards Process. The appellant describes in the complaint the actual or potential adverse impact to the appellant. Assisted by any necessary staff and committee resources, the FRCC Standards Process Manager shall prepare a written

response addressed to the appellant as soon as practical but not more than forty-five (45) calendar days after receipt of the complaint. If the appellant accepts the response as a satisfactory resolution of the issue, both the complaint and response will be made a part of the record associated with the FRCC Regional Reliability Standard.

Level 2 Appeal

If after the Level 1 Appeal, the appellant remains unsatisfied with the resolution, notification shall be made in writing to the FRCC Standards Process Manager. Within thirty (30) calendar days of receiving the notification, the FRCC Standards Process Manager shall convene a Level 2 Appeals Panel. This panel shall consist of five members appointed by the FRCC Board of Directors. In all cases, Level 2 Appeals Panel members shall have no direct affiliation with the participants in the appeal.

The FRCC Standards Process Manager shall post on the FRCC public website the notice of the Level 2 appeal and other relevant materials. Notice of the posting will be sent to (1) the Registered Ballot Body, (2) the FRCC standing committees, subcommittees and working groups, (3) the Florida Public Service Commission, and (4) the SERC Southern Sub-region Reliability Coordinator. At least fifteen (15) calendar days notice of the meeting of the Level 2 Appeals Panel will be made. In addition to the appellant, any entity that is directly and materially affected by the reliability of the FRCC Bulk Power System, and who is directly and materially affected by the substantive or procedural action referenced in the complaint shall be heard by the panel.

The Level 2 Appeals Panel shall not consider any expansion of the scope of the appeal that was not presented in the Level 1 Appeal. The Level 2 Appeals Panel may in its decision find for the appellant and remand the issue to the FRCC OC and/or the PC for resolution with a statement of the issues and facts in regard to which fair and equitable action was not taken. The Level 2 Appeals Panel may find against the appellant with a specific statement of the facts that demonstrate fair and equitable treatment of the appellant and the appellant's objections.

The Level 2 Appeals Panel may not, however, revise, approve, disapprove, or adopt a FRCC Regional Reliability Standard, as these responsibilities remain with the FRCC Board of Directors. The actions of the Level 2 Appeals Panel shall be posted on the FRCC public website. Notice of the posting will be sent to (1) the Registered Ballot body, (2) the FRCC standing committees, subcommittees and working groups, (3) the Florida Public Service Commission, and (4) the SERC Southern Sub-region Reliability Coordinator.

VI. Maintenance of the FRCC Regional Reliability Standards and Process

Requests to Revise the FRCC Regional Reliability Standard Development Process

Any member of the FRCC, or group (i.e. committee, subcommittee, working group or task force) within the FRCC, or any entity that is directly and materially affected by the reliability of the FRCC Bulk Power System may submit a written request to modify the FRCC Regional Reliability Standard Development Process Manual. The FRCC Standards Process Manager shall oversee the handling of the request. The FRCC OC and/or the PC shall review the request and submit recommendations to the FRCC Board of Directors for consideration. The FRCC Board of Directors, on its own motion, may amend the FRCC Regional Reliability Standard Process.

Five-Year Review

Each FRCC Regional Reliability Standard shall be reviewed at least once every five (5) years. The review date will be determined from the effective date or the latest revision date whichever is later. The review process shall be conducted in accordance with Steps 1 through 10 of the FRCC Regional Reliability Standard Development Process Manual. As a result of this review, a FRCC Regional Reliability Standard shall be reaffirmed, revised, or withdrawn.

Filing of FRCC Regional Standards with Regulatory Agencies

All adopted FRCC Regional Reliability Standards will be filed with FERC.

APPENDIX A

Email completed form to FRCCStandard@frcc.com

FRCC Regional Reliability Standard Request Form

Title of Proposed Standard
Request Date

Requestor Information	TYPE (Check a box for each one that applies)
Name	<input type="checkbox"/> New Standard
Primary Contact	<input type="checkbox"/> Revision to existing Standard
Telephone	<input type="checkbox"/> Withdrawal of existing Standard
Fax	
Email	<input type="checkbox"/> Urgent Action

Purpose (Describe the purpose of the standard – what the standard will achieve in support of reliability)

Industry Need (Provide a detailed statement justifying the need for the proposed standard, along with any supporting documentation)

Brief Description (Describe the proposed standard in sufficient detail to clearly define the scope in a manner that can be easily understood by others)

FRCC Regional Reliability Standard Request Form

The Standard will Apply to the Following Functions (Check box for each one that applies)

<input type="checkbox"/>	Reliability Coordinator	Ensures the reliability of the bulk transmission system within its Reliability Authority area.
<input type="checkbox"/>	Balancing Authority	Integrates resource plans ahead of time, and maintains load-interchange-resource balance within its metered boundary and supports system frequency in real time
<input type="checkbox"/>	Planning Authority	Plans the Bulk Electric System
<input type="checkbox"/>	Resource Planner	Develops a long-term plan for the resource adequacy of specific loads within a Planning Authority area
<input type="checkbox"/>	Transmission Planner	Develops a long-term plan for the reliability of transmission systems within its portion of the Planning Authority area
<input type="checkbox"/>	Transmission Service Provider	Provides transmission services to qualified market agreements
<input type="checkbox"/>	Transmission Owner	Owens transmission facilities
<input type="checkbox"/>	Transmission Operator	Operates and maintains the transmission facilities, and executes switching orders
<input type="checkbox"/>	Distribution Provider	Provides and operates the “wires” between the transmission system and the customer
<input type="checkbox"/>	Generator Owner	Owens and maintains generation unit(s)
<input type="checkbox"/>	Generator Operator	Operates generation units(s) and performs the functions of supplying energy and Interconnected Operations Services
<input type="checkbox"/>	Purchasing-Selling Entity	The function of purchasing or selling energy, capacity, and all necessary Interconnected Operations Services as required
<input type="checkbox"/>	Load-Serving Entity	Secures energy and transmission (and related generation services) to serve the end user

FRCC Regional Reliability Standard Request Form

NERC Reliability Principles

Applicable Reliability Principles (Check box for all that apply.)	
	1. Interconnected bulk electric systems shall be planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions as defined in the NERC Standards.
	2. The frequency and voltage of interconnected bulk electric systems shall be controlled within defined limits through the balancing of real and reactive power supply and demand.
	3. Information necessary for the planning and operation of interconnected bulk electric systems shall be made available to those entities responsible for planning and operating the systems reliably.
	4. Plans for emergency operation and system restoration of interconnected bulk electric systems shall be developed, coordinated, maintained, and implemented.
	5. Facilities for communication, monitoring, and control shall be provided, used, and maintained for the reliability of interconnected bulk electric systems.
	6. Personnel responsible for planning and operating interconnected bulk electric systems shall be trained, qualified, and have the responsibility and authority to implement actions.
	7. The security of the interconnected bulk electric systems shall be assessed, monitored, and maintained on a wide-area basis.

NERC Market Interface Principles

Does the proposed Standard comply with all of the following Market Interface Principles?	
Recognizing that reliability is an essential requirement of a robust North American economy:	
yes or no	1. A reliability standard shall not give any market participant an unfair competitive advantage.
yes or no	2. A reliability standard shall neither mandate nor prohibit any specific market structure.
yes or no	3. A reliability standard shall not preclude market solutions to achieving compliance with that standard.
yes or no	4. A reliability standard shall not require the public disclosure of commercially sensitive information. All market participants shall have equal opportunity to access commercially non-sensitive information that is required for compliance with reliability standards.

FRCC Regional Reliability Standard Request Form

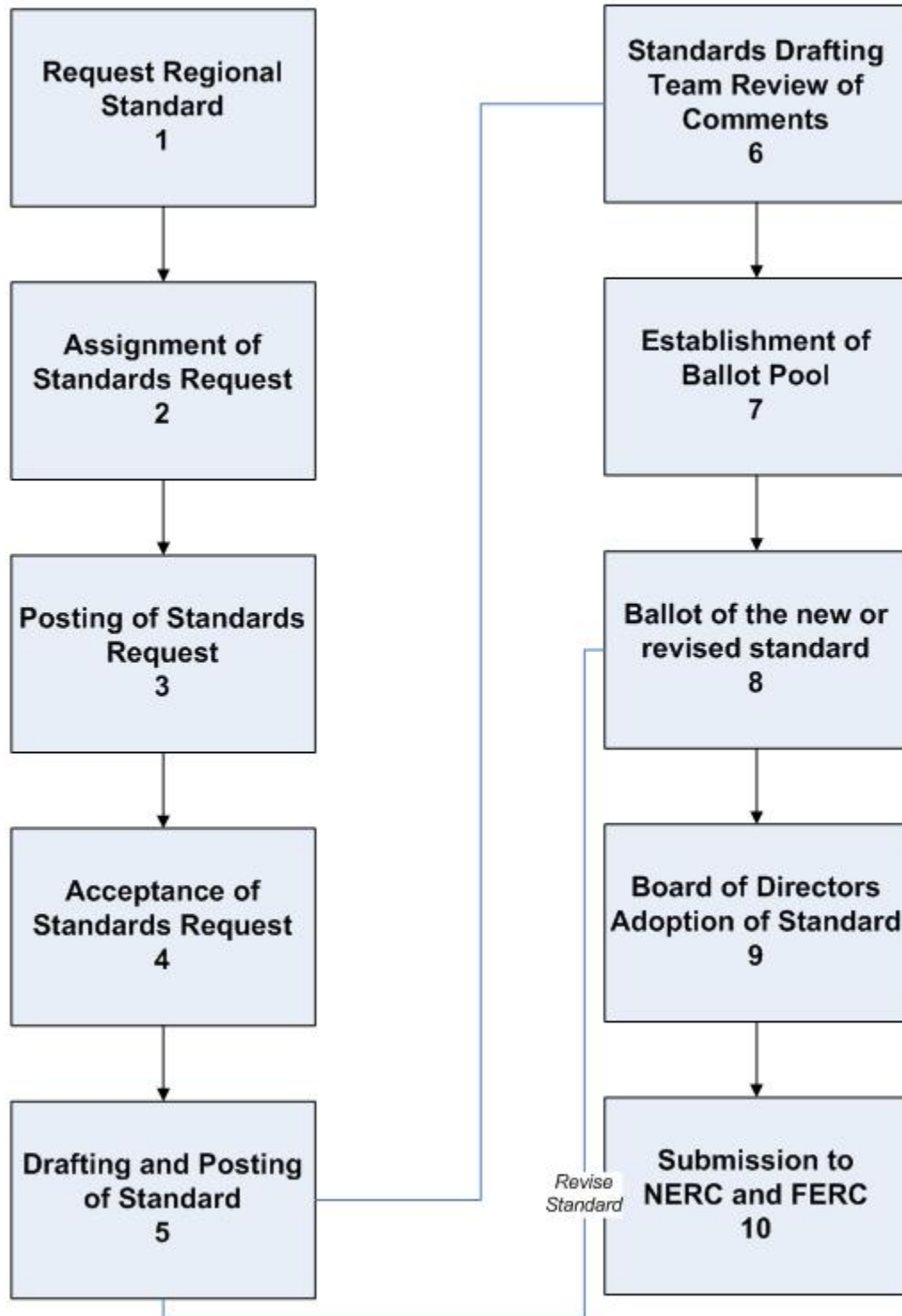
Related Standards

Standard No.	Explanation

<p>Proposed Implementation days after Board of Directors adoption or</p> <hr/> <p>On (date):</p>
--

APPENDIX B

Process Diagram



APPENDIX C

Development of and Voting of the Registered Ballot Body

1. Registration Procedures

The Registered Ballot Body (RBB) comprises all entities¹ and persons that:

- Qualify for one of the FRCC Industry Sectors, and
- Are registered with the FRCC as potential ballot participants in the voting on FRCC Regional Reliability Standards.

All registrations will be done electronically. All entities and persons will self-select to belong to the RBB. The sectors shall be identical to those in Section 1.2 of the FRCC Bylaws.

All RBB members will have the ability to vote on a standard. Voting will be done in writing (either email or facsimile) with each RBB member having one vote. The RBB representative will have the right to register and participate in ballot pools to cast their vote on a standard being considered for approval.

2. Sector Qualification Guidelines

The general guidelines are as follows:

- An entity or person may register in the RBB in any Sector in which it qualifies for provided that an entity or person registers as a potential ballot participant in only one (1) Sector.
- Any individual currently employed by an organization that is eligible to join one or more of the other five (5) sectors, shall not be qualified to join as a General Sector RBB member.

3. Ballot Pool Voting

A Ballot Pool will be established to vote on any proposed standards action. Each RBB member choosing to belong to a Ballot Pool will have one individual vote. Two-thirds of the individual votes of the Ballot Pool shall constitute a quorum.

Approval of a FRCC Regional Reliability Standard requires the affirmative vote of a two-thirds majority of the weighted sector votes cast. The number of votes cast in each sector is the sum of the affirmative and negative votes, excluding abstentions.

The following steps will be used to determine if there is sufficient affirmative votes:

1. The number of affirmative votes cast in each sector will be divided by the sum of affirmative and negative votes cast to determine the fractional affirmative vote for each sector. Abstentions will not be counted.

¹ An entity and all of its Affiliates (as defined in the FRCC Bylaws) shall be considered one entity for purposes of registering as a potential ballot participant.

2. The fractional affirmative vote for a sector will then be multiplied by the Sector Weight Factor to determine the weighted fractional affirmative vote for a sector. The Sector Weight Factors are:
 - a. Suppliers Sector: Weight Factor = 2.5
 - b. Non-Investor Owned Utility Wholesale Sector: Weight Factor = 2.0
 - c. Load Serving Entity Sector: Weight Factor = 1.0
 - d. Generating Load Serving Entity Sector: Weight Factor = 3.0
 - e. Investor Owned Utility Sector: Weight Factor = 3.5
 - f. General Sector: Weight Factor = 1.0
3. The sum of the weighted fractional affirmative votes from all sectors divided by the sum of the weights of the sectors voting will be used to determine if a two-thirds majority has been achieved. A sector will be considered as “voting” if any member of the sector in the Ballot Pool casts either an affirmative or negative vote.
4. A FRCC Regional Reliability Standard will be considered “approved” if the sum of the weighted fractional affirmative votes from all sectors divided by the sum of the weights of the voting sectors is two-thirds or greater.

History of Revisions

Approved March 2, 2006
Amended July 25, 2006
Amended October 24, 2006
Amended September 25, 2007

EXHIBIT D – COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

~~[REGIONAL ENTITY]~~FRCC will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within ~~[REGIONAL ENTITY]~~FRCC's geographic or electrical boundaries, and such other scope, set forth on Exhibit A of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

~~[REGIONAL ENTITY]~~FRCC shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be the FRCC Board Compliance Committee (BCC), a balanced compliance panel reporting directly to the FRCC's Board of Directors.

~~either [REGIONAL ENTITY]'s board or a balanced compliance panel reporting directly to [REGIONAL ENTITY]'s board. [REGIONAL ENTITY]'s hearing body is [its board] [if not the board, insert the name of the committee or group serving as the hearing body].~~

The BCC will consist of one (1) Voting Member from each of the six (6) sectors in the FRCC, who shall be a member of the Board of Directors. Each year, two (2) members from each Sector of the FRCC Board of Directors will volunteer to serve in a BCC pool. At the time a hearing request is received, the Chair of the FRCC Board of Directors will appoint one member from each Sector to form the BCC for that hearing. The Board Member from the Registered Entity that has requested the hearing will not be selected for that BCC. In the event one (1) Sector of the FRCC declines to participate on the BCC, the Chair of the Board of Directors shall randomly select one (1) additional BCC member from the remaining five (5) Sectors to constitute the BCC. The Chair of the FRCC Board of Directors will appoint a Chair and Vice-Chair of the BCC. Terms of BCC members will be equivalent to the time it takes to complete the hearing for which they were selected. Members may be re-appointed to subsequent terms without any limits to the number of terms they serve.

FRCC Industry Sectors are as follows:

- One (1) Member from the Investor Owned Utility Sector
- One (1) Member from the Suppliers Sector
- One (1) Member from the Non-Investor Owned Utility Wholesale Sector
- One(1) Member from the Load Serving Entity Sector
- One (1) Member from the Generating Load Serving Entity Sector

- One (1) Member from the General Sector

Each member of the BCC shall be a full voting member. There will be no alternates or proxies for the BCC members. Decisions of the BCC shall require (i) a quorum to be present requiring at least fifty (50) percent of the number of members assigned to the BCC provided, however, that in each case at least four (4) eligible Sectors are represented and (ii) a majority vote of the members of the BCC voting on the decision.

~~[If the hearing body is a compliance panel other than the board, provide here a description of how the members of the compliance panel are selected and the qualifications to be selected for the compliance panel.]~~

~~[REGIONAL ENTITY]~~FRCC shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: ~~[Describe any deviations, or state "None". If there are deviations from the NERC pro forma Hearing Procedures, [REGIONAL ENTITY]'s Hearing Procedures shall be included as a separate attachment to this Exhibit D.]~~None.

3.0 OTHER DECISION-MAKING BODIES

~~If [Regional Entity] uses other decision-making bodies within its compliance program, provide here a description of the function of that body to the extent not described elsewhere in the Agreement or exhibits, how the members of that body are selected, and the qualifications to be selected for that body.]~~

The FRCC has engaged the SERC Reliability Corporation (SERC) to oversee the compliance monitoring and enforcement responsibility as related to FRCC's compliance with Reliability Standard requirements that are applicable to the functions for which FRCC is a Registered Entity.

Exhibit E — Funding

1. Scope of activities funded through the ERO funding mechanism

~~[Regional Entity]~~FRCC shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and ~~[Regional Entity]~~FRCC, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of [Regional Entity's] business plan and budget. The annual schedule for the preparation of business plans and budgets shall require ~~[Regional Entity]~~FRCC (i) to submit to NERC draft(s) of ~~[Regional Entity]~~FRCC's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by ~~[Regional Entity]~~FRCC Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of ~~[Regional Entity]~~FRCC's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The ~~[Regional Entity]~~FRCC business plan and budget submission shall include supporting materials, including ~~[Regional Entity]~~FRCC's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. ~~[Regional Entity]~~FRCC's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve ~~[Regional Entity]~~FRCC's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct ~~[Regional Entity]~~FRCC to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~[Regional Entity]~~FRCC's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of ~~[REGIONAL ENTITY]~~FRCC's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. ~~[Regional Entity]~~FRCC shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying [Regional Entity's] assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of [Regional Entity's] assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

~~[IF NERC WILL BILL AND COLLECT ASSESSMENTS DIRECTLY FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):]~~

(a) NERC shall submit invoices to the load-serving entities or designees identified by ~~[Regional Entity]~~FRCC covering the NERC and ~~[Regional Entity]~~FRCC assessments approved for collection.

~~[IF THE REGIONAL ENTITY WILL ACT AS THE BILLING AND COLLECTION AGENT ON BEHALF OF NERC TO BILL AND COLLECT ASSESSMENTS FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):]~~

~~(a) NERC and [Regional Entity] agree that [Regional Entity] shall act as the billing and collection agent on behalf of NERC to bill and collect [Regional Entity]'s assessments from load-serving entities and designees (or such other entities as agreed by NERC and [Regional Entity]). [Regional Entity] agrees that it shall (i) issue all invoices to load-serving entities and other entities in a prompt and timely manner after receipt from NERC of the information needed to issue the invoices; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC in a timely manner, as follows: Prior to the start of each calendar quarter, and once per week thereafter until all billings for the quarter are collected, [Regional Entity] will electronically transfer to NERC, in immediately available funds, all payments received by [Regional Entity] from load-serving entities or other entities for payment of invoices. On the same day that [Regional Entity] makes each electronic transfer of funds to NERC, [Regional Entity] shall send an e-mail to the Chief Financial Officer or Controller of NERC detailing the collections being transmitted, including a listing of the load-serving entities or other entities from which payments were collected and the amount collected from each entity. [Note: If NERC and Regional Entity have a different collection and payment arrangement, the preceding two sentences will be modified accordingly to describe it.]~~

~~[Regional Entity] agrees that it shall not in any way use its position as billing and collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of Reliability Standards (including Regional Reliability Standards and Regional Variances), administration of the compliance monitoring and enforcement program and other compliance and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of [Regional Entity's] budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this Agreement.~~

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from ERO Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, ~~[Regional Entity]~~FRCC shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, ~~[Regional Entity]~~FRCC is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within ~~[REGIONAL ENTITY]~~FRCC's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within ~~[Regional Entity]~~FRCC's region.

(c) Upon approval by ERO Governmental Authorities of ~~[Regional Entity]~~FRCC's annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay ~~[Regional Entity's]~~FRCC's annual assessment to Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by ~~[Regional Entity]~~FRCC, ~~other than penalty monies received from an operational function or division or affiliated entity of [Regional Entity]~~, shall be applied as a general offset to ~~[Regional Entity]~~FRCC's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. ~~Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of [Regional Entity] shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.~~

6. Budget and Funding for ~~FRCC's [Regional Entity's]~~ Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), ~~[Regional Entity]~~FRCC performs the following other functions and activities (such other functions and activities being referred to in

this Section 6 as "non-statutory activities"): ~~{List and describe all non-statutory activities performed by Regional Entity, or state "None".}~~

Non-Statutory Activities

The Member Services division of the FRCC provides, coordinates or administers a variety of services relating to the reliable planning and operation of the bulk power system in the FRCC Region. These services are carried out by the FRCC Planning Committee (PC) and the FRCC Operating Committee (OC), and its various subcommittees, task forces and working groups.

Planning Committee (PC)

The PC promotes the reliability of the bulk power system in the FRCC Region, and assesses and encourages generation and transmission adequacy. The PC, through the FRCC Regional Transmission Planning Process, provides a vehicle for ensuring that transmission planning within the FRCC will provide for the development of a robust transmission network within the FRCC Region. The activities of the PC include the activities of the following Member Services working groups: the Stability Working Group, the Transmission Working Group, the Resources Working Group, the ATC Working Group and the Fuel Reliability Working Group. The activities of these working groups pertain to the facilitated and coordinated effort for the running of engineering studies and communications in a cost effective, open and transparent manner for the members to complete common tasks to ensure future bulk power reliability. This includes any transmission planning that allows transmission owners to meet FERC's Order 890 requirement for wide area planning and implementation of data and reporting to the Florida Public Service Commission on resource adequacy and transmission reliability.

Operating Committee (OC)

The OC is responsible for the coordination, planning, operation and maintenance of reliable bulk power supply in the FRCC. Its primary reliability goals are the continuous improvement of the situational awareness of the operators interconnected within the FRCC, and ensuring that adequate physical, operational and cyber security objectives are in place for the Region's shared communications network. The OC ensures reliable operations are maintained through the development and implementation of the Reliability Process for the FRCC Bulk Electric System, formerly the FRCC Security Process.

Operating Reliability Subcommittee (ORS)

The ORS provides overall administration for the development and implementation of operating procedures and other reliability matters. The ORS reviews and assesses regional import and export limits, scheduled transmission outages, real-time system reliability, events analysis, information and data exchange and other reliability issues. The ORS provides formal oversight and implementation of the Reliability Process for the FRCC Bulk Electric System, formerly the FRCC Security Process, which establishes the reliability responsibilities of the various entities within the Region and specifically monitors the agents responsible for performing the ~~(RC)~~Reliability Coordinator and Operations Planning Coordinator ~~(OPC)~~ functions.

Data Exchange Working Group (DEWG)

The DEWG, subordinate to the ORS, supports the real-time data needs of the FRCC Reliability Coordinator and other entities identified by the FRCC ORS, and for developing methodologies to facilitate the exchange of real-time, modeling, and other operational data to help assure reliable electric power system operations. Within the FRCC, all entities provide system data via the FRCC Reliability Data Link (RDL). The FRCC RDL receives all substation topology information, line flows, voltage levels, unit parameters, etc. from the operating entities on a real-time basis. Data is available to all.

FRCC Telecommunications Subcommittee (TS)

The TS provides formal oversight over the TS budget which is included in the OC budget. The primary purpose of the TS is to ensure that adequate and redundant communications facilities are made available to the operating entities within the FRCC. The TS administers the FRCC hotline program, Satellite phone program, RDL program and also ensures that reliable and redundant communications are maintained with NERCNet, from a Regional communications perspective. All TS programs are in support of the RC function and are therefore non-statutory, with the exception of the FRCC satellite phone program which is a tool used by the Regional Entity to perform situational awareness and thus is budgeted as statutory.

Non Statutory Situation Awareness and Infrastructure Security Program

This program maintains and enhances the situational awareness of the operators of the interconnected system by supporting the tools necessary to efficiently communicate Electricity Sector Information Sharing and Analysis Center information within and outside of the FRCC Region. The program also ensures that the FRCC entity shared communications networks, include the appropriate physical, operational, and cyber security protections in order to function reliably.

~~{Regional Entity}~~FRCC shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions:

(i) Separation of funding sources for statutory activities and non-statutory activities. The FRCC maintains a separate bank account for Statutory receivable collection. The statutory billing is done at the beginning of each quarter and an invoice is rendered to NERC only for the statutory receivable. NERC wires monies due directly into the Statutory bank account. All non-statutory receivables are deposited into a separate bank account. Member Services invoices are rendered to each member quarterly and deposited into this separate account.

(ii) Separation of costs of statutory activities and non-statutory activities. FRCC has adopted the NERC Chart of Accounts for Expenses and the NERC Rules of Procedure Categories as well as Member Services Functional Categories and utilizes these in order to correctly code each invoice received for all goods and services as well as for staff to specify where their time is spent each day for their time accounting reports. These

methods are used to ensure that no statutory funds are used to pay for non-statutory expenses and that no non-statutory funds are used to pay for statutory expenses.

Each employee and officer (with the exception of the President and CEO) turns in a time sheet with their time accounted for between statutory and non-statutory functions that they personally spent their time on. Within statutory and non-statutory they further break down their time by the function areas. Each employee and officer fills out their time sheet daily and turns them in every two weeks to the Controller. The employees use the department codes to split their time according to what they did that day. These times are totaled by the Controller and Full-Time Equivalents (FTE's) for each function are calculated.

Accounting personnel route to the responsible department head all invoices pertaining to their job responsibility. The department head assigns the functional category, signs the invoices and returns it to accounting for payment processing. The accounting staff evaluates and assigns the appropriate General Ledger account number based on the Chart of Accounts and enters both the account number and the department number on the accounts payable system. Expenses such as Facilities Rent, stationary, utilities and other items of a general nature are split to each of the functions based on FTE's, on a monthly basis. Only expenses that cannot be determined to be specifically for a particular function are split on an allocated basis. Any expenses received that are for a particular function within a particular area are charged directly to that area and are not split.

All expenses are reviewed by a Department Head, an Accounting Assistant and the Controller for accuracy of coding and assignment to particular functions whether that be for Statutory or Non-statutory.

~~[List and describe the methods and procedures Regional Entity employs to keep costs and funding of statutory activities separate from costs and funding of non-statutory activities, including at a minimum a description of how Regional Entity's bank accounts and receivables/payables procedures are set up for both statutory and non-statutory functions, a description of how Regional Entity ensures each employee involved in both statutory and non-statutory functions keeps accurate time records reflecting his/her activities, and a description of how Regional Entity's general and administrative costs are allocated between statutory activities and non-statutory activities. If the necessary descriptions are lengthy they may be provided in a separate attachment labeled "Attachment E-1", and state here "See Attachment E-1." If Regional Entity has listed no non-statutory functions in the preceding paragraph, state here "Not applicable."]~~

~~[Regional Entity]FRCC~~ shall provide its budget for such non-statutory activities to NERC at the same time that ~~[Regional Entity]FRCC~~ submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. ~~[Regional Entity's]FRCC's~~ budget for non-statutory activities that is provided to NERC shall contain a detailed list of ~~[Regional Entity's]FRCC's~~ non-statutory activities and a description of the funding sources for the non-statutory activities. ~~[Regional Entity]FRCC~~ agrees that no costs (which shall include a reasonable allocation of ~~[Regional Entity]FRCC's~~ general and administrative costs) of non-statutory activities are to be included in the calculation of

~~{Regional Entity's}~~FRCC's assessments, dues, fees, and other charges for its statutory activities.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if ~~{Regional Entity}~~FRCC determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, ~~{Regional Entity}~~FRCC shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in ~~{Regional Entity}~~FRCC's approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct ~~{Regional Entity}~~FRCC to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~{Regional Entity}~~FRCC's approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Statements

NERC shall conduct reviews of the quarterly and annual financial statements submitted by ~~{Regional Entity}~~FRCC pursuant to Section 9(h) and (i) of the Agreement. ~~{Regional Entity}~~FRCC shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC based on its reviews.

ATTACHMENT 3A

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED DELEGATION AGREEMENT

WITH

MIDWEST RELIABILITY ORGANIZATION

CLEAN VERSION



Daniel P. Skaar, President

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April 30th, 2010

David Cook, General Counsel
North American Electric Reliability Corporation
1120 G Street, NW, Suite 990
Washington, DC 20005

RE: Revised Regional Delegation Agreement

Dear Mr. Cook:

Pursuant to your request, this letter serves as notice that the Midwest Reliability Organization (MRO) Board of Directors met on April 26th, 2010 to review the revised Regional Delegation Agreement (RDA) that has been specifically drafted between the North American Electric Reliability Corporation (NERC) and MRO.

The MRO Board approved the revised RDA pending the removal of language pertaining to affiliated Regional Entities as it does not pertain to MRO, and passed the below motion.

"The MRO board approves the pro-forma Regional Delegation Agreement with the deletion of references to affiliates and affiliated functions as they are not applicable to MRO, and directs staff to complete the Regional Delegation Agreement and its exhibits, and, further directs the Midwest Reliability Organization President to execute the Regional Delegation Agreement in its substantive form."

Having received the MRO Board's endorsement, MRO staff will be prepared to execute the agreement upon Commission approval.

Please feel free to contact me with any questions or concerns regarding the above.

Sincerely,

Daniel P. Skaar

CC: Mr. Owen MacBride
Dale Landgren, MRO Board Chair



**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND MIDWEST RELIABILITY ORGANIZATION**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”) made as of [January 1, 2011], between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and Midwest Reliability Organization, an organization established to develop and enforce Reliability Standards within the geographic boundaries identified on **Exhibit A** to this Agreement, and for other purposes. NERC and Midwest Reliability Organization may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824n) (hereafter “the Act”), which, among other things, provides for the establishment of an electric reliability organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as Midwest Reliability Organization provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, Midwest Reliability Organization is not organized on an Interconnection-wide basis and therefore is not entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through Midwest Reliability Organization to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that Midwest Reliability Organization meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and Midwest Reliability Organization having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and Midwest Reliability Organization agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to Midwest Reliability Organization to propose and enforce Reliability Standards pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, Midwest Reliability Organization hereby represents and warrants to NERC that:

(i) Midwest Reliability Organization is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. Midwest Reliability Organization is governed in accordance with its bylaws by a balanced stakeholder board. Pursuant to these bylaws, no two industry sectors can control any Midwest Reliability Organization decision and no single industry sector can veto any Midwest Reliability Organization decision. The bylaws are attached hereto in **Exhibit B**¹, and as so attached are in full force and effect. No other such corporate governance documents are binding upon Midwest Reliability Organization.

(ii) As set forth in **Exhibit C** hereto², Midwest Reliability Organization has developed a standards development procedure, which provides the process that Midwest Reliability Organization may use to develop Regional Reliability Standards that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, Midwest Reliability Organization has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within Midwest Reliability Organization's geographic boundaries as shown on **Exhibit A**.

(b) NERC hereby represents and warrants to Midwest Reliability Organization that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

¹ The **Exhibit B** from Midwest Reliability Organization shall meet the requirements contained in **Exhibit B** to this Agreement.

² The **Exhibit C** from Midwest Reliability Organization shall meet the requirements contained in **Exhibit C** to this Agreement.

3. Covenants.

(a) During the term of this Agreement, Midwest Reliability Organization shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC's approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of Midwest Reliability Organization under this Agreement without first obtaining the consent of Midwest Reliability Organization which consent shall not be unreasonably withheld or delayed.

(c) During the term of this Agreement, NERC and Midwest Reliability Organization shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of Midwest Reliability Organization in Sections 2 and 3 above, the corporate governance documents set forth in **Exhibit B**, the standards development process set forth in **Exhibit C**, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to Midwest Reliability Organization for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth on **Exhibit A**. Any exclusions from this delegation of authority to Midwest Reliability Organization within, or additions to this delegation of authority to Midwest Reliability Organization beyond, the geographic boundaries set forth on **Exhibit A** are stated on **Exhibit A**.

(b) [This subsection intentionally left blank].

(c) Nothing in this Agreement shall prohibit Midwest Reliability Organization from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified on **Exhibit A** that is within the United States. Any delegation of authority by ERO Governmental Authorities in Canada or Mexico shall be governed by a separate agreement and is outside the scope of this Agreement; provided, however, that both Midwest Reliability Organization and NERC shall endeavor to ensure that this Agreement and such separate agreements are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, Midwest Reliability Organization shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, Midwest Reliability Organization shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords Midwest Reliability Organization reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards through Midwest Reliability Organization's process as set forth in **Exhibit C**. Proposals approved through Midwest Reliability Organization's process shall be reviewed by the NERC Board after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection

5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. Midwest Reliability Organization may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, Midwest Reliability Organization shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the geographic boundaries set forth, or as otherwise specified, in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and Midwest Reliability Organization agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, *inter alia*, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. Midwest Reliability Organization may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, Midwest Reliability Organization agrees to comply with the NERC Rules of Procedure, with any directives issued

pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) Midwest Reliability Organization shall report promptly to NERC any Possible Violation, Alleged Violation, or Confirmed Violation of a Reliability Standard, and its eventual disposition by Midwest Reliability Organization. Such report shall include the owner's, operator's, or user's name, which Reliability Standard or Reliability Standards were the subject of the Possible Violation, Alleged Violation, or Confirmed Violation, when the Possible Violation, Alleged Violation, or Confirmed Violation occurred, other pertinent facts including circumstances surrounding the Possible Violation, Alleged Violation, or Confirmed Violation with any known risk to the Bulk-Power System, when the Possible Violation, Alleged Violation, or Confirmed Violation was or will be mitigated, the name of a person knowledgeable about the Possible Violation, Alleged Violation, or Confirmed Violation to serve as a point of contact with the Commission, and any other information required by NERC compliance program procedures. NERC shall promptly forward such report to the Commission. NERC and Midwest Reliability Organization shall cooperate in filing such periodic summary reports as the Commission shall from time to time direct on Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards and summary analyses of such Possible Violations, Alleged Violations, and Confirmed Violations.

(c) Each Possible Violation, Alleged Violation, or Confirmed Violation shall be treated as nonpublic unless the matter is filed with the Commission as a Notice of Penalty, or, if disclosure is required, dismissed. The disposition of each Possible Violation, Alleged Violation, or Confirmed Violation that relates to a Cybersecurity Incident or that would jeopardize the security of the Bulk-Power System if publicly disclosed shall remain nonpublic unless the Commission directs otherwise.

(d) All dispositions by Midwest Reliability Organization of Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards shall be reported to NERC for review and, in the case of Confirmed Violations, penalties or sanctions, and settlements, for approval. Following approval of a disposition by NERC, NERC shall file the disposition with the Commission, if required by, and in accordance with, Section 215(e) of the

Act and Section 39.7 of the ERO Regulations. NERC shall review Midwest Reliability Organization's dispositions based on the following criteria:

(i) whether the disposition is supported by a sufficient record compiled by Midwest Reliability Organization in accordance with the NERC Rules of Procedure, NERC directives and Commission requirements, taking into account the nature of the Possible Violation, Alleged Violation, or Confirmed Violation,

(ii) whether the disposition is consistent with any applicable directives issued pursuant to Section 8(c) of this Agreement, any applicable directions or guidance issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, or other applicable NERC guidance, concerning the Reliability Standards to which the Possible Violation, Alleged Violation, or Confirmed Violation relates,

(iii) if the disposition is a Confirmed Violation or settlement, whether it provides for a penalty or sanction, or a determination of no penalty or sanction, determined in accordance with the NERC Sanction Guidelines, Appendix 4B to the NERC Rules of Procedure, and

(iv) whether the disposition is reasonably consistent with other dispositions by Midwest Reliability Organization and by other Regional Entities of Possible Violations, Alleged Violations, and Confirmed Violations involving the same or similar facts and circumstances.

NERC may reject any disposition, with an explanation of why NERC believes the disposition does not meet the above criteria. Midwest Reliability Organization may submit a disposition requiring NERC approval that has been rejected by NERC, or a revised disposition following a rejection, directly to the NERC Board Compliance Committee for approval without revising the disposition to address all the grounds on which NERC originally rejected the disposition. The final approval of Midwest Reliability Organization's disposition of a Possible Violation, Alleged Violation, or Confirmed Violation shall be made by the NERC Board Compliance Committee, provided, that the NERC Board or NERC Board Compliance Committee may, by appropriate resolution, delegate authority for final approval of dispositions of specified categories of Possible Violations, Alleged Violations, or Confirmed Violations to the NERC President.

(e) All appeals of penalties imposed by Midwest Reliability Organization as a result of a decision by Midwest Reliability Organization's Hearing Body shall be filed with, heard by and disposed of by, NERC in accordance with the NERC Rules of Procedure.

(f) Midwest Reliability Organization shall maintain the capability to conduct investigations of Possible Violations and Alleged Violations of Reliability Standards and to conduct such investigations in a confidential manner.

(g) Midwest Reliability Organization shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan.

(h) As part of its compliance monitoring and enforcement program, Midwest Reliability Organization shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(i) As often as NERC deems necessary, but no less than every five years, NERC shall review Midwest Reliability Organization's compliance monitoring and enforcement program to determine that: (i) the program meets all applicable legal requirements; (ii) actual practices reflect the requirements; and (iii) the program administered pursuant to the Delegated Authority promotes consistent interpretations across North America of Reliability Standards and comparable levels of sanctions and penalties for violations of Reliability Standards constituting comparable levels of threat to reliability of the Bulk-Power System.

7. Delegation-Related Activities.

NERC will engage Midwest Reliability Organization on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed on **Exhibit E**. These delegation-related activities

shall include, but are not limited to, those described in subsections (a) through (f), each of which shall be considered a statutory activity:

(a) Certification of Bulk-Power System Entities. The NERC Board shall set criteria for certification in accordance with the NERC Rules of Procedure. Midwest Reliability Organization shall issue certifications in accordance with the NERC Rules of Procedure.

(b) Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.

(i) The NERC Board shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by Midwest Reliability Organization and other Regional Entities. Midwest Reliability Organization shall provide timely and accurate information relating to registrations to NERC, on at least a monthly basis, to enable NERC to maintain a registration database that is accurate and up-to-date.

(iii) The NERC Board Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) Reliability Assessment and Performance Analysis. Midwest Reliability Organization shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. Midwest Reliability Organization shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives. NERC shall develop data-gathering quality control procedures, forms and reporting mechanisms, which shall be used by Midwest Reliability Organization and other Regional Entities in carrying out their responsibilities under this subsection (c).

(d) Event Analysis and Reliability Improvement. Midwest Reliability Organization shall conduct event analysis pursuant to the NERC Rules of Procedure and applicable governmental regulations. NERC and Midwest Reliability Organization shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, Midwest Reliability Organization shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) Training and Education. Midwest Reliability Organization may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) Situation Awareness and Infrastructure Security.

(i) Midwest Reliability Organization shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure and applicable governmental regulations, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System.

(ii) Midwest Reliability Organization shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of Midwest Reliability Organization's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and Midwest Reliability Organization that matters relating to NERC's oversight of Midwest Reliability Organization's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and Midwest Reliability Organization and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative

manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with Midwest Reliability Organization and other Regional Entities, performance goals, measures and other parameters (including, without limiting the scope of such goals, measures and parameters, financial performance goals, measures and parameters), and performance reports, which shall be used to measure NERC's and Midwest Reliability Organization's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. Midwest Reliability Organization shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate Midwest Reliability Organization's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters and performance reports to evaluate Midwest Reliability Organization's performance of its delegated functions and related activities and to provide advice and direction to Midwest Reliability Organization on performance improvements. The performance goals, measures and other parameters and the values of such goals, measures and parameters, shall be reviewed by NERC, Midwest Reliability Organization and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, Midwest Reliability Organization shall be required to develop, submit for NERC approval, and implement action plans to address areas of its performance that are reasonably determined by NERC, based on analysis of Midwest Reliability Organization's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring Midwest Reliability Organization to adopt and implement an action plan or other remedial action, NERC shall issue a notice to Midwest Reliability Organization of the need and basis for an action plan or other remedial action and provide an opportunity for Midwest Reliability Organization to submit a written response contesting NERC's evaluation of Midwest Reliability Organization's performance and the need for an action plan. Midwest Reliability Organization may request that the President of NERC reconsider the request, and thereafter may

request that the NERC Board review and reconsider the request. NERC and Midwest Reliability Organization shall work collaboratively as needed in the development and implementation of Midwest Reliability Organization's action plan. A final action plan submitted by Midwest Reliability Organization to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to Midwest Reliability Organization standardized training and education programs, which shall be designed taking into account input from Midwest Reliability Organization and other Regional Entities, for Midwest Reliability Organization personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to Midwest Reliability Organization concerning the manner in which Midwest Reliability Organization shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with Midwest Reliability Organization and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and Midwest Reliability Organization and, if applicable, other Regional Entities are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President; *provided*, that before the NERC President issues a directive pursuant to this paragraph (ii), Midwest Reliability Organization and, if applicable, other Regional Entities, shall be given a reasonable opportunity to present their positions on, and a suggested alternative version or versions of, the proposed directive to the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, Midwest Reliability Organization subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by Midwest Reliability Organization the NERC Board (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or

revoke any directive that was issued by the NERC President without Midwest Reliability Organization's agreement, *provided*, that Midwest Reliability Organization shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and Midwest Reliability Organization and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which Midwest Reliability Organization and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The Board or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the Board or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. Midwest Reliability Organization either individually or in conjunction with other Regional Entities, may request that the NERC Board or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with Midwest Reliability Organization either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) Any audits of Midwest Reliability Organization performed by NERC shall be limited to an examination of Midwest Reliability Organization's compliance with this Agreement,

NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c)

9. Funding. Midwest Reliability Organization and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed on **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) Midwest Reliability Organization shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. Midwest Reliability Organization's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, Midwest Reliability Organization to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E**. Midwest Reliability Organization's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) Midwest Reliability Organization and NERC agree that the portion of Midwest Reliability Organization's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by Midwest Reliability Organization and approved by NERC and the Commission. If Midwest Reliability Organization proposes to use a formula other than Net Energy for Load beginning in the following year, Midwest Reliability Organization shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and Midwest Reliability Organization to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide Midwest Reliability Organization with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) Midwest Reliability Organization shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed on Exhibit E, as well as for all other activities of Midwest Reliability Organization to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund Midwest Reliability Organization's performance of its Delegated Authority and related activities in accordance with Midwest Reliability Organization's Commission-approved business plan and budget, in the amount of Midwest Reliability Organization's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting Midwest Reliability Organization's approved assessments from end users and other entities and payment of the approved assessment amount to Midwest Reliability Organization unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon Midwest Reliability Organization that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without Midwest Reliability Organization's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and Midwest Reliability Organization fiscal year budget

with the actual results at the NERC and Regional Entity levels. Midwest Reliability Organization shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) Midwest Reliability Organization shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) Midwest Reliability Organization shall submit audited financial statements annually, including supporting materials, in a form provided by NERC no later than May 1 of the following year.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which Midwest Reliability Organization shall offset penalty monies it receives against its next year's annual budget for carrying out functions under this Agreement. *Provided*, that, subject to approval by NERC and the Commission, Midwest Reliability Organization may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. Midwest Reliability Organization may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit Midwest Reliability Organization from contracting with other entities to assist it in carrying out its Delegated Authority, provided Midwest Reliability Organization retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if

such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on [January 1, 2011] (the “Effective Date”).

(b) The term of the Agreement shall be five (5) years from the Effective Date, prior to which time NERC shall conduct an audit pursuant to subsection 6(i) to ensure that Midwest Reliability Organization continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. If Midwest Reliability Organization meets such requirements, this Agreement may be renewed for another five (5) year term. This Agreement may be renewed for successive additional five (5) year renewal terms provided that prior to the end of each renewal term, NERC shall conduct an audit pursuant to subsection 6(i) to ensure that Midwest Reliability Organization continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. Provided, that either Party may terminate this Agreement as of the end of a term by giving written notice to terminate at least one (1) year prior to the end of the term. If this Agreement is not renewed or becomes subject to termination for any reason, the Parties shall work to provide for a transition of Midwest Reliability Organization’s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement. The termination of this Agreement shall not take effect until such transition has

been effected, unless the transition period exceeds one year, at which time Midwest Reliability Organization may unilaterally terminate.

(c) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by Midwest Reliability Organization and NERC.

(d) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. Midwest Reliability Organization and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and Midwest Reliability Organization shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of the Midwest Reliability Organization's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that the Midwest Reliability Organization or NERC is found liable for gross negligence or intentional

misconduct, in which case Midwest Reliability Organization or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party.

15. Confidentiality. During the course of the Parties' performance under this Agreement, a Party may receive Confidential Information, as defined in Section 1500 of NERC's Rules of Procedure. Except as set forth herein, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information. In addition, each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein. This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. **Amendments to the NERC Rules of Procedure.** NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of Midwest Reliability Organization under this Agreement without first obtaining the consent of Midwest Reliability Organization which consent shall not be unreasonably withheld or delayed. To the extent Midwest Reliability Organization does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of Midwest Reliability Organization under this Agreement, Midwest Reliability Organization shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by Midwest Reliability Organization to NERC and the Commission, or at such other time as may be mutually agreed by Midwest Reliability Organization and NERC.

18. **Dispute Resolution.** In the event a dispute arises under this Agreement between NERC and Midwest Reliability Organization (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to Midwest Reliability Organization's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. Midwest Reliability Organization shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative

for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, *provided*, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), *provided*, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. *Provided, however*, that: (i) it is the intent of the Parties that unresolved disputes shall be

presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. Whether expressly so stated or not, all notices, demands, requests, and other communications required or permitted by or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand or reputable overnight courier:

If to NERC:

North American Electric
Reliability Corporation
116-390 Village Blvd.
Princeton, NJ 08540-5721
Attn: General Counsel
Facsimile: (609) 452-9550

If to Midwest Reliability Organization

Midwest Reliability Organization
2774 Cleveland Avenue North
Roseville, MN 55113
Attn: Sara Patrick
Facsimile: (651) 855-1712

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of New Jersey without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in New Jersey. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction

in New Jersey for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that Midwest Reliability Organization may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN
ELECTRIC RELIABILITY CORPORATION

MIDWEST RELIABILITY
ORGANIZATION

By: _____

By: _____

Name: _____

Name: Daniel P. Skaar

Title: _____

Title: President

Date: _____

Date: _____

Exhibit A — Regional Boundaries

MRO is one of eight regional entities that comprise the North American Electric Reliability Corporation (NERC). MRO is a not for profit entity committed to safeguarding and improving reliability of the Bulk Power System in the upper Midwest part of North America and the Canadian provinces of Manitoba and Saskatchewan. The Midwest Reliability Organization region supplies approximately 280,000,000 terawatt-hours to more than twenty million people and covers roughly one million square miles.

There are several Regional Transmission Organizations that overlap MRO and other Regional Entity footprints. MRO coordinates its delegated responsibilities with these neighboring Regional Entities to avoid duplicity and ensure consistency and accuracy. MRO does not have affiliates and does not perform any reliability functions that would result in a conflict or inability to perform the delegated responsibilities of this Agreement.

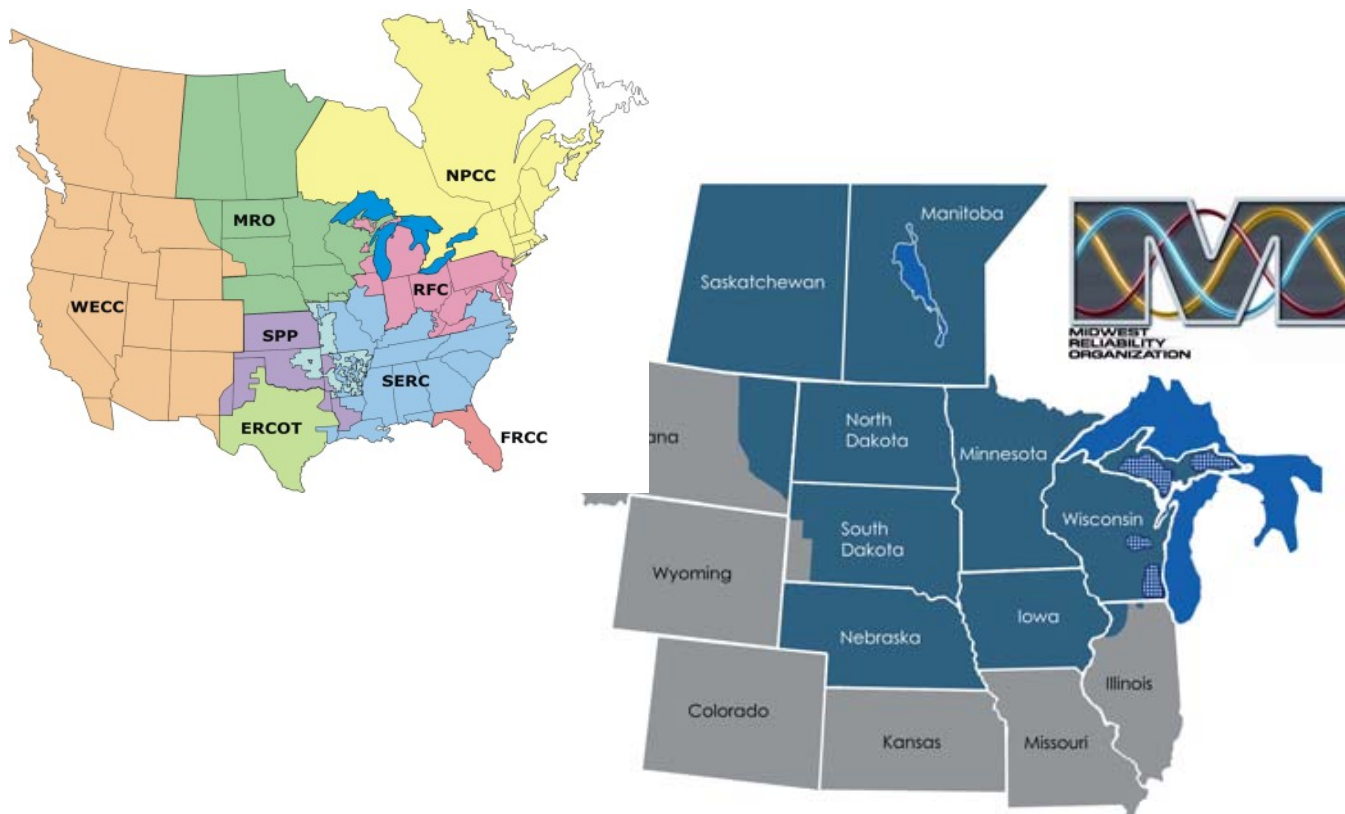


Exhibit B – Governance

Exhibit B shall set forth the Regional Entity’s bylaws, which NERC agrees demonstrate that the Regional Entity meets the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence of the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

**BYLAWS OF THE
MIDWEST RELIABILITY ORGANIZATION, INC.**

As amended through December 3, 2009

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**BYLAWS OF THE
MIDWEST RELIABILITY ORGANIZATION, INC**
a Delaware nonprofit corporation
(the “Corporation”)

ARTICLE 1
DEFINITIONS

1.1 **Affiliate**

“Affiliate” means with respect to any entity, any other entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such entity, as determined in the sole discretion of the board of directors of the Corporation. For this purpose, “control” may be presumed by the direct or indirect ownership of 50 percent or more of the outstanding voting capital stock or other equity interests having ordinary voting power. A member of, or owner of an interest in, a transmission company that FERC has found meets the independence requirements for a regional transmission organization shall not be deemed to be an affiliate of such transmission company.

1.2 **Bulk-Power System**

“Bulk-Power System” means (1) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and (2) electric energy from generation facilities needed to maintain transmission system reliability. The term does not include facilities used in local distribution of electric energy. The term Bulk-Power System shall be interpreted consistently with any definition given by NERC.

1.3 **Bulk-Power System Users**

“Bulk-Power System Users” means any entity that sells, purchases, or transmits electric power over the Bulk-Power System, or that owns, operates or maintains facilities or control systems that are part of the Bulk-Power System.

1.4 **Canadian Utilities**

“Canadian Utilities” means any government-owned utility serving in Canada within the Corporate Region.

1.5 **Cooperative**

“Cooperative” means an entity serving within the Corporate Region which generally has the following characteristics: (1) private independent electric utility; (2) incorporated under the laws of the states in which they operate; (3) established to provide electric service to its members; (4) owned by the consumers they serve; and (5) governed by a board of directors elected from the membership. This sector includes Generation and Transmission Cooperatives and Public Utility Districts.

1.6 Corporate Region

“Corporate Region” means the geographic area boundaries of the Bulk-Power Systems as designated by each of the Members.

1.7 FERC

“FERC” means the Federal Energy Regulatory Commission.

1.8 Federal Power Marketing Agencies

“Federal Power Marketing Agencies” means agencies of the federal government created to market power within the Corporate Region.

1.9 Generators and Power Marketers

“Generators and Power Marketers” means any entity that owns or operates more than 50 MW of generation in the Corporate Region, or is a power marketer doing business in the Corporate Region, and that does not qualify also to participate in the Investor-Owned Utility, Cooperative, Municipal Utility, Federal Power Marketing Agency or Canadian Utilities Sector.

1.10 Good Utility Practice

“Good Utility Practice” means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

1.11 Industry Sector(s)

“Industry Sector or Sector(s)” means a group of Bulk-Power System Users in the Corporate Region with substantially similar reliability interests, as determined by these Bylaws. The Industry Sectors shall include the following: (1) Transmission System Operators; (2) Generators and Power Marketers; (3) Investor Owned Utilities (4) Cooperatives; (5) Municipal Utilities (6) Federal Power Marketing Agencies; (7) Canadian Utilities; (8) Large End-Use Electricity Customers; and (9) Small End-Use Load Electricity Customers.

1.12 Investor Owned Utility

“Investor Owned Utility” means any for-profit entity that owns and operates a distribution system and serves end-use load within the Corporate Region pursuant to an obligation to serve under state, federal or provincial law, including a default service obligation, or pursuant to a tariff by which the entity offers service to the general public.

1.13 Large End-Use Electricity Customers

“Large End-Use Electricity Customers” means any entity in North America with: (1) at least one service delivery taken at 50 kV or higher (radial supply or facilities dedicated to serve customers) that is not purchased for resale; or (2) any single end-use customer with an

average aggregated service load (not purchased for resale) of at least 50,000 MWh annually, excluding cogeneration or other back feed to the serving utility. This sector also includes organizations that represent the interest of such entities.

1.14 Member

“Member” means a member of the Corporation.

1.15 Municipal Utilities

“Municipal Utilities” means any electric utility that is owned by a state or municipality, or group of municipalities, including a joint action agency, which serves within the Corporate Region.

1.16 NERC

“NERC” means the North American Electric Reliability Corporation or a successor entity.

1.17 Person

“Person” means any natural person, corporation, Cooperative, partnership, association, or other private or public entity.

1.18 Public Utility District

“Public Utility District” means an entity that is a state political or governmental subdivision which owns electric generation, transmission and distribution facilities and that was created and organized under state statutes that are different than those that Municipal Utilities in the same state are created and organized under.

1.19 Regional Entity

“Regional Entity” means an entity having authority pursuant to a delegation agreement with NERC and pursuant to any agreements or laws relating to the Corporation’s functions in Canada.

1.20 Regulatory Participant

“Regulatory Participant” means any state or provincial regulatory agencies in the Corporate Region exercising authority over the rates, terms or conditions of electric service of an entity other than itself within the Corporate Region, or the planning, siting, construction or operation of electric facilities of an entity other than itself within the Corporate Region, as well as any representatives of FERC, regional advisory bodies that may be established by FERC, or representatives of any federal regulator or agency.

1.21 Reliability Standard

“Reliability Standard” means a NERC reliability standard, duly in effect, under the rules, regulations and laws governing such standards, to provide for reliable operation of the Bulk-Power System.

1.22 Small End-Use Electricity Customers

“Small End-Use Electricity Customers” means: (1) any person or entity within North America that takes service below 50 kV; or (2) any single end-use customer with an average

aggregated service load (not purchased for resale) of less than 50,000 MWh annually, excluding cogeneration or other back feed to the serving utility. This sector also includes organizations (including state consumer advocates) that represent the interests of such entities.

1.23 Transmission System Operator

“Transmission System Operator” means an entity that operates or controls operation of high voltage transmission facilities within the Corporate Region (more than 300 miles of transmission at 100 kV or greater) that does not also own, operate or control generation within the Corporate Region, except to the limited extent permitted by FERC for independent transmission organizations with respect to ancillary service obligations. Transmission System Operators include: (1) regional transmission organizations; (2) independent transmission providers; (3) independent system operators; (4) and transmission-only companies.

1.24 Regional Planning Entity

“Regional Planning Entity” means an entity which is subject to Reliability Standards in the MRO Region and shall be eligible for MRO membership.

**2.0
PURPOSE**

2.1 Purpose

The Corporation will be a Regional Entity within the NERC structure for the purpose of preserving and enhancing electric service reliability, adequacy and security in the Corporate Region and other interconnected regions for the benefit of all end-users of electricity and all entities engaged in providing electric services in the Corporate Region, with due regard for safety, environmental protection and economy of service.

2.2 Activities

In support and furtherance of its purpose, the Corporation’s responsibilities shall include, but not be limited to: (1) proposing Reliability Standards, including regional variances or regional Reliability Standards required to maintain and enhance electric service reliability, adequacy and security in the Corporate Region; (2) assessing compliance with and enforcing Reliability Standards, to the extent authorized by applicable agreements and/or law governing a Member's membership in the Corporation; (3) conducting investigations and data analysis on disturbances, system events, and related matters; (4) conducting long-term assessments of reliability within the Corporate region; and (5) other related activities.

2.3 Not-for-Profit Corporation

The Corporation is operated as a Delaware non-stock, nonprofit corporation and is organized pursuant to the general corporation law of the State of Delaware.

3.0 **POWERS**

3.1 **Powers**

The Corporation shall have the power to engage in any lawful act or activity for which corporations may be organized under the general corporation law of the State of Delaware, subject to any limitations provided in applicable federal, provincial or state law or in the Corporation's certificate of incorporation or these Bylaws.

4.0 **OFFICES**

4.1 **Offices**

The principal office of the Corporation shall be located initially within the Corporate Region, at such location as the board of directors may from time to time determine, giving consideration to the total cost to the Corporation and convenience of travel for staff, Members and Regulatory Participants. Once established, the principal office may remain in its location, even if outside the Corporate Region.

5.0 **MEMBERS**

5.1 **Classes of Members**

The Corporation shall have one class of Members. Each Affiliate of a Member may separately be a Member.

5.2 **Qualifications of Members**

A Member may be any entity eligible to be a member of an Industry Sector.

5.3 **Admission of Members**

New Members may join the Corporation upon submittal of an application, in a form approved by the president, and payment of the fees as established by the Corporation. The Member shall designate the Sector to which it belongs. A Member may change its Sector designation once each calendar year, by providing notice to the president at least sixty (60) days prior to the beginning of such year. The president shall review a membership application and may request demonstration by the applicant that it qualifies for membership in a particular Sector. Any dispute with respect to a Member's qualifications for a particular Sector shall be resolved by the board of directors. The president shall have authority to approve an application for membership, subject to review by the board of directors.

5.4 **Voting Rights**

Each Member in good standing shall be entitled to one vote in the Sector in which it is a Member, on matters submitted to a vote of Members. A Member delinquent in payment of its dues, fees or other obligations to the Corporation shall not be entitled to a vote.

5.5 Transfer of Membership

A Member of the Corporation may not transfer its membership or a right arising from such membership except to any Person succeeding to all or substantially all of the assets of the Member. The president shall have authority to approve any such transfer, subject to review by the board of directors.

5.6 Obligations of Members

By applying for and becoming a Member of the Corporation, each Member acknowledges that it is authorized and agrees to comply with, Reliability Standards, and other obligations of Members of the Corporation set forth in these Bylaws or duly adopted by the board of directors in order to achieve the purposes of the Corporation. Such obligations include but are not limited to requirements to provide data and information needed to perform the functions of the Corporation and the payment of dues and any authorized penalties, including penalties and other obligations resulting from violations of Reliability Standards assessed in accordance with NERC rules.

5.7 Withdrawal

A Member may withdraw from participation in the Corporation by providing written notice to the president of the Corporation of such withdrawal. Such notice shall specify a date, not earlier than thirty (30) days from the date of notice, on which the withdrawal shall become effective; provided however, that any such withdrawing Member shall remain liable to the Corporation for any fees, dues, sanctions or obligations to the Corporation incurred while it was a Member, as well as its share of any obligations of the Corporation for the current fiscal year. If notice is given after October 1 of the current calendar year, the Member will also be liable for any fees and dues included in the budget for the following fiscal year. . Section 5.7 does not apply to any fees, dues, or obligations associated with the Corporation responsibilities under delegated authority from NERC or applicable regulatory authorities.

5.8 Budget and Fees

The board of directors shall propose to NERC a budget for delegated functions exercised by the Corporation pursuant to a delegation agreement with NERC and pursuant to any agreements or laws relating to the Corporation's functions in Canada. For those functions outside the scope of the Corporation's delegated functions, the board of directors may from time to time fix the amount of dues, assessments, or fees, if any, and determine the methods of collection, consistent with this Section, the regulations of applicable government authorities, and any resolutions duly adopted by the Members under Section 6.5.2 of these Bylaws.

6.0

MEETING OF MEMBERS

6.1 Annual Meeting of Members

The Members shall hold an annual meeting each calendar year. The annual meeting of the Members shall be held in December of each year, or at such other time specified by the board of directors, in order for Members to review the proposed budget and operations of

the Corporation. All Members shall be entitled to at least thirty (30) days prior written notice of the annual meeting. At the annual meeting of Members: (1) each Sector shall elect the successor(s), if any, for any director(s) from their Sector whose term will expire before the next annual meeting of the Members, provided however, that any Sector may elect a successor director representing such Sector prior to such annual meeting, in accordance with the provisions of this Article 6, in which case the election of such succeeding director(s) shall be reported to the Corporation at such annual meeting; (2) the president and treasurer shall report on the activities and financial condition of the Corporation;; and (3) the Members shall consider and act upon such other matters as may be raised, consistent with the notice of the annual meeting. The failure to hold an annual meeting in accordance with these Bylaws shall not affect the validity of a corporate action.

6.2 Special Meetings of Members

6.2.1 Who May Call

Special meetings of the Members may be called by six (6) members of the board of directors, by the president or if at least 10 percent of the Members sign, date, and deliver to the president one or more written demands for a special meeting describing the purpose for which it is to be held.

6.2.2 Notice of Meeting

Within fifteen (15) days after receipt of a demand for a special meeting from Members, the president shall cause a special meeting to be called and held on notice no later than forty-five (45) days after receipt of the demand. If the president fails to cause a special meeting to be called and held as required by this section, a Member making the demand may call the meeting by giving notice under Section 6.3. In either event, notice of the meeting and the costs of the meeting shall be at the expense of the Corporation.

6.2.3 Time and Place of Special Meetings

Special meetings of Members shall be held at a location designated by the president or the board of directors. If a special meeting is demanded by the Members, the meeting must be held in a facility of appropriate size to accommodate the Membership and at a location within the Corporate Region.

6.2.4 Notice Requirements; Business Limited

The notice of a special meeting must contain a statement of the purposes of the meeting. The business transacted at a special meeting is limited to the purposes stated within the notice of the meeting. Business transacted at a special meeting that is not included in those stated purposes is voidable by or on behalf of the Corporation, unless 90 percent of the Members entitled to vote were present at such meeting or have waived notice of the meeting under Section 6.3.

6.3 Notice Requirements

6.3.1 To Whom Given

Notice of meetings of Members must be given to every Member as of the record date determined under Section 6.4. If the meeting is an adjourned meeting and the date, time and place of the meeting were announced at the time of the adjournment, notice is not required unless a new record date for the adjourned meeting is or must be fixed.

6.3.2 When Given; Contents

In all cases where a specific minimum notice period has not been fixed by law or these Bylaws, the notice must be given at least five (5) days before the date of a meeting and not more than sixty (60) days before the date of a meeting. The notice must contain the date, time and place of the meeting, and an agenda of the matters upon which action may be taken at the meeting. A matter may be added to the agenda of a meeting at the meeting upon the affirmative vote of three-quarters (3/4) of the Sector votes cast on a motion to amend the agenda.

6.3.3 Waiver of Notice; Objections

A Member may waive notice of a meeting of Members. A waiver of notice by a Member entitled to notice is effective whether given before, at, or after the meeting, and whether given in writing, or by attendance. Attendance by a Member at a meeting is a waiver of notice of that meeting, unless the Member objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, or objects before a vote on an item of business because the item may not lawfully be considered at that meeting and does not participate in the consideration of the item at that meeting.

6.4 Record Date; Determining Members Entitled to Notice and Vote

The board of directors may fix a date not more than forty (40) days before the date of a meeting of Members as the date for the determination of the Members entitled to notice of and entitled to vote at the meeting. When a date is so fixed, only Members on that date are entitled to notice and to vote at a membership meeting unless the board of directors fixes a new date for determining the right to notice and to vote, which it must do if the meeting is adjourned to a date more than sixty (60) days after the record date for determining Members entitled to notice of the original meeting.

6.5 Right to Vote; Act of Members

Voting of the Members shall be by Sector, with each Sector entitled to the same number of votes as it has directors on the board. If a quorum is present, except with respect to amendments of these Bylaws, modification of a budget approved by the board of directors or termination of the Corporation, the affirmative vote of the majority of the Sector votes present and entitled to vote, which must also be a majority of the required quorum, is the act of the Members. Within a Sector, each Member within the Sector shall have one vote. If a quorum is present with respect to the Sector, the affirmative vote of the majority of the Members within the Sector present and entitled to vote, which must also be a majority of the required quorum, is the act of the Sector. All of the Sector's votes shall be cast consistent

with the act of the Sector unless the Sector adopts a fractional voting alternative as described in Section 6.5.3.

6.5.1 Special Voting Requirements

In order to amend the Bylaws, except as provided in Article 20 with respect to the board of directors, two-thirds (2/3) of the Sector votes cast shall be required to approve the proposed amendment. The substance of the proposed amendment must be contained in the notice of the meeting at which the vote will be taken; provided that, the Members may modify a proposed bylaw amendment at the meeting. Two-thirds (2/3) of the Sector votes cast shall be required to approve any proposal to terminate the Corporation. To the extent practicable, all Member votes may be held electronically under such terms and conditions as are approved by the Board.

6.5.2 Change of Dues Structure

The Members may change the dues structure by resolution with an affirmative vote of two-thirds (2/3) of the Sector votes cast.

6.5.3 Fractional Voting Alternative

A Sector may adopt fractional voting. Member votes for and against are converted to percentages and multiplied by the applicable sector weight. Abstentions are not counted and do not impact the voting tabulation.

6.6 Quorum

A quorum for a meeting of Members is a majority of the Sector votes entitled to vote at the meeting. A quorum for a meeting of a Sector is a majority of the Members of that Sector present or voting electronically on matters before the meeting. A quorum is necessary for the transaction of business at a meeting of Members. If a quorum is not present, a meeting may be adjourned from time to time for that reason by the Sectors or Members then represented or present.

6.7 Action by Written Ballot

An action that may be taken at a regular or special meeting of Members may be taken without a meeting if the Corporation mails or delivers a written ballot to every Member entitled to vote on the matter. Whenever possible, voting by Sectors for directors shall be by written ballot preceding the regular meeting of the Members.

Approval by written ballot is valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

Solicitations for votes by written ballot must: (1) indicate the number of responses needed to meet the quorum requirements; (2) state the percentage of approvals necessary to approve the matter; and (3) specify the time by which a ballot must be received by the Corporation in order to be counted. A written ballot may not be revoked.

6.8 Action by Electronic Communication

Any vote of a Sector to elect a board member or for any other purpose may be taken by electronic means without a meeting or during a meeting. In addition, a conference among Members by a means of communication through which the participants may simultaneously hear each other during the conference is a meeting of the Members, if the same notice is given of the conference as would be required for a meeting and if the number of persons participating in the conference is a quorum. Participation in a meeting by this means is personal presence at the meeting. A Member may participate in a meeting of the Members by a means of communication through which the Member, other persons participating, and all persons physically present at the meeting may simultaneously communicate with each other during the meeting. Participation in a meeting by this means constitutes personal presence at the meeting.

6.9 Member Representatives; Proxies.

6.9.1. Designation of Representative

Each year prior to the annual meeting of Members, each Member shall designate the individual authorized to vote on Corporation matters on behalf of the Member, in accordance with procedures approved by the board. A Member may change such designation at any time.

6.9.2 Authorization

The individual designated to vote by a Member may appoint a proxy to vote or otherwise act for the Member at any meeting or electronically by signing an appointment form either personally or by an attorney so designated by the Member.

6.9.3 Effective Period

An appointment of a proxy is effective when received by the secretary or other officer or agent authorized to tabulate votes. An appointment is valid for the next regular or specially scheduled meeting or electronic ballot. However, a proxy is not valid for more than sixty (60) days from its date of execution.

6.9.4 Revocation

An appointment of a proxy is revocable by the Member. Appointment of a proxy is revoked by the person appointing the proxy by signing and delivering to the secretary or other officer or agent authorized to tabulate proxy votes. This may be done either in a written statement that the appointment of the proxy is revoked or a subsequent appointment form.

6.10 Reimbursement of Member Expenses

The Corporation will be under no obligation to reimburse Members for expenses associated with their attendance at regular or special Member meetings.

7.0
BOARD OF DIRECTORS

7.1 **Management of Corporation**

Consistent with these Bylaws, the business and affairs of the Corporation shall be managed by or under the direction of a board of directors. The duties of the board will include, but will not be limited to the following: (1) govern the Corporation and oversee all of its activities; (2) establish and oversee all organizational groups; (3) oversee accomplishment of all functions set forth in any delegation or other agreement with NERC or any governmental entity related to development, monitoring and enforcement of Reliability Standards and related matters; (4) approve, revise and enforce Member data and information requirements and related confidentiality requirements; (5) establish and approve an annual budget; (6) represent the Corporation in legal and regulatory proceedings; (7) hire the president. The board of directors shall select a chair and a vice-chair from among the members of the board. The board may establish board committees as appropriate.

7.2 **Voting**

Each director shall have one vote with respect to decisions of the board.

7.3 **Composition of the Board of Directors**

The board of directors shall consist of nineteen (19) board members elected by the Sectors as follows:

7.3.1.1 Three (3) directors from the Transmission System Operators Sector;

7.3.1.2 Two (2) directors from the Generators and Power Marketers Sector;

7.3.1.3 Five (5) directors from the Investor Owned Utilities Sector;

Two (2) directors must be from utilities with less than 3,000 megawatts of end-use load.

Three (3) directors must be from utilities with 3,000 megawatts or greater of end-use load.

7.3.1.4 Two (2) directors from the Cooperative Sector;

7.3.1.5 Two (2) directors from the Municipal Utilities Sector;

7.3.1.6 One (1) director from the Federal Power Marketing Agencies;

7.3.1.7 Two (2) directors from the Canadian Utilities Sector provided that both directors are not residents of the same Canadian province;

7.3.1.8 One (1) director from the Large End-Use Electricity Customers Sector, and

7.3.1.9 One (1) director from the Small End-Use Electricity Customers Sector.

Provided, however, that in choosing directors from a sector, there shall not be more directors from a particular Sector than there are actual Members of such Sector.

Members shall endeavor to select directors from among individuals holding senior management or officer positions in Member organizations, and with a view toward ensuring geographic representation of the Corporate Region on the board. No two directors may be employees of a single Member or employees of Members that are affiliates. To the extent the Members of a Sector do not select a director, that director position shall remain vacant until a director is selected by the Sector.

7.4 Terms of Directors

The directors will serve three-year, staggered terms. The terms of the initial directors will be selected by lot at the first meeting of the board of directors. Any director may be removed at any time by the affirmative vote of two-thirds (2/3) of the Members of the Sector selecting such director. A director may be removed by the board of directors for non-attendance of three consecutive board meetings.

7.5 Reimbursement

Directors shall have the right to reimbursement by the Corporation of their actual reasonable travel expenses to board meetings or when specifically selected to represent the Corporation at a business meeting.

7.6 Vacancies

If a director resigns, dies, changes corporate affiliation or is removed during the term of office for which elected, the directorship shall thereupon be vacant and shall be filled by the Members of the respective Sector, by written or electronic ballot in accordance with the procedures and requirements set forth above. The successor director elected by the Members of the Sector shall hold office for the unexpired term of the director replaced.

7.7 Meetings; Notice

An annual meeting of the board of directors shall be held without notice immediately following the annual meeting of the Members to elect the chair and vice-chair for the next year. In addition, regular meetings may be held at such time or times as fixed by the board of directors. Schedules of regular meetings of the board of directors shall be published by the secretary and provided to all Members. Special meetings of the board of directors may be called by the president or by three directors and shall be held at the principal office of the Corporation, or such other place within the Corporate Region as determined by the president after consultation with the board. Notice of the date, time, and place of a special meeting shall be given by the secretary not less than seven (7) days prior to the meeting by mail, telegram, or electronic communication to each director and Member. Except as necessary to discuss personnel issues, litigation or similar sensitive or confidential matters, all meetings of the board of directors shall be open to Members and other interested persons.

7.8 Quorum

A majority of the directors currently holding office is a quorum for the transaction of business.

7.9 Board Action

The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by law or these Bylaws.

7.10 Action Without a Meeting

An action required or permitted to be taken at a board of directors meeting may be taken by written action, including electronic communication, signed by all of the directors of the Corporation. The written action is effective when signed by the required number of directors, unless a different effective time is provided in the written action.

7.11 Action by Electronic Communication

A conference among directors by a means of communication through which the directors may simultaneously hear each other during the conference is a board meeting if the same notice is given of the conference as would be required for a meeting and if the number of directors participating in the conference is a quorum. Participation in a meeting by this means constitutes personal presence at the meeting. A director may participate in a board meeting by any means of communication through which the director, other directors participating, and all directors physically present at the meeting may simultaneously communicate with each other during the meeting.

8.0

ORGANIZATIONAL GROUPS

8.1 Establishment of Organizational Groups

The board of directors shall establish such organizational groups, consisting of committees, sub-committees, task forces and working groups of Members, as are necessary and appropriate to accomplish the purposes of the Corporation in an efficient and cost-effective manner. All organizational groups shall be subject to the direction and control of the board. The membership of organizational groups shall be determined based upon experience, expertise and geographic diversity and to the extent practicable shall include balanced representation of the Sectors.

The board of directors shall establish policies and procedures governing the creation of organizational groups, how they are populated, how voting and related matters are conducted and how they may be reorganized. The board shall conduct a review of all organizational groups of the Corporation on a periodic basis to ensure that the business of the Corporation is conducted in an efficient, cost-effective manner and shall include a statement of its conclusions and resulting actions in the board's report to Members at the annual meeting.

8.2 Reimbursement

Consistent with the annual budget of the Corporation, the Board may authorize reimbursement by the Corporation for members of organizational groups (other than committees of the whole) of reasonable travel, meals and lodging expenses for

organizational group meetings or for representation of the Corporation at other business meetings as authorized by the board. The board of directors may authorize reimbursement for persons acting on behalf of the Corporation, as necessary in the interests of the Corporation.

9.0 OFFICERS

9.1 Officers

The officers of the Corporation shall include a president, a secretary, a treasurer and any other officers as may be elected or appointed in accordance with the provisions of this Article. The board of directors may elect or appoint any additional officers that it deems desirable, such other officers to have the authority and perform the duties prescribed by the board of directors. The same individual may hold any number of offices, except that of president.

9.2 Election and Term of Office

The officers of the Corporation shall be elected by the board of directors. Each officer shall hold office at the pleasure of the board. New officers may be created and the positions filled at any meeting of the board of directors. Each elected officer shall hold office until his or her successor has been duly elected and qualified.

9.3 Removal

Any officer elected by the board of directors may be removed by the affirmative vote of two-thirds (2/3) of the board of directors whenever in its judgment the best interests of the Corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the officer so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

9.4 Vacancies

A vacancy in any office because of death, resignation, removal, disqualification, or otherwise, may be filled by the board of directors for the unexpired portion of the term.

9.5 President

The president shall be, in the discretion of the board of directors, either an employee of or contractor to the Corporation and shall:

9.5.1.1 be the principal executive and operating officer of the Corporation;

9.5.1.2 sign certificates of membership, and may sign any deeds, mortgages, deeds of trust, notes, bonds, contracts or other instruments authorized by the board of directors to be executed, except in cases in which the signing and execution thereof shall be expressly delegated by the board of directors or by these Bylaws to some other officer or agent of the Corporation; and

9.5.1.3 perform all duties incident to the office of president, including hiring and directing staff, and such other duties as may be prescribed by the board of directors from time to time.

9.6 **Secretary**

The secretary shall ensure that the following duties are carried out:

9.6.1.1 the minutes of the meetings of the Members and of the board of directors are recorded;

9.6.1.2 all required notices are duly given in accordance with these Bylaws and as required by law;

9.6.1.3 a register of the current names and addresses of all Members is maintained;

9.6.1.4 a complete copy of the articles of incorporation and Bylaws of the Corporation containing all amendments thereto are kept on file at all times, which copies shall always be open to the inspection of any Member; and

9.6.1.5 generally perform all duties incident to the office of secretary and such other duties as may be prescribed by the board of directors from time to time.

9.7 **Treasurer**

The treasurer shall be responsible for the following activities:

9.7.1.1 maintain custody of all funds and securities of the Corporation;

9.7.1.2 receipt of and the issuance of receipts for all monies due and payable to the Corporation and for deposit of all such monies in the name of the Corporation in such bank or banks or financial institutions as shall be selected by the board of directors; and

9.7.1.3 generally perform all duties incident to the office of treasurer and such other duties as may be prescribed by the board of directors from time to time.

10.0

CERTIFICATES OF MEMBERSHIP

10.1 **Certificates of Membership**

The board of directors may provide for the issuance of certificates evidencing membership in the Corporation, which certificates shall be in such form as may be determined by the board.

11.0

BOOKS AND RECORDS

11.1 **Books and Records; Financial Statements**

The Corporation shall keep at its registered office correct and complete copies of its articles and Bylaws, accounting records, and minutes of meetings of Members, board of directors,

and committees having any of the authority of the board of directors. A Member, or the agent or attorney of a Member, may inspect all books and records and voting agreements for any proper purpose at any reasonable time. Upon request, the Corporation shall give the Member a statement showing the financial result of all operations and transactions affecting income and surplus during its last annual accounting period and a balance sheet containing a summary of its assets and liabilities as of the closing date of the accounting period.

12.0 **FISCAL YEAR**

12.1 **Fiscal Year**

The fiscal year of the Corporation shall be the calendar year.

13.0 **TRANSFER OF ASSETS**

13.1 **Member Approval Not Required**

The Corporation, by affirmative vote of the board of directors, may sell, lease, transfer, or dispose of its property and assets in the usual and regular course of its activities and grant a security interest in all or substantially all of its property and assets in the usual and regular course of its activities, upon those terms and conditions and for those considerations, which may be money, securities, or other instruments for the payment of money or other property, as the board of directors considers expedient, in which case no Member approval is required.

13.2 **Member approval; when required**

The Corporation may sell, lease, transfer, or dispose of all or substantially all of its property and assets, including its good will, not in the usual and regular course of its activities, upon those terms and conditions and for those considerations, which may be money, securities, or other instruments for the payment of money or other property, as the board of directors considers expedient only when approved at a regular or special meeting of the Members by the affirmative vote of two-thirds (2/3) of all the Members. Notice of the meeting must be given to the Members. The notice must state that a purpose of the meeting is to consider the sale, lease, transfer, or other disposition of all or substantially all of the property and assets of the Corporation.

14.0 **CONTRACTS, CHECKS, DEPOSITS, AND GIFTS**

14.1 **Contracts**

The board of directors may authorize any officer or officers or agent or agents of the Corporation, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the

Corporation, and such authority may be general or may be confined to specific instances.

14.2 Checks, Drafts, or Orders

All checks, drafts, or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Corporation, shall be signed by such officer or officers or agent or agents of the Corporation, and in such manner as shall from time to time be determined by resolution of the board of directors.

14.3 Deposits

All funds of the Corporation shall be deposited to the credit of the Corporation in such banks, trust companies, or other depositories as the board of directors may select.

14.4 Gifts

The board of directors may accept on behalf of the Corporation any contribution, gift, bequest, or devise for any purpose of the Corporation.

15.0

INSURANCE, LIABILITY, AND INDEMNIFICATION

15.1 Insurance

The president is authorized to procure insurance to protect the Corporation against damages arising out of or related to any directive, order, procedure, action or requirement of the Corporation.

15.2 Limitations on Liability

No director, officer, agent, employee or other representative of the Corporation, and no corporation or other business organization that employs a director of the Corporation, or any director, officer, agent or employee of such corporation or other business organization, shall be personally liable to the Corporation or any Member of the Corporation for any act or omission on the part of any such director, officer, agent, employee, or other representative of the Corporation, which was performed or omitted in good faith in his official capacity as a director, officer, agent, employee or other representative of the Corporation. However, this release of liability shall not operate to release such a director, officer, agent, employee or other representative of the Corporation from any personal liability resulting from willful acts or omissions knowingly or intentionally committed or omitted by him in breach of these Bylaws for improper personal benefit or in bad faith.

15.3 Indemnification

It is the intent of the Corporation to indemnify its directors, officers, agents, employees, or other representatives to the maximum extent allowed by law consistent with these Bylaws. Each director, officer, agent, employee, or other representative of the Corporation shall be indemnified by the Corporation against all judgments, penalties, fines, settlements, and reasonable expenses, including legal fees, incurred by him as a result of, or in connection with, any threatened, pending or completed civil, criminal, administrative, or investigative proceedings to which he may be made a party by reason of his acting or having acted in his

official capacity as a director, officer, agent, employee, or representative of the Corporation, or in any other capacity which he may hold at the request of the Corporation, as its representative in any other organization, subject to the following conditions:

15.3.1.1 Such director, officer, agent, employee, or other representative must have conducted himself in good faith and, in the case of criminal proceedings, he must have had no reasonable cause to believe that his conduct was unlawful. When acting in his official capacity, he must have reasonably believed that his conduct was in the best interests of the Corporation, and, when acting in any other capacity, he must have reasonably believed that his conduct was at least not opposed to the best interests of the Corporation.

15.3.1.2 If the proceeding was brought by or on behalf of the Corporation, however, indemnification shall be made only with respect to reasonable expenses referenced above. No indemnification of any kind shall be made in any such proceeding in which the director, officer, agent, employee, or other representative shall have been adjudged liable to the Corporation.

15.3.1.3 In no event, however, will indemnification be made with respect to any described proceeding which charges or alleges improper personal benefit to a director, officer, agent, employee, or other representative and where liability is imposed upon him on the basis of the receipt of such improper personal benefit.

15.3.1.4 In order for any director, officer, agent, employee, or other representative to receive indemnification under this provision, he shall vigorously assert and pursue any and all defenses to those claims, charges, or proceedings covered hereby which are reasonable and legally available and shall fully cooperate with the Corporation or any attorneys involved in the defense of any such claim, charges, or proceedings on behalf of the Corporation.

15.3.1.5 No indemnification shall be made in any specific instance until it has been determined by the Corporation that indemnification is permissible in that specific case, under the standards set forth herein and that any expenses claimed or to be incurred are reasonable. These two (2) determinations shall be made by a majority vote of at least a quorum of the board consisting solely of directors who were not parties to the proceeding for which indemnification or reimbursement of expenses is claimed. If such a quorum cannot be obtained, a majority of at least a quorum of the full board, including directors who are parties to said proceeding, shall designate a special legal counsel who shall make said determinations on behalf of the Corporation. In making any such determinations, the termination of any proceeding by judgment, order, settlement, conviction, or upon plea of nolo contendere, or its equivalent, shall not, in and of itself, be conclusive that the person did not meet the standards set forth herein.

15.3.1.6 Any reasonable expenses, as shall be determined above, that have been incurred by a director, officer, agent, employee, or other representative who has been made a party to a proceeding as defined herein, may be paid or reimbursed in advance upon a majority vote of a quorum of the full board, including those who may be a party to the same proceeding. However, such director, officer, agent, employee, or other representative shall have provided the Corporation with (i) a written affirmation under oath that he, in good faith, believes that he has met the conditions for indemnification herein, and (ii) a written undertaking that he shall repay any amounts advanced, with interest accumulated at a reasonable rate, if it is

ultimately determined that he has not met such conditions. In addition to the indemnification and reimbursement of expenses provided herein, the president shall purchase insurance that would protect the Corporation, its directors, officers, agents, employees, or other representatives against reasonably expected liabilities and expenses arising out of the performance of their duties for the Corporation.

16.0

PARTICIPATION BY REGULATORY PARTICIPANTS

16.1

All Regulatory Participants shall be entitled to and be provided with the same rights to notice of and participation in meetings or other activities of the Corporation as are provided to Members, but shall not have the right to vote.

17.0

PARTICIPATION BY FEDERAL POWER MARKETING ADMINISTRATIONS

17.1

The participation by the United States through Federal power marketing administrations (PMA) in the Corporation is subject in all respects to acts of Congress and to regulations of the Secretary of Energy established thereunder. This reservation includes, but is not limited to, the statutory limitations upon the authority of the Secretary of Energy to submit disputes arising hereunder to arbitration. In the event of a conflict between this Article 18 and any other Article of these Bylaws, this Article 18 shall have precedence with respect to the application of these Bylaws to the United States.

17.2

Where activities provided for herein extend beyond the current fiscal year, continued expenditures by the United States are contingent upon Congress making the necessary appropriations required for the continued performance of the obligations of the PMA hereunder. In case such appropriations are not made, the Corporation and its Members hereby release the PMA from its contractual obligations under these Bylaws and from all liability due to the failure of Congress to make such appropriation.

17.3

No member of or delegate to Congress shall be admitted to any share or part of, or to any benefit that may have arisen from, these Bylaws, but this restriction shall not be construed to extend to these Bylaws if made with a corporation or company for its general benefit.

17.4

The Corporation and its Members warrant that no Person or selling agency has been employed or retained to solicit or secure participation by a PMA in the Corporation upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting *bona fide* employees or *bona fide* established commercial or selling agencies

maintained by the Members for the purpose of securing business. For breach or violation of this warranty, a PMA shall have the right to annul its participation in the Corporation without liability or, in its discretion, to deduct from its dues or fees the full amount of such commission, percentage, brokerage, or contingent fee.

17.5

For the purpose of this Section 18.5 the term “Contract” shall mean these Bylaws and the term “Contractor” shall mean the Corporation. During the performance of this Contract, the Contractor agrees to the following provisions.

17.5.1.

Section 202 of the Executive Order No. 11246, 30 Fed. Reg. 12319 (1965), as amended by Executive Order No. 12086, 43 Fed. Reg. 46501 (1978), which provides, among other things, that the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, is incorporated by reference in the Contract.

17.5.2.

The Contract, to the extent that it is of a character specified in Section 103 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. § 329 (1986) (the “Act”), is subject to the provisions of the Act, 40 U.S.C. §§ 327-333 (1986), and to regulations promulgated by the Secretary of Labor pursuant to the Act.

17.5.3.

The Contractor agrees not to employ any person undergoing sentence of imprisonment in performing the Contract except as provided by 18 U.S.C. § 4082(c)(2) and Executive Order 11755, 39 Fed. Reg. 779 (1973).

18.0

HEARINGS AND DISPUTE RESOLUTION

18.1 Hearings

Except as otherwise provided in applicable agreements and/or law governing a Member's membership in the Corporation, the Corporation shall be responsible for making final determinations regarding whether a Member has violated a Reliability Standard in accordance with the NERC Rules of Procedure.

18.2 Disputes

Dispute resolution procedures will be established by the board of directors for disputes between Members, or between a Member and the Corporation, for issues arising under these Bylaws. Determinations related to violations of Reliability Standards will be resolved in accordance with the NERC Rules of Procedure, except as otherwise provided in applicable agreements and/or law governing a Member's membership in the corporation.

19.0
AMENDMENT OF BYLAWS

19.1

The power to adopt, amend or repeal these Bylaws is vested in the Members as set forth in Section 6.5 of these Bylaws; provided however, upon the passage of any federal reliability legislation and/or the adoption of related requirements and procedures by NERC or any regulatory agency with jurisdiction, the board of directors shall have authority upon a two-thirds (2/3) vote to amend these Bylaws as necessary and appropriate to comply with such law and related requirements.

Exhibit C – Regional Standard Development Procedure

Exhibit C shall set forth the Regional Entity’s standards development procedure, which NERC agrees meets the following common attributes:

COMMON ATTRIBUTE 1

Proposed regional reliability standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA. No regional reliability standard shall be effective within the Midwest Reliability Organization area unless filed by NERC with FERC and approved by FERC.

COMMON ATTRIBUTE 2

Midwest Reliability Organization regional reliability standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. A Midwest Reliability Organization reliability standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. A regional reliability standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

COMMON ATTRIBUTE 3

Midwest Reliability Organization regional reliability standards, when approved by FERC shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the Midwest Reliability Organization area, regardless of membership in the region.

COMMON ATTRIBUTE 4

Requester — The requester is the sponsor of the regional reliability standard request and may assist in the development of the standard. Any member of Midwest Reliability Organization, or group within Midwest Reliability Organization shall be allowed to request that a regional reliability standard be developed, modified, or withdrawn. Additionally, any entity (person, organization, company, government agency, individual, etc.) that is directly and materially affected by the reliability of the bulk power system in the Midwest Reliability Organization area shall be allowed to request a regional reliability standard be developed, modified, or withdrawn.

COMMON ATTRIBUTE 5

[Standards or other named] committee — The Midwest Reliability Organization Standards Committee manages the standards development process. The Standards Committee will consider which requests for new or revised standards shall be assigned for development (or existing standards considered for deletion). The Standards Committee will advise the Midwest Reliability Organization board on standards presented for adoption.

COMMON ATTRIBUTE 6

[Alternative 6A: For a Regional Entity that chooses to vote using a balanced stakeholder committee.] NOT APPLICABLE

The [standards] committee is a balanced stakeholder committee, inclusive of all stakeholder interests that provide for or are materially impacted by the reliability of the bulk power system. [The [standards] committee votes to approve standards.] See Appendix A for the representation model of the [standards] committee.

[Alternative 6B: For a Regional Entity that chooses to vote using a balanced ballot body of stakeholders.]

[Registered ballot body] — The registered ballot body comprises all entities or individuals that qualify for one of the stakeholder segments; are registered with Midwest Reliability Organization as potential ballot participants in the voting on standards; and are current with any designated fees. Each member of the registered ballot body is eligible to vote on standards. [Each standard action has its own ballot pool formed of interested members of the registered ballot body. Each ballot pool comprises those members of the registered ballot body that respond to a pre-ballot survey for that particular standard action indicating their desire to participate in such a ballot pool.] The representation model of the registered ballot body is provided in Appendix A.

COMMON ATTRIBUTE 7

Midwest Reliability Organization will coordinate with NERC such that the acknowledgement of receipt of a standard request identified in step 1, notice of comment posting period identified in step 4, and notice for vote identified in step 5 below are concurrently posted on both the Midwest Reliability Organization and NERC websites.

COMMON ATTRIBUTE 8

An acceptable standard request shall contain a description of the proposed regional reliability standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed standard.

COMMON ATTRIBUTE 9

Within [no greater than 60] days of receipt of a completed standard request, the Standards Committee shall determine the disposition of the standard request.

COMMON ATTRIBUTE 10

The Standards Committee may take one of the following actions:

- Accept the standard request as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The Standards Committee may, at its discretion, expand or narrow the scope of the standard request under consideration. The Standards Committee shall prioritize the development of standard in relation to other proposed standards, as may be required based on the volume of requests and resources.
- Reject the standard request. If the Standards Committee rejects a standard request, a written explanation for rejection will be delivered to the requester within [no greater than 30] days of the decision.
- Remand the standard request back to the requester for additional work. The standards process manager will make reasonable efforts to assist the requester in addressing the deficiencies identified by the Standards Committee. The requester may then resubmit the modified standard request using the process above. The requester may choose to withdraw the standard request from further consideration prior to acceptance by the Standards Committee.

COMMON ATTRIBUTE 11

Any standard request that is accepted by the Standards Committee for development of a standard (or modification or deletion of an existing standard) shall be posted for public viewing on the Midwest Reliability Organization website within [no greater than 30] days of acceptance by the committee.

COMMON ATTRIBUTE 12

The standards process manager shall submit the proposed members of the drafting team to the Standards Committee. The Standards Committee shall approve the drafting team membership within 60 days of accepting a standard request for development, modifying the recommendations of the standards process manager as the committee deems appropriate, and assign development of the proposed standard to the drafting team.

COMMON ATTRIBUTE 13

At the direction from the Standards Committee, the standards process manager shall facilitate the posting of the draft standard on the Midwest Reliability Organization website, along with a draft implementation plan and supporting documents, for a no less than a 30-day comment period. The standards process manager shall provide notice to Midwest Reliability

Organization stakeholders and other potentially interested entities, both within and outside of the Midwest Reliability Organization area, of the posting using communication procedures then currently in effect or by other means as deemed appropriate.

COMMON ATTRIBUTE 14

The drafting team shall prepare a summary of the comments received and the changes made to the proposed standard as a result of these comments. The drafting team shall summarize comments that were rejected by the drafting team and the reason(s) that these comments were rejected, in part or whole. The summary, along with a response to each comment received will be posted on the Midwest Reliability Organization website no later than the next posting of the proposed standard.

COMMON ATTRIBUTE 15

Upon recommendation of the drafting team, and if the Standards Committee concurs that all of the requirements for development of the standard have been met, the standards process manager shall post the proposed standard and implementation plan for ballot and shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

COMMON ATTRIBUTE 16

The standards process manager shall schedule a vote by the Midwest Reliability Organization registered ballot body. The vote shall commence no sooner than 15 days and no later than 30 days following the issuance of the notice for the vote.

COMMON ATTRIBUTE 17

[Alternative 17A: For an RE that chooses to vote using a balanced stakeholder committee.] Not Applicable

The [standards] committee shall give due consideration to the work of the drafting team, as well as the comments of stakeholders and minority objections, in approving a proposed regional reliability standard for submittal to the [Regional Entity Name] board. The [standards] committee may vote to approve or not approve the standard. Alternatively, the [standards] committee may remand the standard to the drafting team for further work or form a new drafting team for that purpose.

[Alternative 17B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

The Midwest Reliability Organization registered ballot body shall be able to vote on the proposed standard during a period of not less than 10 days.

COMMON ATTRIBUTE 18

[Alternative 18A: For an RE that chooses to vote using a balanced stakeholder committee.] Not Applicable

The [standards] committee may not itself modify the standard without issuing a new notice to stakeholders regarding a vote of the modified standard.

[Alternative 18B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

All members of Midwest Reliability Organization are eligible to participate in voting on proposed new standards, standard revisions or standard deletions. [Alternatively: Each standard action requires formation of a ballot pool of interested members of the registered ballot body.]

COMMON ATTRIBUTE 19

[Alternative 19A: For an RE that chooses to vote using a balanced stakeholder committee.]

Actions by the committee shall be recorded in the regular minutes of the committee.

[Alternative 19B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

Approval of the proposed regional reliability standard shall require a two thirds majority in the affirmative (affirmative votes divided by the sum of affirmative and negative votes). Abstentions and non-responses shall not count toward the results, except that abstentions may be used in the determination of a quorum. A quorum shall mean 66.7% of the members of the [registered ballot body/ballot pool] submitted a ballot.

COMMON ATTRIBUTE 20

Under no circumstances may the board substantively modify the proposed regional reliability standard.

COMMON ATTRIBUTE 21

Once a regional reliability standard is approved by the board, the standard will be submitted to NERC for approval and filing with FERC

COMMON ATTRIBUTE 22

- **Open** - Participation in the development of a regional reliability standard shall be open to all organizations that are directly and materially affected by the Midwest Reliability

Organization power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in Midwest Reliability Organization, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to the Midwest Reliability Organization members and others.

COMMON ATTRIBUTE 23

- **Balanced** - The Midwest Reliability Organization standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.

COMMON ATTRIBUTE 24

- **Inclusive** — Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the Midwest Reliability Organization area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.

COMMON ATTRIBUTE 25

- **Fair due process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.

COMMON ATTRIBUTE 26

- **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.

COMMON ATTRIBUTE 27

- Does not unnecessarily delay development of the proposed reliability standard.

COMMON ATTRIBUTE 28

Each standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

COMMON ATTRIBUTE 29

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all regional reliability standards shall be consistent with NERC’s market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

COMMON ATTRIBUTE 30

To ensure uniformity of regional reliability standards, a regional reliability standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

COMMON ATTRIBUTE 31

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

COMMON ATTRIBUTE 32

Applicability	Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions. If not applicable to the entire Midwest Reliability Organization area, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.
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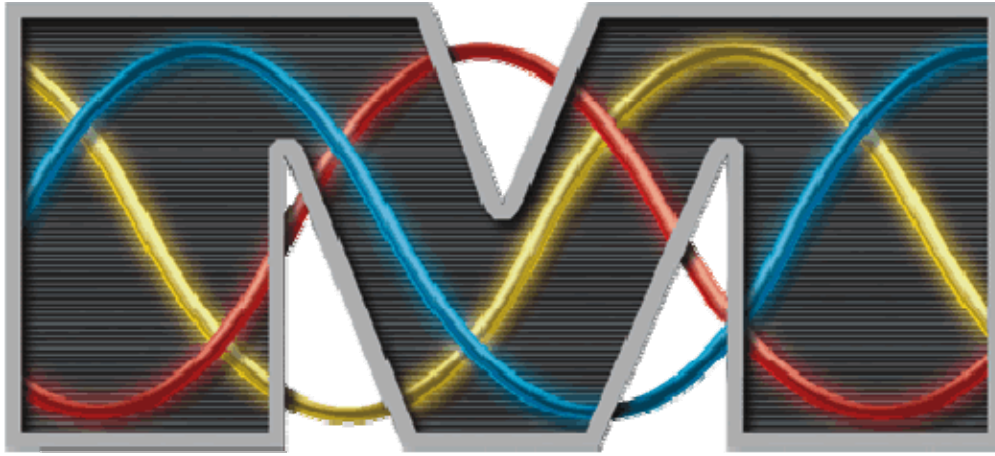
COMMON ATTRIBUTE 33

Measure(s)	Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes
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	<p>required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.</p>
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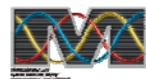
COMMON ATTRIBUTE 34

<p>Compliance Monitoring Process</p>	<p>Defines for each measure:</p> <ul style="list-style-type: none"> • The specific data or information that is required to measure performance or outcomes. • The entity that is responsible for providing the data or information for measuring performance or outcomes. • The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes. • The entity that is responsible for evaluating data or information to assess performance or outcomes. • The time period in which performance or outcomes is measured, evaluated, and then reset. • Measurement data retention requirements and assignment of responsibility for data archiving.
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Midwest Reliability Organization

Regional Reliability Standards Process Manual



MRO Regional Reliability Standards Process Manual

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I. Introduction

Purpose: This manual defines the characteristics of a Midwest Reliability Organization (“MRO”) Regional Reliability Standard and establishes the process for proposing Regional Reliability Standards to North American Electric Reliability Corporation (“NERC”) for enforcement under direct or delegated regulatory authority consistent with the Energy Policy Act of 2005 (“EPAAct 2005”) in the United States and applicable Canadian authorities. The MRO plans to become a Cross-Border Regional Entity (“CBRE”) as defined in EPAAct 2005 and the final FERC reliability rule consistent with the US-Canadian Bilateral principles. For more information on the MRO please refer to <http://www.midwestreliability.org>.

The MRO standards process is consensus-based, technically vetted, and open to the public and bordering entities that may be impacted by a proposed Regional Reliability Standard by the MRO. MRO Regional Reliability Standards apply to the reliability planning, and operation of bulk power systems located within the MRO region. NERC as the Electric Reliability Organization (“ERO”), and the applicable regulatory authorities in the United States and Canada will have the ability to enforce these standards. The MRO region is defined in agreements (e.g. delegation agreement) with NERC and applicable regulatory authorities in the United States and Canada.

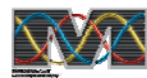
Applicable Regulatory Authorities in the United States and Canada: FERC is the Applicable Regulatory Authority in the United States. The Manitoba Public Utilities Board is the Applicable Regulatory Authority in Manitoba. The Provincial Government of Saskatchewan is the Applicable Regulatory Authority in Saskatchewan.

Authority: This manual is published by the authority of the MRO Board of Directors (“BOD”) who shall have the sole authority to modify the manual. A procedure for revising this manual is provided in the section titled “Maintenance of MRO Regional Reliability Standards and Process.”

Credits: This manual was developed from the NERC Reliability Standards Development Procedure (available at www.nerc.com). Thus, the MRO Regional Reliability Standards process is very similar to the NERC process and the format is the same as the NERC Reliability Standard format.

Background: NERC and the MRO work with all segments of the electric industry, including electricity end-users, to develop standards for the reliable planning and operation of bulk electric systems. The purpose of the NERC Reliability Standards is to promote reliability, while at the same time accommodating competitive electricity markets.

EPAAct 2005 and NERC, ERO provide for Regional Entities (“RE”) to propose Regional Reliability Standards to NERC for eventual enforcement within the region of the RE or CBRE. Regions (such as the MRO) may develop, through



their own processes, regional reliability standards that; go beyond, add detail to, or cover matters not addressed in NERC Reliability Standards. MRO Regional Reliability Standards are proposed to NERC for approval and become enforceable, once approved by NERC and the applicable regulatory authorities in the United States and Canada as Reliability Standards.

MRO Regional Reliability Standards that are proposed shall not be inconsistent with, or less stringent than established NERC Reliability Standards. All MRO Regional Reliability Standards obligate the MRO to monitor and enforce compliance, apply sanctions, if any, consistent with any regional agreements and the NERC rules.

Proposed MRO Regional Reliability Standards shall be subject to approval by NERC, as the ERO, and by applicable regulatory authorities in the United States and Canada, before becoming mandatory and enforceable. No Regional Reliability Standard shall be effective within the MRO area unless approved by NERC and the applicable regulatory authorities in the United States and Canada.

MRO proposed Regional Reliability Standards, when approved by NERC and the applicable regulatory authorities in the United States and Canada, shall be made part of the body of NERC Reliability Standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the MRO region as defined in agreements (e.g. delegation agreements).

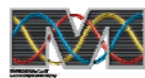
II. MRO Regional Reliability Standard Definition, Characteristics, and Elements

Definition of a MRO Regional Reliability Standard: A MRO Regional Reliability Standard defines certain obligations or requirements of entities that operate, plan, and use the bulk electric systems of the MRO region.

The Bylaws of the MRO define a Reliability Standard as: “a NERC requirement, duly in effect, 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. The term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.”

When proposing a Regional Reliability Standard in the MRO region, the obligations or requirements must be material to reliability and be measurable.

Each MRO Regional Reliability Standard shall enable or support one or more of the NERC reliability principles, thereby ensuring that each standard serves



a purpose in support of the reliability of the regional bulk power system. Each of those standards shall also be consistent with all of the NERC reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

While MRO Regional Reliability Standards are intended to promote reliability, they must at the same time accommodate electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all MRO Regional Reliability Standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on electricity markets.

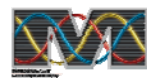
Characteristics of a MRO Regional Reliability Standard: A MRO Regional Reliability Standard may include standards for the operation and planning of interconnected systems as well as market interface practices. The format and process defined by this manual applies to all MRO Regional Reliability Standards.

A MRO Regional Reliability Standard shall have the following characteristics:

- **Material to Reliability** - A MRO Regional Reliability Standard shall be material to the reliability of bulk electric systems in the MRO region. If the reliability of the bulk electric systems could be compromised without a particular standard or by a failure to comply with that standard, then the standard is material to reliability.
- **Measurable** - A MRO Regional Reliability Standard shall establish technical or performance requirements that can be practically measured.
- **Relative to NERC Reliability Standards** - A MRO Regional Reliability Standard shall go beyond, add detail to, or cover matters not addressed in already approved NERC Reliability Standards.

Elements of a MRO Regional Reliability Standard: A MRO Regional Reliability Standard shall consist of the elements shown in the MRO Regional Reliability Standard Template.

These elements are intended to apply a systematic discipline in the development and revision of MRO Regional Reliability Standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.



The format allows a clear statement of the purpose, requirements, measures, and penalties for non-compliance associated with each standard.

All mandatory requirements of a MRO Regional Reliability Standard shall be within an element of the standard.

Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself. Types of supporting documents are described in a later section of this manual.

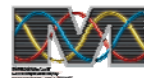
MRO Regional Reliability Standard Template

The following are the core elements of a MRO Regional Reliability Standard

Identification Number	A unique identification number assigned by the SPM.
Title	A brief, descriptive phrase identifying the topic of the MRO Regional Reliability Standard.
Applicability	Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions.
Effective Date and Status	The effective date of the MRO Regional Reliability Standard shall be upon NERC and regulatory approvals. The status of the standard will be indicated as active or by reference to one of the numbered steps in the standards process.
Purpose	The purpose of the MRO Regional Reliability Standard shall explicitly state what outcome will be achieved by the approved Reliability Standard. The purpose is agreed to early in the process as a step toward obtaining approval to proceed with the development of the Reliability Standard. The purpose should link the standard to the relevant principle(s).
Requirement(s)	Explicitly stated technical, performance, preparedness, or certification requirements. Each requirement identifies who is responsible and what action is to be performed or what outcome is to be achieved. Each statement in the requirements section shall be a statement for which compliance is mandatory. Any additional comments or statements for which compliance is not mandatory, such as background or explanatory information, should be placed in a separate document and referenced (see Supporting References).



<p>Risk Factors</p>	<p>The potential reliability significance of each requirement, designated as a High, Medium, or Lower Risk Factor in accordance with the criteria listed below:</p> <p>A High Risk Factor requirement (a) is one that, if violated, could directly cause or contribute to bulk power system instability, separation, or a cascading sequence of failures, or could place the bulk power system at an unacceptable risk of instability, separation, or cascading failures; or (b) is a requirement in a planning timeframe that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly cause or contribute to bulk power system instability, separation, or a cascading sequence of failures, or could place the bulk power system at an unacceptable risk of instability, separation, or cascading failures, or could hinder restoration to a normal condition.</p> <p>A Medium Risk Factor requirement (a) is a requirement that, if violated, could directly affect the electrical state or the capability of the bulk power system, or the ability to effectively monitor and control the bulk power system, but is unlikely to lead to bulk power system instability, separation, or cascading failures; or (b) is a requirement in a planning timeframe that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly affect the electrical state or capability of the bulk power system, or the ability to effectively monitor, control, or restore the bulk power system, but is unlikely, under emergency, abnormal, or restoration conditions anticipated by the preparations, to lead to bulk power system instability, separation, or cascading failures, nor to hinder restoration to a normal condition.</p> <p>A Lower Risk Factor requirement is administrative in nature and (a) is a requirement that, if violated, would not be expected to affect the electrical state or capability of the bulk power system, or the ability to effectively monitor and control the bulk power system; or (b) is a requirement in a planning time frame that, if violated, would not, under the emergency, abnormal, or restorative conditions anticipated by the preparations, be expected to affect the electrical state or capability of the bulk power system, or the ability to effectively monitor, control, or restore the bulk power system.</p>
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Measure(s)	<p>Each requirement shall be addressed by one or more measures. These measures will be used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above.</p> <p>Each measure shall identify to whom the measurement applies and the expected level of performance or outcomes required demonstrating compliance.</p> <p>Each measure shall be tangible, practical, and as objective as is practical.</p> <p>It is important to realize that measures are proxies to assess required performance or outcomes.</p> <p>Achieving the full compliance level of each measurement should be a necessary and sufficient indicator that the requirement was met.</p> <p>Each measure shall clearly refer to the requirement(s) to which it applies.</p>
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Glossary of Terms Used in Standards

Definitions of Terms:	<p>All defined terms used in MRO Regional Reliability Standards, shall be defined in the glossary. Definitions may be approved as part of a standards action or as a separate action. All definitions must be approved in accordance with the standards process.</p>
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Compliance Administration Elements

Compliance Monitoring Process	<p>The following compliance elements, which are part of the standard and are balloted with the standard are developed for each measure in a standard by the NERC compliance program in coordination with the standard drafting team</p> <ul style="list-style-type: none"> • The specific data or information that is required to measure performance or outcomes. • The entity that is responsible for providing the data or information for measuring performance or outcomes. • The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes • The entity that is responsible for evaluating such data or information. • The time period in which performance or outcomes is measured, evaluated, and then reset.
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	<ul style="list-style-type: none"> • Measurement data retention requirements and assignment of responsibility for data archiving.
Violation Severity Levels	Defines the degree to which compliance with a requirement was not achieved. The violation severity levels, are part of the standard and are balloted with the standard, and developed by the MRO compliance program in coordination with the standard drafting team.

Supporting Information Elements

Interpretations	<p>Formal interpretations of Regional Reliability Standard(s) proposed by the MRO and approved by NERC, FERC, and the applicable Canadian regulatory authorities.</p> <p>Interpretations are temporary, as the standard should be revised to incorporate the interpretation.</p>
Implementation Plan	Each Regional Reliability Standard proposed by the MRO and approved by NERC, FERC and the applicable Canadian regulatory authorities shall have an associated implementation plan describing the effective date of the standard or effective dates if there is a phased implementation. The implementation plan may also describe the implementation of the standard in the compliance program and other considerations in the initial use of the standard, such as necessary tools, training, etc. The implementation plan must be posted for at least one public comment period and is approved as part of the ballot of the standard.
Supporting References	<p>This section will reference related documents that support implementation of the Reliability Standard proposed by the MRO and approved by NERC and the regulatory authorities, but are not themselves mandatory. Examples include, but are not limited to:</p> <ul style="list-style-type: none"> • Developmental history of the standard and prior versions • Notes pertaining to implementation or compliance • Standard references • Standard supplements • Procedures • Practices • Training references • Technical references • White papers • Internet links to related information



III. Roles in the MRO Regional Reliability Standards Development Process

Nomination, Revision or Withdrawal of a Standard: Any member of the MRO or group within the MRO region shall be allowed to request that a MRO Regional Reliability Standard be developed, modified, or withdrawn. Additionally, any person (organization, company, government agency, individual, etc.) who is directly and materially affected by the reliability of MRO bulk power system shall be allowed to request that a MRO Regional Reliability Standard be developed, modified, or withdrawn.

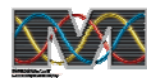
Process Roles

Board of Directors (BOD) - The BOD shall consider MRO Regional Reliability Standards that have been approved by the Registered Ballot Body ("RBB") to be proposed to NERC and the regulatory authorities for enforcement consistent with direct or delegated regulatory authorities of the MRO. Once the proposed MRO Regional Reliability Standard is approved by NERC and the regulatory authorities, it becomes effective in the MRO region consistent with the MRO's direct or delegated regulatory authority.

Compliance Committee (CC) - The mission of the MRO CC is to assure that the compliance program and policies are followed according to the rules and carried out in a non-discriminatory manner, subject to the BOD approval with MRO staff and BOD oversight. The compliance program is designed around compliance with Reliability Standards. The development of a MRO Regional Reliability Standard, in particular the measures and compliance administration portions of the standard, shall have direct input from the CC. Field-testing will be managed and coordinated with the CC. The Compliance Manager (CM), a MRO staff function, and the CC shall provide input and comments during the standards development process to ensure the measures will be effective and other aspects of the compliance program practically implemented.

Standards Committee (SC) -The responsibilities of the SC will include: management of the standards work flow so as not to overwhelm available resources, review of standards authorization requests and draft standards for such factors as completeness, sufficient detail, rational result, and compatibility with existing standards; clarifying standard development issues not specified in this procedure; and advising the BOD on standard development matters. Under no circumstance will the SC change the substance of a draft standard. The SC shall advise the BOD on MRO Regional Reliability Standards presented for their consideration in determining whether to propose such Reliability Standard to NERC.

Standards Process Manager (SPM) – This is a MRO staff function. The Standards Manager who will act as the SPM shall administer the MRO Regional Reliability Standards Process. The SPM is responsible for ensuring



that the development and revision of standards is in accordance with this manual. The SPM works to ensure the integrity of the process and consistency of quality and completeness of the MRO Regional Reliability Standards. The SPM facilitates all steps in the process.

Standards Process Staff - MRO staff will assist the SC, SPM, Requester, and Standard Drafting Team (SDT).

Registered Ballot Body (RBB) - The RBB comprises all entities that:

1. qualify for one of the Industry Segments approved by the BOD¹, and
2. are registered in the MRO RBB, and
3. are current with any MRO related designated fees associated with this program. Designated fees are defined as fees associated with the Standards Development process. At this time there are no fees for registration.

Each voter must be a member of the RBB. **Note: An individual's membership in the RBB will be in a "Pending" stage immediately following registration; in order to be able to vote, your registration must be activated, and activation may take up to 24 hours.**

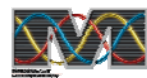
Each registered member of the RBB is eligible to participate in the voting process for each Standards Action (add, change or withdraw). However, each MRO RBB member (company) may have only one vote per eligible segment.

The RBB will ensure, through its vote, the need for and the technical merits of, a proposed Standards Action and the appropriate consideration of views and objections received during the development process. The RBB votes to approve each Standards Action.

The MRO Regional Reliability Standards Process relies on open and inclusive participation by the electric utility industry and the interested public. Participation and voting is open to non-members of the MRO; at this time there are no fees for participation or voting.

Requester - A Requester is any person or entity (organization, company, government agency, etc.) that submits a complete request for development, revision, or withdrawal of a standard. Any person or entity that is directly and materially affected by an existing standard or the need for a new standard may submit a completed Standard Authorization Request (SAR) for any of the three following actions; a new standard to be developed, a revision to an existing standard, or a withdrawal of an existing standard.

¹ Appendix C contains a description of the latest version of the Industry Segments approved by the Board of Directors.



SAR Drafting Team - A team of technical experts assigned by the SC, that:

- assists in refining the SAR,
- considers and responds to comments, and
- participates in industry forums to help build consensus on the SAR.

SDT - A small team (5-10 people) of technical experts, approved by the SC, that:

- develops the details of the standard
- considers and responds to comments
- participates in industry or regional forums to help build consensus on posted draft standards

Sub-Regional Variance: An aspect of a Reliability Standard (one that is proposed for the MRO region for enforceability) that applies only within a particular regional entity sub-region. A Sub-Regional Variance may be used to exempt a group of entities within the MRO region from all or a portion of a Reliability Standard or may establish different measures or performance criteria as necessary to achieve reliability within the particular group of entities within the region. A Sub-Regional Variance may not be inconsistent with the Reliability Standard as it would otherwise exist without the variance. A Sub-regional variance cannot establish a level of reliability less than that set by a continent-wide Reliability Standard and such a variance would only exempt a group of entities from a MRO Reliability Standard. Such a variance may be proposed by a group of sub-regional entities and, if approved by NERC and regulatory authorities, shall be enforced within the MRO region pursuant to its delegated authority.

IV. MRO Regional Reliability Standards Consensus Development Process

Overview

The process for development of MRO Regional Reliability Standards to be proposed to NERC and regulatory authorities for approval and eventual enforcement under direct or delegated authority is illustrated in the Process Diagram in Appendix A and has the following characteristics:

- **Inclusive** – Any entity (person, organization, company, government agency, individual, etc.) with a direct material interest in the bulk power system in the MRO area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.
- **Openness** - Participation is open to all persons who are directly and materially affected by the reliability of the MRO region bulk power

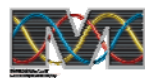


system. There shall be no undue financial barriers to participation. Participation shall not be conditional upon membership in the MRO or any organization, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements.

- **Balance** - The MRO Regional Reliability Standards Development Process shall have a balance of interests and shall not be dominated by any two, interest categories and no single interest category shall be able to defeat a matter.
- **Transparent** - All actions material to the development of MRO regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the MRO Web site.
- **Timeliness** - The MRO Regional Reliability Standards Development Process does not unnecessarily delay development of the proposed reliability standard.
- **Fair Due Process** - The MRO Regional Reliability Standards Development Process provides for reasonable notice and opportunity for public comment. The procedure includes public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of all persons who are directly and materially affected.

The MRO Regional Reliability Standards development process is intended to develop consensus, first on the need for the standard, then on the standard itself. The process includes the following key elements:

- **Nomination of a proposed standard, revision to a standard, or withdrawal of a standard** using a Standard Authorization Request ("SAR").
- **Public posting of the SAR** to allow all parties to review and provide comments on the need for the proposed standard and the expected outcomes and impacts from implementing the proposed standard. Notice of standards shall provide an opportunity for participation by all directly and materially affected persons.
- **Review of the public comments** in response to the SAR and prioritization of proposed standards, leading to the authorization to develop standards for which there is a consensus-based need.
- **Assignment of teams** to draft the new or revised standard.
- **Drafting of the standard.**



- **Public posting of the draft standard** to allow all parties to review and provide comments on the draft standard. At this point the need for the standard has been established and comments should focus on aspects of the draft standard itself.
- **Field testing of the draft standard and measures:** The need and extent of recommendations for field testing shall be determined by the SDT and submitted through the SPM to the SC for approval. The SDT shall request input from the RAC and CC members.
 - Field-testing may be region-wide or may consist of one or more, lesser scale demonstrations, evaluations, or other SC approved methods.
 - Field-testing should be cost effective and practical, yet sufficient to validate the requirements, measures, measurement processes and other elements of the standard necessary to implement the Compliance Program.
 - For some standards and their associated measures, field-testing may not be appropriate, such as those measures that consist of administrative reports.
- **Formal balloting of the standard** for approval by the RBB.
- **Re-ballot to consider specific comments** by those submitting comments with negative votes.
- **Approval of a MRO Regional Reliability Standard.**
- **Appeals mechanism** as appropriate for the impartial handling of substantive and procedural complaints regarding action or inaction related to the standards process.

Process Steps

The first three steps in the MRO Regional Reliability Standards Development Process serve to establish consensus on the need for the standard.

Step 1 - Request to Develop a Standard or Revise an Existing Standard

Objective: A valid SAR that clearly justifies the purpose for, and describes the scope of, the proposed standards action. An example of a SAR form can be found in Appendix B.

Sequence Considerations: Submitting a valid SAR is the first step in proposing a standard action. A requester may prepare a draft of the



proposed standard (Step 5), which the SC may authorize for concurrent posting with the SAR. This could be useful for a standard action with a clearly defined and limited scope or one for which stakeholder consensus on the need and scope is likely. Complex standards where broad debate of issues is required should be, presented in two stages. The first stage is, the completion of a valid SAR to get agreement on the scope and purpose, the second stage is the development of the standard later in Step 6.

Requests to develop, revise, or withdraw² a MRO Regional Reliability Standard shall be submitted to the SPM by completing a SAR.

The SAR is a description of the subject matter of the new or revised standard along with a proposed implementation plan and includes:

- Descriptive detail to clearly define the scope of the standard.
- A statement of the purpose of the standard
- A needs statement that provides justification for the development or revision of the standard; including an assessment of the reliability and market interface impacts of implementing or not implementing the standard.

Appendix B provides a sample template of the SAR form.

The SPM shall maintain the SAR form and make it available electronically.

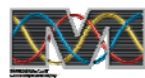
Any person or entity directly or materially affected by an existing standard or the need for a new or revised standard may initiate a SAR.

The Requester shall submit the SAR to the SPM electronically through the RSVP application and the SPM shall electronically acknowledge receipt of the SAR within 15 days. The SPM shall send the electronic acknowledgement simultaneously to the Requester and to NERC.

The SPM shall assist the Requester in developing the SAR, reviewing NERC Reliability Standards to see whether they already address the need, identify issues with interconnected regions, and verify that the SAR complies with this manual.

The SPM shall forward all properly completed SARs to the SC. The SC shall meet at established intervals to review all pending SARs. The frequency of the review process will depend on workload; in no case shall a properly completed SAR wait for SC action more than 60 days from the date of receipt.

² Actions in the remaining steps of the standards process apply to proposed new standards, revisions to existing standards, or withdrawal of existing standards, unless explicitly stated otherwise.



The SC may take one of the following actions:

- Remand the SAR back to the SPM for additional work and information from the Requester.
- Accept the SAR as a candidate for a new or revised standard. If the SC accepts a SAR as a candidate for a new or revised standard, it will provide technical support and analysis of comments for that SAR, and assist the Requester and the SPM in the remaining steps of the process.
- Reject the SAR. If the SC rejects a SAR, it will provide a written explanation for rejection to the Requester within 30 days of the rejection decision. If the SC rejects a SAR, the Requester may file an appeal following the Appeals Process.

The status of SAR shall be tracked electronically by the SPM. The SAR and its status shall be posted for public viewing including any actions or decisions.

Step 2 - Solicit Public Comments on the SAR

Objective: Establish that there is stakeholder consensus on the need, scope and applicability of the requester's proposed standards' action.

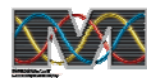
Sequence Considerations: A SAR may be posted only after completion of Step 1. A SAR may at the discretion of the SC, be posted for comment concurrently with a draft standard (Step 6).

Once a SAR has been accepted by the SC as a candidate for the development of a new or revised standard, the SPM shall post the SAR on the RSVP Application for the purpose of soliciting public comments.

The SPM shall notify the RBB, the MRO region, NERC, and other interested parties that the SAR has been accepted by the SC and posted for comment.

Within thirty (30) days of acceptance by the SC, the SAR shall be posted electronically and comments on the SAR(s) will be accepted for a 21-day period from the date of posting. Comments will be accepted on-line using the RSVP application. The SPM will provide a copy of the comments to the Requester. In addition, comments will be visible to the RBB during the commenting period. Based on the comments, the Requester may decide to: submit the SAR for authorization, withdraw the SAR, or revise and resubmit it to the SPM for another posting in the next available comment period.

The Requester shall give prompt consideration to the written views and objections of all participants. The Requester, with support from the SPM or SPM assigned staff, shall make an effort to resolve all expressed objections



and shall advise each objector of the disposition of the objection and the reasons therefore. In addition, the SPM shall inform each objector that an appeals process exists within the MRO standards process.

While there is no established limit on the number of times a SAR may be posted for comment, the SC retains the right to reverse its prior decision and reject a SAR if it believes continued revisions are not productive. Once again, the SC shall notify the Requester in writing of the rejection and the availability of the Appeals Process. During the SAR comment process, the Requester may become aware of potential sub-Regional differences (within the MRO) related to the proposed standard. To the extent possible, the Requester should make any sub-Regional differences or exceptions a part of the SAR so that, if the SAR is authorized, such variations will be made a part of the draft new or revised standard.

Step 3 - Authorization to Proceed With Drafting of a New or Revised Standard

Objective: Authorize development of a standard that is consistent with the SAR and for which there is stakeholder consensus on the need, scope and applicability.

Sequence Considerations: The SC may formally authorize the development of a standards' action only after due consideration of SAR comments to determine there is consensus on the need, scope and applicability of the proposed standard. This does not preclude, however, the requester from previously preparing a draft standard for consideration and the SC from authorizing a concurrent posting of the draft standard for comment along with the SAR.

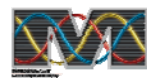
After the public provides comments on the SAR, the Requester may decide to submit the SAR to the SC for authorization to draft the standard. The SC reviews the comments received in response to the SAR and any revisions to the SAR. The SC, considering the public comments received and their resolution, may then take one of the following actions:

- Authorize the drafting of the proposed standard or revisions to a standard.
- Reject the SAR with a written explanation to the Requester and post that explanation.

If the SC rejects a SAR, the Requester may file an appeal.

Step 4 – Formation of the SDT

Objective: Appoint a SDT that has the expertise, competencies, and diversity of views that are necessary to develop the standard.



Sequence Considerations: The SC may appoint a SDT concurrently with or after authorization of the development of a standard (Step 3).

For each new SAR, the SPM shall post a request that interested parties complete a "SDT Self-Nomination" form utilizing the RSVP application. Those individuals who complete and submit these self-nomination forms through the RSVP will be considered for appointment to the associated SDT.

Once a SAR has been authorized by the SC to proceed to the drafting stage, the SC shall assign the development of the standard to a SDT. The SPM shall recommend a list of candidates for appointment to the team and shall submit the list to the SC. The SC may accept the recommendations of the SPM or may select other individuals to serve on the SDT within 60 days.

The SDT shall elect a Chairman for their team. This team shall consist of a small group of people who collectively have the necessary technical expertise and work process skills. A representative of the CC or their designee, plus a Reliability Assessment Committee (RAC) representative or their designee should be included as a member of each SDT.

The SPM shall assign MRO Standards Process staff personnel to assist in the drafting of the standard.

Step 5 - Draft New or Revised Standard

Objective: Develop a standard within the scope of the SAR.

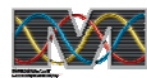
Sequence Considerations: Development of the draft standard follows the authorization by the SC (Step 3) and appointment of a SDT (Step 4). Steps 5 and 6 may be iterated as necessary to consider stakeholder comments and build consensus on the draft standard.

The drafting team shall develop a work plan for completing the regional reliability standard, including the establishment of a milestone schedule for completing critical elements of the work in sufficient detail to ensure that the drafting team will meet the objectives established by the SC. The drafting team shall submit its work plan to the SC for its concurrence.

The drafting team shall convene periodically, either in person or by electronic means as necessary, to establish work teams (made up of members of the drafting team) as necessary, and perform other activities to complete the proposed standard within the milestone date(s) agreed upon by the SC.

The work product of the drafting team will consist of the following:

- A draft standard consistent with the standard request on which it was based.

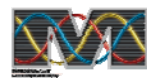


- An assessment of the reliability impact of the standard request within the region and in neighboring regions, including appropriate input from the neighboring regions if the standard request is determined to impact any neighboring region.
- An implementation plan, including the nature, extent and duration of field-testing needed, if any.
- Identification of any existing standard that will be deleted, in part or whole, or otherwise impacted by the implementation of the draft standard.
- Technical reports, white papers and/or work papers that provide technical support for the draft standard under consideration.

The team regularly (at frequency determined by the SC) shall inform the SC of its progress in meeting a timely completion of the draft standard.

The drafting of measures and compliance administration aspects of the standard will be coordinated with the CC.

If the SDT determines that the scope of the SAR is inappropriate based on its own work and stakeholder comments, the team shall notify the SC. The SDT may recommend the scope of the standard be reduced to allow the effort to continue forward, while still remaining within the scope of the SAR. Reducing the scope defined in the SAR is acceptable if the SDT finds, for instance, that additional technical research is needed prior to developing a portion of the standard or issues need to be resolved before consensus can be achieved on a portion of the standard. In this case, the SDT shall provide detailed justification of need for reducing the scope. The SC, based on the SDT recommendation and a review of stakeholder comments, will determine if the change in scope is acceptable.



If the SDT determines it is necessary to expand the scope of the standard or to modify the scope in a way that is no longer consistent with the scope defined in the SAR, then the SDT may initiate or recommend another requester initiate a new SAR (Step 1) to develop the expanded or modified scope. At no time will a SDT develop a standard that is not within the scope of the SAR that was authorized for development.

If the SDT elects to narrow the SAR, scope or identifies issues not in the SAR scope, then a report shall be prepared and sent to the SC.

Once the standard has been drafted, the SPM shall review the standard for consistency of quality and completeness. The SPM shall also ensure the draft standard is within the scope and purpose identified in the SAR. This review shall occur within a 15-day period.

The SPM shall post the new or revised standard for public comment once this review is completed. The SPM shall notify the RBB, the MRO region, NERC, and other interested parties that the new or revised standard has been posted for public comment.

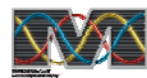
Step 6 - Solicit Public Comments on Draft Standard

Objective: Receive stakeholder inputs on the draft standard for the purpose of assessing consensus on the draft standard, and modifying the draft standard as needed to achieve consensus.

Sequence Considerations: The posting of a draft standard will occur after the appointment of a SDT and development of a draft by the team. Alternatively, a draft standard submitted by the requester may be posted for comment concurrently with the associated SAR, with the condition that the SAR and draft standard meet the requirements of this procedure and are consistent with each other. In all cases, public comments on the draft standard shall be solicited prior to the SC approving the standard going to ballot (Step 9).

Once a draft standard has been verified by the SPM to be within the scope and purpose of the SAR and in compliance with this manual, the SPM will post the draft standard. The posting of the draft standard will be linked to the SAR for reference. Comments on the draft standard will be accepted for a 30-day period from the notice of posting. Comments will be accepted on-line using the RSVP application and will be viewable during the posted commenting period.

Since the need for the standard was established by authorization of the SAR, comments at this stage should identify specific issues with the draft standard and propose alternative language. The comments may include recommendations to accept or reject the standards and reasons for that recommendation.



The SDT shall develop an implementation plan for the standard that will be posted in conjunction with the standard for at least one stakeholder comment period. Once the implementation plan has been developed and posted for stakeholder comment, it shall remain part of the standard action for subsequent postings and shall be included on the ballot for the standard. The implementation plan shall describe when the standard will become effective. If the implementation is to be phased, the plan will describe which elements of the standard are to be applied to each class of responsible entities, and when. The plan will describe any deployment considerations unique to the standard, such as computer applications, measurement devices, databases, or training, as well as any other special steps necessary to prepare for and initially implement the standard.

Step 7 - Field Testing

Objective: Determine what testing is required to validate the concepts, requirements, measures and compliance elements of the standard and implement that testing.

Sequence Considerations: Testing may be completed during or after Steps 1 through 6. Testing and associated analysis of results (Step 8) must be completed prior to determining whether to submit the standard to ballot (Step 9).

Taking into consideration stakeholder comments received through Step 6, the SDT may recommend to the SC that a test of one or more aspects of a standard is needed. The MRO Compliance Manager will also evaluate whether field-testing of the compliance elements of the proposed new or revised standard is needed and advise the SC. The SC will approve all field tests of proposed standards based on the recommendations of the SDT and the compliance manager. If needed, the SC will also request inputs on technical matters from applicable standing committees or other experts.

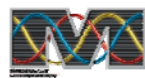
Once the field-testing plan is approved, the SPM will, under the direction of the SC, oversee the field-testing of the standard.

In some cases, measurement may be an administrative task and no field-testing is required at all.

In other cases, one or more limited scale demonstrations, evaluations, or other SC approved method may be sufficient.

Step 8 - Analysis of the Comments and Field Test Results

Objective: Evaluate stakeholder comments and field test results to determine if there is consensus that the proposed standard should go to ballot or requires additional work.



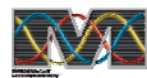
Sequence Considerations: This step follows Steps 6 and 7 and must precede Step 9.

The SPM will assemble the comments on the draft standard and distribute those comments to the SDT and the requester. The SDT, assisted by the requester, shall give prompt consideration to the written views and objections of all participants. An effort to resolve all expressed objections shall be made, and each objector shall be advised of the disposition of the objection and the reasons therefore. The STD shall prepare a summary of the comments received and the changes made to the proposed standard as a result of these comments. The STD shall summarize comments that were rejected by the STD and the reason(s) that these comments were rejected, in part or whole. The summary, along with a response to each comment received will be posted on the MRO website no later than the next posting of the proposed standard. In addition, each objector will be informed that an appeals process exists within the MRO standards process.

Based on comments received, the SDT may determine there is an opportunity to achieve consensus for the standard. In this case, the SDT may elect to return to Step 5 and revise the draft for another posting. Although there is no predetermined limit on the number of times a draft standard may be revised and posted, the SDT should ensure the potential benefits of another posting outweigh the burden on the SDT and stakeholders. Returning to Step 5 to continue working on the standard is the prerogative of the SDT, subject to SC oversight.

If the SDT determines the draft standard is ready for ballot, the SDT shall submit the draft standard to the SC with a request to proceed to balloting, along with the comments received and responses to the comments. Based on the comments received and field-testing, the SDT may include revisions that are not substantive. Substantive changes to a draft standard shall not be permitted between the last posting for stakeholder comment and submittal for ballot. A substantive change is one that directly and materially affects the intent or use of the standard. For example, adding, deleting, or revising requirements; or adding, deleting, or revising measurements for which compliance is mandatory. Any non-substantive changes such as: spelling, grammar, or formatting, made prior to going to ballot, will be identified to stakeholders at the time of the ballot notice. If the SDT determines, based on comments received, that substantive changes to the standard are required, the standard will be re-posted for comment and a notice sent to the MRO region, the RBB, NERC, and other interested parties that the revised standard has been re-posted for public comment.

When the SC receives a draft standard that has been recommended for ballot, the SC will review the standard to ensure that the proposed standard is consistent with the scope of the SAR; addresses all of the objectives cited in Steps 1-8, as applicable; and is compatible with other existing standards. If the proposed standard does not pass this review, the SC shall remand the



proposed standard to the SDT to address the deficiencies. If the proposed standard passes the review, the SC shall set the proposed standard for ballot as soon as the workflow will accommodate.

If the SDT determines there is insufficient consensus to ballot the standard and that further work is unlikely to achieve consensus, the SDT may recommend to the SC that the standard drafting be terminated and the SAR withdrawn. The SC will consider the recommendation of the SDT and stakeholder comments and may terminate the standard drafting and accept the withdrawal of the SAR. If the SC believes the recommendation is unsubstantiated, the SC may direct other actions consistent with this procedure, such as requesting the SDT to continue or appointing a new SDT.

Step 9 - Ballot the New or Revised Standard

Objective: Approve the proposed standard by vote of industry stakeholders.

Sequence Considerations: The SC shall determine that all requirements of Steps 1 through 8 have been satisfactorily met before authorizing an action to go to ballot.

If the SDT decides to submit the standard to a vote, the SPM shall provide notice of such to the RBB, NERC, as well as other interested parties, and electronically post the standard, and all comments received, the responses to those comments, and an implementation plan.

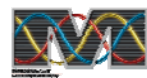
First Ballot

Each voter must be a member of the Registered Ballot Body (RBB). **Note: An individual's membership in the RBB will be in a "Pending" stage immediately following registration; in order to be able to vote, your registration must be activated, and activation may take up to 24 hours.**

The ballot will be conducted electronically through the RSVP application. All members of the RBB shall be eligible to vote on the associated standard except, that only one member from an entity may vote in any given segment. It is the responsibility of the entity to identify and notify the SPM of the eligible voter. The voting options are:

- Affirmative, with or without comment;
- Negative, with or without comment (the comments for a negative vote may be given and, if possible, should include specific wording or actions that would resolve the objection);
- Abstain.

The time window for voting shall be designated when the draft standard is posted. In no case shall the voting time window start sooner than fifteen



(15) and no later than thirty (30) days from the notice of the posting. The voting time window will be a period of ten (10) days.

This provides a minimum total of twenty-five (25)-days from the initial notice until the end of the voting period. Approval of a MRO Regional Reliability Standard or revision to a MRO Regional Reliability Standard requires:

- a quorum, which is established by at least 4 of the Segments submitting a response with an affirmative vote, a negative vote, or an abstention; and
- an affirmative vote from at least two-thirds of the segments participating in the vote. Each segment vote is determined by the majority of the votes cast in the segment, either affirmative or negative. Abstentions and non-responses will not be counted.

Voting results, comments, and responses, if necessary, will be posted for public viewing as soon as practical after the balloting period closes. Voting results and comments maybe posted prior to the responses.

Balloting examples are provided in Appendix D.

Members of the RBB should submit any comments on the proposed standard during the public comment period. If any Negative votes with comments are received during the ballot period, they shall be addressed in accordance with *Step 8* and included with the re-circulation ballot.

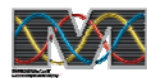
The SPM shall facilitate the SDT, assisted by the Requester, in preparing a response to negative votes submitted with comments.

In addition, the SPM will inform each objector that an appeals process exists within the MRO standards process. A negative vote that does not contain comments does not require a response. If there are no negative votes with comments from the first ballot, then the results of the first ballot shall stand. If however, one or more members submit negative votes with comments, regardless of whether those comments are resolved, a second ballot shall be conducted.

If a quorum of the Segments is not established, the standard shall be re-balloted, allowing ten (10) days for the ballot. If a quorum is not established with the re-ballot, the SPM shall survey the RBB to establish interest in participating in a ballot on the standard.

Second Ballot

In the second ballot (also called a “re-circulation ballot”), members of the RBB shall again be presented the proposed standard (unchanged from the first ballot) along with the reasons for negative votes, the responses, and any resolution of the differences.



All members of the RBB eligible to vote shall be permitted to reconsider and change their vote from the first ballot. Eligible voting members of the RBB that did not respond to the first ballot shall be permitted to vote in the second ballot. Only one vote will be accepted from each organization within a segment.

In the second ballot, votes will be counted by exception only - members on the second ballot may indicate a revision to their original vote, otherwise their vote shall remain the same as in the first ballot. If a second ballot is conducted, the results of the second ballot shall determine the status of the standard, regardless of the outcome of the first ballot.

The voting time window for the second ballot is ten (10) days (to allow members to review comments and responses). The 21-day posting is not required for the second ballot. Members of the RBB may submit comments in the second ballot but no response to those comments is required.

In the second ballot step no revisions to the standard are permitted, as such revisions would not have been subject to public comment. However, if the SC determines that revisions proposed during the ballot process would likely provide an opportunity to achieve consensus on the standard, then such revisions may be made and the draft standard posted for public comment again beginning with Step 6 and continuing with subsequent steps.

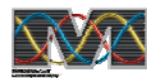
The SPM shall post the final outcome of the ballot process. If the standard is rejected, the process is ended and any further work in this area would require a new SAR. If the standard is approved, the SPM shall post the consensus standard and the SC Chair shall present it to the BOD for consideration.

Step 10 –Approval of a Proposed MRO Regional Reliability Standard

Objective: To have the BOD approve the proposed new or revised, MRO Regional Reliability Standard. Once properly approved by the BOD, accepted by NERC, and accepted for filing by the applicable regulatory authorities in the United States and Canada, the Reliability Standard becomes enforceable.

Sequence Considerations: The thirty (30)-day notice prior to action by the BOD may begin concurrently with or any time after the start of the first ballot. The thirty (30)-day period shall not end any sooner than the end of the final ballot.

A MRO Regional Reliability Standard submitted for consideration to the BOD must be publicly posted and noticed no less than fifteen (15) and no more than thirty (30) days prior to action by the BOD, included with the standard is the implementation plan that was part of the posting process.



At a regular or special meeting, the BOD shall consider the proposed MRO Regional Reliability Standard. The BOD shall consider the results of the balloting and dissenting opinions. The BOD shall consider any advice offered by the MRO SC. The BOD may accept or reject a standard, but may not modify a proposed MRO Regional Reliability Standard. If the BOD chooses not to propose a standard to NERC and the applicable regulatory authorities in the United States and Canada, it shall provide its reasons for not doing so. Upon acceptance of the standard, the SPM will submit the standard to NERC for approval and filing with the applicable regulatory authorities in the United States and Canada.

A MRO Regional Reliability Standard that is approved by NERC and filed with the applicable regulatory authorities shall become effective in accordance with applicable NERC and applicable regulatory proceedings. The implementation plan is included with the proposed Reliability Standard.

The SPM shall publicly post the standard, showing the final status.

Step 11 - Implementation of the MRO Regional Reliability Standard

Objective: That Organizations subject to the standard use the standard, and the compliance program incorporates the standard into its compliance monitoring and enforcement process.

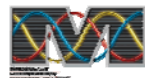
Sequence Considerations: The effective date of a standard is defined in the standard implementation plan.

After approval of a MRO Regional Reliability Standard by the applicable authorities in the United States and Canada, the SPM will forward the standard to the Compliance Manager for implementation, enforcement, and monitoring by the CC which will oversee the implementation and assess the effectiveness.

V. Interpretations and Appeals

Interpretations of MRO Regional Reliability Standards

All persons who are directly and materially affected by the reliability of MRO bulk power systems shall be permitted to request an interpretation of a MRO Regional Reliability Standard. The person requesting an interpretation shall send a request to the SPM explaining the specific circumstances surrounding the request and what clarifications are required as applied to those circumstances. The request should indicate the material impact to the requesting party or others caused by the lack of clarity or a possibly incorrect interpretation of the standard. The SPM shall provide notice to the MRO region within ten business days of such a request for interpretation.



The SPM shall recommend a list of candidates with the relevant expertise for appointment to an interpretation team and shall submit the list to the SC.

As soon as practical (not more than 45 days), the SDT will draft a written interpretation to the standard addressing the issues raised. The SPM shall take the draft interpretation to the SC for acceptance, which would be forwarded to the Board for approval, at the SC recommendation. If approved by the Board, the interpretation is appended to the standard and is effective immediately. The SPM will send notice to all entities that operate, plan, and use the bulk electric systems of the MRO region. The interpretation will stand until the standard is revised through the normal process, at which time the standard will be modified to incorporate the clarifications provided by the interpretation.

Appeals

Persons who have directly and materially affected interests and who have been or will be adversely affected by any substantive or procedural action or inaction related to the development, approval, revision, or withdrawal of a MRO Regional Reliability Standard shall have the right to appeal. This appeals process applies only to the MRO Regional Reliability Standards process as defined in this manual.

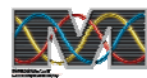
The burden of proof to show adverse effect shall be on the appellant. Appeals shall be made within 30 days of the date of the action purported to cause the adverse effect, except appeals for inaction, which may be made at any time. In all cases, the request for appeal must be made prior to the next step in the process.

The final decisions of any appeal shall be documented in writing and made public.

The appeals process provides two levels, with the goal of expeditiously resolving the issue to the satisfaction of the participants:

Level 1 Appeal

Level 1 is the required first step in the appeals process. The appellant shall submit to the SPM, a complaint in writing that describes the substantive or procedural action or inaction associated with a MRO Regional Reliability Standard or the MRO Regional Reliability Standards process. The appellant shall describe in the complaint the actual or potential adverse impact to the appellant. Assisted by any necessary staff and committee resources, the SPM shall prepare a written response addressed to the appellant as soon as practical but not more than 45 days after receipt of the complaint. If the appellant accepts the response as a satisfactory resolution of the issue, both the complaint and response shall be made a part of the public record associated with the standard.



Level 2 Appeal

If, after the Level 1 Appeal the appellant remains unsatisfied with the resolution, and indicates such in writing to the SPM, the SPM shall convene a Level 2 Appeals Panel. This panel shall consist of five (5), panel members total appointed by the BOD. In all cases, Level 2 Appeals Panel members shall have no direct affiliation with the participants in the appeal.

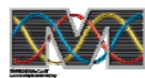
The SPM shall post the complaint and other relevant materials and provide at least 30 days notice of the meeting of the Level 2 Appeals Panel. In addition to the appellant, any person that is directly and materially affected by the substantive or procedural action or inaction referenced in the complaint shall be heard by the panel. The panel shall not consider any expansion to the scope of the appeal that was not presented in the Level 1 Appeal. The panel may in its decision find for the appellant and remand the issue to the SC with a statement of the issues and facts in regard to which fair and equitable action was not taken. The panel may find against the appellant with a specific statement of the facts that demonstrate fair and equitable treatment of the appellant and the appellant's objections. The panel may not, however, revise, approve, or disapprove a MRO Regional Reliability Standard, as these responsibilities remain with the standard's RBB and BOD respectively. The SPM shall publicly post the actions of the Level 2 Appeals Panel.

In addition to the foregoing, a procedural objection that has not been resolved may be submitted to the BOD for consideration at the time the BOD decides whether to approve proposing a particular MRO Regional Reliability Standard for NERC consideration and eventual enforceability. The objection must be in writing, signed by an officer of the objecting entity, and contain a concise statement of the relief requested and a clear demonstration of the facts that justify that relief. The objection must be filed no later than 30 days after the announcement of the vote by the RBB on the MRO Regional Reliability Standard in question.

VI. Maintenance of MRO Regional Reliability Standards and Process

Process Revisions

A request to substantively change the MRO Regional Reliability Standards Process Development process shall begin with the preparation of a SAR, and be handled using the same procedure as a request to revise a MRO Regional Reliability Standard. The exception is that a single ballot without regard to negative comments from the RBB shall be conducted and the results of that ballot will be binding. Non-substantive changes will be handled through the abbreviated process listed below. Once approved by the RBB, any proposed revisions to this manual would go to the BOD, NERC, and the applicable authorities in the United States and Canada for approval.



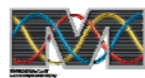
The BOD may make changes to the Industry Segments referenced in Appendix C. These changes shall be carried over to this process without the need to prepare a SAR. In addition, the SC may alter the document number on any existing or proposed standard without going through the MRO Regional Standards Process.

Abbreviated Process for Procedural/Administrative Changes

The SPM shall handle all procedural/administrative requests using an abbreviated process described here. The SPM shall post all proposed procedural/administrative revisions to the MRO Regional Reliability Standards Development Process for a 30-day public comment period. The SC shall consider all comments received and modify the proposed revisions as needed. Based on the degree of consensus for the revisions, the SC may:

- a. submit the revised procedure directly to the BOD for adoption;
- b. submit the revised procedure for ballot pool approval prior to submitting it for BOD adoption (the regular voting process in the procedure, including a re-circulation ballot if needed, would be used and the results of the ballot would be binding on the decision to move the revisions to the BOD or not);
- c. propose additional changes and repeat the posting for further comment;
- d. remand the proposal to the requester for further work; or
- e. reject the proposal.

The SPM shall post any proposed revisions submitted for BOD adoption for a period of 30 days prior to BOD action. The SC shall submit to the BOD a description of the basis for the procedure changes, a summary of the comments received, and any minority views expressed in the comment process. The proposed procedure revisions will be effective upon BOD adoption, or another date designated by the BOD.



Five-Year Review

Each MRO Regional Reliability Standard shall be reviewed at least once every five (5) years from the effective date of the standard or the latest revision to the standard, whichever is the later. The review process shall be conducted by soliciting comments from the stakeholders. If no changes are warranted, the SC shall recommend to the BOD that the Standard be reaffirmed. If the review indicates a need to revise or withdraw the standard, a SAR shall be prepared and submitted by the SC or any other stakeholder in accordance with the standards process. The SPM shall be responsible for administration of the five (5)-year review of MRO Regional Reliability Standards.

On-line Standards Information System

The SPM shall be responsible for maintaining an electronic database of information regarding currently proposed and currently in effect MRO Regional Reliability Standards. This information shall include current standards in effect, proposed revisions to standards, and proposed new standards. This information shall provide a record, for at a minimum the previous five years, of the review and approval process for each MRO Regional Reliability Standard, including public comments received during the development and approval process. This information shall be available through public Internet access.

Archived Standards Information

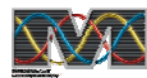
The SPM shall be responsible for maintaining an historical record of MRO Regional Reliability Standards information that is no longer maintained on-line. Archived information shall be retained indefinitely as practical, but in no case less than five years or one complete standard review cycle from the date on which the standard was no longer in effect. Archived records of standards information shall be available electronically within 30 days following the receipt by the SPM of a written request.

Numbering System

The SPM shall establish, maintain, and electronically post a system of identification numbers that allow MRO Regional Reliability Standards to be categorized and easily referenced. Re-numbering of approved standards does not warrant standard review but will be handled through the SC. The SPM will notify the MRO region and post the information on the RSVP system prior to making the change.

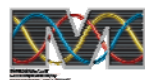
Supporting Documents

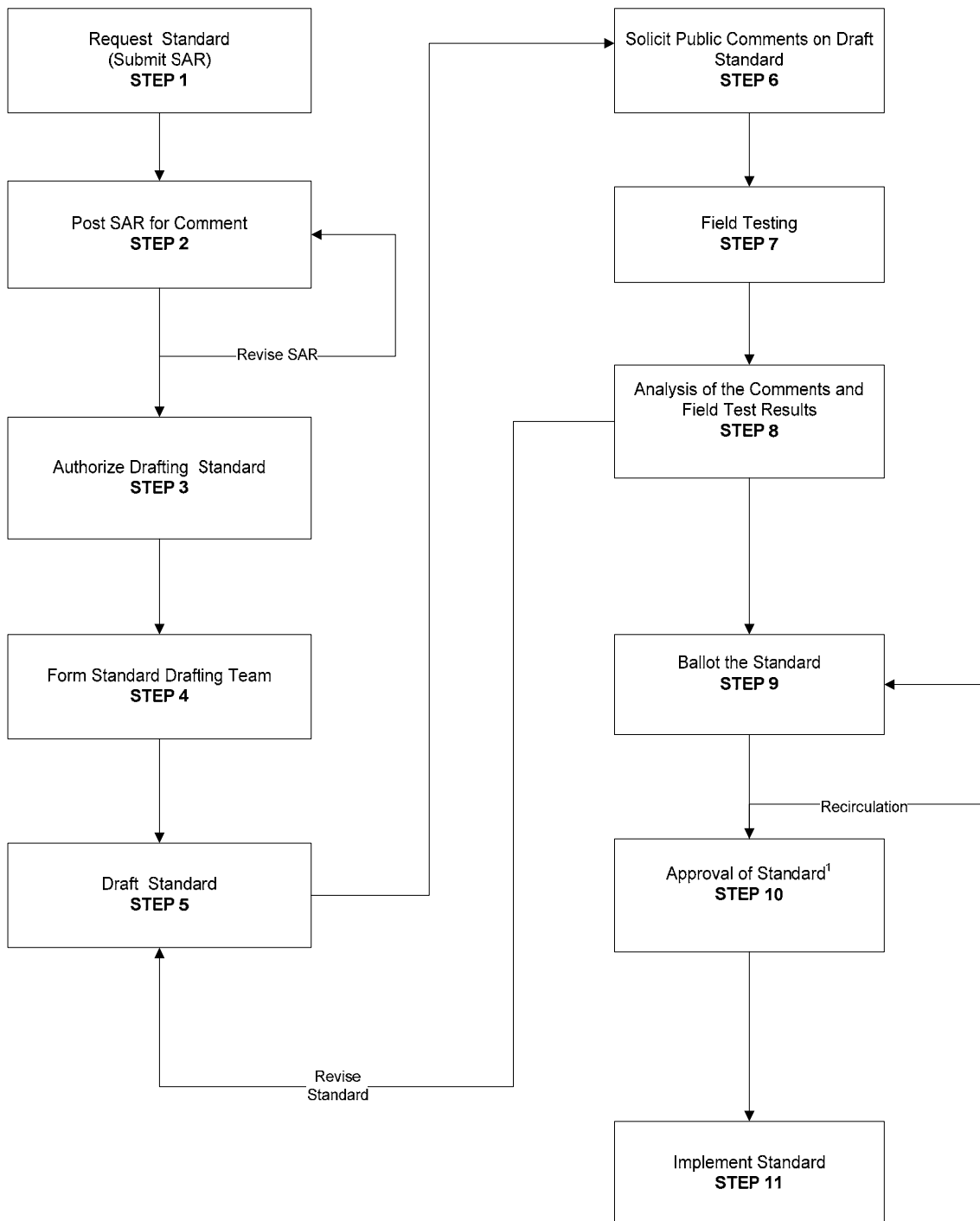
The following table identifies documents that may be developed to support a MRO Regional Reliability Standard. These documents may explain or facilitate implementation of standards but do not themselves contain



mandatory requirements subject to compliance review. Any requirements that are mandatory must be incorporated into the standard. For example, a procedure that must be followed as written must be incorporated into a MRO Regional Reliability Standard. If the procedure defines one way, but not necessarily the only way, to implement a standard it is more appropriately a reference.

<i>Type of Document</i>	<i>Description</i>	<i>Approval</i>
Standard Reference	Descriptive, explanatory information to support the understanding and interpretation of an MRO Regional Reliability Standard.	SC
Standard Supplement	Data forms, pro forma documents, and associated instructions that support the implementation of an MRO Regional Reliability Standard.	As assigned to the MRO Standing Committee
Procedure	Instructions defining a particular process or operation. Procedures may support the implementation of an MRO Regional Reliability Standard.	As assigned to the MRO Standing Committee
Technical Reference	Descriptive, technical information or analysis. A technical reference may support the implementation of an MRO Regional Reliability Standard.	As assigned to the MRO Standing Committee





¹After MRO Board approval, the standard is submitted to NERC for approval and filing to the applicable regulatory authorities. Upon regulatory acceptance or approval, the



standard becomes enforceable as a Reliability Standard. VIII. Appendix B – Information in a Standard Authorization Request

Below is a template of the required information to complete a Standard Authorization Request. The SPM shall be responsible for implementing and maintaining this form as needed to support the information requirements of the standards process.

Standard Authorization Request Form

Title of Proposed Standard
Request Date

SAR Requestor Information	SAR Type <i>(Check a box for each one that applies.)</i>
Name	<input type="checkbox"/> New Standard
Primary Contact	<input type="checkbox"/> Revision to existing Standard
Telephone Fax	<input type="checkbox"/> Withdrawal of existing Standard
E-mail	<input type="checkbox"/> Urgent Action

Purpose (Describe the purpose of the standard – what the standard will achieve in support of reliability.)

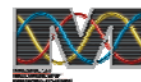
Industry Need (Provide a detailed statement justifying the need for the proposed standard, along with any supporting documentation.)

Brief Description (Describe the proposed standard in sufficient detail to clearly define the scope in a manner that can be easily understood by others.)



Reliability Functions

The Standard will apply to the Following Functions <i>(Check box for each one that applies.)</i>		
<input type="checkbox"/>	Reliability Authority	Ensures the reliability of the bulk transmission system within its Reliability Authority area. This is the highest Reliability Authority.
<input type="checkbox"/>	Balancing Authority	Integrates resource plans ahead of time, and maintains load-interchange-resource balance within its metered boundary and supports system frequency in real time.
<input type="checkbox"/>	Interchange Authority	Authorizes valid and balanced Interchange Schedules.
<input type="checkbox"/>	Planning Authority	Plans the Bulk Electric System.
<input type="checkbox"/>	Resource Planner	Develops a long-term (>one year) plan for the resource adequacy of specific loads within a Planning Authority area.
<input type="checkbox"/>	Transmission Planner	Develops a long-term (>one year) plan for the reliability of transmission systems within its portion of the Planning Authority area.
<input type="checkbox"/>	Transmission Service Provider	Provides transmission services to qualified market participants under applicable transmission service agreements
<input type="checkbox"/>	Transmission Owner	Owens transmission facilities.
<input type="checkbox"/>	Transmission Operator	Operates and maintains the transmission facilities, and executes switching orders.
<input type="checkbox"/>	Distribution Provider	Provides and operates the “wires” between the transmission system and the customer.
<input type="checkbox"/>	Generator Owner	Owens and maintains generation unit(s).
<input type="checkbox"/>	Generator Operator	Operates generation unit(s) and performs the functions of supplying energy and Interconnected Operations Services.
<input type="checkbox"/>	Purchasing-Selling Entity	The function of purchasing or selling energy, capacity, and all necessary Interconnected Operations Services as required.
<input type="checkbox"/>	Market Operator	Integrates energy, capacity, balancing, and transmission resources to achieve an economic, reliability-constrained dispatch.
<input type="checkbox"/>	Load-Serving Entity	Secures energy and transmission (and related generation services) to serve the end user.



NERC Reliability and Market Interface Principles

Applicable Reliability Principles (Check box for all that apply.)	
<input type="checkbox"/>	1. Interconnected bulk electric systems shall be planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions as defined in the NERC Standards.
<input type="checkbox"/>	2. The frequency and voltage of interconnected bulk electric systems shall be controlled within defined limits through the balancing of real and reactive power supply and demand.
<input type="checkbox"/>	3. Information necessary for the planning and operation of interconnected bulk electric systems shall be made available to those entities responsible for planning and operating the systems reliably.
<input type="checkbox"/>	4. Plans for emergency operation and system restoration of interconnected bulk electric systems shall be developed, coordinated, maintained and implemented.
<input type="checkbox"/>	5. Facilities for communication, monitoring and control shall be provided, used and maintained for the reliability of interconnected bulk electric systems.
<input type="checkbox"/>	6. Personnel responsible for planning and operating interconnected bulk electric systems shall be trained, qualified, and have the responsibility and authority to implement actions.
<input type="checkbox"/>	7. The security of the interconnected bulk electric systems shall be assessed, monitored and maintained on a wide area basis.
<input type="checkbox"/>	8. Bulk power systems shall be protected from malicious physical or cyber attacks.
Does the proposed Standard comply with all of the following Market Interface Principles? (Select 'yes' or 'no' from the drop-down box.)	
1. The planning and operation of bulk electric systems shall recognize that reliability is an essential requirement of a robust North American economy. Yes	
2. A MRO Regional Reliability Standard shall not give any market participant an unfair competitive advantage. Yes	
3. A MRO Regional Reliability Standard shall neither mandate nor prohibit any specific market structure. Yes	
4. A MRO Regional Reliability Standard shall not preclude market solutions to achieving compliance with that Standard. Yes	
5. A MRO Regional Reliability Standard shall not require the public disclosure of commercially sensitive information. All market participants shall have equal opportunity to access commercially non-sensitive information that is required for compliance with reliability standards. Yes	



Related Standards

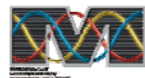
Standard No.	Explanation

Related SARs

SAR ID	Explanation

Regional Differences

Region	Explanation
ERCOT	
FRCC	
MRO	
NPCC	
SERC	
RFC	
SPP	
WECC	



IX. Appendix C –Registered Ballot Body (RBB) Registration Procedures

The RBB comprises all organizations and entities that:

1. qualify for one of the segments, and
2. are registered with MRO as ballot participants in the voting on standards, and
3. are current with any MRO designated fees associated with this program. Designated fees are defined as fees associated with the Standards Development process. At this time there are no fees for registration.

Each entity, when initially registering to join the RBB, and annually thereafter, will self-select to belong to one or more of the segments described below.

The SPM shall review all applications for joining the RBB, and make a determination of whether the self-selection satisfies at least one of the guidelines to belong to that segment. The entity will then be “credentialed” to participate as a voting member of that segment. The SC will decide disputes, with an appeal to the BOD.

In order to comment or vote you must have an active membership in the RBB. When you submit your registration request, you are placed in a “pending stage” until your account is activated. Activation of your account may take up to 24 hours. You will be unable to submit comments or vote until your account is activated.

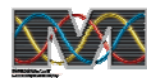
All registrations must be done electronically via the RSVP application (<http://rsvp.midwestreliability.org/rsvp/action/PubMainAction.jsessionid=47DOEF7CB59688BED492EB007FD9A0DF?type=Init>). There is no fee for registration at this time.

Segment Qualification Guidelines

The segment qualification guidelines are inclusive; i.e., any entity with a legitimate interest in the electric industry that can meet any one of the guidelines for a segment is entitled to belong to and vote in that segment. Only one vote per entity per segment is permitted.

The general guidelines for all segments are:

- Corporations or organizations with integrated operations or with affiliates that qualify to belong to more than one segment (e.g., Transmission Owners and Load Serving Entities) may belong to each of the segments in which they qualify, provided that each segment constitutes a separate membership in the RBB and is represented by a



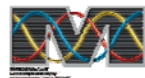
different representative. Only one vote per entity per segment registered is allowed.

- Corporations, organizations, and entities may participate freely in all subgroups.
- After their initial selection, registered participants may apply to change segments with thirty (30) days notice to the SPM. In addition, a registered participant cannot change segments during a balloting period once the participant has cast a vote or designated a proxy.
- Additionally, the SPM may change a participant segment under certain circumstances. These circumstances will be approved by the SC and posted on the RSVP.
- The qualification guidelines and rules for joining segments will be reviewed periodically by the SC to ensure that the process continues to be fair, open, balanced, and inclusive. Public input shall be solicited in the review of these guidelines.
- Since all balloting of standards will be done electronically, any registered participant may designate an agent or proxy to vote on its behalf. There are no limits on how many proxies an agent may hold. However, the MRO must have in its possession, either in writing or by e-mail, documentation that the voting right by proxy has been transferred from the registered participant to the agent prior to casting any vote.

Segments

Segment 1: Transmission Owners

- a. Any entity within the MRO region that owns or controls at least 200 circuit miles of integrated transmission facilities, or has an Open Access Transmission Tariff or equivalent on file with a regulatory authority.
- b. Transmission owners within the MRO region that have placed their transmission under the operational control of an RTO.
- c. Independent transmission companies or organizations, merchant transmission developers, and TRANSCOs that are in the MRO region and are not RTOs.
- d. Excludes RTOs, RCs and ISOs (that are eligible to belong to Segment 2).



Segment 2: Regional Transmission Organizations (RTOs), Regional Transmission Group (RTG), Independent System Operators (ISOs), Reliability Organizations, and Reliability Coordinators

- a. Authorized by appropriate regulator to operate as an RTO, RTG, or ISO within or adjacent to the MRO.
- b. Reliability Organizations certified by NERC or its successor.
- c. Check FERC definition.
- d. Reliability Coordinators within or adjacent to the MRO.
- e. In cases where the RTO or ISO and the RC have exactly the same geographic boundary, both may belong to this segment as long as they are separate entities.

Segment 3: Load-Serving Entities (LSEs)

- a. Entities within the MRO region serving end-use customers under a regulated tariff, a contract governed by a regulatory tariff, or other legal obligation to serve.
- b. A member within the MRO region of a G&T cooperative or a joint-action agency is permitted to designate the G&T or joint-action agency to represent it in this segment; such designation does not preclude the G&T or joint-action agency from participation and voting in another segment representing its direct interests.

Segment 4: Electric Generators

- a. Affiliated and independent generators within the MRO region.
- b. A corporation that sets up separate corporate entities for each one or two generating plants within the MRO region in which it is involved may only have one vote in this segment regardless of how many single-plant or two-plant corporations the parent corporation has established or is involved in.

Segment 5: Electricity Brokers, Aggregators, and Marketers

- a. Entities serving end-use customers under a power marketing agreement or other authorization not classified as a regulated tariff.
- b. An entity that buys, sells, or brokers energy and related services for resale in wholesale or retail markets, whether a non-jurisdictional entity operating within its charter or an entity licensed by a jurisdictional regulator.



- c. G&T cooperatives and joint-action agencies that perform as an electricity broker, aggregator, or marketer function are permitted to belong to this segment.

Segment 6: Electricity End Users

- a. Service delivery taken within the MRO region that is not purchased for resale.
- b. Agents, associations, consumer advocates can represent groups of end users or a transmission dependent utility. A Transmission Dependent Utility (TDU) is defined as; an entity that relies on another entity for transmission service to service the majority of their contractual loads.

Segment 7: Federal, State, and Provincial Regulatory or other Government Entities

- a. Does not include Federal PMAs or TVA.
- b. May include PUCs.

X. Appendix D – Balloting Examples

The MRO voting mechanism differs from NERC in that a quorum is established if at least four Segments have submitted an affirmative, negative or abstention vote. A majority vote within a Segment is determined based on the affirmative and negative votes. A Standard is approved if at least two-thirds of the voting Segments have an affirmative vote. The following are examples of potential voting scenarios. The yellow areas indicate where a Segment did not cast a vote. The green areas with **bold** numbers represent majority votes within a Segment.

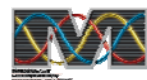
Example RBB

Segment	Number Registered in the RBB
1. Transmission Owners	15
2. RTO's, ISO's, RRO's & Reliability Coordinators	4
3. Load Serving Entities	16
4. Electric Generators	21
5. Electricity Brokers, Aggregators, & Marketers	7
6. Electricity End Users	6
7. Federal, State, & Provincial Regulatory or other Government Entities	8
Totals	77



Example 1 – A quorum has been established with 5 of the 7 Segments having registered an affirmative, negative, or an abstention vote. Two-thirds of the Segments (4 of 5 voting Segments) have voted to approve the Standard. The Standard is approved.

Segment	Ballot Pool	Votes			
		Affirmative Votes	Negative Votes	Abstain Votes	No Ballot
1. Transmission Owners	15	10	2	1	2
2. RTO's, ISO's, RRO's & Reliability Coordinators	4	3	0	0	1
3. Load Serving Entities	16	3	6	2	5
4. Electric Generators	21	13	0	1	7
5. Electricity Brokers, Aggregators, & Marketers	7	0	0	0	7
6. Electricity End Users	6	0	0	0	6
7. Federal, State, & Provincial Regulatory or other Government Entities	8	3	0	1	4
Totals	77				

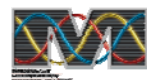


Example 2 – A quorum has been established with 4 of the 7 Segments having registered an affirmative, negative, or an abstention vote. Less than two-thirds of the Segments (1 of 4 voting Segments) have voted to approve the Standard. The Standard is NOT approved.

Segment	Ballot Pool	Votes			
		Affirmative Votes	Negative Votes	Abstain Votes	No Ballot
1. Transmission Owners	15	10	2	1	2
2. RTO's, ISO's, RRO's & Reliability Coordinators	4	1	2	0	1
3. Load Serving Entities	16	3	6	2	5
4. Electric Generators	21	0	0	0	21
5. Electricity Brokers, Aggregators, & Marketers	7	0	0	0	7
6. Electricity End Users	6	0	0	0	6
7. Federal, State, & Provincial Regulatory or other Government Entities	8	0	3	1	4
Totals	77				

Example 3 – A quorum has not been established because only 3 of the 7 Segments have registered an affirmative, negative, or an abstention vote. The Standard is NOT approved because of a lack of a quorum.

Segment	Ballot Pool	Votes			
		Affirmative Votes	Negative Votes	Abstain Votes	No Ballot
1. Transmission Owners	15	10	2	1	2
2. RTO's, ISO's, RRO's & Reliability Coordinators	4	4	0	0	0
3. Load Serving Entities	16	3	6	2	5
4. Electric Generators	21	0	0	0	21
5. Electricity Brokers, Aggregators, & Marketers	7	0	0	0	7
6. Electricity End Users	6	0	0	0	6
7. Federal, State, & Provincial Regulatory or other Government Entities	8	0	0	0	8
Totals	77				



Example 4 – A quorum has been established with 6 of the 7 Segments having registered an affirmative, negative, or an abstention vote. The Standard is NOT approved because two-thirds of the Segments did not cast an affirmative vote. Segment 2's vote is considered negative because a majority did not cast an affirmative vote.

Segment	Ballot Pool	Votes			
		Affirmative Votes	Negative Votes	Abstain Votes	No Ballot
1. Transmission Owners	15	10	2	1	2
2. RTO's, ISO's, RRO's & Reliability Coordinators	4	2	2	0	0
3. Load Serving Entities	16	3	6	2	5
4. Electric Generators	21	10	9	1	1
5. Electricity Brokers, Aggregators, & Marketers	7	4	3	0	0
6. Electricity End Users	6	0	0	0	6
7. Federal, State, & Provincial Regulatory or other Government Entities	8	2	3	0	3
Totals	77				

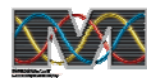


EXHIBIT D – COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

Midwest Reliability Organization will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within Midwest Reliability Organization's geographic or electrical boundaries, and such other scope, set forth on **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

Midwest Reliability Organization shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either Midwest Reliability Organization's board or a balanced compliance panel reporting directly to Midwest Reliability Organization's board. Midwest Reliability Organization's hearing body is a balanced subset of its board that is appointed by the board with no more than one member from each sector.

Midwest Reliability Organization shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: **NONE**.

3.0 OTHER DECISION-MAKING BODIES

A presiding officer who presides over the reception of evidence may prepare recommendations to be used by the board of directors in preparing its decision in a compliance hearing. In addition to compliance hearings, Midwest Reliability Organization's Hearing Body also reviews and approves settlements in a yes or no fashion, but is not permitted to make modifications to negotiated settlements/agreements.

Exhibit E — Funding

1. Scope of activities funded through the ERO funding mechanism

Midwest Reliability Organization shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and Midwest Reliability Organization in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of Midwest Reliability Organization's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require Midwest Reliability Organization (i) to submit to NERC draft(s) of Midwest Reliability Organization's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by Midwest Reliability Organization Board of Directors to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of Midwest Reliability Organization's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The Midwest Reliability Organization business plan and budget submission shall include supporting materials, including Midwest Reliability Organization's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. Midwest Reliability Organization's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve Midwest Reliability Organization's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct Midwest Reliability Organization to make such revisions as NERC deems appropriate prior to approval. NERC shall submit Midwest Reliability Organization's approved business plan and budget and proposed assessments to

the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of Midwest Reliability Organization's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. Midwest Reliability Organization shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying Midwest Reliability Organization's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of Midwest Reliability Organization's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

(a) NERC shall submit invoices to the load-serving entities or designees identified by Midwest Reliability Organization covering the NERC and Midwest Reliability Organization assessments approved for collection.

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from ERO Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, [Regional Entity] shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, [Regional Entity] is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within [REGIONAL ENTITY]'s region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within [Regional Entity]'s region.

(c) Upon approval by ERO Governmental Authorities of [Regional Entity]'s annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay [Regional Entity's] annual assessment to Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by Midwest Reliability Organization shall be applied as a general offset to Midwest Reliability Organization's budget requirements for U.S.-related activities under this Agreement for the

subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity.

6. Budget and Funding for Midwest Reliability Organization Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as “statutory activities”), Midwest Reliability Organization performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): **NONE**.

Midwest Reliability Organization shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: **NOT APPLICABLE**.

Midwest Reliability Organization shall provide its budget for such non-statutory activities to NERC at the same time that Midwest Reliability Organization submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. Midwest Reliability Organization budget for non-statutory activities that is provided to NERC shall contain a detailed list of Midwest Reliability Organization’s non-statutory activities and a description of the funding sources for the non-statutory activities. Midwest Reliability Organization agrees that no costs (which shall include a reasonable allocation of Midwest Reliability Organization’s general and administrative costs) of non-statutory activities are to be included in the calculation of Midwest Reliability Organization’s assessments, dues, fees, and other charges for its statutory activities.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if Midwest Reliability Organization determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, Midwest Reliability Organization shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in Midwest Reliability Organization’s approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct Midwest Reliability Organization to make such revisions as NERC deems appropriate prior to approval. NERC shall submit Midwest Reliability Organization’s approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Statements

NERC shall conduct reviews of the quarterly and annual financial statements submitted by Midwest Reliability Organization pursuant to Section 9(h) and (i) of the Agreement.

Midwest Reliability Organization shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC based on its reviews.

ATTACHMENT 3B

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED DELEGATION AGREEMENT

WITH

MIDWEST RELIABILITY ORGANIZATION

REDLINED AGAINST

REVISED PRO FORMA DELEGATION AGREEMENT

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
~~AND REGIONAL ENTITY~~
AND MIDWEST RELIABILITY ORGANIZATION**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”) made as of [January 1, 2011], between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and ~~[REGIONAL ENTITY]~~Midwest Reliability Organization, an organization established to develop and enforce Reliability Standards within the geographic boundaries identified on **Exhibit A** to this Agreement, and for other purposes. NERC and ~~[REGIONAL ENTITY]~~Midwest Reliability Organization may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824n) (hereafter “the Act”), which, among other things, provides for the establishment of an electric reliability organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as ~~[REGIONAL ENTITY]~~Midwest Reliability Organization provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, ~~[REGIONAL ENTITY]~~Midwest Reliability Organization ~~is/is not~~ organized on an Interconnection-wide basis and therefore ~~is/is not~~ entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through ~~[REGIONAL ENTITY]~~Midwest Reliability Organization to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that ~~[REGIONAL ENTITY]~~Midwest Reliability Organization meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and ~~[REGIONAL ENTITY]~~Midwest Reliability Organization having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and ~~[REGIONAL ENTITY]~~Midwest Reliability Organization agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to ~~[REGIONAL ENTITY]~~Midwest Reliability Organization to propose and enforce Reliability Standards pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, ~~{REGIONAL ENTITY}~~Midwest Reliability Organization hereby represents and warrants to NERC that:

(i) ~~{REGIONAL ENTITY}~~Midwest Reliability Organization is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. ~~{REGIONAL ENTITY}~~Midwest Reliability Organization is governed in accordance with its bylaws by ~~{select appropriate: an independent board/a balanced stakeholder board/a combination independent and balanced stakeholder board}~~. Pursuant to these bylaws, no two industry sectors can control any ~~{REGIONAL ENTITY}~~Midwest Reliability Organization decision and no single industry sector can veto any ~~{REGIONAL ENTITY}~~Midwest Reliability Organization decision. ~~The relevant portions of such~~ bylaws are attached hereto in **Exhibit B**¹, and as so attached are in full force and effect. No other such corporate governance documents are binding upon ~~{REGIONAL ENTITY}~~Midwest Reliability Organization.

(ii) As set forth in **Exhibit C** hereto², ~~{REGIONAL ENTITY}~~Midwest Reliability Organization has developed a standards development procedure, which provides the process that ~~{REGIONAL ENTITY}~~Midwest Reliability Organization may use to develop Regional Reliability Standards ~~[and Regional Variances, if the regional entity is organized on an interconnection-wide basis]~~ that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, ~~{REGIONAL ENTITY}~~Midwest Reliability Organization has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within ~~{REGIONAL ENTITY}~~'sMidwest Reliability Organization's geographic boundaries as shown on **Exhibit A**.

¹ The **Exhibit B** from ~~{REGIONAL ENTITY}~~Midwest Reliability Organization shall meet the requirements contained in **Exhibit B** to this Agreement.

² The **Exhibit C** from ~~{REGIONAL ENTITY}~~Midwest Reliability Organization shall meet the requirements contained in **Exhibit C** to this Agreement.

(b) NERC hereby represents and warrants to ~~[REGIONAL ENTITY]~~Midwest Reliability Organization that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

3. Covenants.

(a) During the term of this Agreement, ~~[REGIONAL ENTITY]~~Midwest Reliability Organization shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC's approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of ~~[REGIONAL ENTITY]~~Midwest Reliability Organization under this Agreement without first obtaining the consent of ~~[REGIONAL ENTITY]~~Midwest Reliability Organization which consent shall not be unreasonably withheld or delayed.

(c) During the term of this Agreement, NERC and ~~[REGIONAL ENTITY]~~Midwest Reliability Organization shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of ~~[REGIONAL ENTITY]~~Midwest Reliability Organization in Sections 2 and 3 above, the corporate governance documents set forth in **Exhibit B**, the standards development process set forth in **Exhibit C**, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to ~~[REGIONAL ENTITY]~~Midwest Reliability Organization for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth on **Exhibit A**, ~~provided, that [REGIONAL ENTITY] shall not monitor and enforce compliance with Reliability Standards for [REGIONAL ENTITY] or an affiliated entity with respect to reliability functions for which [REGIONAL ENTITY] or an affiliate is a Registered Entity.~~ Any exclusions from this delegation of authority to ~~[REGIONAL ENTITY]~~Midwest Reliability Organization within, or additions to this delegation of authority to ~~[REGIONAL ENTITY]~~Midwest Reliability Organization beyond, the geographic boundaries set forth on **Exhibit A** are stated on **Exhibit A**.

(b) ~~In circumstances where [REGIONAL ENTITY] or an affiliated entity is a Registered Entity, [REGIONAL ENTITY] shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce [REGIONAL ENTITY]'s or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.~~[This subsection intentionally left blank].

(c) Nothing in this Agreement ~~shall prohibit [REGIONAL ENTITY]~~Midwest Reliability Organization from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified on **Exhibit A** that is within the United States. Any delegation of authority by ERO Governmental Authorities in Canada or Mexico shall be governed by a separate agreement and is outside the scope of this Agreement; provided, however, that both ~~[REGIONAL ENTITY]~~Midwest Reliability Organization and NERC shall endeavor to ensure that this Agreement and such separate agreements are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, ~~[REGIONAL ENTITY]~~Midwest Reliability Organization shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, ~~[REGIONAL ENTITY]~~Midwest Reliability Organization shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords ~~[REGIONAL ENTITY]~~Midwest Reliability Organization reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards ~~and Regional Variances, if Regional Entity is organized on an Interconnection-wide basis~~ through ~~[REGIONAL ENTITY]'s~~Midwest Reliability Organization's process as set forth in **Exhibit C**. Proposals approved through ~~[REGIONAL ENTITY]'s~~Midwest Reliability Organization's process shall be reviewed by the NERC Board after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. ~~[REGIONAL ENTITY]~~Midwest Reliability Organization may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an

Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, ~~REGIONAL ENTITY~~ Midwest Reliability Organization shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the geographic boundaries set forth, or as otherwise specified, in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and ~~REGIONAL ENTITY~~ Midwest Reliability Organization agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, *inter alia*, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. ~~REGIONAL ENTITY~~ Midwest Reliability Organization may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, ~~REGIONAL ENTITY~~ Midwest Reliability Organization agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) ~~REGIONAL ENTITY~~ Midwest Reliability Organization shall report promptly to NERC any Possible Violation, Alleged Violation, or Confirmed Violation of a Reliability Standard, and its eventual disposition by ~~REGIONAL ENTITY~~ Midwest Reliability Organization. Such report shall include the owner's, operator's, or user's name, which Reliability Standard or Reliability Standards were the subject of the Possible Violation, Alleged

Violation, or Confirmed Violation, when the Possible Violation, Alleged Violation, or Confirmed Violation occurred, other pertinent facts including circumstances surrounding the Possible Violation, Alleged Violation, or Confirmed Violation with any known risk to the Bulk-Power System, when the Possible Violation, Alleged Violation, or Confirmed Violation was or will be mitigated, the name of a person knowledgeable about the Possible Violation, Alleged Violation, or Confirmed Violation to serve as a point of contact with the Commission, and any other information required by NERC compliance program procedures. NERC shall promptly forward such report to the Commission. NERC and ~~[REGIONAL ENTITY]~~Midwest Reliability Organization shall cooperate in filing such periodic summary reports as the Commission shall from time to time direct on Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards and summary analyses of such Possible Violations, Alleged Violations, and Confirmed Violations.

(c) Each Possible Violation, Alleged Violation, or Confirmed Violation shall be treated as nonpublic unless the matter is filed with the Commission as a Notice of Penalty, or, if disclosure is required, dismissed. The disposition of each Possible Violation, Alleged Violation, or Confirmed Violation that relates to a Cybersecurity Incident or that would jeopardize the security of the Bulk-Power System if publicly disclosed shall remain nonpublic unless the Commission directs otherwise.

(d) All dispositions by ~~[REGIONAL ENTITY]~~Midwest Reliability Organization of Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards shall be reported to NERC for review and, in the case of Confirmed Violations, penalties or sanctions, and settlements, for approval. Following approval of a disposition by NERC, NERC shall file the disposition with the Commission, if required by, and in accordance with, Section 215(e) of the Act and Section 39.7 of the ERO Regulations. NERC shall review ~~[REGIONAL ENTITY]~~'sMidwest Reliability Organization's dispositions based on the following criteria:

(i) whether the disposition is supported by a sufficient record compiled by ~~[REGIONAL ENTITY]~~Midwest Reliability Organization in accordance with the NERC Rules of Procedure, NERC directives and Commission requirements, taking into account the nature of the Possible Violation, Alleged Violation, or Confirmed Violation,

(ii) whether the disposition is consistent with any applicable directives issued pursuant to Section 8(c) of this Agreement, any applicable directions or guidance

issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, or other applicable NERC guidance, concerning the Reliability Standards to which the Possible Violation, Alleged Violation, or Confirmed Violation relates,

(iii) if the disposition is a Confirmed Violation or settlement, whether it provides for a penalty or sanction, or a determination of no penalty or sanction, determined in accordance with the NERC Sanction Guidelines, Appendix 4B to the NERC Rules of Procedure, and

(iv) whether the disposition is reasonably consistent with other dispositions by ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization and by other Regional Entities of Possible Violations, Alleged Violations, and Confirmed Violations involving the same or similar facts and circumstances.

NERC may reject any disposition, with an explanation of why NERC believes the disposition does not meet the above criteria. ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization may submit a disposition requiring NERC approval that has been rejected by NERC, or a revised disposition following a rejection, directly to the NERC Board Compliance Committee for approval without revising the disposition to address all the grounds on which NERC originally rejected the disposition. The final approval of ~~[REGIONAL ENTITY]'s~~ Midwest Reliability Organization's disposition of a Possible Violation, Alleged Violation, or Confirmed Violation shall be made by the NERC Board Compliance Committee, provided, that the NERC Board or NERC Board Compliance Committee may, by appropriate resolution, delegate authority for final approval of dispositions of specified categories of Possible Violations, Alleged Violations, or Confirmed Violations to the NERC President.

(e) All appeals of penalties imposed by ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization as a result of a decision by ~~[REGIONAL ENTITY]'s~~ Midwest Reliability Organization's Hearing Body shall be filed with, heard by and disposed of by, NERC in accordance with the NERC Rules of Procedure.

(f) ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization shall maintain the capability to conduct investigations of Possible Violations and Alleged Violations of Reliability Standards and to conduct such investigations in a confidential manner.

(g) ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in

accordance with the NERC Compliance Monitoring and Enforcement Program and the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan.

(h) As part of its compliance monitoring and enforcement program, ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(i) As often as NERC deems necessary, but no less than every five years, NERC shall review ~~[REGIONAL ENTITY]'s~~ Midwest Reliability Organization's compliance monitoring and enforcement program to determine that: (i) the program meets all applicable legal requirements; (ii) actual practices reflect the requirements; and (iii) the program administered pursuant to the Delegated Authority promotes consistent interpretations across North America of Reliability Standards and comparable levels of sanctions and penalties for violations of Reliability Standards constituting comparable levels of threat to reliability of the Bulk-Power System.

7. Delegation-Related Activities.

NERC will engage ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed on **Exhibit E**. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (f), each of which shall be considered a statutory activity:

(a) Certification of Bulk-Power System Entities. The NERC Board shall set criteria for certification in accordance with the NERC Rules of Procedure. ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization shall issue certifications in accordance with the NERC Rules of Procedure.

(b) Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.

(i) The NERC Board shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by ~~{REGIONAL ENTITY}~~ Midwest Reliability Organization and other Regional Entities. ~~{REGIONAL ENTITY}~~ Midwest Reliability Organization shall provide timely and accurate information relating to registrations to NERC, on at least a monthly basis, to enable NERC to maintain a registration database that is accurate and up-to-date.

(iii) The NERC Board Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) Reliability Assessment and Performance Analysis. ~~{REGIONAL ENTITY}~~ Midwest Reliability Organization shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. ~~{REGIONAL ENTITY}~~ Midwest Reliability Organization shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives. NERC shall develop data-gathering quality control procedures, forms and reporting mechanisms, which shall be used by ~~{REGIONAL ENTITY}~~ Midwest Reliability Organization and other Regional Entities in carrying out their responsibilities under this subsection (c).

(d) Event Analysis and Reliability Improvement. ~~{REGIONAL ENTITY}~~ Midwest Reliability Organization shall conduct event analysis pursuant to the NERC Rules of Procedure and applicable governmental regulations. NERC and ~~{REGIONAL ENTITY}~~ Midwest Reliability Organization shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis

reports. In collaboration with NERC, ~~{REGIONAL ENTITY}~~Midwest Reliability Organization shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) Training and Education. ~~{REGIONAL ENTITY}~~Midwest Reliability Organization may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) Situation Awareness and Infrastructure Security.

(i) ~~{REGIONAL ENTITY}~~Midwest Reliability Organization shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure and applicable governmental regulations, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System.

(ii) ~~{REGIONAL ENTITY}~~Midwest Reliability Organization shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of ~~{REGIONAL ENTITY}~~'sMidwest Reliability Organization's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and ~~{REGIONAL ENTITY}~~Midwest Reliability Organization that matters relating to NERC's oversight of ~~{REGIONAL ENTITY}~~'sMidwest Reliability Organization's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and ~~{REGIONAL ENTITY}~~Midwest Reliability Organization and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with ~~{REGIONAL ENTITY}~~Midwest Reliability Organization and other Regional Entities, performance goals, measures and other parameters (including, without limiting the scope of such goals, measures and parameters, financial performance goals, measures and parameters), and performance reports, which shall be used to measure NERC's and ~~{REGIONAL ENTITY}~~'sMidwest Reliability Organization's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. ~~{REGIONAL ENTITY}~~Midwest Reliability Organization shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate ~~{REGIONAL ENTITY}~~'sMidwest Reliability Organization's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters and performance reports to evaluate ~~{REGIONAL ENTITY}~~'sMidwest Reliability Organization's performance of its delegated functions and related activities and to provide advice and direction to ~~{REGIONAL ENTITY}~~Midwest Reliability Organization on performance improvements. The performance goals, measures and other parameters and the values of such goals, measures and parameters, shall be reviewed by NERC, ~~{REGIONAL ENTITY}~~Midwest Reliability Organization and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, ~~{REGIONAL ENTITY}~~Midwest Reliability Organization shall be required to develop, submit for NERC approval, and implement action plans to address areas of its performance that are reasonably determined by NERC, based on analysis of ~~{REGIONAL ENTITY}~~'sMidwest Reliability Organization's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring ~~{REGIONAL ENTITY}~~Midwest Reliability Organization to adopt and implement an action plan or other remedial action, NERC shall issue a notice to ~~{REGIONAL ENTITY}~~Midwest Reliability Organization of the need and basis for an action plan or other remedial action and provide an opportunity for ~~{REGIONAL ENTITY}~~Midwest Reliability Organization to submit a written response contesting NERC's evaluation of ~~{REGIONAL ENTITY}~~'sMidwest Reliability

Organization's performance and the need for an action plan. ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board review and reconsider the request. NERC and ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization shall work collaboratively as needed in the development and implementation of ~~[REGIONAL ENTITY]~~'s Midwest Reliability Organization's action plan. A final action plan submitted by ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization standardized training and education programs, which shall be designed taking into account input from ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization and other Regional Entities, for ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization personnel on topics relating to the delegated functions and related activities.

(c) (i) -NERC may issue directives to ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization concerning the manner in which ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization and, if applicable, other Regional Entities are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President; *provided*, that before the NERC President issues a directive pursuant to this paragraph (ii), ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization and, if applicable, other Regional Entities, shall be given a reasonable opportunity to present their positions on, and a suggested alternative version or versions of, the proposed directive to the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, ~~{REGIONAL ENTITY}~~, Midwest Reliability Organization subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by ~~{REGIONAL ENTITY}~~, Midwest Reliability Organization the NERC Board (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without ~~{REGIONAL ENTITY}~~'s Midwest Reliability Organization's agreement, *provided*, that ~~{REGIONAL ENTITY}~~ Midwest Reliability Organization shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and ~~{REGIONAL ENTITY}~~ Midwest Reliability Organization and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which ~~{REGIONAL ENTITY}~~, Midwest Reliability Organization and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The Board or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the Board or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. ~~{REGIONAL ENTITY}~~, Midwest Reliability Organization either individually or in conjunction with other Regional Entities, may request that the NERC Board or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with ~~{REGIONAL ENTITY}~~, Midwest Reliability Organization either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) Any audits of ~~{REGIONAL ENTITY}~~ Midwest Reliability Organization performed by NERC shall be limited to an examination of ~~{REGIONAL ENTITY}~~'s Midwest Reliability Organization's compliance with this Agreement, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c)

9. Funding. ~~{REGIONAL ENTITY}~~ Midwest Reliability Organization and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed on **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) ~~{REGIONAL ENTITY}~~ Midwest Reliability Organization shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. ~~{REGIONAL ENTITY}~~'s Midwest Reliability Organization's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, ~~{REGIONAL ENTITY}~~ Midwest Reliability Organization to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E**. ~~{REGIONAL ENTITY}~~'s Midwest Reliability Organization's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) ~~{REGIONAL ENTITY}~~ Midwest Reliability Organization and NERC agree that the portion of ~~{REGIONAL ENTITY}~~'s Midwest Reliability Organization's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by ~~{REGIONAL ENTITY}~~ Midwest

Reliability Organization and approved by NERC and the Commission. If ~~[REGIONAL ENTITY]~~Midwest Reliability Organization proposes to use a formula other than Net Energy for Load beginning in the following year, ~~[REGIONAL ENTITY]~~Midwest Reliability Organization shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and ~~[REGIONAL ENTITY]~~Midwest Reliability Organization to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide ~~[REGIONAL ENTITY]~~Midwest Reliability Organization with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

~~(e)~~ ~~[REGIONAL ENTITY]~~(e) Midwest Reliability Organization shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed on Exhibit E, as well as for all other activities of ~~[REGIONAL ENTITY]~~Midwest Reliability Organization to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund ~~[REGIONAL ENTITY]~~'sMidwest Reliability Organization's performance of its Delegated Authority and related activities in accordance with ~~[REGIONAL ENTITY]~~'sMidwest Reliability Organization's Commission-approved business plan and budget, in the amount of ~~[REGIONAL ENTITY]~~'sMidwest Reliability Organization's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and

timing for billing and collecting ~~[REGIONAL ENTITY]'s~~ Midwest Reliability Organization's approved assessments from end users and other entities and payment of the approved assessment amount to ~~[REGIONAL ENTITY],~~ Midwest Reliability Organization unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without ~~[REGIONAL ENTITY]'s~~ Midwest Reliability Organization's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization fiscal year budget with the actual results at the NERC and Regional Entity levels. ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

~~(h) — [REGIONAL ENTITY]~~ (h) Midwest Reliability Organization shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization shall submit audited financial statements annually, including supporting materials, in a form provided by NERC no later than May 1 of the following year.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization shall offset penalty monies it receives ~~(other than penalty monies received from an operational function or division or affiliated entity of [REGIONAL ENTITY])~~ against its next year's annual budget for carrying out functions under this Agreement, ~~and the mechanism by which [REGIONAL ENTITY] shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of [REGIONAL ENTITY].~~ *Provided*, that, subject to approval by NERC and the Commission,

~~{REGIONAL ENTITY}~~Midwest Reliability Organization may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. ~~{REGIONAL ENTITY}~~Midwest Reliability Organization may not delegate in whole or in part ~~its~~'s Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit ~~{REGIONAL ENTITY}~~Midwest Reliability Organization from contracting with other entities to assist it in carrying out its Delegated Authority, provided ~~{REGIONAL ENTITY}~~Midwest Reliability Organization retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on [January 1, 2011] (the “Effective Date”).

(b) The term of the Agreement shall be five (5) years from the Effective Date, prior to which time NERC shall conduct an audit pursuant to subsection 6(i) to ensure that ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. If ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization meets such requirements, this Agreement may be renewed for another five (5) year term. This Agreement may be renewed for successive additional five (5) year renewal terms provided that prior to the end of each renewal term, NERC shall conduct an audit pursuant to subsection 6(i) to ensure that ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. Provided, that either Party may terminate this Agreement as of the end of a term by giving written notice to terminate at least one (1) year prior to the end of the term. If this Agreement is not renewed or becomes subject to termination for any reason, the Parties shall work to provide for a transition of ~~[REGIONAL ENTITY]~~'s Midwest Reliability Organization's Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement. The termination of this Agreement shall not take effect until such transition has been effected, unless the transition period exceeds one year, at which time ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization may unilaterally terminate.

(c) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be

effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by ~~{REGIONAL ENTITY}~~Midwest Reliability Organization and NERC.

(d) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. ~~{REGIONAL ENTITY}~~Midwest Reliability Organization and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and ~~{REGIONAL ENTITY}~~Midwest Reliability Organization shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of the ~~{REGIONAL ENTITY}~~'sMidwest Reliability Organization's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that the ~~{REGIONAL ENTITY}~~Midwest Reliability Organization or NERC is found liable for gross negligence or intentional misconduct, in which case ~~{REGIONAL ENTITY}~~Midwest Reliability Organization or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party.

15. Confidentiality. During the course of the Parties' performance under this Agreement, a Party may receive Confidential Information, as defined in Section 1500 of NERC's Rules of Procedure. Except as set forth herein, the Parties agree to keep in confidence and not to copy,

disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information. In addition, each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein. This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of ~~{REGIONAL ENTITY}~~Midwest Reliability Organization under this Agreement without first obtaining the consent of ~~{REGIONAL ENTITY}~~Midwest Reliability Organization which consent shall not be unreasonably withheld or delayed. To the extent ~~{REGIONAL ENTITY}~~Midwest Reliability Organization does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or

obligations of ~~[REGIONAL ENTITY]~~Midwest Reliability Organization under this Agreement, ~~[REGIONAL ENTITY]~~Midwest Reliability Organization shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by ~~[REGIONAL ENTITY]~~Midwest Reliability Organization to NERC and the Commission, or at such other time as may be mutually agreed by ~~[REGIONAL ENTITY]~~Midwest Reliability Organization and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and ~~[REGIONAL ENTITY]~~Midwest Reliability Organization (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to ~~[REGIONAL ENTITY]~~'s Midwest Reliability Organization's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. ~~[REGIONAL ENTITY]~~ Midwest Reliability Organization shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, *provided*, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), *provided*, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. *Provided, however*, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. **Notice.** Whether expressly so stated or not, all notices, demands, requests, and other communications required or permitted by or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand or reputable overnight courier:

If to NERC:
Reliability Organization

If to ~~{REGIONAL ENTITY}~~ Midwest

North American Electric
 Reliability Corporation
 116-390 Village Blvd.
 Princeton, NJ 08540-5721

Midwest Reliability Organization
 2774 Cleveland Avenue North
 Roseville, MN 55113
 _____Attn: Sara Patrick

Attn: General Counsel
 Facsimile: (609) 452-9550

~~Attn:~~Facsimile: (651) 855-1712
 Facsimile: _____

20. **Governing Law.** When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of New Jersey without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in New Jersey. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in New Jersey for the purpose of hearing and determining any action not heard and determined by the Commission.

21. **Headings.** The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. **Savings Clause.** Nothing in this Agreement shall be construed to preempt or limit any authority that ~~[REGIONAL ENTITY]~~Midwest Reliability Organization may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. **Entire Agreement.** This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. **Execution of Counterparts.** This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN
ELECTRIC RELIABILITY CORPORATION
~~ENTITY~~ ORGANIZATION

MIDWEST RELIABILITY
~~REGIONAL~~

By: _____

By: _____

Name: _____

Name: _____

Daniel P. Skaar

Title: _____

Title: _____

President

Date: _____

Date: _____

Exhibit A — Regional Boundaries

Exhibit A to the delegation agreement for each Regional Entity receiving Delegated Authority shall describe the geographic or electrical boundaries covered by the proposed delegation of authority. **Exhibit A** for each Regional Entity shall reflect coordination with neighboring Regional Entities, as appropriate, to ensure that all relevant areas are either included within the geographic boundaries of a Regional Entity or specifically identified as not being within the geographic boundaries of any Regional Entity. Any exclusions of geographic or electrical areas or of Registered Entities from the scope of the Regional Entity's Delegated Authority within the geographic or electrical boundaries shown on **Exhibit A**, and any additions of geographic or electrical areas or of Registered Entities located outside the boundaries shown on **Exhibit A** to the scope of the Regional Entity's Delegated Authority, shall be specifically stated or described in **Exhibit A**.

MRO is one of eight regional entities that comprise the North American Electric Reliability Corporation (NERC). MRO is a not for profit entity committed to safeguarding and improving reliability of the Bulk Power System in the upper Midwest part of North America and the Canadian provinces of Manitoba and Saskatchewan. The Midwest Reliability Organization region supplies approximately 280,000,000 terawatt-hours to more than twenty million people and covers roughly one million square miles.

There are several Regional Transmission Organizations that overlap MRO and other Regional Entity footprints. MRO coordinates its delegated responsibilities with these neighboring Regional Entities to avoid duplicity and ensure consistency and accuracy. MRO does not have affiliates and does not perform any reliability functions that would result in a conflict or inability to perform the delegated responsibilities of this Agreement.

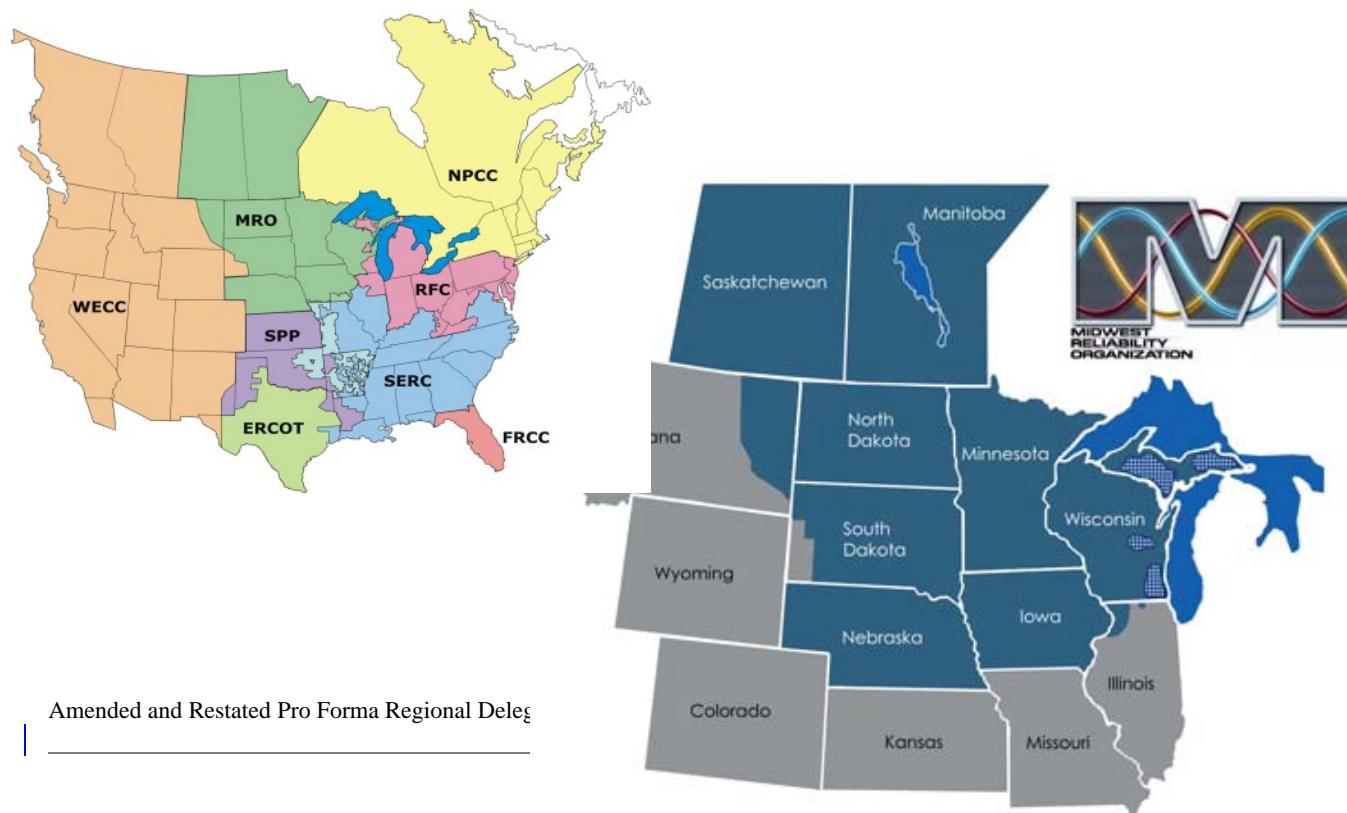


Exhibit B – Governance

Exhibit B shall set forth the Regional Entity’s bylaws, which NERC agrees demonstrate that the Regional Entity meets the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence of the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

**BYLAWS OF THE
MIDWEST RELIABILITY ORGANIZATION, INC.**

As amended through December 3, 2009

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**BYLAWS
OF THE
MIDWEST RELIABILITY ORGANIZATION, INC
a Delaware nonprofit corporation
(the “Corporation”)**

**ARTICLE 1
DEFINITIONS**

Section 1.1 Affiliate. “Affiliate” means with respect to any entity, any other entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such entity, as determined in the sole discretion of the board of directors of the Corporation. For this purpose, “control” may be presumed by the direct or indirect ownership of 50 percent or more of the outstanding voting capital stock or other equity interests having ordinary voting power. A member of, or owner of an interest in, a transmission company that FERC has found meets the independence requirements for a regional transmission organization shall not be deemed to be an affiliate of such transmission company.

Section 1.2 Bulk-Power System. “Bulk-Power System” means (1) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and (2) electric energy from generation facilities needed to maintain transmission system reliability. The term does not include facilities used in local distribution of electric energy. The term Bulk-Power System shall be interpreted consistently with any definition given by NERC.

Section 1.3 Bulk-Power System Users. “Bulk-Power System Users” means any entity that sells, purchases, or transmits electric power over the Bulk-Power System, or that owns, operates or maintains facilities or control systems that are part of the Bulk-Power System.

Section 1.4 Canadian Utilities. “Canadian Utilities” means any government-owned utility serving in Canada within the Corporate Region.

Section 1.5 Cooperative. “Cooperative” means an entity serving within the Corporate Region which generally has the following characteristics: (1) private independent electric utility; (2) incorporated under the laws of the states in which they operate; (3) established to provide electric service to its members; (4) owned by the consumers they serve; and (5) governed by a board of directors elected from the membership. This sector includes Generation and Transmission Cooperatives and Public Utility Districts.

Section 1.6 Corporate Region. “Corporate Region” means the geographic area boundaries of the Bulk-Power Systems as designated by each of the Members.

Section 1.7 FERC. “FERC” means the Federal Energy Regulatory Commission.

Section 1.8 Federal Power Marketing Agencies. “Federal Power Marketing Agencies” means agencies of the federal government created to market power within the Corporate Region.

Section 1.9 Generators and Power Marketers. “Generators and Power Marketers” means any entity that owns or operates more than 50 MW of generation in the Corporate Region, or is a power marketer doing business in the Corporate Region, and that does not qualify also to participate in the Investor-Owned Utility, Cooperative, Municipal Utility, Federal Power Marketing Agency or Canadian Utilities Sector.

Section 1.10 Good Utility Practice. “Good Utility Practice” means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

Section 1.11 Industry Sector(s). “Industry Sector or Sector(s)” means a group of Bulk-Power System Users in the Corporate Region with substantially similar reliability interests, as determined by these Bylaws. The Industry Sectors shall include the following: (1) Transmission System Operators; (2) Generators and Power Marketers; (3) Investor Owned Utilities (4) Cooperatives; (5) Municipal Utilities (6) Federal Power Marketing Agencies; (7) Canadian Utilities; (8) Large End-Use Electricity Customers; and (9) Small End-Use Load Electricity Customers.

Section 1.12 Investor Owned Utility. “Investor Owned Utility” means any for-profit entity that owns and operates a distribution system and serves end-use load within the Corporate Region pursuant to an obligation to serve under state, federal or provincial law, including a default service obligation, or pursuant to a tariff by which the entity offers service to the general public.

Section 1.13 Large End-Use Electricity Customers. “Large End-Use Electricity Customers” means any entity in North America with: (1) at least one service delivery taken at 50 kV or higher (radial supply or facilities dedicated to serve customers) that is not purchased for resale; or (2) any single end-use customer with an average aggregated service load (not purchased for resale) of at least 50,000 MWh annually, excluding cogeneration or other back feed to the serving utility. This sector also includes organizations are represent the interest of such entities.

~~**Section 1.14 MAPP** “MAPP” means the MAPP Reliability Council, pursuant to the MAPP Restated Agreement, as of November 11, 2001.~~

~~**Section 1.15**~~**Section 1.14 Member.** “Member” means a member of the Corporation.

~~Section 1.16~~**Section 1.15 Municipal Utilities.** “Municipal Utilities” means any electric utility that is owned by a state or municipality, or group of municipalities, including a joint action agency, which serves within the Corporate Region.

~~Section 1.17~~**Section 1.16 NERC.** “NERC” means the North American Electric Reliability ~~Council~~Corporation or a successor entity.

~~Section 1.18 Organizational Standards.~~ “~~Organizational Standards~~” means a ~~standard, including adequacy requirements, outside the authority of NERC that has been duly approved by the board of directors of the Corporation. Organizational Standards do not include Reliability Standards approved by NERC. Such Organizational Standards may be filed with the appropriate regulatory authorities.~~

~~Section 1.19~~**Section 1.17 Person.** “Person” means any natural person, corporation, Cooperative, partnership, association, or other private or public entity.

~~Section 1.20~~**Section 1.18 Public Utility District.** “Public Utility District” means an entity that is a state political or governmental subdivision which owns electric generation, transmission and distribution facilities and that was created and organized under state statutes that are different than those that Municipal Utilities in the same state are created and organized under.

~~Section 1.21~~**Section 1.19 Regional Entity.** “Regional Entity” means an entity having ~~enforcement~~ authority pursuant to a delegation agreement with NERC and pursuant to any agreements or laws relating to the Corporation’s functions in Canada.

~~Section 1.22~~**Section 1.20 Regulatory Participant.** “Regulatory Participant” means any state or provincial regulatory agencies in the Corporate Region exercising authority over the rates, terms or conditions of electric service of an entity other than itself within the Corporate Region, or the planning, siting, construction or operation of electric facilities of an entity other than itself within the Corporate Region, as well as any representatives of FERC, regional advisory bodies that may be established by FERC, or representatives of any federal regulator or agency.

~~Section 1.23~~**Section 1.21 Reliability Standard.** “Reliability Standard” means a NERC reliability standard, duly in effect, under the rules, regulations and laws governing such standards, to provide for reliable operation of the Bulk-Power System.

~~Section 1.24~~**Section 1.22 Small End-Use Electricity Customers.** “Small End-Use Electricity Customers” means: (1) any person or entity within North America that takes service below 50 kV; or (2) any single end-use customer with an average aggregated service load (not purchased for resale) of less than 50,000 MWh annually, excluding cogeneration or other back feed to the serving utility. This sector also includes organizations (including state consumer advocates) that represent the interests of such entities.

Section 1.23 Transmission System Operator. “Transmission System Operator” means an entity that operates or controls operation of high voltage transmission facilities within the Corporate Region (more than 300 miles of transmission at 100 kV or greater) that

does not also own, operate or control generation within the Corporate Region, except to the limited extent permitted by FERC for independent transmission organizations with respect to ancillary service obligations. Transmission System Operators include: (1) regional transmission organizations; (2) independent transmission providers; (3) independent system operators ~~approved by FERC~~; (4) and transmission-only companies.

Section 1.24 Regional Planning Entity. “Regional Planning Entity” means an entity which is subject to Reliability Standards in the MRO Region and shall be eligible for MRO membership.

ARTICLE 2
PURPOSE

Section 2.1 Purpose. The Corporation will be a Regional Entity within the NERC structure for the purpose of preserving and enhancing electric service reliability, adequacy and security in the Corporate Region and other interconnected regions for the benefit of all end-users of electricity and all entities engaged in providing electric services in the Corporate Region, with due regard for safety, environmental protection and economy of service.

Section 2.2 Activities. In support and furtherance of its purpose, the Corporation’s responsibilities shall include, but not be limited to: ~~(1) proposing Reliability Standards, including regional variances or regional differences-Reliability Standards~~ required to maintain and enhance electric service reliability, adequacy and security in the Corporate Region; ~~(2) approving Organizational Standards;~~ ~~(23) assessing compliance with and enforcing Reliability Standards and Organizational Standards, to the extent authorized by applicable agreements and/or law governing a Member's membership in the Corporation;~~ ~~(34) conducting investigations and data analysis on disturbances, system events, and related matters;~~ ~~(45) conducting long-term assessments of reliability within the Corporate region;~~ and ~~(56) other related activities.~~

Section 2.3 Not-for-Profit Corporation. The Corporation is operated as a Delaware non-stock, nonprofit corporation and is organized pursuant to the general corporation law of the State of Delaware.

ARTICLE 3
POWERS

Section 3.1 Powers. The Corporation shall have the power to engage in any lawful act or activity for which corporations may be organized under the general corporation law of the State of Delaware, subject to any limitations provided in applicable federal, provincial or state law or in the Corporation’s certificate of incorporation or these Bylaws.

ARTICLE 4
OFFICES

Section 4.1 Offices. The principal office of the Corporation shall be located initially within the Corporate Region, at such location as the board of directors may from time to time determine, giving consideration to the total cost to the Corporation and

convenience of travel for staff, Members and Regulatory Participants. Once established, the principal office may remain in its location, even if outside the Corporate Region.

ARTICLE 5
MEMBERS

Section 5.1 Classes of Members. The Corporation shall have one class of Members. Each Affiliate of a Member may separately be a Member.

Section 5.2 Qualifications of Members. A Member may be any entity eligible to be a member of an Industry Sector.

Section 5.3 Admission of Members. New Members may join the Corporation upon submittal of an application, in a form approved by the president, and payment of the fees as established by the Corporation. The Member shall designate the Sector to which it belongs. A Member may change its Sector designation once each calendar year, by providing notice to the president at least sixty (60) days prior to the beginning of such year. The president shall review a membership application and may request demonstration by the applicant that it qualifies for membership in a particular Sector. Any dispute with respect to a Member's qualifications for a particular Sector shall be resolved by the board of directors. The president shall have authority to approve an application for membership, subject to review by the board of directors.

Section 5.4 Voting Rights. Each Member in good standing shall be entitled to one vote in the Sector in which it is a Member, on matters submitted to a vote of Members. A Member delinquent in payment of its dues, fees or other obligations to the Corporation shall not be entitled to a vote.

Section 5.5 Transfer of Membership. A Member of the Corporation may not transfer its membership or a right arising from such membership except to any Person succeeding to all or substantially all of the assets of the Member. The president shall have authority to approve any such transfer, subject to review by the board of directors.

Section 5.6 Obligations of Members. By applying for and becoming a Member of the Corporation, each Member acknowledges that it is authorized and agrees to comply with ~~Organizational Standards~~, Reliability Standards, and other obligations of Members of the Corporation set forth in these Bylaws or duly adopted by the board of directors in order to achieve the purposes of the Corporation. Such obligations include but are not limited to requirements to provide data and information needed to perform the functions of the Corporation and the payment of dues and any authorized penalties, including penalties and other obligations resulting from violations of: ~~(1) Reliability Standards assessed in accordance with NERC rules; and (2) Organizational Standards assessed in accordance with rules duly approved by the board of directors.~~ All monies, plus any accumulated interest that the Corporation collects from the issuance of penalties resulting from violations of ~~Organizational Standards shall be used by the Corporation to defer expenses or distributed in a fair and equitable manner to Members, as determined by the board of directors.~~

Section 5.7 Withdrawal. A Member may withdraw from participation in the Corporation by providing written notice to the president of the Corporation of such withdrawal. Such notice shall specify a date, not earlier than thirty (30) days from the date of notice, on which the withdrawal shall become effective; provided however, that any such withdrawing Member shall remain liable to the Corporation for any fees, dues, sanctions or obligations to the Corporation incurred while it was a Member, ~~or which apply to violations of Organizational Standards that occurred prior to the effective date of withdrawal,~~ as well as its share of any obligations of the Corporation for the current fiscal year. If notice is given after October 1 of the current calendar year, the Member will also be liable for any fees and dues included in the budget for the following fiscal year. ~~The Member will not be responsible for compliance with Organizational Standards after the withdrawal date.~~ Section 5.7 does not apply to any fees, dues, or obligations associated with the Corporation responsibilities under delegated authority from NERC or applicable regulatory authorities.

Section 5.8 Budget and Fees. The board of directors shall propose to NERC a budget for delegated functions exercised by the Corporation pursuant to a delegation agreement with NERC and pursuant to any agreements or laws relating to the Corporation's functions in Canada. For those functions outside the scope of the Corporation's delegated functions, the board of directors may from time to time fix the amount of dues, assessments, or fees, if any, and determine the methods of collection, consistent with this Section, the regulations of applicable government authorities, or with and any resolutions duly adopted by the Members under Section 6.5.2 of these Bylaws ~~and with regulations from applicable government authorities.~~

ARTICLE 6 **MEETING OF MEMBERS**

Section 6.1 Annual Meeting of Members. The Members shall hold an annual meeting each calendar year. The annual meeting of the Members shall be held in December of each year, or at such other time specified by the board of directors, in order for Members to review the proposed budget and operations of the Corporation. All Members shall be entitled to at least thirty (30) days prior written notice of the annual meeting. At the annual meeting of Members: (1) each Sector shall elect the successor(s), if any, for any director(s) from their Sector whose term will expire before the next annual meeting of the Members, provided however, that any Sector may elect a successor director representing such Sector prior to such annual meeting, in accordance with the provisions of this Article 6, in which case the election of such succeeding director(s) shall be reported to the Corporation at such annual meeting; (2) the president and treasurer shall report on the activities and financial condition of the Corporation; ~~(3) the Members shall review, and may modify, the budget of the Corporation for the ensuing year (if not modified, the budget as approved by the board of directors shall be deemed accepted);~~ and ~~(34)~~ the Members shall consider and act upon such other matters as may be raised, consistent with the notice of the annual meeting. The failure to hold an annual meeting in accordance with these Bylaws shall not affect the validity of a corporate action.

Section 6.2 Special Meetings of Members.

6.2.1 Who May Call. Special meetings of the Members may be called by six (6) members of the board of directors, by the president or if at least 10 percent of the Members sign, date, and deliver to the president one or more written demands for a special meeting describing the purpose for which it is to be held.

6.2.2 Notice of Meeting. Within fifteen (15) days after receipt of a demand for a special meeting from Members, the president shall cause a special meeting to be called and held on notice no later than forty-five (45) days after receipt of the demand. If the president fails to cause a special meeting to be called and held as required by this section, a Member making the demand may call the meeting by giving notice under Section 6.3. In either event, notice of the meeting and the costs of the meeting shall be at the expense of the Corporation.

6.2.3 Time and Place of Special Meetings. Special meetings of Members shall be held at a location designated by the president or the board of directors. If a special meeting is demanded by the Members, the meeting must be held in a facility of appropriate size to accommodate the Membership and at a location within the Corporate Region.

6.2.4 Notice Requirements; Business Limited. The notice of a special meeting must contain a statement of the purposes of the meeting. The business transacted at a special meeting is limited to the purposes stated within the notice of the meeting. Business transacted at a special meeting that is not included in those stated purposes is voidable by or on behalf of the Corporation, unless 90 percent of the Members entitled to vote were present at such meeting or have waived notice of the meeting under Section 6.3.

Section 6.3 Notice Requirements.

6.3.1 To Whom Given. Notice of meetings of Members must be given to every Member as of the record date determined under Section 6.4. If the meeting is an adjourned meeting and the date, time and place of the meeting were announced at the time of the adjournment, notice is not required unless a new record date for the adjourned meeting is or must be fixed.

6.3.2 When Given; Contents. In all cases where a specific minimum notice period has not been fixed by law or these Bylaws, the notice must be given at least five (5) days before the date of a meeting and not more than sixty (60) days before the date of a meeting. The notice must contain the date, time and place of the meeting, and an agenda of the matters upon which action may be taken at the meeting. A matter may be added to the agenda of a meeting at the meeting upon the affirmative vote of three-quarters (3/4) of the Sector votes cast on a motion to amend the agenda.

6.3.3 Waiver of Notice; Objections. A Member may waive notice of a meeting of Members. A waiver of notice by a Member entitled to notice is effective whether given before, at, or after the meeting, and whether given in writing, or by attendance. Attendance by a Member at a meeting is a waiver of notice of that meeting, unless the Member objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, or objects before a vote on an item of

business because the item may not lawfully be considered at that meeting and does not participate in the consideration of the item at that meeting.

Section 6.4 Record Date; Determining Members Entitled to Notice and Vote.

The board of directors may fix a date not more than forty (40) days before the date of a meeting of Members as the date for the determination of the Members entitled to notice of and entitled to vote at the meeting. When a date is so fixed, only Members on that date are entitled to notice and to vote at a membership meeting unless the board of directors fixes a new date for determining the right to notice and to vote, which it must do if the meeting is adjourned to a date more than sixty (60) days after the record date for determining Members entitled to notice of the original meeting.

Section 6.5 Right to Vote; Act of Members. Voting of the Members shall be by Sector, with each Sector entitled to the same number of votes as it has directors on the board. If a quorum is present, except with respect to amendments of these Bylaws, modification of a budget approved by the board of directors or termination of the Corporation, the affirmative vote of the majority of the Sector votes present and entitled to vote, which must also be a majority of the required quorum, is the act of the Members. Within a Sector, each Member within the Sector shall have one vote. If a quorum is present with respect to the Sector, the affirmative vote of the majority of the Members within the Sector present and entitled to vote, which must also be a majority of the required quorum, is the act of the Sector. All of the Sector's votes shall be cast consistent with the act of the Sector unless the Sector adopts a fractional voting alternative as described in Section 6.5.3.

6.5.1 Special Voting Requirements. In order to amend the Bylaws, except as provided in Article 20 with respect to the board of directors, two-thirds (2/3) of the Sector votes cast shall be required to approve the proposed amendment. The substance of the proposed amendment must be contained in the notice of the meeting at which the vote will be taken; provided that, the Members may modify a proposed bylaw amendment at the meeting. ~~Two-thirds (2/3) of the Sector votes cast shall be required to approve a proposed modification of a budget approved by the board.~~ Two-thirds (2/3) of the Sector votes cast shall be required to approve any proposal to terminate the Corporation. To the extent practicable, all Member votes may be held electronically under such terms and conditions as are approved by the Board.

6.5.2 Change of Dues Structure. The Members may change the dues structure by resolution with an affirmative vote of two-thirds (2/3) of the Sector votes cast.

6.5.3 Fractional Voting Alternative. A Sector may adopt fractional voting. Member votes for and against are converted to percentages and multiplied by the applicable sector weight. Abstentions are not counted and do not impact the voting tabulation.

Section 6.6 Quorum. A quorum for a meeting of Members is a majority of the Sector votes entitled to vote at the meeting. A quorum for a meeting of a Sector is a majority of the Members of that Sector present or voting electronically on matters before the meeting. A quorum is necessary for the transaction of business at a meeting of Members. If a quorum

is not present, a meeting may be adjourned from time to time for that reason by the Sectors or Members then represented or present.

Section 6.7 Action by Written Ballot. An action that may be taken at a regular or special meeting of Members may be taken without a meeting if the Corporation mails or delivers a written ballot to every Member entitled to vote on the matter. Whenever possible, voting by Sectors for directors shall be by written ballot preceding the regular meeting of the Members.

Approval by written ballot is valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

Solicitations for votes by written ballot must: (1) indicate the number of responses needed to meet the quorum requirements; (2) state the percentage of approvals necessary to approve the matter; and (3) specify the time by which a ballot must be received by the Corporation in order to be counted. A written ballot may not be revoked.

Section 6.8 Action by Electronic Communication. Any vote of a Sector to elect a board member or for any other purpose may be taken by electronic means without a meeting or during a meeting. In addition, a conference among Members by a means of communication through which the participants may simultaneously hear each other during the conference is a meeting of the Members, if the same notice is given of the conference as would be required for a meeting and if the number of persons participating in the conference is a quorum. Participation in a meeting by this means is personal presence at the meeting. A Member may participate in a meeting of the Members by a means of communication through which the Member, other persons participating, and all persons physically present at the meeting may simultaneously communicate with each other during the meeting. Participation in a meeting by this means constitutes personal presence at the meeting.

Section 6.9 Member Representatives; Proxies.

6.9.1. Designation of Representative. Each year prior to the annual meeting of Members, each Member shall designate the individual authorized to vote on Corporation matters on behalf of the Member, in accordance with procedures approved by the board. A Member may change such designation at any time.

6.9.2 Authorization. The individual designated to vote by a Member may appoint a proxy to vote or otherwise act for the Member at any meeting or electronically by signing an appointment form either personally or by an attorney so designated by the Member.

6.9.3 Effective Period. An appointment of a proxy is effective when received by the secretary or other officer or agent authorized to tabulate votes. An appointment is valid for the next regular or specially scheduled meeting or electronic ballot. However, a proxy is not valid for more than sixty (60) days from its date of execution.

6.9.4 Revocation. An appointment of a proxy is revocable by the Member. Appointment of a proxy is revoked by the person appointing the proxy by signing and delivering to the secretary or other officer or agent authorized to tabulate proxy votes. This may be done either in a written statement that the appointment of the proxy is revoked or a subsequent appointment form.

Section 6.10 Reimbursement of Member Expenses. The Corporation will be under no obligation to reimburse Members for expenses associated with their attendance at regular or special Member meetings.

ARTICLE 7 BOARD OF DIRECTORS

Section 7.1 Management of Corporation. Consistent with these Bylaws, the business and affairs of the Corporation shall be managed by or under the direction of a board of directors. The duties of the board will include, but will not be limited to the following: (1) govern the Corporation and oversee all of its activities; (2) establish and oversee all organizational groups; (3) oversee accomplishment of all functions set forth in any delegation or other agreement with NERC or any governmental entity related to development, monitoring and enforcement of Reliability Standards and related matters; (4) approve, revise and enforce ~~Organizational Standards, Member data and information requirements and related confidentiality requirements; (5) establish compliance monitoring procedures and requirements, and penalties and sanctions for non-compliance for Organizational Standards; (6) impose penalties and sanctions for violation of Organizational Standards consistent with these Bylaws and the procedures approved by the board~~ (57) establish and approve an annual budget; (68) represent the Corporation in legal and regulatory proceedings; (78) hire the president. The board of directors shall select a chair and a vice-chair from among the members of the board. The board may establish board committees as appropriate.

Section 7.2 Voting. Each director shall have one vote with respect to decisions of the board.

Section 7.3 Composition of the Board of Directors. The board of directors shall consist of nineteen (19) board members elected by the Sectors as follows:

- (a). Three (3) directors from the Transmission System Operators Sector;
- (b). Two (2) directors from the Generators and Power Marketers Sector;
- (c). Five (5) directors from the Investor Owned Utilities Sector;
 - (1). Two (2) directors must be from utilities with less than 3,000 megawatts of end-use load.
 - (2). Three (3) directors must be from utilities with 3,000 megawatts or greater of end-use load.

- (d). Two (2) directors from the Cooperative Sector;
- (e). Two (2) directors from the Municipal Utilities Sector;
- (f). One (1) director from the Federal Power Marketing Agencies;
- (g). Two (2) directors from the Canadian Utilities Sector provided that both directors are not residents of the same Canadian province;
- (h). One (1) director from the Large End-Use Electricity Customers Sector, and
- (i). One (1) director from the Small End-Use Electricity Customers Sector.

Provided, however, that in choosing directors from a sector, there shall not be more directors from a particular Sector than there are actual Members of such Sector.

Members shall endeavor to select directors from among individuals holding senior management ~~or officer~~ positions in Member organizations, and with a view toward ensuring geographic representation of the Corporate Region on the board. No two directors may be employees of a single Member or employees of Members that are affiliates. To the extent the Members of a Sector do not select a director, that director position shall remain vacant until a director is selected by the Sector. ~~A Sector may elect an alternate representative to participate in meetings of the board if the elected director of the Sector is not able to attend, provided however, that such representative shall not have any voting rights on the board and any participation by such representative in executive sessions of the board is at the board's discretion.~~

Section 7.4 Terms of Directors. The directors will serve three-year, staggered terms. The terms of the initial directors will be selected by lot at the first meeting of the board of directors. Any director may be removed at any time by the affirmative vote of two-thirds (2/3) of the Members of the Sector selecting such director. A director may be removed by the board of directors for non-attendance of three consecutive board meetings.

Section 7.5 Reimbursement. Directors shall have the right to reimbursement by the Corporation of their actual reasonable travel expenses to board meetings or when specifically selected to represent the Corporation at a business meeting.

Section 7.6 Vacancies. If a director resigns, dies, changes corporate affiliation or is removed during the term of office for which elected, the directorship shall thereupon be vacant and shall be filled by the Members of the respective Sector, by written or electronic ballot in accordance with the procedures and requirements set forth above. The successor director elected by the Members of the Sector shall hold office for the unexpired term of the director replaced.

Section 7.7 Meetings; Notice. An annual meeting of the board of directors shall be held without notice immediately following the annual meeting of the Members to elect the chair and vice-chair for the next year. In addition, regular meetings may be held at such time

or times as fixed by the board of directors. Schedules of regular meetings of the board of directors shall be published by the secretary and provided to all Members. Special meetings of the board of directors may be called by the president or by three directors and shall be held at the principal office of the Corporation, or such other place within the Corporate Region as determined by the president after consultation with the board. Notice of the date, time, and place of a special meeting shall be given by the secretary not less than seven (7) days prior to the meeting by mail, telegram, or electronic communication to each director and Member. Except as necessary to discuss personnel issues, litigation or similar sensitive or confidential matters, all meetings of the board of directors shall be open to Members and other interested persons.

Section 7.8 Quorum. ~~A majority Two-thirds (2/3) of the directors currently holding office is a quorum for the transaction of business. In the absence of a quorum, a majority of the directors present may adjourn a meeting from time to time until a quorum is present.~~

Section 7.9 Board Action. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by law or these Bylaws.

Section 7.10 Action Without a Meeting. An action required or permitted to be taken at a board of directors meeting may be taken by written action, including electronic communication, signed by all of the directors of the Corporation. The written action is effective when signed by the required number of directors, unless a different effective time is provided in the written action.

Section 7.11 Action by Electronic Communication. A conference among directors by a means of communication through which the directors may simultaneously hear each other during the conference is a board meeting if the same notice is given of the conference as would be required for a meeting and if the number of directors participating in the conference is a quorum. Participation in a meeting by this means constitutes personal presence at the meeting. A director may participate in a board meeting by any means of communication through which the director, other directors participating, and all directors physically present at the meeting may simultaneously communicate with each other during the meeting.

ARTICLE 8
ORGANIZATIONAL GROUPS

Section 8.1 Establishment of Organizational Groups. The board of directors shall establish such organizational groups, consisting of committees, sub-committees, task forces and working groups of Members, as are necessary and appropriate to accomplish the purposes of the Corporation in an efficient and cost-effective manner. All organizational groups shall be subject to the direction and control of the board. The membership of organizational groups shall be determined based upon experience, expertise and geographic diversity and to the extent practicable shall include balanced representation of the Sectors.

The board of directors shall establish policies and procedures governing the creation of organizational groups, how they are populated, how voting and related matters are conducted and how they may be reorganized. The board shall conduct a review of all organizational groups of the Corporation on a ~~periodic~~ annual basis to ensure that the business of the Corporation is conducted in an efficient, cost-effective manner and shall include a statement of its conclusions and resulting actions in the board's report to Members at the annual meeting.

Section 8.2 Reimbursement. Consistent with the annual budget of the Corporation, the Board may authorize reimbursement by the Corporation for members of organizational groups (other than committees of the whole) of reasonable travel, meals and lodging expenses for organizational group meetings or for representation of the Corporation at other business meetings as authorized by the board. The board of directors may authorize reimbursement for persons acting on behalf of the Corporation, as necessary in the interests of the Corporation.

ARTICLE 9 **OFFICERS**

Section 9.1 Officers. The officers of the Corporation shall include a president, a secretary, a treasurer and any other officers as may be elected or appointed in accordance with the provisions of this Article. The board of directors may elect or appoint any additional officers that it deems desirable, such other officers to have the authority and perform the duties prescribed by the board of directors. The same individual may hold any number of offices, except that of president.

Section 9.2 Election and Term of Office. The officers of the Corporation shall be elected by the board of directors. Each officer shall hold office at the pleasure of the board. New officers may be created and the positions filled at any meeting of the board of directors. Each elected officer shall hold office until his or her successor has been duly elected and qualified.

Section 9.3 Removal. Any officer elected by the board of directors may be removed by the affirmative vote of two-thirds (2/3) of the board of directors whenever in its judgment the best interests of the Corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the officer so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Section 9.4 Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or otherwise, may be filled by the board of directors for the unexpired portion of the term.

Section 9.5 President. The president shall be, in the discretion of the board of directors, either an employee of or contractor to the Corporation and shall:

- (a). be the principal executive and operating officer of the Corporation;

(b). sign certificates of membership, and may sign any deeds, mortgages, deeds of trust, notes, bonds, contracts or other instruments authorized by the board of directors to be executed, except in cases in which the signing and execution thereof shall be expressly delegated by the board of directors or by these Bylaws to some other officer or agent of the Corporation; and

(c). perform all duties incident to the office of president, including hiring and directing staff, and such other duties as may be prescribed by the board of directors from time to time.

Section 9.6 Secretary. The secretary shall ensure that the following duties are carried out:

(a). the minutes of the meetings of the Members and of the board of directors are recorded;

(b). all required notices are duly given in accordance with these Bylaws and as required by law;

(c). a register of the current names and addresses of all Members is maintained;

(d). a complete copy of the articles of incorporation and Bylaws of the Corporation containing all amendments thereto are kept on file at all times, which copies shall always be open to the inspection of any Member; and

(e). generally perform all duties incident to the office of secretary and such other duties as may be prescribed by the board of directors from time to time.

Section 9.7 Treasurer. The treasurer shall be responsible for the following activities:

(a). maintain custody of all funds and securities of the Corporation;

(b). receipt of and the issuance of receipts for all monies due and payable to the Corporation and for deposit of all such monies in the name of the Corporation in such bank or banks or financial institutions as shall be selected by the board of directors; and

(c). generally perform all duties incident to the office of treasurer and such other duties as may be prescribed by the board of directors from time to time.

ARTICLE 10 **CERTIFICATES OF MEMBERSHIP**

Section 10.1 Certificates of Membership. The board of directors may provide for the issuance of certificates evidencing membership in the Corporation, which certificates shall be in such form as may be determined by the board.

ARTICLE 11
BOOKS AND RECORDS

Section 11.1 Books and Records; Financial Statements. The Corporation shall keep at its registered office correct and complete copies of its articles and Bylaws, accounting records, and minutes of meetings of Members, board of directors, and committees having any of the authority of the board of directors. A Member, or the agent or attorney of a Member, may inspect all books and records and voting agreements for any proper purpose at any reasonable time. Upon request, the Corporation shall give the Member a statement showing the financial result of all operations and transactions affecting income and surplus during its last annual accounting period and a balance sheet containing a summary of its assets and liabilities as of the closing date of the accounting period.

ARTICLE 12
FISCAL YEAR

Section 12.1 Fiscal Year. The fiscal year of the Corporation shall be the calendar year.

ARTICLE 13
TRANSFER OF ASSETS

Section 13.1 Member Approval Not Required. The Corporation, by affirmative vote of the board of directors, may sell, lease, transfer, or dispose of its property and assets in the usual and regular course of its activities and grant a security interest in all or substantially all of its property and assets in the usual and regular course of its activities, upon those terms and conditions and for those considerations, which may be money, securities, or other instruments for the payment of money or other property, as the board of directors considers expedient, in which case no Member approval is required.

Section 13.2 Member approval; when required. The Corporation may sell, lease, transfer, or dispose of all or substantially all of its property and assets, including its good will, not in the usual and regular course of its activities, upon those terms and conditions and for those considerations, which may be money, securities, or other instruments for the payment of money or other property, as the board of directors considers expedient only when approved at a regular or special meeting of the Members by the affirmative vote of two-thirds (2/3) of all the Members. Notice of the meeting must be given to the Members. The notice must state that a purpose of the meeting is to consider the sale, lease, transfer, or other disposition of all or substantially all of the property and assets of the Corporation.

ARTICLE 14
CONTRACTS, CHECKS, DEPOSITS, AND GIFTS

Section 14.1 Contracts. The board of directors may authorize any officer or officers or agent or agents of the Corporation, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or may be confined to specific instances.

Section 14.2 Checks, Drafts, or Orders. All checks, drafts, or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Corporation, shall be signed by such officer or officers or agent or agents of the Corporation, and in such manner as shall from time to time be determined by resolution of the board of directors.

Section 14.3 Deposits. All funds of the Corporation shall be deposited to the credit of the Corporation in such banks, trust companies, or other depositories as the board of directors may select.

Section 14.4 Gifts. The board of directors may accept on behalf of the Corporation any contribution, gift, bequest, or devise for any purpose of the Corporation.

ARTICLE 15 **INSURANCE, LIABILITY, AND INDEMNIFICATION**

Section 15.1 Insurance. The president is authorized to procure insurance to protect the Corporation against damages arising out of or related to any directive, order, procedure, action or requirement of the Corporation.

Section 15.2 Limitations on Liability. No director, officer, agent, employee or other representative of the Corporation, and no corporation or other business organization that employs a director of the Corporation, or any director, officer, agent or employee of such corporation or other business organization, shall be personally liable to the Corporation or any Member of the Corporation for any act or omission on the part of any such director, officer, agent, employee, or other representative of the Corporation, which was performed or omitted in good faith in his official capacity as a director, officer, agent, employee or other representative of the Corporation. However, this release of liability shall not operate to release such a director, officer, agent, employee or other representative of the Corporation from any personal liability resulting from willful acts or omissions knowingly or intentionally committed or omitted by him in breach of these Bylaws for improper personal benefit or in bad faith.

Section 15.3 Indemnification. It is the intent of the Corporation to indemnify its directors, officers, agents, employees, or other representatives to the maximum extent allowed by law consistent with these Bylaws. Each director, officer, agent, employee, or other representative of the Corporation shall be indemnified by the Corporation against all judgments, penalties, fines, settlements, and reasonable expenses, including legal fees, incurred by him as a result of, or in connection with, any threatened, pending or completed civil, criminal, administrative, or investigative proceedings to which he may be made a party by reason of his acting or having acted in his official capacity as a director, officer, agent, employee, or representative of the Corporation, or in any other capacity which he may hold at the request of the Corporation, as its representative in any other organization, subject to the following conditions:

(a). Such director, officer, agent, employee, or other representative must have conducted himself in good faith and, in the case of criminal proceedings, he must have

had no reasonable cause to believe that his conduct was unlawful. When acting in his official capacity, he must have reasonably believed that his conduct was in the best interests of the Corporation, and, when acting in any other capacity, he must have reasonably believed that his conduct was at least not opposed to the best interests of the Corporation.

(b). If the proceeding was brought by or on behalf of the Corporation, however, indemnification shall be made only with respect to reasonable expenses referenced above. No indemnification of any kind shall be made in any such proceeding in which the director, officer, agent, employee, or other representative shall have been adjudged liable to the Corporation.

(c). In no event, however, will indemnification be made with respect to any described proceeding which charges or alleges improper personal benefit to a director, officer, agent, employee, or other representative and where liability is imposed upon him on the basis of the receipt of such improper personal benefit.

(d). In order for any director, officer, agent, employee, or other representative to receive indemnification under this provision, he shall vigorously assert and pursue any and all defenses to those claims, charges, or proceedings covered hereby which are reasonable and legally available and shall fully cooperate with the Corporation or any attorneys involved in the defense of any such claim, charges, or proceedings on behalf of the Corporation.

(e). No indemnification shall be made in any specific instance until it has been determined by the Corporation that indemnification is permissible in that specific case, under the standards set forth herein and that any expenses claimed or to be incurred are reasonable. These two (2) determinations shall be made by a majority vote of at least a quorum of the board consisting solely of directors who were not parties to the proceeding for which indemnification or reimbursement of expenses is claimed. If such a quorum cannot be obtained, a majority of at least a quorum of the full board, including directors who are parties to said proceeding, shall designate a special legal counsel who shall make said determinations on behalf of the Corporation. In making any such determinations, the termination of any proceeding by judgment, order, settlement, conviction, or upon plea of nolo contendere, or its equivalent, shall not, in and of itself, be conclusive that the person did not meet the standards set forth herein.

(f). Any reasonable expenses, as shall be determined above, that have been incurred by a director, officer, agent, employee, or other representative who has been made a party to a proceeding as defined herein, may be paid or reimbursed in advance upon a majority vote of a quorum of the full board, including those who may be a party to the same proceeding. However, such director, officer, agent, employee, or other representative shall have provided the Corporation with (i) a written affirmation under oath that he, in good faith, believes that he has met the conditions for indemnification herein, and (ii) a written undertaking that he shall repay any amounts advanced, with interest accumulated at a reasonable rate, if it is ultimately determined that he has not met such conditions. In addition to the indemnification and reimbursement of expenses provided herein, the president shall purchase insurance that would protect the Corporation, its directors, officers, agents, employees, or other representatives against reasonably expected liabilities and expenses arising out of the performance of their duties for the Corporation.

TRANSITION

~~Except for those existing standards, criteria, rules, or guides that apply to the Generation Reserve Sharing Pool of the MAPP Restated Agreement, the Corporation will use the existing standards, criteria, rules or guides from each existing reliability council region for those Members that join the Corporation as in effect immediately prior to formation of the Corporation until such standards, criteria, rules or guides are adopted, superseded, or rejected by the Corporation. The Corporation will establish any necessary transition committees, subcommittees, working groups or task forces (including but not limited to a reliability committee) to administer the existing regional reliability standards, criteria, rules and guides until they are adopted, superseded, or rejected by the Corporation. The Corporation will employ its best efforts, within two years of its formation, to work toward a consistent set of Organizational and Reliability Standards (including operating reserves) for the entire Corporate Region, recognizing, however, that sub regional differences may warrant variances for certain sub regions.~~

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ARTICLE 16 PARTICIPATION BY REGULATORY PARTICIPANTS

Section 16.1 All Regulatory Participants shall be entitled to and be provided with the same rights to notice of and participation in meetings or other activities of the Corporation as are provided to Members, but shall not have the right to vote.

ARTICLE 17 PARTICIPATION BY FEDERAL POWER MARKETING ADMINISTRATIONS

Section 17.1 The participation by the United States through Federal power marketing administrations (PMA) in the Corporation is subject in all respects to acts of Congress and to regulations of the Secretary of Energy established thereunder. This reservation includes, but is not limited to, the statutory limitations upon the authority of the Secretary of Energy to submit disputes arising hereunder to arbitration. In the event of a conflict between this Article 18 and any other Article of these Bylaws, this Article 18 shall have precedence with respect to the application of these Bylaws to the United States.

Section 17.2 Where activities provided for herein extend beyond the current fiscal year, continued expenditures by the United States are contingent upon Congress making the necessary appropriations required for the continued performance of the obligations of the PMA hereunder. In case such appropriations are not made, the Corporation and its Members hereby release the PMA from its contractual obligations under these Bylaws and from all liability due to the failure of Congress to make such appropriation.

Section 17.3 No member of or delegate to Congress shall be admitted to any share or part of, or to any benefit that may have arisen from, these Bylaws, but this restriction shall not be construed to extend to these Bylaws if made with a corporation or company for its general benefit.

Section 17.4 The Corporation and its Members warrant that no Person or selling agency has been employed or retained to solicit or secure participation by a PMA in the Corporation upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting *bona fide* employees or *bona fide* established commercial or selling agencies maintained by the Members for the purpose of securing business. For breach or violation of this warranty, a PMA shall have the right to annul its participation in the Corporation without liability or, in its discretion, to deduct from its dues or fees the full amount of such commission, percentage, brokerage, or contingent fee.

Section 17.5 For the purpose of this Section 18.5 the term “Contract” shall mean these Bylaws and the term “Contractor” shall mean the Corporation. During the performance of this Contract, the Contractor agrees to the following provisions.

187.5.1. Section 202 of the Executive Order No. 11246, 30 Fed. Reg. 12319 (1965), as amended by Executive Order No. 12086, 43 Fed. Reg. 46501 (1978), which provides, among other things, that the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, is incorporated by reference in the Contract.

178.5.2. The Contract, to the extent that it is of a character specified in Section 103 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. § 329 (1986) (the “Act”), is subject to the provisions of the Act, 40 U.S.C. §§ 327-333 (1986), and to regulations promulgated by the Secretary of Labor pursuant to the Act.

178.5.3. The Contractor agrees not to employ any person undergoing sentence of imprisonment in performing the Contract except as provided by 18 U.S.C. § 4082(c)(2) and Executive Order 11755, 39 Fed. Reg. 779 (1973).

ARTICLE 18

HEARINGS DETERMINATION OF VIOLATIONS AND DISPUTE RESOLUTION

Section 18.1 Hearings. Except as otherwise provided in applicable agreements and/or law governing a Member's membership in the Corporation, the board of directors Corporation shall be responsible for making final determinations regarding whether (1) a Member has violated an Organizational Standard or a Reliability Standard; (2) an entity subject to a Reliability Standard has violated a Reliability Standard in connection with its operation in the Corporate Region; and (3) assessment of sanctions within the Corporate region resulting from such violations, following an initial determination by Corporation staff in accordance with the NERC Rules of Procedure. Any Member or entity organization subject to a Reliability Standard or Organizational Standard, against whom a penalty or other sanction has been recommended, shall have an opportunity to be heard by the board prior to the board's determination.

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Section 18.2 Disputes. Dispute resolution procedures will be established by the board of directors for disputes between Members, or between a Member and the Corporation, for issues arising under these Bylaws. Determinations related to violations of Reliability Standards will be resolved in accordance with the NERC Rules of Procedure, except as

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otherwise provided in applicable agreements and/or law governing a Member's membership in the corporation. provided that: (1) determinations by the Corporation related to violations of Reliability Standards shall only be appealed directly to NERC ; and (2) determinations of the Corporation related to violations of Organizational Standards shall be subject to dispute resolution only to the extent permitted by the rules of the Corporation regarding dispute resolution and provided that in any such dispute resolution proceeding the board of directors' determination of the meaning and scope of an Organizational Standard shall be final, subject to any right to appeal to any regulatory or other legal authority.

ARTICLE 19
AMENDMENT OF BYLAWS

Section 19.1 The power to adopt, amend or repeal these Bylaws is vested in the Members as set forth in Section 6.5 of these Bylaws; provided however, upon the passage of any federal reliability legislation, and/or the adoption of related requirements and procedures by NERC, ~~its successor under such legislation~~, or any regulatory agency with jurisdiction, the board or directors shall have authority upon a two-thirds (2/3) vote ~~of its members~~ to amend these Bylaws as necessary and appropriate to comply with such law and related requirements ~~and to qualify the Corporation for delegations of authority from NERC or its successor as provided in such legislation.~~

Exhibit C – Regional Standard Development Procedure

Exhibit C shall set forth the Regional Entity’s standards development procedure, which NERC agrees meets the following common attributes:

COMMON ATTRIBUTE 1

Proposed regional reliability standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA ~~{add reference to any applicable authorities in Canada and Mexico}~~. No regional reliability standard shall be effective within the ~~{Regional Entity Name}~~ Midwest Reliability Organization area unless filed by NERC with FERC ~~{and applicable authorities in Canada and Mexico}~~ and approved by FERC ~~{and applicable authorities in Canada and Mexico}~~.

COMMON ATTRIBUTE 2

~~{Regional Entity Name}~~ Midwest Reliability Organization regional reliability standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. ~~A {Regional Entity Name} A Midwest Reliability Organization~~ Midwest Reliability Organization reliability standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. A regional reliability standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

COMMON ATTRIBUTE 3

~~{Regional Entity Name}~~ Midwest Reliability Organization regional reliability standards, when approved by FERC ~~{add applicable authorities in Canada}~~, shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the ~~{Regional Entity Name}~~ Midwest Reliability Organization area, regardless of membership in the region.

COMMON ATTRIBUTE 4

Requester — The requester is the sponsor of the regional reliability standard request and may assist in the development of the standard. Any member of ~~{Regional Entity Name}~~, Midwest Reliability Organization, or group within ~~{Regional Entity Name}~~ Midwest Reliability Organization shall be allowed to request that a regional reliability standard be developed, modified, or withdrawn. Additionally, any entity (person, organization, company, government agency, individual, etc.) that is directly and materially affected by the reliability of the bulk

power system in the ~~[Regional Entity Name]~~Midwest Reliability Organization area shall be allowed to request a regional reliability standard be developed, modified, or withdrawn.

COMMON ATTRIBUTE 5

[Standards or other named] committee — The ~~[Regional Entity Name]~~Midwest Reliability Organization ~~[standards]~~Standards Ccommittee manages the standards development process. The ~~[standards]~~Standards Ccommittee will consider which requests for new or revised standards shall be assigned for development (or existing standards considered for deletion). The ~~[standards]~~Standards Ccommittee will advise the ~~[Regional Entity Name]~~Midwest Reliability Organization board on standards presented for adoption.

COMMON ATTRIBUTE 6

[Alternative 6A: For a Regional Entity -that chooses to vote using a balanced stakeholder committee.] NOT APPLICABLE

The [standards] committee is a balanced stakeholder committee, inclusive of all stakeholder interests that provide for or are materially impacted by the reliability of the bulk power system. [The [standards] committee votes to approve standards.] See Appendix A for the representation model of the [standards] committee.

[Alternative 6B: For a Regional Entity that chooses to vote using a balanced ballot body of stakeholders.]

[Registered ballot body — The registered ballot body comprises all entities or individuals that qualify for one of the stakeholder segments; are registered with ~~[Regional Entity Name]~~Midwest Reliability Organization as potential ballot participants in the voting on standards; and are current with any designated fees. Each member of the registered ballot body is eligible to vote on standards. [Each standard action has its own ballot pool formed of interested members of the registered ballot body. Each ballot pool comprises those members of the registered ballot body that respond to a pre-ballot survey for that particular standard action indicating their desire to participate in such a ballot pool.] The representation model of the registered ballot body is provided in Appendix A.]

COMMON ATTRIBUTE 7

~~[Regional Entity Name]~~Midwest Reliability Organization will coordinate with NERC such that the acknowledgement of receipt of a standard request identified in step 1, notice of comment posting period identified in step 4, and notice for vote identified in step 5 below are concurrently posted on both the ~~[Regional Entity Name]~~Midwest Reliability Organization and NERC websites.

COMMON ATTRIBUTE 8

An acceptable standard request shall contain a description of the proposed regional reliability standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed standard.

COMMON ATTRIBUTE 9

Within [no greater than 60] days of receipt of a completed standard request, the ~~{standards}~~Standards Ceommittee shall determine the disposition of the standard request.

COMMON ATTRIBUTE 10

The ~~{standards}~~Standards Ceommittee may take one of the following actions:

- Accept the standard request as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The ~~{standards}~~Standards Ceommittee may, at its discretion, expand or narrow the scope of the standard request under consideration. The ~~{standards}~~Standards Ceommittee shall prioritize the development of standard in relation to other proposed standards, as may be required based on the volume of requests and resources.
- Reject the standard request. If the ~~{standards}~~Standards Ceommittee rejects a standard request, a written explanation for rejection will be delivered to the requester within [no greater than 30] days of the decision.
- Remand the standard request back to the requester for additional work. The standards process manager will make reasonable efforts to assist the requester in addressing the deficiencies identified by the ~~{standards}~~Standards Ceommittee. The requester may then resubmit the modified standard request using the process above. The requester may choose to withdraw the standard request from further consideration prior to acceptance by the ~~{standards}~~Standards Ceommittee.

COMMON ATTRIBUTE 11

Any standard request that is accepted by the ~~{standards}~~Standards Ceommittee for development of a standard (or modification or deletion of an existing standard) shall be posted for public viewing on the ~~[Regional Entity Name]~~Midwest Reliability Organization website within [no greater than 30] days of acceptance by the committee.

COMMON ATTRIBUTE 12

The standards process manager shall submit the proposed members of the drafting team to the ~~{standards}~~Standards Committee. The ~~{standards}~~Standards Committee shall approve the drafting team membership within 60 days of accepting a standard request for development, modifying the recommendations of the standards process manager as the committee deems appropriate, and assign development of the proposed standard to the drafting team.

COMMON ATTRIBUTE 13

At the direction from the ~~{standards}~~Standards Committee, the standards process manager shall facilitate the posting of the draft standard on the ~~{Regional Entity Name}~~Midwest Reliability Organization website, along with a draft implementation plan and supporting documents, for a no less than a {30}-day comment period. The standards process manager shall provide notice to ~~{Regional Entity Name}~~Midwest Reliability Organization stakeholders and other potentially interested entities, both within and outside of the ~~{Regional Entity Name}~~Midwest Reliability Organization area, of the posting using communication procedures then currently in effect or by other means as deemed appropriate.

COMMON ATTRIBUTE 14

The drafting team shall prepare a summary of the comments received and the changes made to the proposed standard as a result of these comments. The drafting team shall summarize comments that were rejected by the drafting team and the reason(s) that these comments were rejected, in part or whole. The summary, along with a response to each comment received will be posted on the ~~{Regional Entity Name}~~Midwest Reliability Organization website no later than the next posting of the proposed standard.

COMMON ATTRIBUTE 15

Upon recommendation of the drafting team, and if the ~~{standards}~~Standards Committee concurs that all of the requirements for development of the standard have been met, the standards process manager shall post the proposed standard and implementation plan for ballot and shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

COMMON ATTRIBUTE 16

The standards process manager shall schedule a vote by the ~~[Regional Entity Name]~~ Midwest Reliability Organization ~~[registered ballot body/standards]~~ committee. The vote shall commence no sooner than {15} days and no later than {30} days following the issuance of the notice for the vote.

COMMON ATTRIBUTE 17

[Alternative 17A: For an RE that chooses to vote using a balanced stakeholder committee.] Not Applicable

The [standards] committee shall give due consideration to the work of the drafting team, as well as the comments of stakeholders and minority objections, in approving a proposed regional reliability standard for submittal to the [Regional Entity Name] board. The [standards] committee may vote to approve or not approve the standard. Alternatively, the [standards] committee may remand the standard to the drafting team for further work or form a new drafting team for that purpose.

[Alternative 17B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

The ~~[Regional Entity Name]~~ The Midwest Reliability Organization registered ballot body shall be able to vote on the proposed standard during a period of {not less than 10} days.

COMMON ATTRIBUTE 18

[Alternative 18A: For an RE that chooses to vote using a balanced stakeholder committee.] Not Applicable

The [standards] committee may not itself modify the standard without issuing a new notice to stakeholders regarding a vote of the modified standard.

[Alternative 18B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

All members of ~~[Regional Entity Name]~~ Midwest Reliability Organization are eligible to participate in voting on proposed new standards, standard revisions or standard deletions. [Alternatively: Each standard action requires formation of a ballot pool of interested members of the registered ballot body.]

COMMON ATTRIBUTE 19

[Alternative 19A: For an RE that chooses to vote using a balanced stakeholder committee.]

Actions by the committee shall be recorded in the regular minutes of the committee.

[Alternative 19B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

Approval of the proposed regional reliability standard shall require a ~~two thirds~~ majority in the affirmative (affirmative votes divided by the sum of affirmative and negative votes). Abstentions and non-responses shall not count toward the results, except that abstentions may be used in the determination of a quorum. A quorum shall mean ~~XX%~~ 66.7% of the members of the [registered ballot body/ballot pool] submitted a ballot.

COMMON ATTRIBUTE 20

Under no circumstances may the board substantively modify the proposed regional reliability standard.

COMMON ATTRIBUTE 21

Once a regional reliability standard is approved by the board, the standard will be submitted to NERC for approval and filing with FERC ~~and applicable authorities in Canada and Mexico.~~

COMMON ATTRIBUTE 22

- **Open** - Participation in the development of a regional reliability standard shall be open to all organizations that are directly and materially affected by the ~~Regional Entity Name~~ Midwest Reliability Organization power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in ~~Regional Entity Name~~, Midwest Reliability Organization, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to the ~~Regional Entity Name~~ Midwest Reliability Organization members and others.

COMMON ATTRIBUTE 23

- **Balanced** - The ~~Regional Entity Name~~ Midwest Reliability Organization standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.

COMMON ATTRIBUTE 24

- **Inclusive** — Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the ~~[Regional Entity Name]~~Midwest Reliability Organization area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.

COMMON ATTRIBUTE 25

- **Fair due process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.

COMMON ATTRIBUTE 26

- **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.

COMMON ATTRIBUTE 27

- Does not unnecessarily delay development of the proposed reliability standard.

COMMON ATTRIBUTE 28

Each standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

COMMON ATTRIBUTE 29

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system

reliability and electricity markets are inseparable and mutually interdependent, all regional reliability standards shall be consistent with NERC’s market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

COMMON ATTRIBUTE 30

To ensure uniformity of regional reliability standards, a regional reliability standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

COMMON ATTRIBUTE 31

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

COMMON ATTRIBUTE 32

Applicability	Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions. If not applicable to the entire Regional Entity Name Midwest Reliability Organization area, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.
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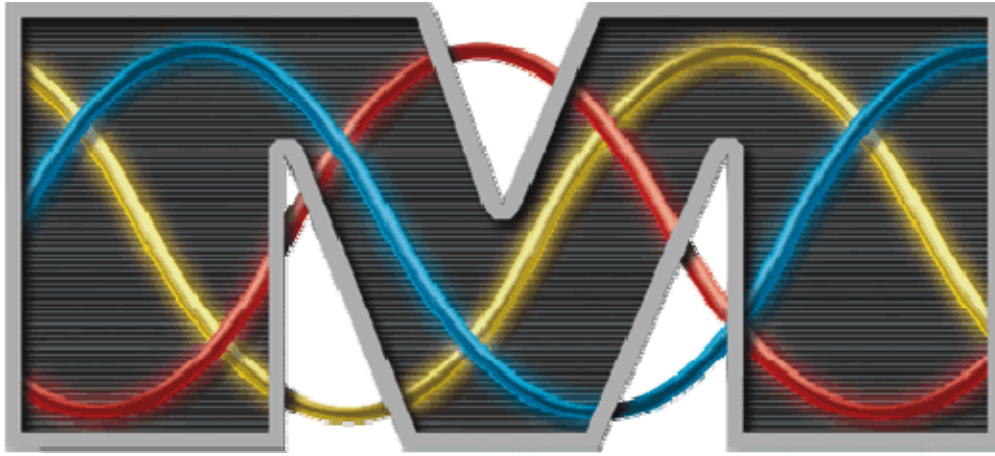
COMMON ATTRIBUTE 33

Measure(s)	Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are
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	<p>proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.</p>
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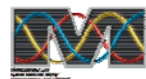
COMMON ATTRIBUTE 34

<p>Compliance Monitoring Process</p>	<p>Defines for each measure:</p> <ul style="list-style-type: none"> • The specific data or information that is required to measure performance or outcomes. • The entity that is responsible for providing the data or information for measuring performance or outcomes. • The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes. • The entity that is responsible for evaluating data or information to assess performance or outcomes. • The time period in which performance or outcomes is measured, evaluated, and then reset. • Measurement data retention requirements and assignment of responsibility for data archiving.
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Midwest Reliability Organization

Regional Reliability Standards Process Manual



MRO Regional Reliability Standards Process Manual

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I. Introduction

Purpose: This manual defines the characteristics of a Midwest Reliability Organization (“MRO”) Regional Reliability Standard and establishes the process for proposing Regional Reliability Standards to North American Electric Reliability Corporation (“NERC”) for enforcement under direct or delegated regulatory authority consistent with the Energy Policy Act of 2005 (“EPAAct 2005”) in the United States and applicable Canadian authorities. The MRO plans to become a Cross-Border Regional Entity (“CBRE”) as defined in EPAAct 2005 and the final FERC reliability rule consistent with the US-Canadian Bilateral principles. For more information on the MRO please refer to <http://www.midwestreliability.org>.

The MRO standards process is consensus-based, technically vetted, and open to the public and bordering entities that may be impacted by a proposed Regional Reliability Standard by the MRO. MRO Regional Reliability Standards apply to the reliability planning, and operation of bulk power systems located within the MRO region. NERC as the Electric Reliability Organization (“ERO”), and the applicable regulatory authorities in the United States and Canada will have the ability to enforce these standards. The MRO region is defined in agreements (e.g. delegation agreement) with NERC and applicable regulatory authorities in the United States and Canada.

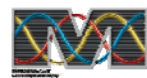
Applicable Regulatory Authorities in the United States and Canada: FERC is the Applicable Regulatory Authority in the United States. The Manitoba Public Utilities Board is the Applicable Regulatory Authority in Manitoba. The Provincial Government of Saskatchewan is the Applicable Regulatory Authority in Saskatchewan.

Authority: This manual is published by the authority of the MRO Board of Directors (“BOD”) who shall have the sole authority to modify the manual. A procedure for revising this manual is provided in the section titled “Maintenance of MRO Regional Reliability Standards and Process.”

Credits: This manual was developed from the NERC Reliability Standards Development Procedure (available at www.nerc.com). Thus, the MRO Regional Reliability Standards process is very similar to the NERC process and the format is the same as the NERC Reliability Standard format.

Background: NERC and the MRO work with all segments of the electric industry, including electricity end-users, to develop standards for the reliable planning and operation of bulk electric systems. The purpose of the NERC Reliability Standards is to promote reliability, while at the same time accommodating competitive electricity markets.

EPAAct 2005 and NERC, ERO provide for Regional Entities (“RE”) to propose Regional Reliability Standards to NERC for eventual enforcement within the region of the RE or CBRE. Regions (such as the MRO) may develop, through



their own processes, regional reliability standards that; go beyond, add detail to, or cover matters not addressed in NERC Reliability Standards. MRO Regional Reliability Standards are proposed to NERC for approval and become enforceable, once approved by NERC and the applicable regulatory authorities in the United States and Canada as Reliability Standards.

MRO Regional Reliability Standards that are proposed shall not be inconsistent with, or less stringent than established NERC Reliability Standards. All MRO Regional Reliability Standards obligate the MRO to monitor and enforce compliance, apply sanctions, if any, consistent with any regional agreements and the NERC rules.

Proposed MRO Regional Reliability Standards shall be subject to approval by NERC, as the ERO, and by applicable regulatory authorities in the United States and Canada, before becoming mandatory and enforceable. No Regional Reliability Standard shall be effective within the MRO area unless approved by NERC and the applicable regulatory authorities in the United States and Canada.

MRO proposed Regional Reliability Standards, when approved by NERC and the applicable regulatory authorities in the United States and Canada, shall be made part of the body of NERC Reliability Standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the MRO region as defined in agreements (e.g. delegation agreements).

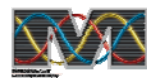
II. MRO Regional Reliability Standard Definition, Characteristics, and Elements

Definition of a MRO Regional Reliability Standard: A MRO Regional Reliability Standard defines certain obligations or requirements of entities that operate, plan, and use the bulk electric systems of the MRO region.

The Bylaws of the MRO define a Reliability Standard as: “a NERC requirement, duly in effect, 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. The term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.”

When proposing a Regional Reliability Standard in the MRO region, the obligations or requirements must be material to reliability and be measurable.

Each MRO Regional Reliability Standard shall enable or support one or more of the NERC reliability principles, thereby ensuring that each standard serves



a purpose in support of the reliability of the regional bulk power system. Each of those standards shall also be consistent with all of the NERC reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

While MRO Regional Reliability Standards are intended to promote reliability, they must at the same time accommodate electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all MRO Regional Reliability Standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on electricity markets.

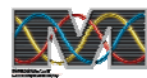
Characteristics of a MRO Regional Reliability Standard: A MRO Regional Reliability Standard may include standards for the operation and planning of interconnected systems as well as market interface practices. The format and process defined by this manual applies to all MRO Regional Reliability Standards.

A MRO Regional Reliability Standard shall have the following characteristics:

- **Material to Reliability** - A MRO Regional Reliability Standard shall be material to the reliability of bulk electric systems in the MRO region. If the reliability of the bulk electric systems could be compromised without a particular standard or by a failure to comply with that standard, then the standard is material to reliability.
- **Measurable** - A MRO Regional Reliability Standard shall establish technical or performance requirements that can be practically measured.
- **Relative to NERC Reliability Standards** - A MRO Regional Reliability Standard shall go beyond, add detail to, or cover matters not addressed in already approved NERC Reliability Standards.

Elements of a MRO Regional Reliability Standard: A MRO Regional Reliability Standard shall consist of the elements shown in the MRO Regional Reliability Standard Template.

These elements are intended to apply a systematic discipline in the development and revision of MRO Regional Reliability Standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.



The format allows a clear statement of the purpose, requirements, measures, and penalties for non-compliance associated with each standard.

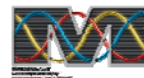
All mandatory requirements of a MRO Regional Reliability Standard shall be within an element of the standard.

Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself. Types of supporting documents are described in a later section of this manual.

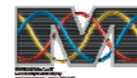
MRO Regional Reliability Standard Template

The following are the core elements of a MRO Regional Reliability Standard

Identification Number	A unique identification number assigned by the SPM.
Title	A brief, descriptive phrase identifying the topic of the MRO Regional Reliability Standard.
Applicability	Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions.
Effective Date and Status	The effective date of the MRO Regional Reliability Standard shall be upon NERC and regulatory approvals. The status of the standard will be indicated as active or by reference to one of the numbered steps in the standards process.
Purpose	The purpose of the MRO Regional Reliability Standard shall explicitly state what outcome will be achieved by the approved Reliability Standard. The purpose is agreed to early in the process as a step toward obtaining approval to proceed with the development of the Reliability Standard. The purpose should link the standard to the relevant principle(s).
Requirement(s)	Explicitly stated technical, performance, preparedness, or certification requirements. Each requirement identifies who is responsible and what action is to be performed or what outcome is to be achieved. Each statement in the requirements section shall be a statement for which compliance is mandatory. Any additional comments or statements for which compliance is not mandatory, such as background or explanatory information, should be placed in a separate document and referenced (see Supporting References).



<p>Risk Factors</p>	<p>The potential reliability significance of each requirement, designated as a High, Medium, or Lower Risk Factor in accordance with the criteria listed below:</p> <p>A High Risk Factor requirement (a) is one that, if violated, could directly cause or contribute to bulk power system instability, separation, or a cascading sequence of failures, or could place the bulk power system at an unacceptable risk of instability, separation, or cascading failures; or (b) is a requirement in a planning timeframe that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly cause or contribute to bulk power system instability, separation, or a cascading sequence of failures, or could place the bulk power system at an unacceptable risk of instability, separation, or cascading failures, or could hinder restoration to a normal condition.</p> <p>A Medium Risk Factor requirement (a) is a requirement that, if violated, could directly affect the electrical state or the capability of the bulk power system, or the ability to effectively monitor and control the bulk power system, but is unlikely to lead to bulk power system instability, separation, or cascading failures; or (b) is a requirement in a planning timeframe that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly affect the electrical state or capability of the bulk power system, or the ability to effectively monitor, control, or restore the bulk power system, but is unlikely, under emergency, abnormal, or restoration conditions anticipated by the preparations, to lead to bulk power system instability, separation, or cascading failures, nor to hinder restoration to a normal condition.</p> <p>A Lower Risk Factor requirement is administrative in nature and (a) is a requirement that, if violated, would not be expected to affect the electrical state or capability of the bulk power system, or the ability to effectively monitor and control the bulk power system; or (b) is a requirement in a planning time frame that, if violated, would not, under the emergency, abnormal, or restorative conditions anticipated by the preparations, be expected to affect the electrical state or capability of the bulk power system, or the ability to effectively monitor, control, or restore the bulk power system.</p>
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Measure(s)	<p>Each requirement shall be addressed by one or more measures. These measures will be used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above.</p> <p>Each measure shall identify to whom the measurement applies and the expected level of performance or outcomes required demonstrating compliance.</p> <p>Each measure shall be tangible, practical, and as objective as is practical.</p> <p>It is important to realize that measures are proxies to assess required performance or outcomes.</p> <p>Achieving the full compliance level of each measurement should be a necessary and sufficient indicator that the requirement was met.</p> <p>Each measure shall clearly refer to the requirement(s) to which it applies.</p>
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Glossary of Terms Used in Standards

Definitions of Terms:	<p>All defined terms used in MRO Regional Reliability Standards, shall be defined in the glossary. Definitions may be approved as part of a standards action or as a separate action. All definitions must be approved in accordance with the standards process.</p>
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Compliance Administration Elements

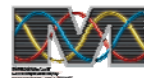
Compliance Monitoring Process	<p>The following compliance elements, which are part of the standard and are balloted with the standard are developed for each measure in a standard by the NERC compliance program in coordination with the standard drafting team</p> <ul style="list-style-type: none"> • The specific data or information that is required to measure performance or outcomes. • The entity that is responsible for providing the data or information for measuring performance or outcomes. • The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes • The entity that is responsible for evaluating such data or information. • The time period in which performance or outcomes is measured, evaluated, and then reset.
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	<ul style="list-style-type: none"> • Measurement data retention requirements and assignment of responsibility for data archiving.
Violation Severity Levels	Defines the degree to which compliance with a requirement was not achieved. The violation severity levels, are part of the standard and are balloted with the standard, and developed by the MRO compliance program in coordination with the standard drafting team.

Supporting Information Elements

Interpretations	<p>Formal interpretations of Regional Reliability Standard(s) proposed by the MRO and approved by NERC, FERC, and the applicable Canadian regulatory authorities.</p> <p>Interpretations are temporary, as the standard should be revised to incorporate the interpretation.</p>
Implementation Plan	Each Regional Reliability Standard proposed by the MRO and approved by NERC, FERC and the applicable Canadian regulatory authorities shall have an associated implementation plan describing the effective date of the standard or effective dates if there is a phased implementation. The implementation plan may also describe the implementation of the standard in the compliance program and other considerations in the initial use of the standard, such as necessary tools, training, etc. The implementation plan must be posted for at least one public comment period and is approved as part of the ballot of the standard.
Supporting References	<p>This section will reference related documents that support implementation of the Reliability Standard proposed by the MRO and approved by NERC and the regulatory authorities, but are not themselves mandatory. Examples include, but are not limited to:</p> <ul style="list-style-type: none"> • Developmental history of the standard and prior versions • Notes pertaining to implementation or compliance • Standard references • Standard supplements • Procedures • Practices • Training references • Technical references • White papers • Internet links to related information



III. Roles in the MRO Regional Reliability Standards Development Process

Nomination, Revision or Withdrawal of a Standard: Any member of the MRO or group within the MRO region shall be allowed to request that a MRO Regional Reliability Standard be developed, modified, or withdrawn. Additionally, any person (organization, company, government agency, individual, etc.) who is directly and materially affected by the reliability of MRO bulk power system shall be allowed to request that a MRO Regional Reliability Standard be developed, modified, or withdrawn.

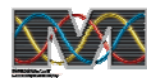
Process Roles

Board of Directors (BOD) - The BOD shall consider MRO Regional Reliability Standards that have been approved by the Registered Ballot Body ("RBB") to be proposed to NERC and the regulatory authorities for enforcement consistent with direct or delegated regulatory authorities of the MRO. Once the proposed MRO Regional Reliability Standard is approved by NERC and the regulatory authorities, it becomes effective in the MRO region consistent with the MRO's direct or delegated regulatory authority.

Compliance Committee (CC) - The mission of the MRO CC is to assure that the compliance program and policies are followed according to the rules and carried out in a non-discriminatory manner, subject to the BOD approval with MRO staff and BOD oversight. The compliance program is designed around compliance with Reliability Standards. The development of a MRO Regional Reliability Standard, in particular the measures and compliance administration portions of the standard, shall have direct input from the CC. Field-testing will be managed and coordinated with the CC. The Compliance Manager (CM), a MRO staff function, and the CC shall provide input and comments during the standards development process to ensure the measures will be effective and other aspects of the compliance program practically implemented.

Standards Committee (SC) -The responsibilities of the SC will include: management of the standards work flow so as not to overwhelm available resources, review of standards authorization requests and draft standards for such factors as completeness, sufficient detail, rational result, and compatibility with existing standards; clarifying standard development issues not specified in this procedure; and advising the BOD on standard development matters. Under no circumstance will the SC change the substance of a draft standard. The SC shall advise the BOD on MRO Regional Reliability Standards presented for their consideration in determining whether to propose such Reliability Standard to NERC.

Standards Process Manager (SPM) – This is a MRO staff function. The Standards Manager who will act as the SPM shall administer the MRO Regional Reliability Standards Process. The SPM is responsible for ensuring



that the development and revision of standards is in accordance with this manual. The SPM works to ensure the integrity of the process and consistency of quality and completeness of the MRO Regional Reliability Standards. The SPM facilitates all steps in the process.

Standards Process Staff - MRO staff will assist the SC, SPM, Requester, and Standard Drafting Team (SDT).

Registered Ballot Body (RBB) - The RBB comprises all entities that:

1. qualify for one of the Industry Segments approved by the BOD¹, and
2. are registered in the MRO RBB, and
3. are current with any MRO related designated fees associated with this program. Designated fees are defined as fees associated with the Standards Development process. At this time there are no fees for registration.

Each voter must be a member of the RBB. **Note: An individual's membership in the RBB will be in a "Pending" stage immediately following registration; in order to be able to vote, your registration must be activated, and activation may take up to 24 hours.**

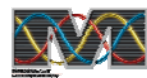
Each registered member of the RBB is eligible to participate in the voting process for each Standards Action (add, change or withdraw). However, each MRO RBB member (company) may have only one vote per eligible segment.

The RBB will ensure, through its vote, the need for and the technical merits of, a proposed Standards Action and the appropriate consideration of views and objections received during the development process. The RBB votes to approve each Standards Action.

The MRO Regional Reliability Standards Process relies on open and inclusive participation by the electric utility industry and the interested public. Participation and voting is open to non-members of the MRO; at this time there are no fees for participation or voting.

Requester - A Requester is any person or entity (organization, company, government agency, etc.) that submits a complete request for development, revision, or withdrawal of a standard. Any person or entity that is directly and materially affected by an existing standard or the need for a new standard may submit a completed Standard Authorization Request (SAR) for any of the three following actions; a new standard to be developed, a revision to an existing standard, or a withdrawal of an existing standard.

¹ Appendix C contains a description of the latest version of the Industry Segments approved by the Board of Directors.



SAR Drafting Team - A team of technical experts assigned by the SC, that:

- assists in refining the SAR,
- considers and responds to comments, and
- participates in industry forums to help build consensus on the SAR.

SDT - A small team (5-10 people) of technical experts, approved by the SC, that:

- develops the details of the standard
- considers and responds to comments
- participates in industry or regional forums to help build consensus on posted draft standards

Sub-Regional Variance: An aspect of a Reliability Standard (one that is proposed for the MRO region for enforceability) that applies only within a particular regional entity sub-region. A Sub-Regional Variance may be used to exempt a group of entities within the MRO region from all or a portion of a Reliability Standard or may establish different measures or performance criteria as necessary to achieve reliability within the particular group of entities within the region. A Sub-Regional Variance may not be inconsistent with the Reliability Standard as it would otherwise exist without the variance. A Sub-regional variance cannot establish a level of reliability less than that set by a continent-wide Reliability Standard and such a variance would only exempt a group of entities from a MRO Reliability Standard. Such a variance may be proposed by a group of sub-regional entities and, if approved by NERC and regulatory authorities, shall be enforced within the MRO region pursuant to its delegated authority.

IV. MRO Regional Reliability Standards Consensus Development Process

Overview

The process for development of MRO Regional Reliability Standards to be proposed to NERC and regulatory authorities for approval and eventual enforcement under direct or delegated authority is illustrated in the Process Diagram in Appendix A and has the following characteristics:

- **Inclusive** – Any entity (person, organization, company, government agency, individual, etc.) with a direct material interest in the bulk power system in the MRO area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.
- **Openness** - Participation is open to all persons who are directly and materially affected by the reliability of the MRO region bulk power

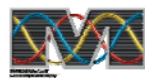


system. There shall be no undue financial barriers to participation. Participation shall not be conditional upon membership in the MRO or any organization, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements.

- **Balance** - The MRO Regional Reliability Standards Development Process shall have a balance of interests and shall not be dominated by any two, interest categories and no single interest category shall be able to defeat a matter.
- **Transparent** - All actions material to the development of MRO regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the MRO Web site.
- **Timeliness** - The MRO Regional Reliability Standards Development Process does not unnecessarily delay development of the proposed reliability standard.
- **Fair Due Process** - The MRO Regional Reliability Standards Development Process provides for reasonable notice and opportunity for public comment. The procedure includes public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of all persons who are directly and materially affected.

The MRO Regional Reliability Standards development process is intended to develop consensus, first on the need for the standard, then on the standard itself. The process includes the following key elements:

- **Nomination of a proposed standard, revision to a standard, or withdrawal of a standard** using a Standard Authorization Request ("SAR").
- **Public posting of the SAR** to allow all parties to review and provide comments on the need for the proposed standard and the expected outcomes and impacts from implementing the proposed standard. Notice of standards shall provide an opportunity for participation by all directly and materially affected persons.
- **Review of the public comments** in response to the SAR and prioritization of proposed standards, leading to the authorization to develop standards for which there is a consensus-based need.
- **Assignment of teams** to draft the new or revised standard.
- **Drafting of the standard.**



- **Public posting of the draft standard** to allow all parties to review and provide comments on the draft standard. At this point the need for the standard has been established and comments should focus on aspects of the draft standard itself.
- **Field testing of the draft standard and measures:** The need and extent of recommendations for field testing shall be determined by the SDT and submitted through the SPM to the SC for approval. The SDT shall request input from the RAC and CC members.
 - Field-testing may be region-wide or may consist of one or more, lesser scale demonstrations, evaluations, or other SC approved methods.
 - Field-testing should be cost effective and practical, yet sufficient to validate the requirements, measures, measurement processes and other elements of the standard necessary to implement the Compliance Program.
 - For some standards and their associated measures, field-testing may not be appropriate, such as those measures that consist of administrative reports.
- **Formal balloting of the standard** for approval by the RBB.
- **Re-ballot to consider specific comments** by those submitting comments with negative votes.
- **Approval of a MRO Regional Reliability Standard.**
- **Appeals mechanism** as appropriate for the impartial handling of substantive and procedural complaints regarding action or inaction related to the standards process.

Process Steps

The first three steps in the MRO Regional Reliability Standards Development Process serve to establish consensus on the need for the standard.

Step 1 - Request to Develop a Standard or Revise an Existing Standard

Objective: A valid SAR that clearly justifies the purpose for, and describes the scope of, the proposed standards action. An example of a SAR form can be found in Appendix B.

Sequence Considerations: Submitting a valid SAR is the first step in proposing a standard action. A requester may prepare a draft of the



proposed standard (Step 5), which the SC may authorize for concurrent posting with the SAR. This could be useful for a standard action with a clearly defined and limited scope or one for which stakeholder consensus on the need and scope is likely. Complex standards where broad debate of issues is required should be, presented in two stages. The first stage is, the completion of a valid SAR to get agreement on the scope and purpose, the second stage is the development of the standard later in Step 6.

Requests to develop, revise, or withdraw² a MRO Regional Reliability Standard shall be submitted to the SPM by completing a SAR.

The SAR is a description of the subject matter of the new or revised standard along with a proposed implementation plan and includes:

- Descriptive detail to clearly define the scope of the standard.
- A statement of the purpose of the standard
- A needs statement that provides justification for the development or revision of the standard; including an assessment of the reliability and market interface impacts of implementing or not implementing the standard.

Appendix B provides a sample template of the SAR form.

The SPM shall maintain the SAR form and make it available electronically.

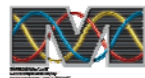
Any person or entity directly or materially affected by an existing standard or the need for a new or revised standard may initiate a SAR.

The Requester shall submit the SAR to the SPM electronically through the RSVP application and the SPM shall electronically acknowledge receipt of the SAR within 15 days. The SPM shall send the electronic acknowledgement simultaneously to the Requester and to NERC.

The SPM shall assist the Requester in developing the SAR, reviewing NERC Reliability Standards to see whether they already address the need, identify issues with interconnected regions, and verify that the SAR complies with this manual.

The SPM shall forward all properly completed SARs to the SC. The SC shall meet at established intervals to review all pending SARs. The frequency of the review process will depend on workload; in no case shall a properly completed SAR wait for SC action more than 60 days from the date of receipt.

² Actions in the remaining steps of the standards process apply to proposed new standards, revisions to existing standards, or withdrawal of existing standards, unless explicitly stated otherwise.



The SC may take one of the following actions:

- Remand the SAR back to the SPM for additional work and information from the Requester.
- Accept the SAR as a candidate for a new or revised standard. If the SC accepts a SAR as a candidate for a new or revised standard, it will provide technical support and analysis of comments for that SAR, and assist the Requester and the SPM in the remaining steps of the process.
- Reject the SAR. If the SC rejects a SAR, it will provide a written explanation for rejection to the Requester within 30 days of the rejection decision. If the SC rejects a SAR, the Requester may file an appeal following the Appeals Process.

The status of SAR shall be tracked electronically by the SPM. The SAR and its status shall be posted for public viewing including any actions or decisions.

Step 2 - Solicit Public Comments on the SAR

Objective: Establish that there is stakeholder consensus on the need, scope and applicability of the requester's proposed standards' action.

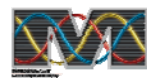
Sequence Considerations: A SAR may be posted only after completion of Step 1. A SAR may at the discretion of the SC, be posted for comment concurrently with a draft standard (Step 6).

Once a SAR has been accepted by the SC as a candidate for the development of a new or revised standard, the SPM shall post the SAR on the RSVP Application for the purpose of soliciting public comments.

The SPM shall notify the RBB, the MRO region, NERC, and other interested parties that the SAR has been accepted by the SC and posted for comment.

Within thirty (30) days of acceptance by the SC, the SAR shall be posted electronically and comments on the SAR(s) will be accepted for a 21-day period from the date of posting. Comments will be accepted on-line using the RSVP application. The SPM will provide a copy of the comments to the Requester. In addition, comments will be visible to the RBB during the commenting period. Based on the comments, the Requester may decide to: submit the SAR for authorization, withdraw the SAR, or revise and resubmit it to the SPM for another posting in the next available comment period.

The Requester shall give prompt consideration to the written views and objections of all participants. The Requester, with support from the SPM or SPM assigned staff, shall make an effort to resolve all expressed objections



and shall advise each objector of the disposition of the objection and the reasons therefore. In addition, the SPM shall inform each objector that an appeals process exists within the MRO standards process.

While there is no established limit on the number of times a SAR may be posted for comment, the SC retains the right to reverse its prior decision and reject a SAR if it believes continued revisions are not productive. Once again, the SC shall notify the Requester in writing of the rejection and the availability of the Appeals Process. During the SAR comment process, the Requester may become aware of potential sub-Regional differences (within the MRO) related to the proposed standard. To the extent possible, the Requester should make any sub-Regional differences or exceptions a part of the SAR so that, if the SAR is authorized, such variations will be made a part of the draft new or revised standard.

Step 3 - Authorization to Proceed With Drafting of a New or Revised Standard

Objective: Authorize development of a standard that is consistent with the SAR and for which there is stakeholder consensus on the need, scope and applicability.

Sequence Considerations: The SC may formally authorize the development of a standards' action only after due consideration of SAR comments to determine there is consensus on the need, scope and applicability of the proposed standard. This does not preclude, however, the requester from previously preparing a draft standard for consideration and the SC from authorizing a concurrent posting of the draft standard for comment along with the SAR.

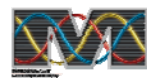
After the public provides comments on the SAR, the Requester may decide to submit the SAR to the SC for authorization to draft the standard. The SC reviews the comments received in response to the SAR and any revisions to the SAR. The SC, considering the public comments received and their resolution, may then take one of the following actions:

- Authorize the drafting of the proposed standard or revisions to a standard.
- Reject the SAR with a written explanation to the Requester and post that explanation.

If the SC rejects a SAR, the Requester may file an appeal.

Step 4 – Formation of the SDT

Objective: Appoint a SDT that has the expertise, competencies, and diversity of views that are necessary to develop the standard.



Sequence Considerations: The SC may appoint a SDT concurrently with or after authorization of the development of a standard (Step 3).

For each new SAR, the SPM shall post a request that interested parties complete a "SDT Self-Nomination" form utilizing the RSVP application. Those individuals who complete and submit these self-nomination forms through the RSVP will be considered for appointment to the associated SDT.

Once a SAR has been authorized by the SC to proceed to the drafting stage, the SC shall assign the development of the standard to a SDT. The SPM shall recommend a list of candidates for appointment to the team and shall submit the list to the SC. The SC may accept the recommendations of the SPM or may select other individuals to serve on the SDT within 60 days.

The SDT shall elect a Chairman for their team. This team shall consist of a small group of people who collectively have the necessary technical expertise and work process skills. A representative of the CC or their designee, plus a Reliability Assessment Committee (RAC) representative or their designee should be included as a member of each SDT.

The SPM shall assign MRO Standards Process staff personnel to assist in the drafting of the standard.

Step 5 - Draft New or Revised Standard

Objective: Develop a standard within the scope of the SAR.

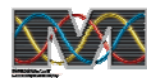
Sequence Considerations: Development of the draft standard follows the authorization by the SC (Step 3) and appointment of a SDT (Step 4). Steps 5 and 6 may be iterated as necessary to consider stakeholder comments and build consensus on the draft standard.

The drafting team shall develop a work plan for completing the regional reliability standard, including the establishment of a milestone schedule for completing critical elements of the work in sufficient detail to ensure that the drafting team will meet the objectives established by the SC. The drafting team shall submit its work plan to the SC for its concurrence.

The drafting team shall convene periodically, either in person or by electronic means as necessary, to establish work teams (made up of members of the drafting team) as necessary, and perform other activities to complete the proposed standard within the milestone date(s) agreed upon by the SC.

The work product of the drafting team will consist of the following:

- A draft standard consistent with the standard request on which it was based.

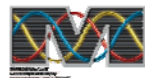


- An assessment of the reliability impact of the standard request within the region and in neighboring regions, including appropriate input from the neighboring regions if the standard request is determined to impact any neighboring region.
- An implementation plan, including the nature, extent and duration of field-testing needed, if any.
- Identification of any existing standard that will be deleted, in part or whole, or otherwise impacted by the implementation of the draft standard.
- Technical reports, white papers and/or work papers that provide technical support for the draft standard under consideration.

The team regularly (at frequency determined by the SC) shall inform the SC of its progress in meeting a timely completion of the draft standard.

The drafting of measures and compliance administration aspects of the standard will be coordinated with the CC.

If the SDT determines that the scope of the SAR is inappropriate based on its own work and stakeholder comments, the team shall notify the SC. The SDT may recommend the scope of the standard be reduced to allow the effort to continue forward, while still remaining within the scope of the SAR. Reducing the scope defined in the SAR is acceptable if the SDT finds, for instance, that additional technical research is needed prior to developing a portion of the standard or issues need to be resolved before consensus can be achieved on a portion of the standard. In this case, the SDT shall provide detailed justification of need for reducing the scope. The SC, based on the SDT recommendation and a review of stakeholder comments, will determine if the change in scope is acceptable.



If the SDT determines it is necessary to expand the scope of the standard or to modify the scope in a way that is no longer consistent with the scope defined in the SAR, then the SDT may initiate or recommend another requester initiate a new SAR (Step 1) to develop the expanded or modified scope. At no time will a SDT develop a standard that is not within the scope of the SAR that was authorized for development.

If the SDT elects to narrow the SAR, scope or identifies issues not in the SAR scope, then a report shall be prepared and sent to the SC.

Once the standard has been drafted, the SPM shall review the standard for consistency of quality and completeness. The SPM shall also ensure the draft standard is within the scope and purpose identified in the SAR. This review shall occur within a 15-day period.

The SPM shall post the new or revised standard for public comment once this review is completed. The SPM shall notify the RBB, the MRO region, NERC, and other interested parties that the new or revised standard has been posted for public comment.

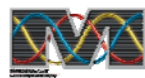
Step 6 - Solicit Public Comments on Draft Standard

Objective: Receive stakeholder inputs on the draft standard for the purpose of assessing consensus on the draft standard, and modifying the draft standard as needed to achieve consensus.

Sequence Considerations: The posting of a draft standard will occur after the appointment of a SDT and development of a draft by the team. Alternatively, a draft standard submitted by the requester may be posted for comment concurrently with the associated SAR, with the condition that the SAR and draft standard meet the requirements of this procedure and are consistent with each other. In all cases, public comments on the draft standard shall be solicited prior to the SC approving the standard going to ballot (Step 9).

Once a draft standard has been verified by the SPM to be within the scope and purpose of the SAR and in compliance with this manual, the SPM will post the draft standard. The posting of the draft standard will be linked to the SAR for reference. Comments on the draft standard will be accepted for a 30-day period from the notice of posting. Comments will be accepted on-line using the RSVP application and will be viewable during the posted commenting period.

Since the need for the standard was established by authorization of the SAR, comments at this stage should identify specific issues with the draft standard and propose alternative language. The comments may include recommendations to accept or reject the standards and reasons for that recommendation.



The SDT shall develop an implementation plan for the standard that will be posted in conjunction with the standard for at least one stakeholder comment period. Once the implementation plan has been developed and posted for stakeholder comment, it shall remain part of the standard action for subsequent postings and shall be included on the ballot for the standard. The implementation plan shall describe when the standard will become effective. If the implementation is to be phased, the plan will describe which elements of the standard are to be applied to each class of responsible entities, and when. The plan will describe any deployment considerations unique to the standard, such as computer applications, measurement devices, databases, or training, as well as any other special steps necessary to prepare for and initially implement the standard.

Step 7 - Field Testing

Objective: Determine what testing is required to validate the concepts, requirements, measures and compliance elements of the standard and implement that testing.

Sequence Considerations: Testing may be completed during or after Steps 1 through 6. Testing and associated analysis of results (Step 8) must be completed prior to determining whether to submit the standard to ballot (Step 9).

Taking into consideration stakeholder comments received through Step 6, the SDT may recommend to the SC that a test of one or more aspects of a standard is needed. The MRO Compliance Manager will also evaluate whether field-testing of the compliance elements of the proposed new or revised standard is needed and advise the SC. The SC will approve all field tests of proposed standards based on the recommendations of the SDT and the compliance manager. If needed, the SC will also request inputs on technical matters from applicable standing committees or other experts.

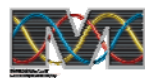
Once the field-testing plan is approved, the SPM will, under the direction of the SC, oversee the field-testing of the standard.

In some cases, measurement may be an administrative task and no field-testing is required at all.

In other cases, one or more limited scale demonstrations, evaluations, or other SC approved method may be sufficient.

Step 8 - Analysis of the Comments and Field Test Results

Objective: Evaluate stakeholder comments and field test results to determine if there is consensus that the proposed standard should go to ballot or requires additional work.



Sequence Considerations: This step follows Steps 6 and 7 and must precede Step 9.

The SPM will assemble the comments on the draft standard and distribute those comments to the SDT and the requester. The SDT, assisted by the requester, shall give prompt consideration to the written views and objections of all participants. An effort to resolve all expressed objections shall be made, and each objector shall be advised of the disposition of the objection and the reasons therefore. The STD shall prepare a summary of the comments received and the changes made to the proposed standard as a result of these comments. The STD shall summarize comments that were rejected by the STD and the reason(s) that these comments were rejected, in part or whole. The summary, along with a response to each comment received will be posted on the MRO website no later than the next posting of the proposed standard. In addition, each objector will be informed that an appeals process exists within the MRO standards process.

Based on comments received, the SDT may determine there is an opportunity to achieve consensus for the standard. In this case, the SDT may elect to return to Step 5 and revise the draft for another posting. Although there is no predetermined limit on the number of times a draft standard may be revised and posted, the SDT should ensure the potential benefits of another posting outweigh the burden on the SDT and stakeholders. Returning to Step 5 to continue working on the standard is the prerogative of the SDT, subject to SC oversight.

If the SDT determines the draft standard is ready for ballot, the SDT shall submit the draft standard to the SC with a request to proceed to balloting, along with the comments received and responses to the comments. Based on the comments received and field-testing, the SDT may include revisions that are not substantive. Substantive changes to a draft standard shall not be permitted between the last posting for stakeholder comment and submittal for ballot. A substantive change is one that directly and materially affects the intent or use of the standard. For example, adding, deleting, or revising requirements; or adding, deleting, or revising measurements for which compliance is mandatory. Any non-substantive changes such as: spelling, grammar, or formatting, made prior to going to ballot, will be identified to stakeholders at the time of the ballot notice. If the SDT determines, based on comments received, that substantive changes to the standard are required, the standard will be re-posted for comment and a notice sent to the MRO region, the RBB, NERC, and other interested parties that the revised standard has been re-posted for public comment.

When the SC receives a draft standard that has been recommended for ballot, the SC will review the standard to ensure that the proposed standard is consistent with the scope of the SAR; addresses all of the objectives cited in Steps 1-8, as applicable; and is compatible with other existing standards. If the proposed standard does not pass this review, the SC shall remand the



proposed standard to the SDT to address the deficiencies. If the proposed standard passes the review, the SC shall set the proposed standard for ballot as soon as the workflow will accommodate.

If the SDT determines there is insufficient consensus to ballot the standard and that further work is unlikely to achieve consensus, the SDT may recommend to the SC that the standard drafting be terminated and the SAR withdrawn. The SC will consider the recommendation of the SDT and stakeholder comments and may terminate the standard drafting and accept the withdrawal of the SAR. If the SC believes the recommendation is unsubstantiated, the SC may direct other actions consistent with this procedure, such as requesting the SDT to continue or appointing a new SDT.

Step 9 - Ballot the New or Revised Standard

Objective: Approve the proposed standard by vote of industry stakeholders.

Sequence Considerations: The SC shall determine that all requirements of Steps 1 through 8 have been satisfactorily met before authorizing an action to go to ballot.

If the SDT decides to submit the standard to a vote, the SPM shall provide notice of such to the RBB, NERC, as well as other interested parties, and electronically post the standard, and all comments received, the responses to those comments, and an implementation plan.

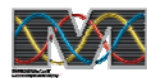
First Ballot

Each voter must be a member of the Registered Ballot Body (RBB). **Note: An individual's membership in the RBB will be in a "Pending" stage immediately following registration; in order to be able to vote, your registration must be activated, and activation may take up to 24 hours.**

The ballot will be conducted electronically through the RSVP application. All members of the RBB shall be eligible to vote on the associated standard except, that only one member from an entity may vote in any given segment. It is the responsibility of the entity to identify and notify the SPM of the eligible voter. The voting options are:

- Affirmative, with or without comment;
- Negative, with or without comment (the comments for a negative vote may be given and, if possible, should include specific wording or actions that would resolve the objection);
- Abstain.

The time window for voting shall be designated when the draft standard is posted. In no case shall the voting time window start sooner than fifteen



(15) and no later than thirty (30) days from the notice of the posting. The voting time window will be a period of ten (10) days.

This provides a minimum total of twenty-five (25)-days from the initial notice until the end of the voting period. Approval of a MRO Regional Reliability Standard or revision to a MRO Regional Reliability Standard requires:

- a quorum, which is established by at least 4 of the Segments submitting a response with an affirmative vote, a negative vote, or an abstention; and
- an affirmative vote from at least two-thirds of the segments participating in the vote. Each segment vote is determined by the majority of the votes cast in the segment, either affirmative or negative. Abstentions and non-responses will not be counted.

Voting results, comments, and responses, if necessary, will be posted for public viewing as soon as practical after the balloting period closes. Voting results and comments maybe posted prior to the responses.

Balloting examples are provided in Appendix D.

Members of the RBB should submit any comments on the proposed standard during the public comment period. If any Negative votes with comments are received during the ballot period, they shall be addressed in accordance with *Step 8* and included with the re-circulation ballot.

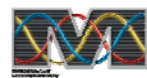
The SPM shall facilitate the SDT, assisted by the Requester, in preparing a response to negative votes submitted with comments.

In addition, the SPM will inform each objector that an appeals process exists within the MRO standards process. A negative vote that does not contain comments does not require a response. If there are no negative votes with comments from the first ballot, then the results of the first ballot shall stand. If however, one or more members submit negative votes with comments, regardless of whether those comments are resolved, a second ballot shall be conducted.

If a quorum of the Segments is not established, the standard shall be re-balloted, allowing ten (10) days for the ballot. If a quorum is not established with the re-ballot, the SPM shall survey the RBB to establish interest in participating in a ballot on the standard.

Second Ballot

In the second ballot (also called a “re-circulation ballot”), members of the RBB shall again be presented the proposed standard (unchanged from the first ballot) along with the reasons for negative votes, the responses, and any resolution of the differences.



All members of the RBB eligible to vote shall be permitted to reconsider and change their vote from the first ballot. Eligible voting members of the RBB that did not respond to the first ballot shall be permitted to vote in the second ballot. Only one vote will be accepted from each organization within a segment.

In the second ballot, votes will be counted by exception only - members on the second ballot may indicate a revision to their original vote, otherwise their vote shall remain the same as in the first ballot. If a second ballot is conducted, the results of the second ballot shall determine the status of the standard, regardless of the outcome of the first ballot.

The voting time window for the second ballot is ten (10) days (to allow members to review comments and responses). The 21-day posting is not required for the second ballot. Members of the RBB may submit comments in the second ballot but no response to those comments is required.

In the second ballot step no revisions to the standard are permitted, as such revisions would not have been subject to public comment. However, if the SC determines that revisions proposed during the ballot process would likely provide an opportunity to achieve consensus on the standard, then such revisions may be made and the draft standard posted for public comment again beginning with Step 6 and continuing with subsequent steps.

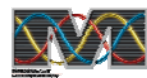
The SPM shall post the final outcome of the ballot process. If the standard is rejected, the process is ended and any further work in this area would require a new SAR. If the standard is approved, the SPM shall post the consensus standard and the SC Chair shall present it to the BOD for consideration.

Step 10 –Approval of a Proposed MRO Regional Reliability Standard

Objective: To have the BOD approve the proposed new or revised, MRO Regional Reliability Standard. Once properly approved by the BOD, accepted by NERC, and accepted for filing by the applicable regulatory authorities in the United States and Canada, the Reliability Standard becomes enforceable.

Sequence Considerations: The thirty (30)-day notice prior to action by the BOD may begin concurrently with or any time after the start of the first ballot. The thirty (30)-day period shall not end any sooner than the end of the final ballot.

A MRO Regional Reliability Standard submitted for consideration to the BOD must be publicly posted and noticed no less than fifteen (15) and no more than thirty (30) days prior to action by the BOD, included with the standard is the implementation plan that was part of the posting process.



At a regular or special meeting, the BOD shall consider the proposed MRO Regional Reliability Standard. The BOD shall consider the results of the balloting and dissenting opinions. The BOD shall consider any advice offered by the MRO SC. The BOD may accept or reject a standard, but may not modify a proposed MRO Regional Reliability Standard. If the BOD chooses not to propose a standard to NERC and the applicable regulatory authorities in the United States and Canada, it shall provide its reasons for not doing so. Upon acceptance of the standard, the SPM will submit the standard to NERC for approval and filing with the applicable regulatory authorities in the United States and Canada.

A MRO Regional Reliability Standard that is approved by NERC and filed with the applicable regulatory authorities shall become effective in accordance with applicable NERC and applicable regulatory proceedings. The implementation plan is included with the proposed Reliability Standard.

The SPM shall publicly post the standard, showing the final status.

Step 11 - Implementation of the MRO Regional Reliability Standard

Objective: That Organizations subject to the standard use the standard, and the compliance program incorporates the standard into its compliance monitoring and enforcement process.

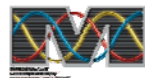
Sequence Considerations: The effective date of a standard is defined in the standard implementation plan.

After approval of a MRO Regional Reliability Standard by the applicable authorities in the United States and Canada, the SPM will forward the standard to the Compliance Manager for implementation, enforcement, and monitoring by the CC which will oversee the implementation and assess the effectiveness.

V. Interpretations and Appeals

Interpretations of MRO Regional Reliability Standards

All persons who are directly and materially affected by the reliability of MRO bulk power systems shall be permitted to request an interpretation of a MRO Regional Reliability Standard. The person requesting an interpretation shall send a request to the SPM explaining the specific circumstances surrounding the request and what clarifications are required as applied to those circumstances. The request should indicate the material impact to the requesting party or others caused by the lack of clarity or a possibly incorrect interpretation of the standard. The SPM shall provide notice to the MRO region within ten business days of such a request for interpretation.



The SPM shall recommend a list of candidates with the relevant expertise for appointment to an interpretation team and shall submit the list to the SC.

As soon as practical (not more than 45 days), the SDT will draft a written interpretation to the standard addressing the issues raised. The SPM shall take the draft interpretation to the SC for acceptance, which would be forwarded to the Board for approval, at the SC recommendation. If approved by the Board, the interpretation is appended to the standard and is effective immediately. The SPM will send notice to all entities that operate, plan, and use the bulk electric systems of the MRO region. The interpretation will stand until the standard is revised through the normal process, at which time the standard will be modified to incorporate the clarifications provided by the interpretation.

Appeals

Persons who have directly and materially affected interests and who have been or will be adversely affected by any substantive or procedural action or inaction related to the development, approval, revision, or withdrawal of a MRO Regional Reliability Standard shall have the right to appeal. This appeals process applies only to the MRO Regional Reliability Standards process as defined in this manual.

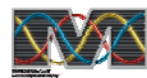
The burden of proof to show adverse effect shall be on the appellant. Appeals shall be made within 30 days of the date of the action purported to cause the adverse effect, except appeals for inaction, which may be made at any time. In all cases, the request for appeal must be made prior to the next step in the process.

The final decisions of any appeal shall be documented in writing and made public.

The appeals process provides two levels, with the goal of expeditiously resolving the issue to the satisfaction of the participants:

Level 1 Appeal

Level 1 is the required first step in the appeals process. The appellant shall submit to the SPM, a complaint in writing that describes the substantive or procedural action or inaction associated with a MRO Regional Reliability Standard or the MRO Regional Reliability Standards process. The appellant shall describe in the complaint the actual or potential adverse impact to the appellant. Assisted by any necessary staff and committee resources, the SPM shall prepare a written response addressed to the appellant as soon as practical but not more than 45 days after receipt of the complaint. If the appellant accepts the response as a satisfactory resolution of the issue, both the complaint and response shall be made a part of the public record associated with the standard.



Level 2 Appeal

If, after the Level 1 Appeal the appellant remains unsatisfied with the resolution, and indicates such in writing to the SPM, the SPM shall convene a Level 2 Appeals Panel. This panel shall consist of five (5), panel members total appointed by the BOD. In all cases, Level 2 Appeals Panel members shall have no direct affiliation with the participants in the appeal.

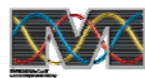
The SPM shall post the complaint and other relevant materials and provide at least 30 days notice of the meeting of the Level 2 Appeals Panel. In addition to the appellant, any person that is directly and materially affected by the substantive or procedural action or inaction referenced in the complaint shall be heard by the panel. The panel shall not consider any expansion to the scope of the appeal that was not presented in the Level 1 Appeal. The panel may in its decision find for the appellant and remand the issue to the SC with a statement of the issues and facts in regard to which fair and equitable action was not taken. The panel may find against the appellant with a specific statement of the facts that demonstrate fair and equitable treatment of the appellant and the appellant's objections. The panel may not, however, revise, approve, or disapprove a MRO Regional Reliability Standard, as these responsibilities remain with the standard's RBB and BOD respectively. The SPM shall publicly post the actions of the Level 2 Appeals Panel.

In addition to the foregoing, a procedural objection that has not been resolved may be submitted to the BOD for consideration at the time the BOD decides whether to approve proposing a particular MRO Regional Reliability Standard for NERC consideration and eventual enforceability. The objection must be in writing, signed by an officer of the objecting entity, and contain a concise statement of the relief requested and a clear demonstration of the facts that justify that relief. The objection must be filed no later than 30 days after the announcement of the vote by the RBB on the MRO Regional Reliability Standard in question.

VI. Maintenance of MRO Regional Reliability Standards and Process

Process Revisions

A request to substantively change the MRO Regional Reliability Standards Process Development process shall begin with the preparation of a SAR, and be handled using the same procedure as a request to revise a MRO Regional Reliability Standard. The exception is that a single ballot without regard to negative comments from the RBB shall be conducted and the results of that ballot will be binding. Non-substantive changes will be handled through the abbreviated process listed below. Once approved by the RBB, any proposed revisions to this manual would go to the BOD, NERC, and the applicable authorities in the United States and Canada for approval.



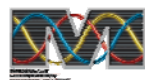
The BOD may make changes to the Industry Segments referenced in Appendix C. These changes shall be carried over to this process without the need to prepare a SAR. In addition, the SC may alter the document number on any existing or proposed standard without going through the MRO Regional Standards Process.

Abbreviated Process for Procedural/Administrative Changes

The SPM shall handle all procedural/administrative requests using an abbreviated process described here. The SPM shall post all proposed procedural/administrative revisions to the MRO Regional Reliability Standards Development Process for a 30-day public comment period. The SC shall consider all comments received and modify the proposed revisions as needed. Based on the degree of consensus for the revisions, the SC may:

- a. submit the revised procedure directly to the BOD for adoption;
- b. submit the revised procedure for ballot pool approval prior to submitting it for BOD adoption (the regular voting process in the procedure, including a re-circulation ballot if needed, would be used and the results of the ballot would be binding on the decision to move the revisions to the BOD or not);
- c. propose additional changes and repeat the posting for further comment;
- d. remand the proposal to the requester for further work; or
- e. reject the proposal.

The SPM shall post any proposed revisions submitted for BOD adoption for a period of 30 days prior to BOD action. The SC shall submit to the BOD a description of the basis for the procedure changes, a summary of the comments received, and any minority views expressed in the comment process. The proposed procedure revisions will be effective upon BOD adoption, or another date designated by the BOD.



Five-Year Review

Each MRO Regional Reliability Standard shall be reviewed at least once every five (5) years from the effective date of the standard or the latest revision to the standard, whichever is the later. The review process shall be conducted by soliciting comments from the stakeholders. If no changes are warranted, the SC shall recommend to the BOD that the Standard be reaffirmed. If the review indicates a need to revise or withdraw the standard, a SAR shall be prepared and submitted by the SC or any other stakeholder in accordance with the standards process. The SPM shall be responsible for administration of the five (5)-year review of MRO Regional Reliability Standards.

On-line Standards Information System

The SPM shall be responsible for maintaining an electronic database of information regarding currently proposed and currently in effect MRO Regional Reliability Standards. This information shall include current standards in effect, proposed revisions to standards, and proposed new standards. This information shall provide a record, for at a minimum the previous five years, of the review and approval process for each MRO Regional Reliability Standard, including public comments received during the development and approval process. This information shall be available through public Internet access.

Archived Standards Information

The SPM shall be responsible for maintaining an historical record of MRO Regional Reliability Standards information that is no longer maintained on-line. Archived information shall be retained indefinitely as practical, but in no case less than five years or one complete standard review cycle from the date on which the standard was no longer in effect. Archived records of standards information shall be available electronically within 30 days following the receipt by the SPM of a written request.

Numbering System

The SPM shall establish, maintain, and electronically post a system of identification numbers that allow MRO Regional Reliability Standards to be categorized and easily referenced. Re-numbering of approved standards does not warrant standard review but will be handled through the SC. The SPM will notify the MRO region and post the information on the RSVP system prior to making the change.

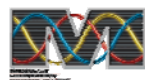
Supporting Documents

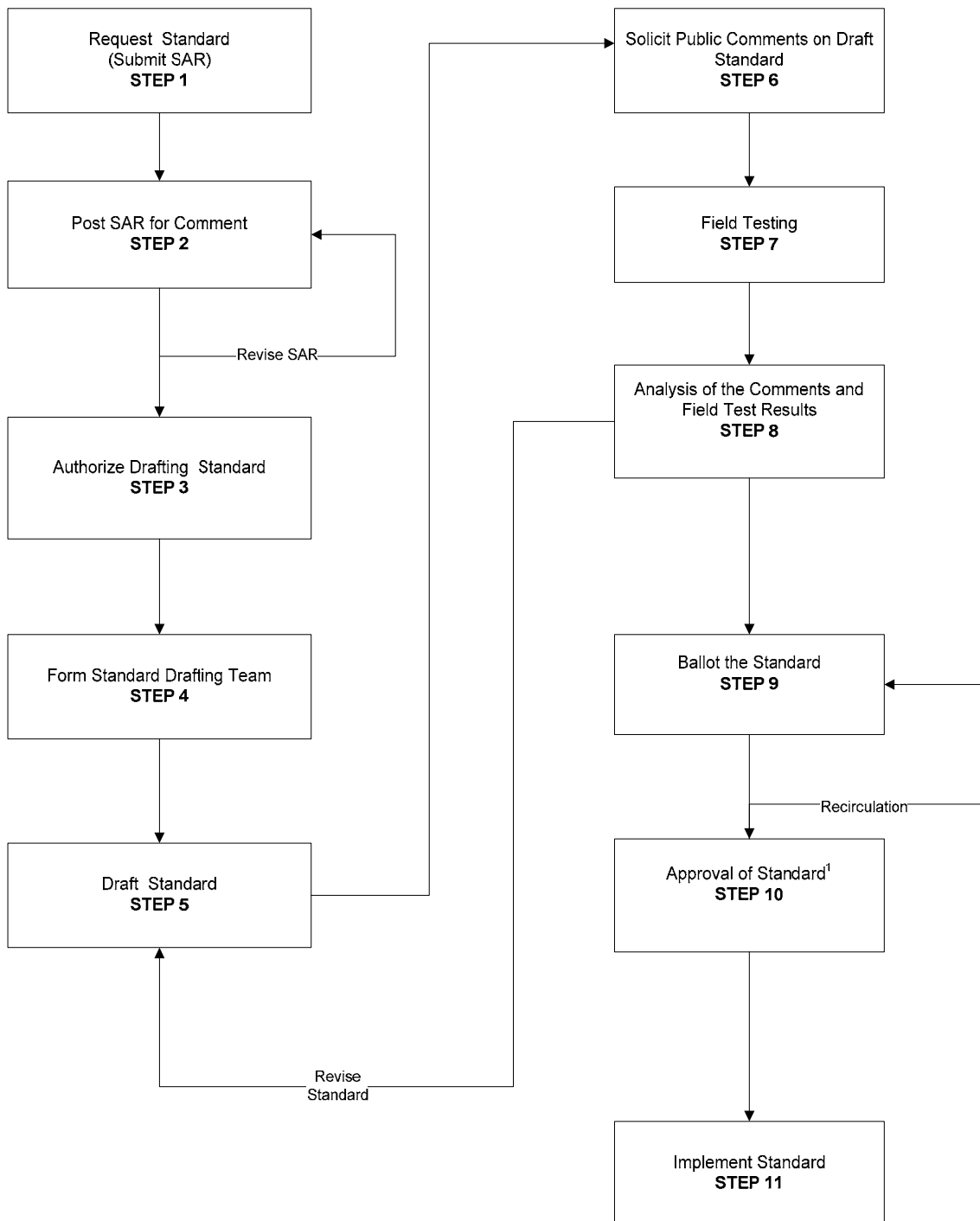
The following table identifies documents that may be developed to support a MRO Regional Reliability Standard. These documents may explain or facilitate implementation of standards but do not themselves contain



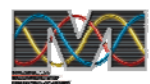
mandatory requirements subject to compliance review. Any requirements that are mandatory must be incorporated into the standard. For example, a procedure that must be followed as written must be incorporated into a MRO Regional Reliability Standard. If the procedure defines one way, but not necessarily the only way, to implement a standard it is more appropriately a reference.

<i>Type of Document</i>	<i>Description</i>	<i>Approval</i>
Standard Reference	Descriptive, explanatory information to support the understanding and interpretation of an MRO Regional Reliability Standard.	SC
Standard Supplement	Data forms, pro forma documents, and associated instructions that support the implementation of an MRO Regional Reliability Standard.	As assigned to the MRO Standing Committee
Procedure	Instructions defining a particular process or operation. Procedures may support the implementation of an MRO Regional Reliability Standard.	As assigned to the MRO Standing Committee
Technical Reference	Descriptive, technical information or analysis. A technical reference may support the implementation of an MRO Regional Reliability Standard.	As assigned to the MRO Standing Committee





¹After MRO Board approval, the standard is submitted to NERC for approval and filing to the applicable regulatory authorities. Upon regulatory acceptance or approval, the



standard becomes enforceable as a Reliability Standard. VIII. Appendix B – Information in a Standard Authorization Request

Below is a template of the required information to complete a Standard Authorization Request. The SPM shall be responsible for implementing and maintaining this form as needed to support the information requirements of the standards process.

Standard Authorization Request Form

Title of Proposed Standard
Request Date

SAR Requestor Information	SAR Type <i>(Check a box for each one that applies.)</i>
Name	<input type="checkbox"/> New Standard
Primary Contact	<input type="checkbox"/> Revision to existing Standard
Telephone Fax	<input type="checkbox"/> Withdrawal of existing Standard
E-mail	<input type="checkbox"/> Urgent Action

Purpose (Describe the purpose of the standard – what the standard will achieve in support of reliability.)

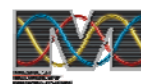
Industry Need (Provide a detailed statement justifying the need for the proposed standard, along with any supporting documentation.)

Brief Description (Describe the proposed standard in sufficient detail to clearly define the scope in a manner that can be easily understood by others.)



Reliability Functions

The Standard will apply to the Following Functions <i>(Check box for each one that applies.)</i>		
<input type="checkbox"/>	Reliability Authority	Ensures the reliability of the bulk transmission system within its Reliability Authority area. This is the highest Reliability Authority.
<input type="checkbox"/>	Balancing Authority	Integrates resource plans ahead of time, and maintains load-interchange-resource balance within its metered boundary and supports system frequency in real time.
<input type="checkbox"/>	Interchange Authority	Authorizes valid and balanced Interchange Schedules.
<input type="checkbox"/>	Planning Authority	Plans the Bulk Electric System.
<input type="checkbox"/>	Resource Planner	Develops a long-term (>one year) plan for the resource adequacy of specific loads within a Planning Authority area.
<input type="checkbox"/>	Transmission Planner	Develops a long-term (>one year) plan for the reliability of transmission systems within its portion of the Planning Authority area.
<input type="checkbox"/>	Transmission Service Provider	Provides transmission services to qualified market participants under applicable transmission service agreements
<input type="checkbox"/>	Transmission Owner	Owens transmission facilities.
<input type="checkbox"/>	Transmission Operator	Operates and maintains the transmission facilities, and executes switching orders.
<input type="checkbox"/>	Distribution Provider	Provides and operates the "wires" between the transmission system and the customer.
<input type="checkbox"/>	Generator Owner	Owens and maintains generation unit(s).
<input type="checkbox"/>	Generator Operator	Operates generation unit(s) and performs the functions of supplying energy and Interconnected Operations Services.
<input type="checkbox"/>	Purchasing-Selling Entity	The function of purchasing or selling energy, capacity, and all necessary Interconnected Operations Services as required.
<input type="checkbox"/>	Market Operator	Integrates energy, capacity, balancing, and transmission resources to achieve an economic, reliability-constrained dispatch.
<input type="checkbox"/>	Load-Serving Entity	Secures energy and transmission (and related generation services) to serve the end user.



NERC Reliability and Market Interface Principles

Applicable Reliability Principles (Check box for all that apply.)	
<input type="checkbox"/>	1. Interconnected bulk electric systems shall be planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions as defined in the NERC Standards.
<input type="checkbox"/>	2. The frequency and voltage of interconnected bulk electric systems shall be controlled within defined limits through the balancing of real and reactive power supply and demand.
<input type="checkbox"/>	3. Information necessary for the planning and operation of interconnected bulk electric systems shall be made available to those entities responsible for planning and operating the systems reliably.
<input type="checkbox"/>	4. Plans for emergency operation and system restoration of interconnected bulk electric systems shall be developed, coordinated, maintained and implemented.
<input type="checkbox"/>	5. Facilities for communication, monitoring and control shall be provided, used and maintained for the reliability of interconnected bulk electric systems.
<input type="checkbox"/>	6. Personnel responsible for planning and operating interconnected bulk electric systems shall be trained, qualified, and have the responsibility and authority to implement actions.
<input type="checkbox"/>	7. The security of the interconnected bulk electric systems shall be assessed, monitored and maintained on a wide area basis.
<input type="checkbox"/>	8. Bulk power systems shall be protected from malicious physical or cyber attacks.
Does the proposed Standard comply with all of the following Market Interface Principles? (Select 'yes' or 'no' from the drop-down box.)	
1. The planning and operation of bulk electric systems shall recognize that reliability is an essential requirement of a robust North American economy. Yes	
2. A MRO Regional Reliability Standard shall not give any market participant an unfair competitive advantage. Yes	
3. A MRO Regional Reliability Standard shall neither mandate nor prohibit any specific market structure. Yes	
4. A MRO Regional Reliability Standard shall not preclude market solutions to achieving compliance with that Standard. Yes	
5. A MRO Regional Reliability Standard shall not require the public disclosure of commercially sensitive information. All market participants shall have equal opportunity to access commercially non-sensitive information that is required for compliance with reliability standards. Yes	



Related Standards

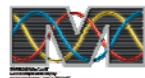
Standard No.	Explanation

Related SARs

SAR ID	Explanation

Regional Differences

Region	Explanation
ERCOT	
FRCC	
MRO	
NPCC	
SERC	
RFC	
SPP	
WECC	



IX. Appendix C –Registered Ballot Body (RBB) Registration Procedures

The RBB comprises all organizations and entities that:

1. qualify for one of the segments, and
2. are registered with MRO as ballot participants in the voting on standards, and
3. are current with any MRO designated fees associated with this program. Designated fees are defined as fees associated with the Standards Development process. At this time there are no fees for registration.

Each entity, when initially registering to join the RBB, and annually thereafter, will self-select to belong to one or more of the segments described below.

The SPM shall review all applications for joining the RBB, and make a determination of whether the self-selection satisfies at least one of the guidelines to belong to that segment. The entity will then be “credentialed” to participate as a voting member of that segment. The SC will decide disputes, with an appeal to the BOD.

In order to comment or vote you must have an active membership in the RBB. When you submit your registration request, you are placed in a “pending stage” until your account is activated. Activation of your account may take up to 24 hours. You will be unable to submit comments or vote until your account is activated.

All registrations must be done electronically via the RSVP application (<http://rsvp.midwestreliability.org/rsvp/action/PubMainAction.jsessionid=47DOEF7CB59688BED492EB007FD9A0DF?type=Init>). There is no fee for registration at this time.

Segment Qualification Guidelines

The segment qualification guidelines are inclusive; i.e., any entity with a legitimate interest in the electric industry that can meet any one of the guidelines for a segment is entitled to belong to and vote in that segment. Only one vote per entity per segment is permitted.

The general guidelines for all segments are:

- Corporations or organizations with integrated operations or with affiliates that qualify to belong to more than one segment (e.g., Transmission Owners and Load Serving Entities) may belong to each of the segments in which they qualify, provided that each segment constitutes a separate membership in the RBB and is represented by a



different representative. Only one vote per entity per segment registered is allowed.

- Corporations, organizations, and entities may participate freely in all subgroups.
- After their initial selection, registered participants may apply to change segments with thirty (30) days notice to the SPM. In addition, a registered participant cannot change segments during a balloting period once the participant has cast a vote or designated a proxy.
- Additionally, the SPM may change a participant segment under certain circumstances. These circumstances will be approved by the SC and posted on the RSVP.
- The qualification guidelines and rules for joining segments will be reviewed periodically by the SC to ensure that the process continues to be fair, open, balanced, and inclusive. Public input shall be solicited in the review of these guidelines.
- Since all balloting of standards will be done electronically, any registered participant may designate an agent or proxy to vote on its behalf. There are no limits on how many proxies an agent may hold. However, the MRO must have in its possession, either in writing or by e-mail, documentation that the voting right by proxy has been transferred from the registered participant to the agent prior to casting any vote.

Segments

Segment 1: Transmission Owners

- a. Any entity within the MRO region that owns or controls at least 200 circuit miles of integrated transmission facilities, or has an Open Access Transmission Tariff or equivalent on file with a regulatory authority.
- b. Transmission owners within the MRO region that have placed their transmission under the operational control of an RTO.
- c. Independent transmission companies or organizations, merchant transmission developers, and TRANSCOs that are in the MRO region and are not RTOs.
- d. Excludes RTOs, RCs and ISOs (that are eligible to belong to Segment 2).



Segment 2: Regional Transmission Organizations (RTOs), Regional Transmission Group (RTG), Independent System Operators (ISOs), Reliability Organizations, and Reliability Coordinators

- a. Authorized by appropriate regulator to operate as an RTO, RTG, or ISO within or adjacent to the MRO.
- b. Reliability Organizations certified by NERC or its successor.
- c. Check FERC definition.
- d. Reliability Coordinators within or adjacent to the MRO.
- e. In cases where the RTO or ISO and the RC have exactly the same geographic boundary, both may belong to this segment as long as they are separate entities.

Segment 3: Load-Serving Entities (LSEs)

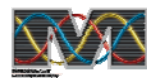
- a. Entities within the MRO region serving end-use customers under a regulated tariff, a contract governed by a regulatory tariff, or other legal obligation to serve.
- b. A member within the MRO region of a G&T cooperative or a joint-action agency is permitted to designate the G&T or joint-action agency to represent it in this segment; such designation does not preclude the G&T or joint-action agency from participation and voting in another segment representing its direct interests.

Segment 4: Electric Generators

- a. Affiliated and independent generators within the MRO region.
- b. A corporation that sets up separate corporate entities for each one or two generating plants within the MRO region in which it is involved may only have one vote in this segment regardless of how many single-plant or two-plant corporations the parent corporation has established or is involved in.

Segment 5: Electricity Brokers, Aggregators, and Marketers

- a. Entities serving end-use customers under a power marketing agreement or other authorization not classified as a regulated tariff.
- b. An entity that buys, sells, or brokers energy and related services for resale in wholesale or retail markets, whether a non-jurisdictional entity operating within its charter or an entity licensed by a jurisdictional regulator.



- c. G&T cooperatives and joint-action agencies that perform as an electricity broker, aggregator, or marketer function are permitted to belong to this segment.

Segment 6: Electricity End Users

- a. Service delivery taken within the MRO region that is not purchased for resale.
- b. Agents, associations, consumer advocates can represent groups of end users or a transmission dependent utility. A Transmission Dependent Utility (TDU) is defined as; an entity that relies on another entity for transmission service to service the majority of their contractual loads.

Segment 7: Federal, State, and Provincial Regulatory or other Government Entities

- a. Does not include Federal PMAs or TVA.
- b. May include PUCs.

X. Appendix D – Balloting Examples

The MRO voting mechanism differs from NERC in that a quorum is established if at least four Segments have submitted an affirmative, negative or abstention vote. A majority vote within a Segment is determined based on the affirmative and negative votes. A Standard is approved if at least two-thirds of the voting Segments have an affirmative vote. The following are examples of potential voting scenarios. The yellow areas indicate where a Segment did not cast a vote. The green areas with **bold** numbers represent majority votes within a Segment.

Example RBB

Segment	Number Registered in the RBB
1. Transmission Owners	15
2. RTO's, ISO's, RRO's & Reliability Coordinators	4
3. Load Serving Entities	16
4. Electric Generators	21
5. Electricity Brokers, Aggregators, & Marketers	7
6. Electricity End Users	6
7. Federal, State, & Provincial Regulatory or other Government Entities	8
Totals	77



Example 1 – A quorum has been established with 5 of the 7 Segments having registered an affirmative, negative, or an abstention vote. Two-thirds of the Segments (4 of 5 voting Segments) have voted to approve the Standard. The Standard is approved.

Segment	Ballot Pool	Votes			
		Affirmative Votes	Negative Votes	Abstain Votes	No Ballot
1. Transmission Owners	15	10	2	1	2
2. RTO's, ISO's, RRO's & Reliability Coordinators	4	3	0	0	1
3. Load Serving Entities	16	3	6	2	5
4. Electric Generators	21	13	0	1	7
5. Electricity Brokers, Aggregators, & Marketers	7	0	0	0	7
6. Electricity End Users	6	0	0	0	6
7. Federal, State, & Provincial Regulatory or other Government Entities	8	3	0	1	4
Totals	77				

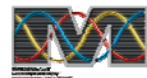


Example 2 – A quorum has been established with 4 of the 7 Segments having registered an affirmative, negative, or an abstention vote. Less than two-thirds of the Segments (1 of 4 voting Segments) have voted to approve the Standard. The Standard is NOT approved.

Segment	Ballot Pool	Votes			
		Affirmative Votes	Negative Votes	Abstain Votes	No Ballot
1. Transmission Owners	15	10	2	1	2
2. RTO's, ISO's, RRO's & Reliability Coordinators	4	1	2	0	1
3. Load Serving Entities	16	3	6	2	5
4. Electric Generators	21	0	0	0	21
5. Electricity Brokers, Aggregators, & Marketers	7	0	0	0	7
6. Electricity End Users	6	0	0	0	6
7. Federal, State, & Provincial Regulatory or other Government Entities	8	0	3	1	4
Totals	77				

Example 3 – A quorum has not been established because only 3 of the 7 Segments have registered an affirmative, negative, or an abstention vote. The Standard is NOT approved because of a lack of a quorum.

Segment	Ballot Pool	Votes			
		Affirmative Votes	Negative Votes	Abstain Votes	No Ballot
1. Transmission Owners	15	10	2	1	2
2. RTO's, ISO's, RRO's & Reliability Coordinators	4	4	0	0	0
3. Load Serving Entities	16	3	6	2	5
4. Electric Generators	21	0	0	0	21
5. Electricity Brokers, Aggregators, & Marketers	7	0	0	0	7
6. Electricity End Users	6	0	0	0	6
7. Federal, State, & Provincial Regulatory or other Government Entities	8	0	0	0	8
Totals	77				



Example 4 – A quorum has been established with 6 of the 7 Segments having registered an affirmative, negative, or an abstention vote. The Standard is NOT approved because two-thirds of the Segments did not cast an affirmative vote. Segment 2's vote is considered negative because a majority did not cast an affirmative vote.

Segment	Ballot Pool	Votes			
		Affirmative Votes	Negative Votes	Abstain Votes	No Ballot
1. Transmission Owners	15	10	2	1	2
2. RTO's, ISO's, RRO's & Reliability Coordinators	4	2	2	0	0
3. Load Serving Entities	16	3	6	2	5
4. Electric Generators	21	10	9	1	1
5. Electricity Brokers, Aggregators, & Marketers	7	4	3	0	0
6. Electricity End Users	6	0	0	0	6
7. Federal, State, & Provincial Regulatory or other Government Entities	8	2	3	0	3
Totals	77				



EXHIBIT D – COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

~~[REGIONAL ENTITY]~~ Midwest Reliability Organization will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within ~~[REGIONAL ENTITY]'s~~ Midwest Reliability Organization's geographic– or electrical boundaries, and such other scope, set forth on **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

~~[REGIONAL ENTITY]~~ Midwest Reliability Organization shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either ~~[REGIONAL ENTITY]'s~~ Midwest Reliability Organization's board or a balanced compliance panel reporting directly to ~~[REGIONAL ENTITY]'s~~ Midwest Reliability Organization's board. ~~[REGIONAL ENTITY]'s~~ Midwest Reliability Organization's hearing body is ~~{a balanced subset of its board} {if not the board, insert the name of the committee or group serving as the hearing body}. that is appointed by the board with no more than one member from each sector.~~

~~{If the hearing body is a compliance panel other than the board, provide here a description of how the members of the compliance panel are selected and the qualifications to be selected for the compliance panel.}~~

~~[REGIONAL ENTITY]~~

Midwest Reliability Organization shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: ~~{Describe any deviations, or state "None". If there are deviations from the NERC pro forma Hearing Procedures, [REGIONAL ENTITY]'s Hearing Procedures shall be included as a separate attachment to this Exhibit D.}~~ NONE.

3.0 OTHER DECISION-MAKING BODIES

~~If [Regional Entity] uses other decision-making bodies within its compliance program, provide here a description of the function of that body to the extent not described elsewhere in the Agreement or exhibits, how the members of that body are selected, and the qualifications to be~~

selected for that body.] A presiding officer who presides over the reception of evidence may prepare recommendations to be used by the board of directors in preparing its decision in a compliance hearing. In addition to compliance hearings, Midwest Reliability Organization's Hearing Body also reviews and approves settlements in a yes or no fashion, but is not permitted to make modifications to negotiated settlements/agreements.

Exhibit E — Funding

1. Scope of activities funded through the ERO funding mechanism

~~{Regional Entity}~~ Midwest Reliability Organization shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and ~~{Regional Entity}~~ Midwest Reliability Organization in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of ~~{Regional Entity}'s~~ Midwest Reliability Organization's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require ~~{Regional Entity}~~ Midwest Reliability Organization (i) to submit to NERC draft(s) of ~~{Regional Entity}'s~~ Midwest Reliability Organization's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by ~~{Regional Entity}~~ Midwest Reliability Organization Board of ~~Trustees~~ Directors to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of ~~{Regional Entity}'s~~ Midwest Reliability Organization's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The ~~{Regional Entity}~~ Midwest Reliability Organization business plan and budget submission shall include supporting materials, including ~~{Regional Entity}'s~~ Midwest Reliability Organization's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. ~~{Regional Entity}'s~~ Midwest Reliability Organization's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve ~~{Regional Entity}'s~~ Midwest Reliability Organization's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct ~~{Regional~~

~~Entity]~~Midwest Reliability Organization to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~[Regional Entity]'s~~Midwest Reliability Organization's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of ~~[REGIONAL ENTITY]'s~~Midwest Reliability Organization's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. ~~[Regional Entity]~~ Midwest Reliability Organization shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying ~~[Regional Entity's]~~Midwest Reliability Organization's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of ~~[Regional Entity's]~~Midwest Reliability Organization's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

~~[IF NERC WILL BILL AND COLLECT ASSESSMENTS DIRECTLY FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):]~~

(a) NERC shall submit invoices to the load-serving entities or designees identified by ~~[Regional Entity]~~Midwest Reliability Organization covering the NERC and ~~[Regional Entity]~~Midwest Reliability Organization assessments approved for collection.

~~[IF THE REGIONAL ENTITY WILL ACT AS THE BILLING AND COLLECTION AGENT ON BEHALF OF NERC TO BILL AND COLLECT ASSESSMENTS FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):]~~

~~(a) NERC and [Regional Entity] agree that [Regional Entity] shall act as the billing and collection agent on behalf of NERC to bill and collect [Regional Entity]'s assessments from load-serving entities and designees (or such other entities as agreed by NERC and [Regional Entity]). [Regional Entity] agrees that it shall (i) issue all invoices to load-serving entities and other entities in a prompt and timely manner after receipt from NERC of the information needed to issue the invoices; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC in a timely manner, as follows: Prior to the start of each calendar quarter, and once per week thereafter until all billings for the quarter are collected, [Regional Entity] will electronically transfer to NERC, in immediately available funds, all payments received by~~

~~[Regional Entity] from load serving entities or other entities for payment of invoices. On the same day that [Regional Entity] makes each electronic transfer of funds to NERC, [Regional Entity] shall send an e-mail to the Chief Financial Officer or Controller of NERC detailing the collections being transmitted, including a listing of the load serving entities or other entities from which payments were collected and the amount collected from each entity. [Note: If NERC and Regional Entity have a different collection and payment arrangement, the preceding two sentences will be modified accordingly to describe it.]~~

~~[Regional Entity] agrees that it shall not in any way use its position as billing and collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of Reliability Standards (including Regional Reliability Standards and Regional Variances), administration of the compliance monitoring and enforcement program and other compliance and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of [Regional Entity's] budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this Agreement.~~

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from ERO Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, [Regional Entity] shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, [Regional Entity] is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within [REGIONAL ENTITY]'s region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within [Regional Entity]'s region.

(c) Upon approval by ERO Governmental Authorities of [Regional Entity]'s annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay [Regional Entity's] annual assessment to Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

~~Except as otherwise approved by the Commission, all penalty monies received by [Regional Entity], other than penalty monies received from an operational function or division or affiliated entity of [Regional Entity], Midwest Reliability Organization shall be applied as a general offset to [Regional Entity]'s Midwest Reliability Organization's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of [Regional Entity] shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.~~

6. Budget and Funding for ~~[Regional Entity's]~~Midwest Reliability Organization Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as “statutory activities”), ~~[Regional Entity]~~Midwest Reliability Organization performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): ~~[List and describe all non-statutory activities performed by Regional Entity, or state “None”.]~~NONE.

~~[Regional Entity]~~Midwest Reliability Organization shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: ~~[List and describe the methods and procedures Regional Entity employs to keep costs and funding of statutory activities separate from costs and funding of non-statutory activities, including at a minimum a description of how Regional Entity's bank accounts and receivables/payables procedures are set up for both statutory and non-statutory functions, a description of how Regional Entity ensures each employee involved in both statutory and non-statutory functions keeps accurate time records reflecting his/her activities, and a description of how Regional Entity's general and administrative costs are allocated between statutory activities and non-statutory activities. If the necessary descriptions are lengthy they may be provided in a separate attachment labeled “Attachment E-1”, and state here “See Attachment E-1.” If Regional Entity has listed no non-statutory functions in the preceding paragraph, state here “Not applicable.”]~~NOT APPLICABLE.

~~[Regional Entity]~~Midwest Reliability Organization shall provide its budget for such non-statutory activities to NERC at the same time that ~~[Regional Entity]~~Midwest Reliability Organization submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. ~~[Regional Entity's]~~Midwest Reliability Organization budget for non-statutory activities that is provided to NERC shall contain a detailed list of ~~[Regional Entity's]~~Midwest Reliability Organization's non-statutory activities and a description of the funding sources for the non-statutory activities. ~~[Regional Entity]~~Midwest Reliability Organization agrees that no costs (which shall include a reasonable allocation of ~~[Regional Entity's]~~Midwest Reliability Organization's general and administrative costs) of non-statutory activities are to be included in the calculation of ~~[Regional Entity's]~~Midwest Reliability Organization's assessments, dues, fees, and other charges for its statutory activities.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if ~~[Regional Entity]~~Midwest Reliability Organization determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, ~~[Regional Entity]~~Midwest Reliability Organization shall submit to NERC one or more proposed amended or supplemental business plans and budgets and

requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in ~~{Regional Entity}'s~~ Midwest Reliability Organization's approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct ~~{Regional Entity}~~ Midwest Reliability Organization to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~{Regional Entity}'s~~ Midwest Reliability Organization's approved amended or supplemental business plan and budget and proposed supplemental- assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Statements

NERC shall conduct reviews of the quarterly and annual financial statements submitted by ~~{Regional Entity}~~ Midwest Reliability Organization pursuant to Section 9(h) and (i) of the Agreement. ~~{Regional Entity}~~ Midwest Reliability Organization shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC based on its reviews.

ATTACHMENT 4A

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED DELEGATION AGREEMENT

WITH

NORTHEAST POWER COORDINATING COUNCIL

CLEAN VERSION



NORTHEAST POWER COORDINATING COUNCIL, INC.
1040 AVE OF THE AMERICAS, NEW YORK, NY 10018 TELEPHONE (212) 840-1070 FAX (212) 302-2782

April 30, 2010

Mr. David Cook
Vice President & General Counsel
NERC
1120 G St. NW, Suite 990
Washington, DC 20005

Re: REVISED AND AMENDED NPCC REGIONAL DELEGATION AGREEMENT

Dear David,

The Northeast Power Coordinating Council, Inc. Board of Directors unanimously approved a resolution in support of the Revised and Amended Regional Delegation Agreement during its April 27, 2010 teleconference meeting. The resolution reads in part:

***RESOLVED**, that the Board hereby approves the revised draft pro forma regional delegation agreement in substantially the form attached hereto as Exhibit A; and be it*

***FURTHER RESOLVED**, that the NPCC President and CEO be, and he hereby is, authorized to execute and deliver, in the name and on behalf of NPCC, an Amended and Restated Delegation Agreement between NERC and NPCC in substantially the form approved or authorized by the Board, with such changes therein or additions thereto that the NPCC President and CEO determines to be necessary, advisable...*

Pursuant to your request, NPCC is hereby providing the final NPCC Revised and Amended Regional Delegation Agreement to you for presentation to the NERC Board.

Thank you for your collaboration on this enhanced agreement.

Sincerely,

Edward A. Schwerdt
President and Chief Executive Officer

CC: NPCC Board of Directors

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND NORTHEAST POWER COORDINATING COUNCIL, INC.**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”) made as of January 1, 2011, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and Northeast Power Coordinating Council, Inc. (“NPCC”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified on **Exhibit A** to this Agreement, and for other purposes. NERC and NPCC may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824n) (hereafter “the Act”), which, among other things, provides for the establishment of an electric reliability organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as NPCC provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, NPCC is not organized on an Interconnection-wide basis and therefore is not entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through NPCC to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that NPCC meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and NPCC having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and NPCC agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to NPCC to propose and enforce Reliability Standards pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, NPCC hereby represents and warrants to NERC that:

(i) NPCC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. NPCC is governed in accordance with its bylaws by a combination independent and balanced stakeholder board. Pursuant to these bylaws, no two industry sectors can control any NPCC decision and no single industry sector can veto any NPCC decision. The relevant portions of such bylaws are attached hereto in **Exhibit B**¹, and as so attached are in full force and effect. No other such corporate governance documents are binding upon NPCC.

(ii) As set forth in **Exhibit C** hereto², NPCC has developed a standards development procedure, which provides the process that NPCC may use to develop Regional Reliability Standards [and Regional Variances, if the regional entity is organized on an Interconnection-wide basis] that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, NPCC has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within NPCC geographic boundaries as shown on **Exhibit A**.

(b) NERC hereby represents and warrants to NPCC that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

¹ The **Exhibit B** from NPCC shall meet the requirements contained in **Exhibit B** to this Agreement.

² The **Exhibit C** from NPCC shall meet the requirements contained in **Exhibit C** to this Agreement.

3. Covenants.

(a) During the term of this Agreement, NPCC shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC's approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of NPCC under this Agreement without first obtaining the consent of NPCC, which consent shall not be unreasonably withheld or delayed.

(c) During the term of this Agreement, NERC and NPCC shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of NPCC in Sections 2 and 3 above, the corporate governance documents set forth in **Exhibit B**, the standards development process set forth in **Exhibit C**, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to NPCC for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth on **Exhibit A**, *provided*, that NPCC shall not monitor and enforce compliance with Reliability Standards for NPCC or an affiliated entity with respect to reliability functions for which NPCC or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to NPCC within, or additions to this delegation of authority to NPCC beyond, the geographic boundaries set forth on **Exhibit A** are stated on **Exhibit A**.

(b) In circumstances where NPCC or an affiliated entity is a Registered Entity, NPCC shall enter into an agreement with another Regional Entity or NERC for the other

Regional Entity or NERC to monitor and enforce NPCC or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit NPCC from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified on **Exhibit A** that is within the United States. Any delegation of authority by ERO Governmental Authorities in Canada or Mexico shall be governed by a separate agreement and is outside the scope of this Agreement; provided, however, that both NPCC and NERC shall endeavor to ensure that this Agreement and such separate agreements are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, NPCC shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

- (a) In connection with its Delegated Authority, NPCC shall be entitled to:
- (i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords NPCC reasonable notice and opportunity to be heard; and
 - (ii) develop Regional Reliability Standards [and Regional Variances, if Regional Entity is organized on an Interconnection-wide basis] through NPCC process as set forth in **Exhibit C**. Proposals approved through NPCC process shall be reviewed by the NERC Board after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board shall promptly thereafter consider such

proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. NPCC may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, NPCC shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the geographic boundaries set forth, or as otherwise specified, in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and NPCC agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, *inter alia*, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. NPCC may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, NPCC agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c)

of this Agreement, and with any guidance and directions issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) NPCC shall report promptly to NERC any Possible Violation, Alleged Violation, or Confirmed Violation of a Reliability Standard, and its eventual disposition by NPCC. Such report shall include the owner's, operator's, or user's name, which Reliability Standard or Reliability Standards were the subject of the Possible Violation, Alleged Violation, or Confirmed Violation, when the Possible Violation, Alleged Violation, or Confirmed Violation occurred, other pertinent facts including circumstances surrounding the Possible Violation, Alleged Violation, or Confirmed Violation with any known risk to the Bulk-Power System, when the Possible Violation, Alleged Violation, or Confirmed Violation was or will be mitigated, the name of a person knowledgeable about the Possible Violation, Alleged Violation, or Confirmed Violation to serve as a point of contact with the Commission, and any other information required by NERC compliance program procedures. NERC shall promptly forward such report to the Commission. NERC and NPCC shall cooperate in filing such periodic summary reports as the Commission shall from time to time direct on Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards and summary analyses of such Possible Violations, Alleged Violations, and Confirmed Violations.

(c) Each Possible Violation, Alleged Violation, or Confirmed Violation shall be treated as nonpublic unless the matter is filed with the Commission as a Notice of Penalty, or, if disclosure is required, dismissed. The disposition of each Possible Violation, Alleged Violation, or Confirmed Violation that relates to a Cybersecurity Incident or that would jeopardize the security of the Bulk-Power System if publicly disclosed shall remain nonpublic unless the Commission directs otherwise.

(d) All dispositions by NPCC of Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards shall be reported to NERC for review and, in the case of Confirmed Violations, penalties or sanctions, and settlements, for approval. Following approval of a disposition by NERC, NERC shall file the disposition with the Commission, if required by, and in accordance with, Section 215(e) of the Act and Section 39.7 of the ERO Regulations. NERC shall review NPCC dispositions based on the following criteria:

(i) whether the disposition is supported by a sufficient record compiled by NPCC in accordance with the NERC Rules of Procedure, NERC directives and

Commission requirements, taking into account the nature of the Possible Violation, Alleged Violation, or Confirmed Violation,

(ii) whether the disposition is consistent with any applicable directives issued pursuant to Section 8(c) of this Agreement, any applicable directions or guidance issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, or other applicable NERC guidance, concerning the Reliability Standards to which the Possible Violation, Alleged Violation, or Confirmed Violation relates,

(iii) if the disposition is a Confirmed Violation or settlement, whether it provides for a penalty or sanction, or a determination of no penalty or sanction, determined in accordance with the NERC Sanction Guidelines, Appendix 4B to the NERC Rules of Procedure, and

(iv) whether the disposition is reasonably consistent with other dispositions by NPCC and by other Regional Entities of Possible Violations, Alleged Violations, and Confirmed Violations involving the same or similar facts and circumstances.

NERC may reject any disposition, with an explanation of why NERC believes the disposition does not meet the above criteria. NPCC may submit a disposition requiring NERC approval that has been rejected by NERC, or a revised disposition following a rejection, directly to the NERC Board Compliance Committee for approval without revising the disposition to address all the grounds on which NERC originally rejected the disposition. The final approval of NPCC disposition of a Possible Violation, Alleged Violation, or Confirmed Violation shall be made by the NERC Board Compliance Committee, provided, that the NERC Board or NERC Board Compliance Committee may, by appropriate resolution, delegate authority for final approval of dispositions of specified categories of Possible Violations, Alleged Violations, or Confirmed Violations to the NERC President.

(e) All appeals of penalties imposed by NPCC as a result of a decision by NPCC Hearing Body shall be filed with, heard by and disposed of by, NERC in accordance with the NERC Rules of Procedure.

(f) NPCC shall maintain the capability to conduct investigations of Possible Violations and Alleged Violations of Reliability Standards and to conduct such investigations in a confidential manner.

(g) NPCC shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan.

(h) As part of its compliance monitoring and enforcement program, NPCC shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. NPCC may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(i) As often as NERC deems necessary, but no less than every five years, NERC shall review NPCC compliance monitoring and enforcement program to determine that: (i) the program meets all applicable legal requirements; (ii) actual practices reflect the requirements; and (iii) the program administered pursuant to the Delegated Authority promotes consistent interpretations across North America of Reliability Standards and comparable levels of sanctions and penalties for violations of Reliability Standards constituting comparable levels of threat to reliability of the Bulk-Power System.

7. Delegation-Related Activities.

NERC will engage NPCC on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed on **Exhibit E**. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (f), each of which shall be considered a statutory activity:

(a) Certification of Bulk-Power System Entities. The NERC Board shall set criteria for certification in accordance with the NERC Rules of Procedure. NPCC shall issue certifications in accordance with the NERC Rules of Procedure.

(b) Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.

(i) The NERC Board shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by NPCC and other Regional Entities. NPCC shall provide timely and accurate information relating to registrations to NERC, on at least a monthly basis, to enable NERC to maintain a registration database that is accurate and up-to-date.

(iii) The NERC Board Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) Reliability Assessment and Performance Analysis. NPCC shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. NPCC shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives. NERC shall develop data-gathering quality control procedures, forms and reporting mechanisms, which shall be used by NPCC and other Regional Entities in carrying out their responsibilities under this subsection (c).

(d) Event Analysis and Reliability Improvement. NPCC shall conduct event analysis pursuant to the NERC Rules of Procedure and applicable governmental regulations. NERC and NPCC shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, NPCC shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) Training and Education. NPCC may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) Situation Awareness and Infrastructure Security.

(i) NPCC shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure and applicable governmental regulations, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System

(ii) NPCC shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of NPCC performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and NPCC that matters relating to NERC's oversight of NPCC performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and NPCC and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with NPCC and other Regional Entities, performance goals, measures and other parameters (including, without limiting the scope of such goals, measures and parameters, financial performance goals, measures and parameters), and performance reports, which shall be used to measure NERC's and NPCC performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. NPCC shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate NPCC performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters and performance reports to evaluate NPCC performance of its delegated functions and related activities and to provide advice and direction to NPCC on performance improvements. The performance goals, measures and other parameters and the values of such goals, measures and parameters, shall be reviewed by NERC, NPCC and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, NPCC shall be required to develop, submit for NERC approval, and implement action plans to address areas of its performance that are reasonably determined by NERC, based on analysis of NPCC performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring NPCC to adopt and implement an action plan or other remedial action, NERC shall issue a notice to NPCC of the need and basis for an action plan or other remedial action and provide an opportunity for NPCC to submit a written response contesting NERC's evaluation of NPCC performance and the need for an action plan. NPCC may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board review and reconsider the request. NERC and NPCC shall work collaboratively as needed in the development and implementation of NPCC action plan. A final action plan submitted by NPCC to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to NPCC standardized training and education programs, which shall be designed taking into account input from NPCC and other Regional Entities, for NPCC personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to NPCC concerning the manner in which NPCC shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with NPCC and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and NPCC and, if applicable, other Regional Entities are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President; *provided*, that before the NERC President issues a directive pursuant to this paragraph (ii), NPCC and, if applicable, other Regional Entities, shall be given a reasonable opportunity to present their positions on, and a suggested alternative version or versions of, the proposed directive to the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, NPCC subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by NPCC the NERC Board (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without NPCC agreement, *provided*, that NPCC shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and NPCC and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which NPCC and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The Board or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the Board or Board committee makes a written determination stating a

specific reason for maintaining particular guidance or directions as non-public. NPCC either individually or in conjunction with other Regional Entities, may request that the NERC Board or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with NPCC either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) Any audits of NPCC performed by NERC shall be limited to an examination of NPCC compliance with this Agreement, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c).

9. Funding. NPCC and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed on **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) NPCC shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. NPCC proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, NPCC to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E**. NPCC business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) NPCC and NERC agree that the portion of NPCC approved budget for the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by NPCC and approved by NERC and the Commission. If NPCC proposes to use a formula other than Net Energy for Load beginning in

the following year, NPCC shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and NPCC to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide NPCC with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) NPCC shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed on Exhibit E, as well as for all other activities of NPCC to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund NPCC performance of its Delegated Authority and related activities in accordance with NPCC Commission-approved business plan and budget, in the amount of NPCC assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting NPCC approved assessments from end users and other entities and payment of the approved assessment amount to NPCC unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon NPCC that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without NPCC consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and NPCC fiscal year budget with the actual results at the NERC and Regional Entity levels. NPCC shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) NPCC shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) NPCC shall submit audited financial statements annually, including supporting materials, in a form provided by NERC no later than May 1 of the following year.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which NPCC shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of NPCC) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which NPCC shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of NPCC. *Provided*, that, subject to approval by NERC and the Commission, NPCC may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. NPCC may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit NPCC from contracting with other entities to assist it in carrying out its Delegated Authority, provided NPCC retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the “Default Notice”). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on January 1, 2011 (the “Effective Date”).

(b) The term of the Agreement shall be five (5) years from the Effective Date, prior to which time NERC shall conduct an audit pursuant to subsection 6(i) to ensure that NPCC continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. If NPCC meets such requirements, this Agreement may be renewed for another five (5) year term. This Agreement may be renewed for successive additional five (5) year renewal terms provided that prior to the end of each renewal term, NERC shall conduct an audit pursuant to subsection 6(i) to ensure that NPCC continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. Provided, that either Party may terminate this Agreement as of the end of a term by giving written notice to terminate at least one (1) year prior to the end of the term. If this Agreement is not renewed or becomes subject to termination for any reason, the Parties shall work to provide

for a transition of NPCC Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement. The termination of this Agreement shall not take effect until such transition has been effected, unless the transition period exceeds one year, at which time NPCC may unilaterally terminate.

(c) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by NPCC and NERC.

(d) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. NPCC and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and NPCC shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of the NPCC or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that the NPCC or NERC is found liable for gross negligence or intentional misconduct, in which case NPCC or

NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party.

15. Confidentiality. During the course of the Parties' performance under this Agreement, a Party may receive Confidential Information, as defined in Section 1500 of NERC's Rules of Procedure. Except as set forth herein, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information. In addition, each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein. This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of NPCC under this Agreement without first obtaining the consent of NPCC which consent shall not be unreasonably withheld or delayed. To the extent NPCC does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of NPCC under this Agreement, NPCC shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by NPCC to NERC and the Commission, or at such other time as may be mutually agreed by NPCC and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and NPCC (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to NPCC's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. NPCC shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to

the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, *provided*, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), *provided*, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. *Provided, however*, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through

Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. Whether expressly so stated or not, all notices, demands, requests, and other communications required or permitted by or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand or reputable overnight courier:

If to NERC:

North American Electric
Reliability Corporation
116-390 Village Blvd.
Princeton, NJ 08540-5721
Attn: General Counsel
Facsimile: (609) 452-9550

If to NPCC:

Northeast Power
Coordinating Council, Inc.
1040 Avenue of the Americas – 10th Floor
New York, New York 10018 -3703
Attn: Edward Schwerdt
Facsimile: 212-302-2782

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of New Jersey without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in New Jersey. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in New Jersey for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. **Savings Clause.** Nothing in this Agreement shall be construed to preempt or limit any authority that NPCC may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. **Entire Agreement.** This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. **Execution of Counterparts.** This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN
ELECTRIC RELIABILITY CORPORATION

NORTHEAST POWER
COORDINATING COUNCIL, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



Northeast Power Coordinating Council, Inc. (NPCC) Exhibit A – Geographic Area

The geographic area covered by NPCC includes New York state, the six New England states, and Ontario, Quebec, and the Maritime Provinces in Canada. The total population served is approximately 56 million. The area covered is approximately 1 million square miles.

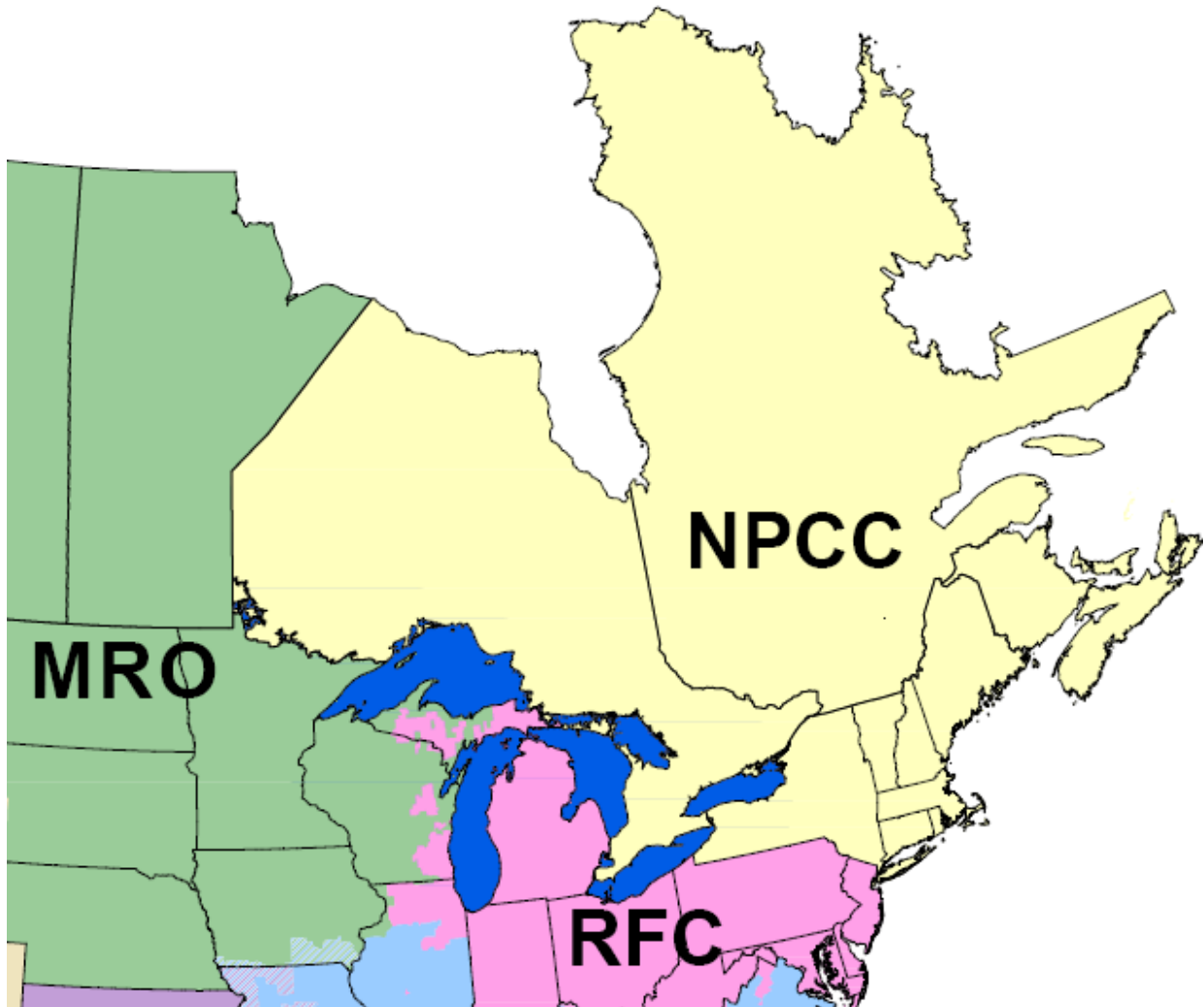


Exhibit B – Governance

Exhibit B shall set forth the Regional Entity’s bylaws, which NERC agrees demonstrate that the Regional Entity meets the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence of the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)



Exhibit B – Governance

AMENDED AND RESTATED

BYLAWS

OF

NORTHEAST POWER COORDINATING COUNCIL, INC.

I. Offices

The principal office of Northeast Power Coordinating Council, Inc. (“NPCC”) shall be located in New York County, State of New York.

II. Purpose of Northeast Power Coordinating Council, Inc.

The purpose of NPCC is to promote and enhance the reliable and efficient operation of the international, interconnected bulk power system in Northeastern North America through (i) the development of regional reliability standards and compliance assessment and enforcement of continent-wide and regional reliability standards, coordination of system planning, design and operations, and assessment of reliability, pursuant to an agreement with the Electric Reliability Organization (“ERO”) which designates NPCC as a regional entity and delegates authority from the U.S. Federal Energy Regulatory Commission (“FERC”), and by Memoranda of Understanding with applicable Canadian Provincial regulatory and/or governmental authorities (collectively, “statutory activities”), and (ii) the establishment of regionally-specific criteria, and monitoring and enforcement of compliance with such criteria (collectively, “non-statutory criteria services”). In the development of regionally-specific reliability criteria, NPCC, to the extent possible, facilitates attainment of fair, effective and efficient competitive electric markets.

III. Terms

Terms not defined in these Bylaws shall have the definitions set forth in the Federal Power Act, Part 39 of the regulations of the FERC, as further clarified in FERC’s April 19, 2007 Order 119 FERC 61,060, and if not defined in any of those sources, shall be defined in accordance with their commonly understood and used technical meanings in the electric power industry, including applicable codes and standards.

“Bulk Power System” shall be deemed to refer to the interconnected electrical systems within Northeastern North America comprising generation and transmission facilities on which faults or disturbances can have a significant adverse impact outside of the local area. In this context, local areas and the specific facilities that comprise the bulk power system are determined by the Members of NPCC, utilizing a reliability impact based methodology.

“Northeastern North America” shall be deemed to comprise the geographical area within the perimeter border enclosing the State of New York, the six New England States of the United States, and the Canadian Provinces of Ontario, Québec, New Brunswick and Nova Scotia, including any radial load or generation connecting to these systems.

IV. Membership

- A. List of Members. The Members of NPCC are listed on Schedule A attached hereto.
- B. Eligibility. Upon suitable application describing the nature and activities of the applicant, additional entities shall be accepted by the Board of Directors of NPCC (the “Board”) as Members in the appropriate categories, defined as follows:
- (1) **General Membership** is voluntary and is open to any person or entity, including any entity participating in the Registered Ballot Body of the ERO that has an interest in the reliable operation of the Northeastern North American bulk power system. General Members are subject to compliance with reliability standards and receive additional services from the regional entity division of NPCC.
 - (2) **Full Membership** shall be available to entities which are General Members that also participate in electricity markets in the international, interconnected bulk power system in Northeastern North America. Independent system operators (“ISOs”), regional transmission organizations (“RTOs”), Transcos and other organizations or entities that perform the Balancing Authority function operating in Northeastern North America are expected to be Full Members of NPCC. The New York State Reliability Council and any other sub-regional reliability councils which may be formed are also expected to be Full Members. Full Members are subject to compliance with regionally-specific criteria, in addition to reliability standards, and receive additional services from the criteria services division of NPCC.
- C. Application as a Member. Any person or entity that is eligible to become a Member of NPCC in accordance with Article IV.B. may become either a General Member or a Full Member by completing and submitting to NPCC a membership application on a form prescribed by the Board. Any person or entity that applies to NPCC as a Member shall comply with the conditions and obligations of membership specified in these Bylaws. As an additional condition of membership in NPCC, each person or entity registering as a Member shall execute an agreement with NPCC, in a form to be specified by the Board, that such person or entity will hold all Directors, officers, employees and agents of NPCC, as well as volunteers participating in good faith in the activities of NPCC, harmless, to the extent permitted by U.S. Federal or Canadian Provincial laws, rules and regulations, for any injury or damage caused by any act or omission of any Director, officer, employee, agent or volunteer in the course of performance of his or her duties on behalf of NPCC, other than for acts of gross negligence, intentional misconduct or a breach of confidentiality.

If not a natural person, the Member shall designate a representative and an alternate representative with authority to receive notices, cast votes, execute waivers and consents, and enter into binding agreements on behalf of the Member. NPCC shall maintain a current roster of the Members of NPCC, including each Member’s designated representative and alternate representative. From time to time, the Board may establish a date by which Members shall submit their application renewals. All Members shall confirm their applications within thirty (30) calendar days of the date of receipt of request by NPCC, using an application renewal form prescribed by the Board. Any Member that has not submitted an application renewal within thirty (30) calendar days following the date established by the Board shall be removed from the NPCC roster. NPCC shall notify any Member that is removed from the roster of Members of such removal, by notice sent to such former Member’s last known address on the records of NPCC.

- D. **Voting. There shall be eight (8) voting sectors (“Voting Sectors”), defined as follows:**

Sector (1). Transmission Owners: This Voting Sector shall consist of any entity within Northeastern North America that owns at least 200 circuit miles of integrated transmission

facilities, or has an Open Access Transmission Tariff or equivalent on file with the FERC or the appropriate regulatory or governmental authority. This sector includes transmission owners that have placed their transmission under the operational control of an ISO/RTO, independent transmission companies and merchant transmission owners/developers.

Sector (2). Reliability Coordinators: This Voting Sector shall consist of any entity within Northeastern North America certified as a Reliability Coordinator.

Sector (3). Transmission Dependent Utilities (“TDUs”); Distribution Companies and Load-Serving Entities (“LSEs”). This Voting Sector shall consist of entities within Northeastern North America that are:

- (a) Entities with a regulatory contract, or other legal obligation to serve wholesale aggregators or end-use customers, and that depend primarily on the transmission systems of third parties to provide this service;
- (b) Agents or associates that represent groups of TDUs;
- (c) Electric distribution companies;
- (d) Entities serving end-use customers under a regulated tariff, a contract governed by a regulatory tariff, or other legal obligation to serve; or
- (e) Each member of a generation and transmission (“G&T”) cooperative or a joint-action agency permitted to designate the G&T or joint action agency to represent it in this sector.

Sector (4). Generator Owners: This Voting Sector shall consist of entities within Northeastern North America that are affiliated and/or independent generators.

Sector (5). Marketers, Brokers and Aggregators: This Voting Sector shall consist of entities within Northeastern North America that are:

- (a) Entities providing energy to end-use customers under a power marketing agreement or other authorization not classified as a regulated tariff;
- (b) Entities that buy, sell, or broker energy and related services for resale in wholesale or retail markets, whether a non-jurisdictional entity operating within its charter or an entity licensed by a jurisdictional regulator; or
- (c) Generation and transmission cooperatives and joint-action agencies that perform an electricity broker, aggregator, or marketer function.

Sector (6). Customers: This Voting Sector shall consist of entities within Northeastern North America that are:

- (a) Entities or customers that take delivery of energy that is not

purchased for resale within Northeastern North America;

- (b) Agents or associations representing groups of large end users within Northeastern North America; or
- (c) Agents, state consumer advocates, or other advocate groups representing groups of small customers within Northeastern North America.

Sector (7). State and Provincial Regulatory and/or Governmental Authorities.

This Voting Sector shall consist of State and Provincial regulatory or governmental authorities within Northeastern North America.

Sector (8). Sub-Regional Reliability Councils, other Regional Entities and Interested Entities: This Voting Sector shall consist of:

- (a) Any entity within Northeastern North America authorized by an appropriate regulatory and/or governmental authority to be a Sub-Regional Reliability Council;

Any other delegated Regional Entity; or

- (c) Any person or entity, including any entity participating in the Registered Ballot Body of the ERO, that has an interest in the reliable operation of the bulk power system in Northeastern North America.

- E. Assignment to Voting Sector. A new applicant for membership shall request to be assigned to a Voting Sector subject to Board approval. A Member may request to be assigned to any Voting Sector so long as membership in that Voting Sector is consistent with the Member's business or other activities within the NPCC region. Multiple memberships of the separate business functions of an entity are permitted, with each membership assigned to the appropriate separate sector and each membership designating a different representative and alternate. A consultant, attorney, agent, vendor, trade or industry association, state, provincial or local consumer advocate organization that provides services to or otherwise represents the interests of the Members of one or more Voting Sectors may elect to be assigned to one such Voting Sector subject to Board approval. Entities may elect to change their Voting Sector participation in connection with the Annual Meeting of Members of NPCC, subject to Board approval.
- F. Term of Membership. Membership in NPCC shall be retained so long as a Member meets its respective qualifications, obligations, and conditions of membership as set forth in this Article IV.

V. **Organization of NPCC**

- A. Each Member shall designate an executive level representative and an alternate representative with full authority to act on its behalf in carrying out the work of NPCC.
- B. NPCC shall have a Board of Directors and shall retain a Chairman, who shall serve as Chair of the Board. The Board shall also consist of two Co-Vice Chairs, the President and the Secretary, all *ex officio*; and additional Directors to be selected by the eight Voting Sectors of Members as specified below. The Directors shall designate two Co-Vice Chairs. The Co-Vice Chair designees shall be from different Voting Sectors and shall be elected by a vote of the entire Membership. In the temporary absence of the Chair, a Vice Chair designated by two-thirds vote of the Directors shall perform the duties of the Chair. NPCC's Chairman, President and officers, when serving *ex officio*, shall not have any vote on Board matters, except that the Co-Vice Chairs shall retain the voting rights that they otherwise held by virtue of serving as a Director.
- C. The officers of NPCC shall consist of a President, a Secretary and a Treasurer, with assistants as appropriate, and such additional officers as may be approved by the Members. Officers, except for the President, shall hold office for one year or until the next Annual Meeting of Members of NPCC and until their successors are duly elected and qualified.
- D. NPCC shall employ a President and staff, as required to carry out NPCC's mission and to perform the functions of NPCC. The President shall be appointed by the Board and shall serve at the Board's discretion. In the event of a vacancy in the presidency, the Board shall appoint an interim President who shall serve until such time as the Board appoints a new President.
- E. In the event a vacancy occurs in the Board of Directors, or in the office of Co-Vice Chair, Secretary, or Treasurer in the interim between Annual Meetings of Members of NPCC, the Chair may designate a person from the same Voting Sector to fill such vacancy with the approval of a majority vote of Members from the applicable Sector.
- F. In the event a vacancy occurs in the Office of Chair in the interim between Annual Meetings of Members of NPCC, the Board may fill such vacancy by a two-thirds affirmative majority of the weighted sector votes, with each Director casting one vote within the applicable sector, at a meeting of the Board at which a quorum is present. The term of office of the persons designated to fill any such vacancy shall expire on the date of the next subsequent Annual Meeting of Members of NPCC. The authority and responsibilities of the Chair and the President shall be defined by the Board.
- G. Statutory activities will be conducted by the regional entity division of NPCC. Non-statutory criteria services will be provided by the criteria services division of NPCC.

VI. **Board of Directors**

- A. **Hybrid Board.** NPCC shall have a Board of Directors consisting of stakeholders balanced by sector and an independent Chairman, two Co-Vice Chairs, the President, and the Secretary.
- B. **Term and Compensation.** The term of office of the Directors shall be three (3) years. Initial terms of Directors shall be staggered by the Board so that members serve initial terms of one, two, or three years. There shall be no limit on the number of terms which may be served by any individual. Directors shall serve without compensation, including when performing duties of a Co-Vice Chair.

- C. Powers and Duties. The Board shall develop NPCC policies, direct the activities of NPCC, accept additional entities as Members, review and approve or modify Member Voting Sector assignment, and make assignments to the committees of NPCC. The Board shall (i) approve a Regional Delegation Agreement with the ERO which delegates authority from FERC in the United States and additional agreements with appropriate Canadian Provincial regulatory and/or governmental authorities, (ii) approve and oversee NPCC's Regional Reliability Standards Development Process and submit such Regional Standards to the ERO for adoption by FERC and appropriate Canadian Provincial regulatory and/or governmental authorities, (iii) approve the NPCC Compliance Enforcement Program and the assessment and enforcement of mandatory compliance with Reliability Standards consistent with the Regional Delegation Agreement and agreements with Canadian Provincial regulatory and/or governmental authorities, and (iv) oversee NPCC's assessment and enforcement of mandatory compliance with regionally-specific reliability criteria through administration of the NPCC Reliability Compliance and Enforcement Program. The duties of the Board shall also include consideration and resolution of budgetary matters, including the levying of any special assessments, and determination of any annual membership fee for Full Members. However, the Board may not amend these Bylaws or establish, modify or eliminate any of NPCC's Regional Reliability Standards, regionally-specific reliability criteria, guides, programs or procedures; nor may the Board add, modify, or eliminate Voting Sectors established pursuant to these Bylaws.

To carry out the purposes of NPCC, the Board, acting through the President and NPCC staff, shall enlist such personnel from Members as may be necessary; and, within the limits of the annual budget, may employ such personnel, incur such administrative expenses, and retain such independent professional consulting services for NPCC and the committees of NPCC as it may deem desirable.

- D. Board Composition. NPCC shall have a Board of Directors that shall consist of up to eight (8) voting sectors. The voting sectors shall include the following:

Sector (1). Transmission Owners (Maximum of 3, with no more than 1 per Balancing Authority Area)

Sector (2). Reliability Coordinators (Maximum of 3)

Sector (3). Transmission Dependent Utilities ("TDUs"); Distribution Companies and Load-Serving Entities ("LSEs") (Maximum of 3)

Sector (4). Generator Owners (Maximum of 3)

Sector (5). Marketers, Brokers and Aggregators (Maximum of 3)

Sector (6). Customers (Maximum of 3)

Sector (7). Regulators (Maximum of 3)

Sector (8). Sub-Regional Reliability Councils, other Regional Entities and Interested Entities (Maximum of 3, with a representative of the New York State Reliability Council, LLC included)

- E. Quorum and Voting Requirements for the Board. At any meeting of the Board, attendance in person or by proxy by at least one-half of the Directors in each of at least sixty percent (60%) of the sectors shall constitute a quorum. Except as otherwise expressly provided in NPCC's Certificate of Incorporation, these Bylaws or applicable law, actions by the Board shall be approved upon receipt of a two-thirds affirmative majority of the weighted sector votes, with each

Director casting one vote within the applicable sector, at a meeting of the Board at which a quorum is present. The following process shall be used to determine if there are sufficient affirmative votes:

- The number of votes cast is the sum of affirmative and negative votes, excluding abstentions.
- The number of affirmative votes cast in each Voting Sector will be divided by the sum of affirmative and negative votes cast in that Voting Sector to determine the fractional affirmative vote for each Voting Sector. Abstentions will not be counted for the purposes of determining the fractional affirmative vote for a Voting Sector.
- The sum of the fractional affirmative votes from all sectors divided by the number of sectors voting will be used to determine if a two-thirds affirmative majority has been achieved. A sector will be considered as “voting” if any Member of the sector casts either an affirmative or a negative vote.

An action will be approved if the sum of fractional affirmative votes from all sectors divided by the number of voting sectors is at least two-thirds.

- F. Board Action Without Meeting. Any action required, or permitted to be taken at a meeting of the Board of Directors, may be taken without a meeting if the action is taken by all members of the Board. The action must be evidenced by one or more written consents (which may be in electronic form) describing the action taken, signed by each Director, and included in the minute book of NPCC. Any action taken under this Section VI.F. is effective when the last Director signs the consent, unless the consent specifies a different effective date.
- G. Election and Removal of Directors. The Initial Board shall be the persons named in the Certificate of Incorporation and shall serve until the first Annual Meeting of the Members. The Initial Board shall nominate a list of Directors consistent with the Board composition requirements set forth in Section VI.D. At the first meeting of the Members, the Members from each sector shall vote to elect Directors in their respective sector. A Director shall be elected by a vote of the majority of the Members in the respective sector. No sector shall elect more Directors than the number of Members in such sector.
- A Director may be removed for cause by at least two-thirds of the Members in their respective sector at a regular meeting or at a special meeting called for that purpose; *provided* that there is a quorum of that sector’s Members present at that meeting, or by at least a majority of the Directors present at a meeting called for that purpose, and *provided, further*, that there is a quorum of not less than a majority present at the meeting of Directors at which such action is taken.
- H. Indemnification. Subject to the limitation set forth in Section VI.I. below, NPCC shall indemnify its Directors, Officers, employees and other corporate agents, including volunteers participating in good faith in the activities of NPCC and persons serving on duly constituted committees of NPCC (collectively, “NPCC Indemnitees”), in each case, to the full extent from time to time permitted by New York Not-for-Profit Corporation Law (“N-PCL”) and other applicable law. Such right of indemnification shall inure to the benefit of the legal representative of any NPCC Indemnitee. The foregoing right of indemnification shall be in addition to, and not in restriction or limitation of, any right such NPCC Indemnitee may have under applicable law (including the N-PCL).

- I. Limitation on Indemnification. The maximum amount of losses (i.e., damages, judgments, fines, penalties, liability, costs and expenses, including reasonable attorneys' fees and expenses) for which NPCC will be obligated to indemnify the NPCC Indemnitees under Section VI.H. will be the policy limit of directors and officers' ("D&O") liability insurance set forth in the D&O insurance policy maintained by NPCC.

VII. Committees

NPCC shall have such committees, subcommittees, task forces and other groups as the Board may deem appropriate, including a Regional Standards Committee (RSC), a Compliance Committee (CC), a Reliability Coordinating Committee (NPCC's principal technical committee), a Public Information Committee and an Audit and Finance Committee.

The Audit and Finance Committee shall be comprised of at least three members of the Board and include one Director which shall be designated an audit committee financial expert by the Board. A chairperson of the Audit and Finance Committee shall be designated by the Board from among the members of the committee.

Committee members shall be nominated and approved by the Board in accordance with guidelines established by the Board. Quorum and voting rules applicable to the Board shall also apply to voting on any such NPCC decision making committees, unless otherwise determined by the Board. Each committee shall establish a charter or scope of work, which shall be presented to the Board for approval.

VIII. Members' Voting Rights

- A. Quorum and Voting Requirements for Meetings of Members. At any meeting of the Members of NPCC, attendance in person or by proxy by one-half of the Members in each of at least sixty percent (60%) of the Voting Sectors on the roster of Members maintained by NPCC shall constitute a quorum. Except as otherwise expressly provided in NPCC's Certificate of Incorporation, these Bylaws or applicable law, actions by the Members of NPCC shall be approved upon receipt of a two-thirds affirmative majority vote of the sectors at a meeting of the Members of NPCC at which a quorum is present, where (i) each Member shall have one vote within a sector, except that if less than one-half of the Members in a sector are present, in person or by proxy, at the meeting, the vote of that sector shall be weighted by a percentage equal to the number of Members of the sector present in person or by proxy at the meeting divided by one-half of the Members in the sector; (ii) the vote of each sector of NPCC shall be allocated for and against the proposed action based on the respective percentages of votes cast for and against the proposed action by the Members in that sector voting in person or by proxy; and (iii) the proportions of the votes of each sector allocated for and against the proposed action shall be summed to determine the total number of votes for and against the proposed action.

The following process is used to determine if there are sufficient affirmative votes:

- The number of votes cast is the sum of affirmative and negative votes, excluding abstentions.
- The number of affirmative votes cast in each sector will be divided by the sum of affirmative and negative votes cast to determine the fractional affirmative vote for each sector. Abstentions will not be counted for the purposes of determining the fractional affirmative vote for a sector.

- The sum of the fractional affirmative votes from all sectors divided by the number of sectors voting will be used to determine if a two-thirds affirmative majority has been achieved. (A sector will be considered as “voting” if any Member of the sector casts either an affirmative or a negative vote.)
- B. Waivers of Notice of Meetings of Members; Member Meeting Adjournments. Notice of a Meeting of Members need not be given to any Member who signs a waiver of notice, in person or by proxy, whether before or after the meeting. The attendance of any Member at a meeting, in person or by proxy, without protesting prior to the conclusion of the meeting the lack of notice of such meeting, shall constitute a waiver of notice of the meeting by such Member. When any Meeting of Members is adjourned to another time or place, it shall not be necessary to give notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and if at the adjourned meeting only such business is transacted as might have been transacted at the original meeting.
- C. Actions Without a Meeting of Members. Any action, required or permitted to be taken at a Meeting of Members, may be taken without a meeting if the action is consented to in writing by the minimum number of Members that would be required to approve the action at a Meeting of Members at which all Members were present. The call for action without a Meeting of Members may be initiated by the Chairman of the Board or by a number of Members constituting at least ten percent (10%) of the Members on the roster of Members maintained by NPCC, which number shall include Members in at least four (4) of the Voting Sectors. Notice of the proposal for action without a meeting shall be provided to all Members on the roster of Members maintained by NPCC at least seven (7) days prior to the date established for the tabulation of consents. The Members shall receive written notice of the results within fourteen (14) days of the action vote, and all written responses of the Members shall be filed with the minutes of proceedings of Members.
- D. Meeting of Members to be Open. Notice to the public of the dates, places, and times of Meetings of Members, and all non-confidential material provided to the Members, shall be posted on NPCC’s web site at approximately the same time that notice is given to the Members. Meetings of Members shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; *provided* that the meeting may be held in or adjourn to closed session to discuss matters of a confidential nature, including, but not limited to, personnel matters, compliance and enforcement matters, litigation, or commercially sensitive or critical energy infrastructure information of any entity.
- E. Electronic Voting. Upon completion of applicable processes that permit parties to comment on the subject issue(s), electronic voting on matters before the membership, Board or any committee is permitted. A quorum will be determined to exist for purposes of conducting an electronic vote when NPCC receives completed ballots from two-thirds of the total number of outstanding ballots. In the event that a quorum exists for purposes of an electronic vote but the matter has not been resolved, NPCC may continue to solicit additional responses in order to resolve the matter by electronic voting.

IX. Membership Rights and Obligations, and Organizational Process

- A. All General and Full Members shall have the following rights and obligations:
- (1) Rights:
 - (a) Attendance at all meetings of the general membership of NPCC; and, subject to procedures established by the committees and to the terms of applicable confidentiality agreements, attendance at

- meetings of NPCC's committees, task forces and any other such NPCC groups.
- (b) Access to minutes of each committee, subcommittee, task force or any other NPCC group, subject to procedures established by the committees and to the terms of applicable confidentiality agreements.
 - (c) Vote to amend these Bylaws.
 - (d) Vote to establish, modify or eliminate NPCC Regional Reliability Standards and programs.
 - (e) For Full Members only: Vote to establish, modify or eliminate NPCC regionally-specific reliability criteria.
- (2) Obligations:
- (a) Each Member shall agree, in writing, to accept the responsibility to promote, support, and comply with the purposes and policies of NPCC as set forth in its Certificate of Incorporation and Bylaws as from time to time adopted, approved or amended.
 - (b) Each Member acknowledges that it has the responsibility to plan and design its bulk power system and conduct its operations in compliance with ERO Reliability Standards, Regional Reliability Standards and Regional Variances consistent with applicable laws, regulations, permits and licenses.
 - (c) Each Member agrees to submit such data and reports as required by NPCC in order to perform compliance enforcement obligations delegated to it by the ERO, subject to established procedures and to the terms of applicable confidentiality agreements.
 - (d) In addition, each Full Member shall:
 - (i) plan and design its bulk power system in compliance with Criteria, Guides, and Procedures established by NPCC and applicable ERO Standards;
 - (ii) conduct its operations in compliance with Criteria, Guides, and Procedures established by NPCC and applicable ERO Standards consistent with applicable laws, regulations, permits and licenses;
 - (iii) assure that, whenever it enters into arrangements with non-members which could have an impact on the reliability of the international, interconnected bulk power systems in Northeastern North America, the arrangements will not adversely impact the ability of the Full Members to comply with regionally-specific criteria established by NPCC, ERO Standards, or the criteria of regional reliability organizations established in areas in which the facilities used for such arrangements are located;
 - (iv) notify NPCC of its existing facilities and operating procedures and of its plans for major additions or modifications affecting the operation of the interconnected systems; and shall report to NPCC any decision as to significant alterations or changes proposed for their respective electric systems, whether in generation, transmission, inter-system communication or control and protective equipment, or in operating procedures; such report to be submitted promptly and, except in cases

of emergency, before final commitments are undertaken or changes in operating procedures become effective;

- (v) promptly notify NPCC and all other Members in writing or electronically if its bulk power system is not being designed or operated, or its operations are not being conducted in compliance with Criteria, Guides, and Procedures established by NPCC, stating its reasons, and providing its plan and schedule to achieve compliance;
- (vi) submit such data and reports as required by the Reliability Compliance and Enforcement Program and to abide by the compliance assessments and sanctions prescribed by NPCC's enforcement procedures, subject to Alternative Dispute Resolution; and
- (vii) undertake and perform the administrative and financial obligations described in Article XIII of these Bylaws.

B. Standards Development Procedure. NPCC shall develop a Regional Reliability Standards Development Procedure that provides the design-basis approach to a consensus building process by which NPCC may develop Regional Reliability Standards and Regional Variances to be proposed to the ERO for adoption, under delegated authority by the FERC and the Canadian Provincial regulatory and/or governmental authorities.

C. Procedures for Enforcing Compliance with Reliability Standards. Where regulatory approval has been obtained or governmental authority has been provided, upon the determination of the NPCC Board that a user, owner or operator of the bulk power system has violated a reliability standard, NPCC shall enforce compliance for such violations, pursuant to procedures and processes that shall be specified in the NPCC Compliance Enforcement Program. Such procedures and processes shall provide for reasonable notice and opportunity for hearing. Any sanction imposed for a violation of a Reliability Standard shall bear a reasonable relation to the seriousness of the violation and shall take into consideration circumstances surrounding the violation and efforts of the owner, operator, or user of the bulk power system to remedy the violation in a timely manner. Subject to any necessary action by any applicable governmental authorities, no sanction imposed for a violation of a reliability standard shall take effect until the thirty-first (31st) day after the NPCC Board, where authorized by law or agreement, files with the FERC or other applicable Canadian regulatory and/or governmental authority's notice of the sanction and the record of the proceedings in which the violation and sanction were determined, or such other date as ordered by the FERC or other applicable Canadian regulatory and/or governmental authorities or as prescribed by applicable law.

X. Full Members: Enforcement of Mandatory Compliance With Regionally-specific Criteria
Subject to approval of the Full Members, NPCC shall establish an NPCC Reliability Criteria Compliance and Enforcement Program, including matrices for measuring compliance, levying non-monetary sanctions, and procedures for Alternative Dispute Resolution. Such program shall be administered by the NPCC Board. The Reliability Coordinating Committee, with the full cooperation of each member, shall expeditiously evaluate, as appropriate, alterations or measures designed to correct any assessed non-compliance and shall report such studies to the NPCC Board.

XI. Meetings

Meetings of NPCC may be held on such dates as the Board may from time to time determine and shall be held in such places as the Board may from time to time designate. Special meetings may be called from time to time by the Chair, the Board, or by a number of

Members constituting at least ten percent (10%) of the Members on the roster of Members maintained by NPCC, which number shall include Members in at least four (4) of the Voting Sectors. Notice of all meetings, stating the time and place, shall be given by NPCC in writing to each Member by issuing the notice at least one week prior to the date of the meeting. The Secretary, Assistant Secretary, or, in their absence, a secretary *pro tempore* designated by the Chair or the President, shall keep the records of NPCC meetings.

When appropriate, the membership, the Board and the committees may use proxies or teleconference facilities. Such participation shall constitute attendance for purposes of quorum requirements.

XII. Budget

The Board shall prepare or cause to be prepared an annual budget for the administrative and other expenses of NPCC, including the expenditures for the fiscal year for any material special projects undertaken by NPCC and reasonable and proper reserves and provisions for contingencies, an accompanying business plan for NPCC, and a funding mechanism including any supplemental funding mechanism, for each fiscal year. The annual budget, business plan, and funding mechanism of NPCC shall be developed in the form and format and on the schedule stipulated by the ERO for a fiscal year commencing on January 1 and ending on December 31. Each annual budget, business plan, and funding mechanism shall be approved by the Board at a regular meeting or a special meeting of the Board duly called for that purpose. The Board shall approve each annual budget, business plan, and funding mechanism on or before the date stipulated by the ERO during the year prior to the start of the fiscal year in order to allow for timely submittal of the approved annual budget, business plan, and funding mechanism to the FERC and the applicable Canadian regulatory and/or governmental authorities.

If the ERO or a regulatory and/or governmental authority by order remands an annual budget, business plan, or annual, modified, or supplemental funding mechanism, the Board shall promptly address such other through appropriate follow-up measures with the Members and regulatory and/or governmental authorities.

Each Full Member shall be notified of the annual administrative expense budget for the criteria services division, on or before December 1st of the preceding year.

XIII. Funding

NPCC's annual administrative expenses, including any special assessments approved by the Board, shall be apportioned and funded as follows:

- A. Funding of NPCC General Member regional entity division activities shall be through mechanisms established by the ERO, FERC and applicable Canadian regulatory and/or governmental authorities.
- B. General Members shall not be assessed an annual membership fee.
- C. Full Members, other than Full Members that perform the Balancing Authority function, shall not be assessed an annual membership fee.
- D. Full Members that perform the Balancing Authority function shall be assessed and pay a proportional share of the expenses for non-statutory criteria services in proportion to the ratio of the second previous year's Net Energy for Load within the Balancing Authority Area to the aggregate Net Energy for Load within all Balancing Authority Areas in Northeastern North America. NPCC will directly assign non-statutory criteria services costs to a Balancing Authority Area or entity where significant costs are incurred by NPCC for such Area or entity.
- E. No Full Member shall, without its consent, be responsible for expenses of NPCC in any one calendar year in excess of its assessed portion of the amount budgeted for non-statutory criteria services for that year; provided, however, that special assessments may be separately budgeted and their cost allocated by the Board to the Full Members that perform the Balancing Authority function.

XIV. Termination of Membership and Cessation of Non-Statutory Criteria Services

- A. Termination. All General Members and Full Members, other than Full Members that perform the Balancing Authority function, may terminate their membership in NPCC at any time upon fifteen (15) days' written or electronic notice without liability to NPCC. A Full Member that performs the Balancing Authority function may terminate its rights and obligations under these Bylaws (other than its obligation to pay its proportionate share of the non-statutory expenses of NPCC, including special assessments, if applicable, for the full calendar year within which such termination is effective) at any time upon one year's written notice to the President; whereupon, it shall cease to be a Full Member of NPCC as of the date such termination is effective. The President shall promptly inform all Members of receipt of any such notices.
- B. Cessation of Non-Statutory Criteria Services. The Full Members of NPCC may elect by a majority vote to cease non-statutory criteria services.

XV. Conflicts of Interest

NPCC has developed a Code of Conduct that sets forth NPCC policies with respect to, among other things, conflicts of interest. On an annual basis, Directors shall evidence their compliance with NPCC conflict of interest principles by either: (i) signing an Individual Participant Implementation Agreement and thereby agreeing to comply with NPCC's Code of Conduct to the best of his/her ability; or (ii) agreeing that the execution of a Member Entity Implementation Agreement by the employer of such Board member evidences the Board member's agreement to be bound by its employer's Code of Conduct when performing NPCC activities. The Board shall establish similar Code of Conduct compliance requirements for NPCC staff and membership personnel participating on committees, task forces, and working groups as appropriate.

XVI. General

- A. No Member shall be liable for the failure of any other Member to perform its obligations hereunder.
- B. No NPCC officer, member of the Board or member of any other NPCC committee or group, or employee of NPCC shall be personally liable to NPCC or any member thereof, for damages for breach of any duty owed to NPCC or any member thereof, except for liabilities arising from breach of any duty based upon an act or omission (i) in breach of the duty of loyalty owed to NPCC or any individual member, (ii) not in good faith or involving a knowing violation of law, or (iii) resulting in receipt of an improper personal benefit by such NPCC officer, member of the Board or member of any other NPCC committee or group, or employee of NPCC. Neither the amendment nor repeal of this paragraph, nor the adoption of any provision of these Bylaws inconsistent with this paragraph, shall eliminate or reduce the protection offered by this paragraph to an NPCC officer, member of the Board or member of any other such NPCC committee or group, or employee of NPCC in respect of any matter which occurred, or any cause of action, suit or claim which, but for this paragraph, would have accrued or arisen, prior to such amendment, repeal, or adoption.
- C. Those entities listed as Members on Schedule A and subsequent applicants granted membership in NPCC shall be deemed to have accepted and to be bound by all the terms and conditions of these Bylaws, as adopted on July 24, 2007.

APPROVED 7-24-07

Exhibit C – Regional Standard Development Procedure

Exhibit C shall set forth the Regional Entity’s standards development procedure, which NERC agrees meets the following common attributes:

COMMON ATTRIBUTE 1

Proposed regional reliability standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA and any applicable authorities in Canada. No regional reliability standard shall be effective within the NPCC area unless filed by NERC with FERC and applicable authorities in Canada and approved by FERC and applicable authorities in Canada.

COMMON ATTRIBUTE 2

NPCC regional reliability standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. A NPCC reliability standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. A regional reliability standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

COMMON ATTRIBUTE 3

NPCC regional reliability standards, when approved by FERC and applicable authorities in Canada, shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the NPCC area, regardless of membership in the region.

COMMON ATTRIBUTE 4

Requester — The requester is the sponsor of the regional reliability standard request and may assist in the development of the standard. Any member of NPCC or group within NPCC shall be allowed to request that a regional reliability standard be developed, modified, or withdrawn. Additionally, any entity (person, organization, company, government agency, individual, etc.) that is directly and materially affected by the reliability of the bulk power system in the NPCC area shall be allowed to request a regional reliability standard be developed, modified, or withdrawn.

COMMON ATTRIBUTE 5

Regional Standards Committee — The NPCC Regional Standards Committee manages the standards development process. The NPCC Regional Standards Committee will consider which requests for new or revised standards shall be assigned for development (or existing standards considered for deletion). The NPCC Regional Standards Committee will advise the NPCC board on standards presented for adoption.

COMMON ATTRIBUTE 6

Registered ballot body — The registered ballot body comprises all entities or individuals that qualify for one of the stakeholder segments; are registered with NPCC as potential ballot participants in the voting on standards; and are current with any designated fees. Each member of the registered ballot body is eligible to vote on standards. [Each standard action has its own ballot pool formed of interested members of the registered ballot body. Each ballot pool comprises those members of the registered ballot body that respond to a pre-ballot survey for that particular standard action indicating their desire to participate in such a ballot pool.] The representation model of the registered ballot body is provided in Appendix A.]

COMMON ATTRIBUTE 7

NPCC will coordinate with NERC such that the acknowledgement of receipt of a standard request identified in step 1, notice of comment posting period identified in step 4, and notice for vote identified in step 5 below are concurrently posted on both the NPCC and NERC websites.

COMMON ATTRIBUTE 8

An acceptable standard request shall contain a description of the proposed regional reliability standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed standard.

COMMON ATTRIBUTE 9

Within [no greater than 60] days of receipt of a completed standard request, the NPCC Regional Standards Committee shall determine the disposition of the standard request.

COMMON ATTRIBUTE 10

The NPCC Regional Standards Committee may take one of the following actions:

- Accept the standard request as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The NPCC Regional Standards Committee may, at its discretion, expand or narrow the scope of the standard request under consideration. The NPCC Regional Standards Committee shall prioritize the development of standard in relation to other proposed standards, as may be required based on the volume of requests and resources.
- Reject the standard request. If the NPCC Regional Standards Committee rejects a standard request, a written explanation for rejection will be delivered to the requester within [no greater than 30] days of the decision.
- Remand the standard request back to the requester for additional work. The standards process manager will make reasonable efforts to assist the requester in addressing the deficiencies identified by the NPCC Regional Standards Committee. The requester may then resubmit the modified standard request using the process above. The requester may choose to withdraw the standard request from further consideration prior to acceptance by the NPCC Regional Standards Committee.

COMMON ATTRIBUTE 11

Any standard request that is accepted by the NPCC Regional Standards Committee for development of a standard (or modification or deletion of an existing standard) shall be posted for public viewing on the NPCC website within [no greater than 30] days of acceptance by the committee.

COMMON ATTRIBUTE 12

The standards process manager shall submit the proposed members of the drafting team to the NPCC Regional Standards Committee. The NPCC Regional Standards Committee shall approve the drafting team membership within 60 days of accepting a standard request for development, modifying the recommendations of the standards process manager as the committee deems appropriate, and assign development of the proposed standard to the drafting team.

COMMON ATTRIBUTE 13

At the direction from the NPCC Regional Standards Committee, the standards process manager shall facilitate the posting of the draft standard on the NPCC website, along with a draft implementation plan and supporting documents, for a no less than a [30]-day comment period. The standards process manager shall provide notice to NPCC stakeholders and other potentially interested entities, both within and outside of the NPCC area, of the posting using communication procedures then currently in effect or by other means as deemed appropriate.

COMMON ATTRIBUTE 14

The drafting team shall prepare a summary of the comments received and the changes made to the proposed standard as a result of these comments. The drafting team shall summarize comments that were rejected by the drafting team and the reason(s) that these comments were rejected, in part or whole. The summary, along with a response to each comment received will be posted on the NPCC website no later than the next posting of the proposed standard.

COMMON ATTRIBUTE 15

Upon recommendation of the drafting team, and if the NPCC Regional Standards Committee concurs that all of the requirements for development of the standard have been met, the standards process manager shall post the proposed standard and implementation plan for ballot and shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

COMMON ATTRIBUTE 16

The standards process manager shall schedule a vote by the NPCC registered ballot body. The vote shall commence no sooner than [15] days and no later than [30] days following the issuance of the notice for the vote.

COMMON ATTRIBUTE 17

The NPCC registered ballot body shall be able to vote on the proposed standard during period of not less than 10 days.

COMMON ATTRIBUTE 18

All members of NPCC are eligible to participate in voting on proposed new standards, standard revisions or standard deletions. [Alternatively: Each standard action requires formation of a ballot pool of interested members of the registered ballot body.]

COMMON ATTRIBUTE 19

Approval of the proposed regional reliability standard shall require a [two thirds] majority in the affirmative (affirmative votes divided by the sum of affirmative and negative votes). Abstentions and non-responses shall not count toward the results, except that abstentions may be used in the determination of a quorum. A quorum shall mean [XX%] of the members of the [registered ballot body/ballot pool] submitted a ballot.

COMMON ATTRIBUTE 20

Under no circumstances may the board substantively modify the proposed regional reliability standard.

COMMON ATTRIBUTE 21

Once a regional reliability standard is approved by the NPCC board, the standard will be submitted to NERC for approval and filing with FERC and applicable authorities in Canada.

COMMON ATTRIBUTE 22

- **Open** - Participation in the development of a regional reliability standard shall be open to all organizations that are directly and materially affected by the NPCC bulk power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in NPCC, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to the NPCC members and others.

COMMON ATTRIBUTE 23

- **Balanced** - The NPCC standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.

COMMON ATTRIBUTE 24

- **Inclusive** — Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the NPCC area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.

COMMON ATTRIBUTE 25

- **Fair due process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.

COMMON ATTRIBUTE 26

- **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the NPCC Web site.

COMMON ATTRIBUTE 27

- Does not unnecessarily delay development of the proposed reliability standard.

COMMON ATTRIBUTE 28

Each standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

COMMON ATTRIBUTE 29

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all regional reliability standards shall be consistent with NERC’s market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

COMMON ATTRIBUTE 30

To ensure uniformity of regional reliability standards, a regional reliability standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

COMMON ATTRIBUTE 31

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

COMMON ATTRIBUTE 32

Applicability	Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions. If not applicable to the entire NPCC area, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.
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COMMON ATTRIBUTE 33

Measure(s)	Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.
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COMMON ATTRIBUTE 34

Compliance Monitoring Process	Defines for each measure: <ul style="list-style-type: none">• The specific data or information that is required to measure performance or outcomes.• The entity that is responsible for providing the data or information for measuring performance or outcomes.• The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes.• The entity that is responsible for evaluating data or information to assess performance or outcomes.• The time period in which performance or outcomes is measured, evaluated, and then reset.• Measurement data retention requirements and assignment of responsibility for data archiving.
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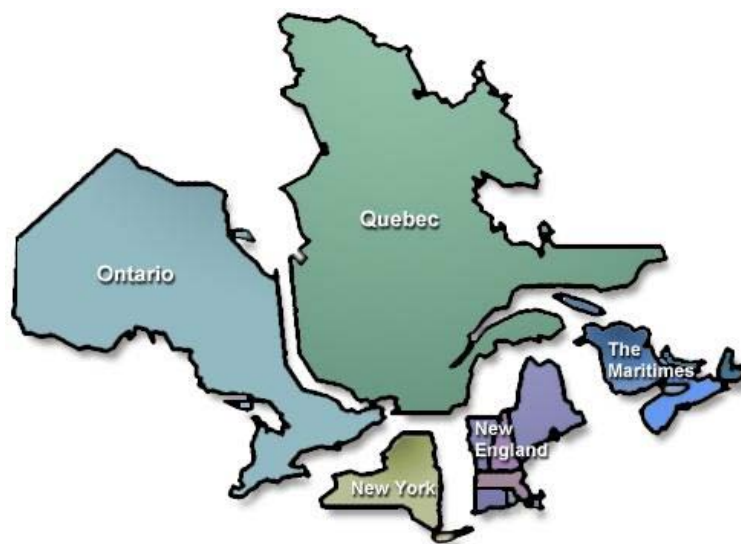


NORTHEAST POWER COORDINATING COUNCIL, INC.
1040 AVE OF THE AMERICAS, NEW YORK, NY 10018 TELEPHONE (212) 840-1070 FAX (212) 302-2782

Exhibit C

Northeast Power Coordinating Council, Inc.

Regional Reliability Standards Development Procedure



Approved by NPCC Board of Directors
September 19, 2007

NPCC

REGIONAL RELIABILITY STANDARDS DEVELOPMENT PROCEDURE

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I. EXECUTIVE SUMMARY

The purpose of the Northeast Power Coordinating Council, Inc. ("NPCC"), is to enhance the reliability of the international, interconnected bulk power system in Northeastern North America through the development of more stringent and specific regional reliability standards and compliance assessment and enforcement of continent-wide and regional reliability standards pursuant to the execution and implementation of a Regional Delegation Agreement with the Electric Reliability Organization ("ERO") and applicable Canadian Memoranda of Understanding that are backstopped by the Federal Energy Regulatory Commission ("FERC") and Canadian Provincial authorities. In the development and enforcement of Regional Reliability Standards, NPCC, to the extent possible, facilitates attainment of fair, effective, efficient, and competitive electric markets.

General Membership in NPCC is voluntary and is open to any person or entity, including any entity participating in the Registered Ballot Body of the ERO that has an interest in the reliable operation of the Northeastern North American bulk power system.

The NPCC Regional Reliability Standards Development Procedure describes the procedures, policies and practices implemented to ensure an "open, fair, and inclusive" process for the transparent initiation, development, implementation and revision of NPCC Regional Reliability Standards necessary for the reliable operation of the international and interconnected bulk power system in Northeast North America. These Standards will, in all cases, not be inconsistent with or less stringent than any requirements of the North American Electric Reliability Council/Electric Reliability Organization (NERC/ERO) Reliability Standards. The procedure will not unnecessarily delay the development of the proposed reliability standards. Each regional reliability standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of pertinent reliability principles and criteria, thereby ensuring that no standard undermines reliability through an unintended consequence.

II. REGIONAL RELIABILITY STANDARD DEVELOPMENT PROCEDURE

1. CHARACTERISTIC ATTRIBUTES

The NPCC Regional Reliability Standards Development Procedure is:

- **Open** — The NPCC Regional Reliability Standards Development Procedure provides any person the ability to participate in the development of a standard. Any entity that is directly and materially affected by the reliability of the NPCC's bulk power system has the ability to participate in the development and approval of reliability standards. There are no undue financial barriers to participation. Participation in the open comment process is not conditional upon membership in the ERO, NPCC or any organization, and participation is not unreasonably restricted on the basis of technical qualifications or other such requirements. NPCC utilizes a website to accomplish this. Online posting and review of standards and the real time sharing of comments uploaded to the website allow complete transparency.

- **Inclusive** — The NPCC Regional Reliability Standards Development Procedure provides any person with a direct and material interest the right to participate by expressing an opinion and its basis, have that position considered, and appealed through an established appeals process if adversely affected.
- **Balanced** — The NPCC Regional Reliability Standards Development Procedure has a balance of interests and all those entities that are directly and materially affected by the reliability of the NPCC’s bulk power system are welcome to participate and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter. This will be accomplished through the NPCC Bylaws defining eight sectors (categories) for voting.
- **Fair Due Process** — The NPCC Regional Reliability Standards Development Procedure provides for reasonable notice and opportunity for public comment. The procedure includes public notice of the intent to develop a standard, a 45 calendar day public comment period on the proposed standard request, or standard with due consideration of those public comments, and responses to those comments will be posted on the NPCC website. A final draft will be posted for a 30 calendar day pre-balloting period, and then a ballot of NPCC Members will be conducted. Upon approval by the NPCC Members, the NPCC Board then votes to approve submittal of the Regional Standard to NERC.
- **Transparent** — All actions material to the development of Regional Reliability Standards are transparent and information regarding the progress is posted on the NPCC website as well as through extensive email lists.

In as much as NPCC is one of several regional entities within the Eastern Interconnection of North America, there will be **no presumption of validity** by the ERO for any NPCC Regional Reliability Standard. In order to receive the approval of the ERO, the NPCC Reliability Standards Development Process must also achieve the following objectives:

- **No Adverse Impact on Reliability of the Interconnection** — An NPCC Regional Reliability Standard provides a level of bulk power system reliability that is necessary and adequate to protect public health, safety, welfare, and North American security and will not have an adverse impact on the reliability of the Interconnection or other Regions within the Interconnection.
- **Justifiable Difference** — An NPCC Regional Reliability Standard is based on justifiable differences between Regions, such as different electrical systems or facilities, sensitivity of load to disruptions, sensitivity of generation to disruptions, frequency and voltage sensitivity, system operating limit development and facilities ratings process, electrical system interactions, etc.
- **Uniformity**- NPCC Regional Reliability Standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. A NPCC Reliability Standard shall be more stringent than a continent-wide reliability standard, may include a regional variation that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the northeast’s bulk power system, where the interpretation of the phrase “physical difference” will be consistent with FERC’s Order, issued September 22, 2004, Granting Request For Clarification

regarding Docket No. PL04-5-000, Policy Statement on Matters Related to Bulk Power System Reliability.

- **No Undue Adverse Impact on Commerce** — An NPCC Regional Reliability Standard will not cause any undue adverse impact on business activities that are not necessary for reliability of the Region and its interconnected Regions. All regional reliability standards shall be consistent with NERC's market principles.

Other Attributes of the NPCC Regional Reliability Standards Development Procedure include;

- **Maintenance of Regional Reliability Standards**-NPCC Regional Standards will be reviewed for possible revision at least every three years and follow the same process as a new standard. The old standard will remain in place until such time as the revised version has passed through the entire process, at which point the old standard will be retired in accordance with any applicable new implementation plan associated with the approved revised standard. The review process shall be conducted by soliciting comments from the stakeholders and through open posting on the NPCC website. If no changes are warranted, Regional Standards Committee (RSC) shall recommend to the NPCC Board that the standard be reaffirmed. If the review indicates a need to revise or withdraw a standard, a regional standard authorization request shall be prepared by the RSC and submitted in accordance with the standards development process contained in this procedure.
- **Maintenance of Regional Reliability Standards Development Procedure**-This NPCC Regional Reliability Standards Development Procedure will be reviewed for possible revision at least once every five years or more frequently if needed and subject to the same procedure as that of the development of a standard. All such revisions shall be subject to approval by the NPCC Board, NERC, FERC, and could be subject to approval, if required, by applicable authorities in Canada. The NPCC RSC has the authority to make non-substantive changes to this procedure and subsequently notify the NPCC Board for their concurrence at their next scheduled meeting.
- **Interpretation of Standards**- All persons who are directly and materially affected by the NPCC's bulk power system reliability shall be permitted to request an interpretation of a standard. The person requesting an interpretation will send an email request to the Regional Standards Process Manager (RSPM), as noted on the NPCC website, explaining the specific circumstances surrounding the request and what clarifications are required as applied to those circumstances. The request should indicate the material impact to the requesting party or others caused by the lack of clarity or a possibly incorrect interpretation of the standard. The RSPM along with guidance from the RSC will forward the request to the originating Task Force which acted as the drafting team for that regional reliability standard. The Task Force will address, through a written response, the request for clarification as soon as practical, but not more than 45 business days from its receipt by the Task Force. This written interpretation will be posted along with the final approved and adopted standard and will stand until such time as the standard is revised through the normal RSAR process, at which time the standard will be modified to incorporate the clarifications provided by the interpretation.

2. ELEMENTS OF A RELIABILITY STANDARD

- **Elements of a Regional Reliability Standard**
To ensure uniformity of regional reliability standards, a regional reliability standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

All mandatory requirements of a regional reliability standard shall be within the standard document. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

The most current version of the approved NERC Reliability Standard template and its associated elements as or if applicable, will be used at the time of the development of the NPCC Regional Reliability Standard to ensure all essential elements are contained therein to achieve consistency and uniformity and meet all statutory requirements. A sample of the elements contained in the standard appears in Table 1 below, however the latest ERO Board approved Standard template, that may be found on the NERC website, will supersede the list below at the time the regional standard is developed.

Table 1- Elements of a Regional Reliability Standard

Identification Number	A unique identification number assigned in accordance with an administrative classification system to facilitate tracking and reference. (i.e. “NPCC- BAL-002-0-Date” which refers to NPCC Regional Standard, referencing NERC BAL-002 Version 0, with NPCC Effective Date-final adoption by all Regional Authorities)
Title	A brief, descriptive phrase identifying the topic of the standard.
Applicability	Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions. The standard will be applicable to the Bulk Power System unless otherwise noted.
Effective Date and Status	The effective date of the standard or, prior to approval of the standard, the proposed effective date.
Purpose	The purpose of the standard. The purpose shall explicitly state what outcome will be achieved or is expected by this standard.
Requirement(s)	Explicitly stated technical, performance, and preparedness requirements. Each requirement identifies what entity is responsible and what action is to be performed or what outcome is to be achieved. Each statement in the requirements section shall be a statement for which compliance is mandatory.
Risk Factor(s)	The potential reliability significance of each requirement, designated as a High, Medium, or Lower Risk Factor in accordance with the criteria listed below: A High Risk Factor requirement (a) is one that, if violated, could directly cause or contribute to bulk power system instability, separation, or a cascading sequence of failures, or could place the bulk power system at an unacceptable risk of instability, separation, or cascading failures; or (b) is a requirement in a planning timeframe that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly cause or contribute to bulk power system instability, separation, or a cascading sequence of failures, or could place the bulk power system at an unacceptable risk of instability, separation, or cascading failures, or could hinder restoration to a normal condition. A Medium Risk Factor requirement (a) is a requirement that, if violated, could directly affect the electrical state or the capability of the bulk power system, or the ability to effectively monitor and control the bulk power system, but is unlikely to lead to bulk power system instability, separation, or cascading failures; or (b) is a requirement in a planning timeframe that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly affect the electrical state or capability of the bulk power system, or the ability to effectively monitor, control, or restore the bulk power system, but is unlikely, under emergency, abnormal, or restoration conditions anticipated by the preparations, to lead to bulk power system instability, separation, or cascading failures, nor to hinder restoration to a normal

	<p>condition.</p> <p>A Lower Risk Factor requirement is administrative in nature and (a) is a requirement that, if violated, would not be expected to affect the electrical state or capability of the bulk power system, or the ability to effectively monitor and control the bulk power system; or (b) is a requirement in a planning time frame that, if violated, would not, under the emergency, abnormal, or restorative conditions anticipated by the preparations, be expected to affect the electrical state or capability of the bulk power system, or the ability to effectively monitor, control, or restore the bulk power system.</p>
Measure(s)	<p>Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.</p>

Table 2 — Compliance Elements of a Regional Reliability Standard

Compliance Monitoring Process	<p>Defines for each measure:</p> <ul style="list-style-type: none"> • The specific data or information that is required to measure performance or outcomes. • The entity that is responsible for providing the data or information for measuring performance or outcomes. • The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes. • The entity that is responsible for evaluating data or information to assess performance or outcomes. • The time period in which performance or outcomes is measured, evaluated, and then reset. • Measurement data retention requirements and assignment of responsibility for data archiving. • Violation severity levels.
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Supporting Information Elements

Interpretation	<p>Any interpretation of regional reliability standard that is developed and approved in accordance with the “Interpretation of Standards” section of Appendix A of this procedure, to expound on the application of the standard for unusual or unique situations or to provide clarifications.</p>
Implementation Plan	<p>Each regional reliability standard shall have an associated implementation plan describing the effective date of the standard or effective dates if there is a phased implementation. The implementation plan may also describe the implementation of the standard in the compliance program and other considerations in the initial use of the standard, such as necessary tools, training, etc. The implementation plan must be posted for at least one public</p>

	comment period and is approved as part of the ballot of the standard.
Supporting References	<p>This section references related documents that support reasons for, or otherwise provide additional information related to the regional reliability standard. Examples include, but are not limited to:</p> <ul style="list-style-type: none"> • Glossary of terms • Developmental history of the standard and prior versions • Notes pertaining to implementation or compliance • Standard references • Standard supplements • Procedures • Practices • Training references • Technical references • White papers • Internet links to related information

3. TERMS AND FUNCTIONS

- **Regional Standards Committee (RSC)**—An NPCC committee charged with management of the NPCC Standards Procedure under a sector based voting structure as described in the NPCC Bylaws. The NPCC RSC will consider requests for new or revised standards and be available for advisement to the NPCC Board on the standards.

The RSC may not itself modify the standard without issuing a new notice to stakeholders regarding a vote of the modified standard. Any RSC action will only be activated in the event of a minor correction of a standard such as errata.

The RSC is an open and balanced stakeholder committee inclusive of all stakeholder interests that provide for or are materially impacted by the reliability of the bulk power system.

The RSC disposition regarding the regional standard authorization request, which will in all cases be within 60 calendar days of receipt of a completed standard request, shall include:

- Accept the standard request as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The RSC may, at its discretion, expand or narrow the scope of the standard request under consideration. The RSC shall prioritize the development of standards in relation to other proposed standards, as may be required based on the volume of requests and resources.
- Reject the standard request. If the RSC rejects a standard request, a written explanation for rejection will be delivered to the requester within 30 calendar days of the decision.
- Remand the standard request back to the requester for additional work. The standards process manager will make reasonable efforts to assist the requester in addressing the deficiencies identified by the RSC. The requester may then resubmit the modified standard request using the process above. The requester may choose to withdraw the standard request from further consideration prior to acceptance by the RSC.

The NPCC Standard Process responsibilities of the RSC will include:

- Review of NPCC Draft Standards for such factors as completeness, sufficient detail, rational result, and compatibility with existing standards; clarifying standard development issues not specified in this procedure. Under no circumstance will the RSC change the substance of a draft standard.
 - Due consideration to the work of the drafting team as well as the comments of stakeholders and minority objections, in approving a proposed regional reliability standard to go to ballot.
 - Approve standards for pre-ballot posting under a sector based voting structure as described later in the NPCC ~~Bylaws~~ Bylaws or
 - Remand the standard back to the Task Force acting as the drafting team for further work or recommend a change in those participating in the drafting team (i.e. a new drafting team).
- **Regional Standards Process Manager (RSPM)** - The Regional Reliability Standards Procedure shall be administered by a NPCC staff Regional Standards Process Manager. The RSPM is responsible for ensuring that the development and revision of standards is in accordance with this manual. The RSPM works to ensure the integrity of the process, format, consistency of quality, and completeness of the reliability standards. The RSPM facilitates all steps in the process.
 - **Reliability Coordinating Committee (RCC)** —The RCC, will support the standards development process through the assignment of NPCC Task Forces. They will also provide a technical advisory role in the Regional Reliability Standards development procedure through recommendations.
 - **Requester**— A Requester is any individual or an entity (organization, company, government authority, etc.) that submits a complete request for development, revision, or withdrawal of a standard. Any person or an entity that is directly and materially affected by an existing standard or the need for a new standard may submit a request for a new standard or revision to a standard. The Requester is assisted by the RSAR drafting team (if one is appointed by the RSC) to respond to comments and to decide if and when the RSAR is forwarded to the RSC with a request to draft a standard. The Requester is responsible for the RSAR, assisted by the RSAR drafting team and Regional Standards Process Manager, until such time the RSC authorizes development of the standard. The Requester has the option at any time to allow the RSAR drafting team to assume full responsibility for the RSAR. The Requester may chose to participate in subsequent standard drafting efforts related to the RSAR.
 - **Task Forces and Working Groups**,—The committees, task forces and working groups within NPCC , serve an active role in the standards process:
 - Identify the need for new or modified regional standards.
 - Initiate NPCC Standards actions by developing Regional Standard Authorization Requests (RSARs).
 - Develop comments (views and objections) to standards actions.
 - Participate in NPCC Standard drafting.
 - Provide technical oversight in response to changing industry conditions and ERO Requirements.
 - Conduct Field Tests as required

4. PROCEDURE DESCRIPTION

STEPS 1 AND 2: REQUEST TO DEVELOP A NEW REGIONAL STANDARD

Requests to develop a new Regional Reliability Standard shall be submitted to the RSPM by completing a **Regional Standard Authorization Request (RSAR)** (*see Appendix A*). The RSAR is a description of the new or revised standard in sufficient detail to clearly define the

scope, purpose, and importance of the Regional Standard, impacted parties or other relevant information. A “needs” statement will provide the justification for the development of the standard, including an assessment of the reliability and market interface impacts of implementing or not implementing the standard. The RSPM shall maintain the RSAR form and make it available electronically on the NPCC website.

Any person or entity (“Requester”) directly or materially affected by an existing standard or the need for a new or revised standard may initiate a RSAR.

The Requester will submit the RSAR to the RSPM electronically and the RSPM will acknowledge receipt of the RSAR immediately, through electronic receipt. The RSAR, as a minimum, needs to contain the following information in order to be qualified for consideration. The NPCC RSPM will assist the Requester to ensure all the following information is submitted (on the RSAR) in a form appearing in Appendix A:

1. Proposed Title and Date of New RSAR
2. Requester’s Name and Contact Information
3. Purpose of the Regional Standard
4. Description of Industry Need
5. Provide a Brief Description of the Standard
6. Identification of the Entities in the Functional Model as being responsible to adhere to the standard.
7. Necessary information to assist the drafting team, to the extent feasible, to allow them to draft the standard.
8. A cross references to existing NPCC or NERC documents

The RSPM shall forward all properly completed RSARs to the RSC. The RSC shall meet at established intervals to review all pending RSARs. The frequency of this review process will depend on workload, but in no case shall a properly completed RSAR wait for RSC action more than 60 calendar days from the date of receipt. The RSC may take one of the following actions:

- Remand the RSAR back to the RSPM for additional work. In this case, the RSPM may request additional information or clarification for the RSAR from the Requester.
- Accept the RSAR as a candidate for a new or revised standard. In this case, the RSC will forward the RSAR to the RCC to assign a NPCC Task Force to provide technical support and analysis of comments for that RSAR, and assist the Requester and the RSPM in the remaining steps of the process. The RSPM shall post notification of intent to develop a standard on both NPCC and ERO websites within 30 calendar days of acceptance.
- Reject the RSAR. In this case, the RSC will provide a written explanation for rejection to the Requester within 30 calendar days of the rejection decision.

STEPS 3, 4, AND 5: RSC ACCEPTS RSAR AND RCC ASSIGNS TF TO DRAFT NEW OR REVISED STANDARD

A RSAR that is accepted by the RSC will be submitted to the RCC. Within 60 calendar days the RCC shall assign the development of the standard to a Task Force Drafting Team. The RSPM shall solicit and recommend a list of additional candidates for appointment to the team and shall submit the list to the RSC. This list shall include the Requester. The RSC may select other individuals to serve, with the Task Force to draft the Standard. This team shall consist of a small group of people who collectively have the necessary technical expertise and work process skills.

The RSPM shall assign NPCC staff personnel to assist in the drafting of the standard including compliance measure, process and elements. The drafting of measures and compliance administration aspects of the standard will be coordinated with the Compliance Program.

STEP 6: SOLICIT PUBLIC COMMENTS ON DRAFT STANDARD

Once a draft standard has been verified by the RSC to be within the scope and purpose of the RSAR, the RSPM will post the draft standard for the purpose of soliciting public comments. The posting of the draft standard will be linked to the RSAR for reference. In addition to the standard, an implementation plan shall be posted to provide additional details to the public and aid in their commenting and decision process. Comments on the draft standard will be accepted for a 45 calendar day period from the public notice of posting. Comments will be accepted on-line using the NPCC Open Process web-based application.

Final draft standards will be concurrently posted on the ERO website for comments.

STEPS 7, 8, AND 9: OPEN PROCESS POSTING AND ANALYSIS OF THE COMMENTS

The RSPM will assemble the comments on the new draft standard and distribute those comments to the Task Force acting as the standard drafting team. The Task Force shall give prompt consideration to the written views and comments of all participants. An effort to address all expressed comments shall be made, and each commenter shall be advised of the disposition of the comment and the reasons therefore, in addition to public posting of the responses.

The Task Force acting as the Standard Drafting Team shall take one of the following actions:

- Submit the draft standard for RCC endorsement as it stands, along with the comments received and responses to the comments. Based on the comments received, the Task Force acting as the standard drafting team may include revisions that are not substantive. A substantive change is one that directly and materially affects the application of the standard, including, for example: changing “shall” to “should,” changing “should” to “shall”; adding, deleting, or revising requirements; or adding, deleting, or revising measures for which compliance is mandatory.
- Make substantive revisions to the draft standard and reposts it for further open review and comment.
- Task Force recommends Field Test if necessary to RSC.

Requester also may withdraw the request for a standard.

RCC submits proposed RRS to the RSC along with its recommendation based on comments, Task Force statements and any field test results.

STEPS 10 AND 11: RSC APPROVES OF THE NEW OR REVISED STANDARD FOR POSTING

If the RSC, acting with consideration of any recommendations by the RCC and utilizing the composite sector voting structure, as outlined in the NPCC, votes to post the draft standard for approval, the draft standard, all comments received, and the responses to those comments shall be posted electronically for the NPCC Members, by the RSPM and made public through the NPCC Website (www.npcc.org) for a 30 calendar day “pre-ballot review” and request for balloting. If the RSC decides more work is needed, the draft standard will be remanded back to

the drafting Task Force. All actions of the RCC, Task Forces acting as drafting teams and the Regional Standards Committee will be recorded in regular minutes of the group(s) and posted on the NPCC website. Once the notice for a ballot has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued

STEPS 12, 13 AND 14: BALLOT OF STANDARD

Upon notification of a ballot, the Members of NPCC's registered ballot body will cast their vote consistent with the NPCC Bylaws. This ballot shall commence no sooner than 15 calendar days and no later than 30 calendar days following the notification of ballot. All members of the NPCC are eligible to participate in the voting on proposed, standard revisions or deletions of regional standards. The ballot period will typically begin immediately following the 30 calendar day pre-ballot posting and will last at least 10 business days.

The NPCC registered ballot body comprises all entities or individuals that qualify for one of the eight NPCC stakeholder sectors and are registered with NPCC as potential ballot participants in the voting on standards. Each member of the NPCC registered ballot body is eligible to vote on standards.

In order for a NPCC Regional Standard to be approved;

- A quorum must be established by at least 50% of the NPCC Members of at least 60% of the Voting Sectors on the roster of Members maintained by NPCC.
- A two-thirds majority of the total weighted sector votes cast must be affirmative. The number of votes cast is the sum of affirmative and negative votes, excluding abstentions, and non-responses. Weighted sector vote will be calculated as follows;
 - Affirmative votes cast in each sector will be divided by the sum of affirmative and negative votes cast, in that same sector, to determine the fractional affirmative vote for each sector. Abstentions and non-responses will not be counted for the purposes of determining the fractional affirmative vote for a sector.
 - The sum of the fractional affirmative votes from all sectors divided by the number of sectors voting will be used to determine if a two-thirds majority has been achieved. (A sector will be considered as "voting" if any member of the sector in the ballot pool casts either an affirmative or a negative vote.)
 - A standard will be approved if the sum of fractional affirmative votes from all sectors divided by the number of voting sectors is at least 2/3.

Ballots will be cast electronically and alternatives are as follows;

- Affirmative
- Affirmative with Comments
- Negative
- Negative with Comments
- Abstain

The RSPM shall post the final outcome of the ballot process. If the standard is rejected, it may be withdrawn by either the RCC or the original Requester, or the standard may be remanded by the RSC back to the Task Force acting as the drafting team to address the issues. All comments submitted during the process will be posted and archived for consideration when redrafting the standard upon review.

The standard, once approved by ballot, and a recommendation will be forwarded to the NPCC Board for final Regional approval. The Board may not make substantive modifications to the standard. If the Board does not approve the standard for transmittal to NERC it will be remanded back to the RSC.

If the standard is approved, the standard will be submitted to the NERC/ERO Board of Trustees for approval.

STEPS 15, 16 AND 17: IMPLEMENTATION OF THE NPCC REGIONAL STANDARD

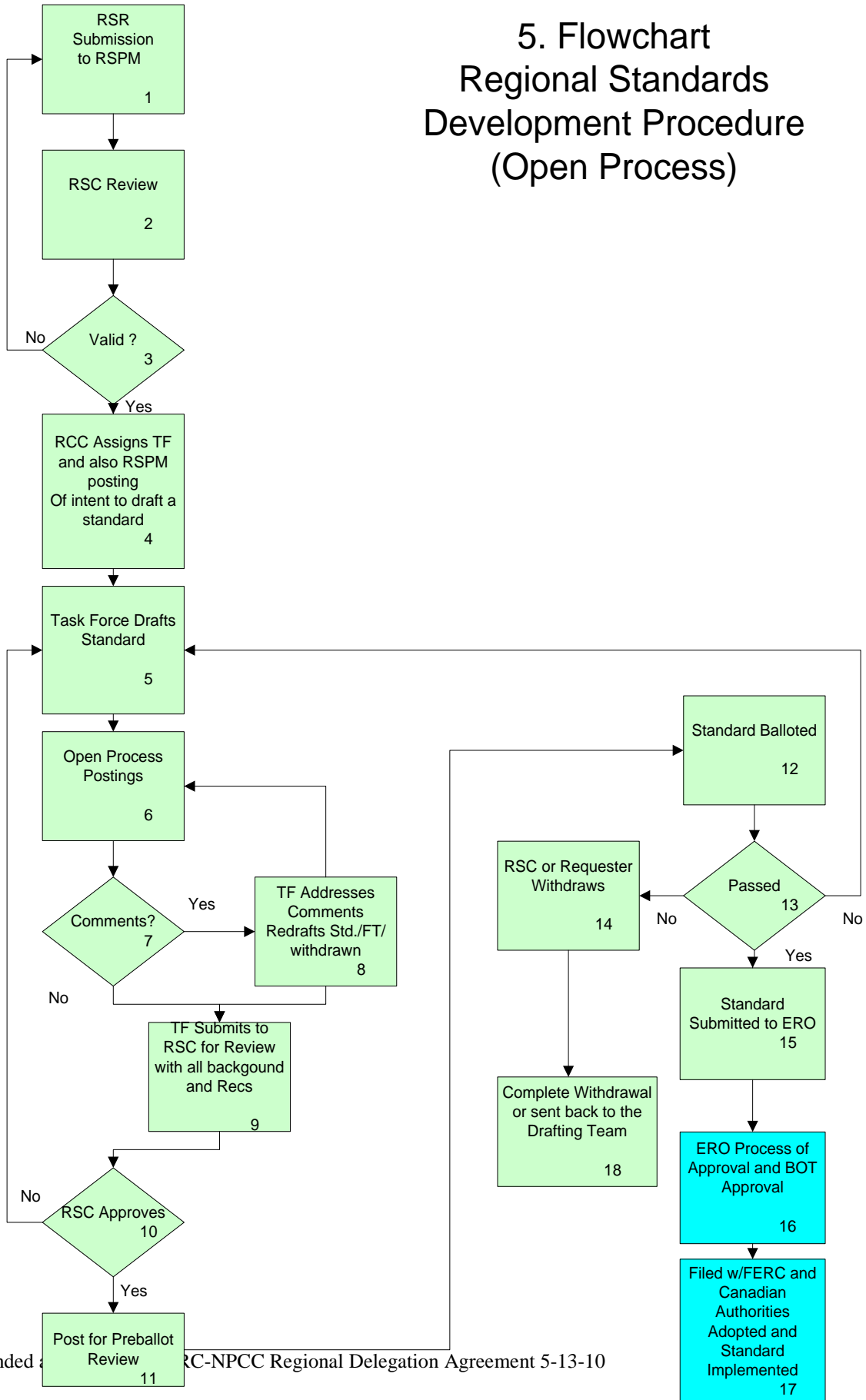
Upon approval within the NPCC , the standard will be submitted to the NERC/ERO for approval(s) and filing with FERC and applicable Canadian Governmental and/or Regulatory Authorities for adoption.

Once a reliability standard is adopted and made effective, all users, owners, planners, and operators of the Bulk Power System in the NPCC geographic area of the Northeast are required to comply with the standard. The NERC/ERO Board of Trustees has established a separate compliance program, also administered in the Northeast by NPCC , to measure compliance with the standards and administer sanctions as appropriate. After adoption of a NPCC Regional Standard, the standard will be forwarded to the compliance program for compliance monitoring and enforcement.

STEP 18: WITHDRAWAL OF STANDARD

Upon rejection of a proposed standard, the RCC or the requester may withdraw the standard completely or remand it back to the Task Force acting as the standard drafting team for further work.

5. Flowchart Regional Standards Development Procedure (Open Process)



6. ERO and Regulatory Process and Approvals

- **NERC/ERO Comment Period** —NERC/ERO shall publicly notice and request comment on the NPCC Regional Reliability Standard, allowing a minimum of 45 calendar days for comment on NERC’s website and actively notify all adjoining Regions. Concurrent with this regional posting, final drafts will be forwarded to NERC for posting on the NERC website to ensure full industry awareness of the standard and expedite and coordinate all commenting. All comments will be responded to electronically through a posted response on the NPCC website or a link on the NERC website. NPCC shall have an opportunity to resolve any objections identified in the comments and may choose to withdraw the request, revise the NPCC Regional Reliability Standard and request another posting for comment, or submit the NPCC Regional Reliability Standard along with a response to any objections received, for approval by NERC.
- **NERC/ERO Approval of NPCC Regional Reliability Standards** —Proposed regional reliability standards shall be subject to approval by the NERC/ERO who shall have a process to evaluate and recommend whether a proposed non-Interconnection-wide NPCC Regional Reliability Standard has been developed in accordance with all applicable procedural requirements and whether NPCC has considered and addressed stakeholder objections. NPCC Board, having been notified of the results of the regional ballot concerning a NPCC Regional Reliability Standard, shall vote to submit the Standard to the NERC/ERO Board for approval as a NERC Reliability Standard. The NERC/ERO Board shall consider NPCC’s request, the scope and implications of the Standard, the recommendation for action on the Standard, any unresolved stakeholder comments, and NPCC’s consideration of comments and unresolved issues if any, in determining whether to approve the NPCC Regional Reliability Standard as a NERC Reliability Standard.
- **Regulatory Authority Approval** — An NPCC Regional Reliability Standard that has been approved by the NERC/ERO board shall be filed with FERC and applicable Canadian Governmental and/or Regulatory Authorities for approval and shall become effective and enforceable within the U.S., per Section 215 of the Federal Power Act, only when adopted by FERC, and within Canada, only when adopted by applicable Canadian Governmental and/or Regulatory Authorities. The regional reliability standard, once adopted will be made part of the body of NERC reliability standards and shall be mandatory and enforceable on all applicable bulk power system owners, operators, and users within the NPCC Region, regardless of membership status.

7. Appeals

- Persons who have directly and materially affected interests and who have been or will be adversely affected by any substantive or procedural action or inaction related to the development, approval, revision, reaffirmation, or withdrawal of a regional reliability standard shall have the right to appeal. This appeals process applies only to the standards process as defined in this procedure.

The burden of proof to show adverse effect shall be on the appellant. Appeals shall be made within 30 calendar days of the date of the action purported to cause the adverse effect, except appeals for inaction, which may be made at any time. In all cases, the request for appeal must be made prior to the next step in the process.

The final decisions of any appeal shall be documented in writing and made public.

The appeals process provides two levels, with the goal of expeditiously resolving the issue to the satisfaction of the participants:

- Level 1 Appeal

Level 1 is the required first step in the appeals process. The appellant submits a complaint in writing to the RSPM that describes the substantive or procedural action or inaction associated with a reliability standard or the standards process. The appellant describes in the complaint the actual or potential adverse impact to the appellant. Assisted by any necessary staff and committee resources, the RSPM shall prepare a written response addressed to the appellant as soon as practical, but not more than 45 calendar days after receipt of the complaint. If the appellant accepts the response as a satisfactory resolution of the issue, both the complaint and response will be made a part of the public record associated with the standard and posted with the standard.

- Level 2 Appeal

If after the Level 1 Appeal the appellant remains unsatisfied with the resolution, as indicated by the appellant in writing to the regional standards process manager, the RSPM shall convene a Level 2 Appeals Panel. This panel shall consist of five members total appointed by the NPCC's board.

In all cases, Level 2 Appeals Panel members shall have no direct affiliation with the participants in the appeal.

The RSPM shall post the complaint and other relevant materials and provide at least 30 calendar days notice of the meeting of the Level 2 Appeals Panel. In addition to the appellant, any person that is directly and materially affected by the substantive or procedural action or inaction referenced in the complaint shall be heard by the panel. The panel shall not consider any expansion of the scope of the appeal that was not presented in the Level 1 Appeal. The panel may in its decision find for the appellant and remand the issue to the RSC with a statement of the issues and facts in regard to which fair and equitable action was not taken. The panel may find against the appellant with a specific statement of the facts that demonstrate fair and equitable treatment of the appellant and the appellant's objections. The panel may not, however, revise, approve, disapprove, or adopt a reliability standard. The actions of the Level 2 Appeals Panel shall be publicly posted.

In addition to the foregoing, a procedural objection that has not been resolved may be submitted to the NPCC Board for consideration at the time the board decides whether to adopt a particular reliability standard. The objection must be in writing, signed by an officer of the objecting entity, and contain a concise statement of the relief requested and a clear demonstration of the facts that justify that relief. The objection must be filed no later than 30 calendar days after the announcement of the vote on the standard in question.

APPENDIX A

Information in a Regional Standard Authorization Request (RSAR)

The tables below identify information to be submitted in a Regional Standard Authorization Request to the NPCC Regional Standards Process Manager, NPCCstandard@npcc.org. The NPCC Regional Standards Process Manager shall be responsible for implementing and maintaining this form as needed to support the information requirements of the standards process.

Regional Standard Authorization Request Form

Title of Proposed Standard:
Request Date:

RSAR Requester Information

<i>Name:</i>	RSAR Type (Check box for one of these selections.)	
Company:	<input type="checkbox"/>	New Standard
Telephone:	<input type="checkbox"/>	Revision to Existing Standard
Fax:	<input type="checkbox"/>	Withdrawal of Existing Standard
Email:	<input type="checkbox"/>	Urgent Action

Purpose (Describe the purpose of the proposed standard – what the standard will achieve in support of reliability.)
Industry Need (Provide a detailed statement justifying the need for the proposed standard, along with any supporting documentation.)
Brief Description (Describe the proposed standard in sufficient detail to clearly define the scope in a manner that can be easily understood by others.)

Reliability Functions

The Standard will Apply to the Following Functions (Check all applicable boxes.)		
<input type="checkbox"/>	Reliability Coordinator	The entity that is the highest level of authority who is responsible for the reliable operation of the Bulk Electric System, has the Wide Area view of the Bulk Electric System, and has the operating tools, processes and procedures, including the authority to prevent or mitigate emergency operating situations in both next-day analysis and real-time operations. The Reliability Coordinator has the purview that is broad enough to enable the calculation of Interconnection Reliability Operating Limits, which may be based on the operating parameters of transmission systems beyond any Transmission Operator’s vision.
<input type="checkbox"/>	Balancing Authority	The responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area, and supports Interconnection frequency in real time.
<input type="checkbox"/>	Interchange Authority	Authorizes valid and balanced Interchange Schedules.
<input type="checkbox"/>	Planning Authority	The responsible entity that coordinates and integrates transmission facility and service plans, resource plans, and protection systems.
<input type="checkbox"/>	Transmission Service Provider	The entity that administers the transmission tariff and provides Transmission Service to Transmission Customers under applicable transmission service agreements.
<input type="checkbox"/>	Transmission Owner	The entity that owns and maintains transmission facilities.
<input type="checkbox"/>	Transmission Operator	The entity responsible for the reliability of its “local” transmission system, and that operates or directs the operations of the transmission facilities.

<input type="checkbox"/>	Transmission Planner	The entity that develops a long-term (generally one year and beyond) plan for the reliability (adequacy) of the interconnected bulk electric transmission systems within its portion of the Planning Authority Area.
<input type="checkbox"/>	Resource Planner	The entity that develops a long-term (generally one year and beyond) plan for the resource adequacy of specific loads (customer demand and energy requirements) within a Planning Authority Area.
<input type="checkbox"/>	Generator Operator	The entity that operates generating unit(s) and performs the functions of supplying energy and Interconnected Operations Services.
<input type="checkbox"/>	Generator Owner	Entity that owns and maintains generating units.
<input type="checkbox"/>	Purchasing-Selling Entity	The entity that purchases or sells, and takes title to, energy, capacity, and Interconnected Operations Services. Purchasing-Selling Entities may be affiliated or unaffiliated merchants and may or may not own generating facilities.
<input type="checkbox"/>	Distribution Provider	Provides and operates the “wires” between the transmission system and the customer.
<input type="checkbox"/>	Load-Serving Entity	Secures energy and transmission service (and related Interconnected Operations Services) to serve the electrical demand and energy requirements of its end-use customers.

Reliability and Market Interface Principles

Applicable Reliability Principles <i>(Check all boxes that apply.)</i>	
<input type="checkbox"/>	1. Interconnected bulk power systems shall be planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions as defined in the NERC Standards.
<input type="checkbox"/>	2. The frequency and voltage of interconnected bulk power systems shall be controlled within defined limits through the balancing of real and reactive power supply and demand.
<input type="checkbox"/>	3. Information necessary for the planning and operation of interconnected bulk power systems shall be made available to those entities responsible for planning and operating the systems reliably.
<input type="checkbox"/>	4. Plans for emergency operation and system restoration of interconnected bulk power systems shall be developed, coordinated, maintained, and implemented.
<input type="checkbox"/>	5. Facilities for communication, monitoring, and control shall be provided, used, and maintained for the reliability of interconnected bulk power systems.
<input type="checkbox"/>	6. Personnel responsible for planning and operating interconnected bulk power systems shall be trained, qualified, and have the responsibility and authority to implement actions.
<input type="checkbox"/>	7. The security of the interconnected bulk power systems shall be assessed, monitored, and maintained on a wide-area basis.

<p>Does the proposed Standard comply with all of the following Market Interface Principles? <i>(Select 'yes' or 'no' from the drop-down box.)</i></p>
<p>Recognizing that reliability is an Common Attribute of a robust North American economy:</p>
<p>1. A reliability standard shall not give any market participant an unfair competitive advantage. Yes</p>
<p>2. A reliability standard shall neither mandate nor prohibit any specific market structure. Yes</p>
<p>3. A reliability standard shall not preclude market solutions to achieving compliance with that standard. Yes</p>
<p>4. A reliability standard shall not require the public disclosure of commercially sensitive information. All market participants shall have equal opportunity to access commercially non-sensitive information that is required for compliance with reliability standards. Yes</p>

<p>Detailed Description (Provide enough detail so that an independent entity familiar with the industry could draft a standard based on this description.)</p>

Related Standards

Standard No.	Explanation

-t

Related SARs or RSARs

SAR ID	Explanation

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Northeast Power Coordinating Council, Inc.

Exhibit D – Compliance Monitoring and Enforcement Program

1.0 Regional Compliance Monitoring and Enforcement Program

1.1 Obligations of NPCC

NPCC will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within the U.S. portion of NPCC’s geographic or electrical boundaries, and such other scope, set forth on **Exhibit A** of this Agreement, subject to any deviations from the NERC Compliance Monitoring and Enforcement Program described in Section 1.2 below (the “Compliance Program”).

1.2 Deviations from the NERC Compliance Monitoring and Enforcement Program

Compliance monitoring and enforcement programs will be implemented within the Canadian portion of NPCC’s geographic area, consistent with individual Canadian Provincial Memoranda of Understanding (MOU) or Agreements and Canadian laws. All executed MOU’s and Agreements will be provided to NERC as allowable under Canadian law.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

NPCC shall establish and maintain a hearing body with authority to render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan. The NPCC Compliance Committee, reporting to the NPCC Board, will be responsible for impaneling a Hearing Body, when required. The Hearing Body will consist of five voting members of the NPCC Compliance Committee plus two alternates and business will always be conducted by five voting members as described in the *NPCC Hearing Procedure* (each member of the Hearing Body will be from a different voting sector). An independent Hearing Officer, who is not a member of the Compliance Committee, the NPCC Board, or NPCC Staff, will conduct the hearing. Committee members who represent the Registered Entity involved in the Hearing cannot participate on the Hearing Body. The Hearing Body will utilize a simple majority vote to resolve issues. This voting rule, along with the structure of the Hearing Body, fully supports the requirement that no two stakeholder sectors may control, and no single stakeholder sector may veto, a matter before the Hearing Body.

NPCC shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any:
None

3.0 OTHER DECISION-MAKING BODIES

NPCC Compliance Staff will be the sole decision making body to review and make final determinations on compliance submittals from Registered Entities related to Self-Certification; Self-Reporting; Exception Reporting; and Periodic Data Submittals. NPCC Compliance Staff will initially review all submittals received to assure that the information forwarded is accurate and complete. This process will be conducted by the staff members and may require contact via e-mail or phone to confirm information. If after, initially receiving a compliance submittal, the Compliance Staff identifies an instance of non-compliance, a Notice of Possible Violation (NOPV), without penalty, is issued to the registered entity and NERC while the Compliance Staff continues its more detailed and comprehensive review of the submittal. It is during this review that the Compliance Staff confirms the violation, calculates an appropriate penalty or sanction and issues a Notice of Confirmed Violation (NOCV).

Exhibit E — Funding

1. Scope of activities funded through the ERO funding mechanism

NPCC shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and NPCC in conjunction with the other Regional Entities shall collaboratively develop an annual schedule for the development, submission, review and approval of NPCC's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require NPCC (i) to submit to NERC draft(s) of NPCC's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by NPCC Board of Directors to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of NPCC's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The NPCC business plan and budget submission shall include supporting materials, including NPCC's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. NPCC's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve NPCC's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct NPCC to make such revisions as NERC deems appropriate prior to approval. NERC shall submit NPCC's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of NPCC delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. NPCC shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying NPCC's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of NPCC's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

(a) NERC shall submit invoices to the load-serving entities or designees identified by NPCC covering the NERC and NPCC assessments approved for collection.

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from ERO Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, NPCC shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, NPCC is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within NPCC region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within NPCC region.

(c) Upon approval by ERO Governmental Authorities of NPCC annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay NPCC's annual assessment to NPCC in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by NPCC other than penalty monies received from an operational function or division or affiliated entity of NPCC shall be applied as a general offset to NPCC budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of NPCC shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for NPCC's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), NPCC's Criteria Services division performs the following other functions and activities (such other functions and activities being referred to in this Section 5 as "non-statutory activities"):

NPCC List of Criteria Services Division Functions (Non-Statutory Activities)

1. Regionally-specific Criteria
 - NPCC develops and maintains regionally-specific more stringent criteria
 - NPCC develops and maintains criteria establishing resource adequacy requirements within the Region
2. Criteria Compliance Program
 - NPCC monitors and assesses compliance with its more stringent regional criteria
 - NPCC conducts a Reliability Compliance and Enforcement Program (RCEP) utilizing non-monetary sanctions

NPCC shall employ the following methods and procedures to (i) keep its funding mechanisms for its regional entity division (statutory activities) separate from its funding mechanisms for its criteria services division (non-statutory activities), and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions:

1. Funding of NPCC Criteria Services Division (non-statutory activities).- A separate membership based funding mechanism is utilized for non-statutory activities.
2. NPCC procedures for separating funding and expenditures for regional entity division (statutory activities) and criteria services division (non-statutory activities)

NPCC utilizes the NERC System of Accounts (NSOA) to provide consistency for account codes, divisional separation codes and activity codes. In August of 2007, NPCC CBRE (which prior to the merger performed statutory activities) merged into and with Northeast Power Coordinating Council, Inc. (referred to as NPCC) (which prior to the merger performed non-statutory activities) with the merged corporation having divisional separation for Regional Entity and Criteria Services. As recommended by NERC, NPCC uses the not-for-profit MIP Fund Accounting program by Sage Software to accurately account for income, time and labor. Effective January 1, 2008, with corporate restructuring of NPCC completed in later 2007, 2008 actual program costs are being charged to appropriate program areas.

NPCC does not conduct resource or transmission planning, is not an Independent System Operator (ISO), nor does it perform the functions of a Reliability Coordinator (RC). As such, while at this time, there is a breakout for Criteria related activities, all functions performed by

NPCC are in the furtherance of NERC’s statutory mission and reliability of the international bulk power system in Northeastern North America.

Methodology

NPCC’s revenue and expenditure classification methodology identifies appropriate methods of accounting for income, time and costs to ensure that U.S. Federal/statutory and Canadian provincial and/or governmental authorities’ agreed upon revenue and expenses are accounted for separately from NPCC’s regionally-specific Criteria development and Criteria compliance (non-statutory) income, time and expense.

Division Codes

There are two division codes that are used by NPCC in accounting for revenues and expenses. The codes are as follows:

Division ID	Division Name
RE	Regional Entity – U.S. Statutory and Canadian Regulatory and/or Governmental Authority authorized
CSD	Criteria Services - Non-Statutory

The two division codes allow NPCC to separate Regional Entity statutory activity revenues and expenses from Criteria Services non-statutory activity revenues and expenses. These categories were developed to ensure that non-statutory related revenues and expenses are segregated and accounted for separately from statutory-related revenues and expenses.

Program Codes

As required by NERC, NPCC adopted a financial accounting system consistent with NERC’s functional categories. At NPCC, functional categories are referred to as Program Codes.

There are twelve program codes that are used by NPCC in accounting for expenses. The codes are as follows:

Program ID	Program Name
300	Reliability Standards
400	Compliance Enforcement and Organization Registration and Certification
800	Reliability Assessment and Performance Analysis
700	Reliability Readiness Evaluation and Improvement

	900	Training and Education
	1000	Situational Awareness and Infrastructure Security
	ADMIN	General Administration
	FINANCE	Accounting and Finance
	HR	Human Resources
	IT	Information Technology
	LEGAL	Legal and Regulatory
	MEMBERS	Members Forum

Program codes are used to further delineate expenses into functional groupings that are assigned to program heads. NPCC staff utilize their assigned program codes (the program where they reside for payroll purposes) when coding expenses, unless otherwise authorized by management.

When time is spent in support of both statutory activities and non-statutory activities (applicable to a limited number of employees in the Administrative Services functions of General Administration, Accounting and Finance, Human resources, Information Technology, Legal and Regulatory and Members Forms), staff members develop accurate timesheet allocations between division codes.

Divisional separation with regard to statutory activities (Regional Entity division) and non-statutory activities (Criteria Services division) is reflected in the NPCC balance sheet and general ledger through the MIP Fund Accounting software programs.

NPCC shall provide its budget for such non-statutory activities to NERC at the same time that NPCC submits its annual budget request to NERC pursuant to Section 1. NPCC's budget for non-statutory activities that is provided to NERC shall contain a detailed list of NPCC's non-statutory activities and a description of the funding sources for the non-statutory activities. NPCC agrees that no costs of non-statutory activities are to be included in the calculation of NPCC's charges for its activities pursuant to this Agreement.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if NPCC determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, NPCC shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in NPCC's approved business plan and budget for the fiscal year.

NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct NPCC to make such revisions as NERC deems appropriate prior to approval. NERC shall submit NPCC's approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of NPCC Financial Statements

NERC shall conduct reviews of the quarterly and annual financial statements submitted by NPCC pursuant to Section 9(h) and (i) of the Agreement. NPCC shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC based on its reviews.

ATTACHMENT 4B

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED DELEGATION AGREEMENT

WITH

NORTHEAST POWER COORDINATING COUNCIL

REDLINED AGAINST

REVISED PRO FORMA DELEGATION AGREEMENT

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND ~~REGIONAL ENTITY~~NORTHEAST POWER COORDINATING COUNCIL,
INC.**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”) made as of ~~January 1, 2011~~, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and ~~REGIONAL ENTITY~~Northeast Power Coordinating Council, Inc. (“NPCC”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified on **Exhibit A** to this Agreement, and for other purposes. NERC and ~~REGIONAL ENTITY~~NPCC may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824n) (hereafter “the Act”), which, among other things, provides for the establishment of an electric reliability organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as ~~REGIONAL ENTITY~~NPCC provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, ~~REGIONAL ENTITY~~NPCC is not organized on an Interconnection-wide basis and therefore ~~is~~is not entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through ~~REGIONAL ENTITY~~NPCC to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that ~~[REGIONAL ENTITY]~~NPCC meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and ~~[REGIONAL ENTITY]~~NPCC having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and ~~[REGIONAL ENTITY]~~NPCC agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to ~~[REGIONAL ENTITY]~~NPCC to propose and enforce Reliability Standards pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, ~~[REGIONAL ENTITY]~~NPCC hereby represents and warrants to NERC that:

(i) ~~[REGIONAL ENTITY]~~NPCC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. ~~[REGIONAL ENTITY]~~NPCC is governed in accordance with its bylaws by ~~[select appropriate: an independent board/a balanced stakeholder board/~~a combination independent and balanced stakeholder board~~]~~. Pursuant to these bylaws, no two industry sectors can control any ~~[REGIONAL ENTITY]~~NPCC decision and no single industry sector can veto any ~~[REGIONAL ENTITY]~~NPCC decision. The relevant portions of such bylaws are attached hereto in **Exhibit B**¹, and as so attached are in full force and effect. No other such corporate governance documents are binding upon ~~[REGIONAL ENTITY]~~NPCC.

(ii) As set forth in **Exhibit C** hereto², ~~[REGIONAL ENTITY]~~NPCC has developed a standards development procedure, which provides the process that ~~[REGIONAL ENTITY]~~NPCC may use to develop Regional Reliability Standards [and Regional Variances, if the regional entity is organized on an Interconnection-wide basis] that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, ~~[REGIONAL ENTITY]~~NPCC has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within ~~[REGIONAL ENTITY]~~'sNPCC geographic boundaries as shown on **Exhibit A**.

(b) NERC hereby represents and warrants to ~~[REGIONAL ENTITY]~~NPCC that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

¹ The **Exhibit B** from ~~[REGIONAL ENTITY]~~NPCC shall meet the requirements contained in **Exhibit B** to this Agreement.

² The **Exhibit C** from ~~[REGIONAL ENTITY]~~NPCC shall meet the requirements contained in **Exhibit C** to this Agreement.

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

3. Covenants.

(a) During the term of this Agreement, ~~{REGIONAL ENTITY}~~NPCC shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC's approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of ~~{REGIONAL ENTITY}~~NPCC under this Agreement without first obtaining the consent of ~~{REGIONAL ENTITY}~~NPCC, which consent shall not be unreasonably withheld or delayed.

(c) During the term of this Agreement, NERC and ~~{REGIONAL ENTITY}~~NPCC shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of ~~{REGIONAL ENTITY}~~NPCC in Sections 2 and 3 above, the corporate governance documents set forth in **Exhibit B**, the standards development process set forth in **Exhibit C**, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to ~~{REGIONAL ENTITY}~~NPCC for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth on **Exhibit A**, *provided*, that ~~{REGIONAL ENTITY}~~NPCC shall not monitor and enforce compliance with Reliability

Standards for [REGIONAL ENTITY]NPCC or an affiliated entity with respect to reliability functions for which [REGIONAL ENTITY]NPCC or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to [REGIONAL ENTITY]NPCC within, or additions to this delegation of authority to [REGIONAL ENTITY]NPCC beyond, the geographic boundaries set forth on **Exhibit A** are stated on **Exhibit A**.

(b) In circumstances where [REGIONAL ENTITY]NPCC or an affiliated entity is a Registered Entity, [REGIONAL ENTITY]NPCC shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce [REGIONAL ENTITY]'sNPCC or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit [REGIONAL ENTITY]NPCC from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified on **Exhibit A** that is within the United States. Any delegation of authority by ERO Governmental Authorities in Canada or Mexico shall be governed by a separate agreement and is outside the scope of this Agreement; provided, however, that both [REGIONAL ENTITY]NPCC and NERC shall endeavor to ensure that this Agreement and such separate agreements are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, [REGIONAL ENTITY]NPCC shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, [REGIONAL ENTITY]NPCC shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process

for proposing and adopting Reliability Standards that affords ~~REGIONAL ENTITY~~NPCC reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards [and Regional Variances, if Regional Entity is organized on an Interconnection-wide basis] through ~~REGIONAL ENTITY~~'sNPCC process as set forth in **Exhibit C**. Proposals approved through ~~REGIONAL ENTITY~~'sNPCC process shall be reviewed by the NERC Board after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. ~~REGIONAL ENTITY~~NPCC may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, ~~REGIONAL ENTITY~~NPCC shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the geographic boundaries set forth, or as

otherwise specified, in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and ~~{REGIONAL ENTITY}~~NPCC agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, *inter alia*, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. ~~{REGIONAL ENTITY}~~NPCC may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, ~~{REGIONAL ENTITY}~~NPCC agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) ~~{REGIONAL ENTITY}~~NPCC shall report promptly to NERC any- Possible Violation, Alleged Violation, or Confirmed Violation of a Reliability Standard, and its eventual disposition by ~~{REGIONAL ENTITY}~~NPCC. Such report shall include the owner's, operator's, or user's name, which Reliability Standard or Reliability Standards were the subject of the Possible Violation, Alleged Violation, or Confirmed Violation, when the Possible Violation, Alleged Violation, or Confirmed Violation occurred, other pertinent facts including circumstances surrounding the Possible Violation, Alleged Violation, or Confirmed Violation with any known risk to the Bulk-Power System, when the Possible Violation, Alleged Violation, or Confirmed Violation was or will be mitigated, the name of a person knowledgeable about the Possible Violation, Alleged Violation, or Confirmed Violation to serve as a point of contact with the Commission, and any other information required by NERC compliance program procedures. NERC shall promptly forward such report to the Commission. NERC and ~~{REGIONAL ENTITY}~~NPCC shall cooperate in filing such periodic summary reports as the Commission shall from time to time direct on Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards and summary analyses of such Possible Violations, Alleged Violations, and Confirmed Violations.

(c) Each Possible Violation, Alleged Violation, or Confirmed Violation shall be treated as nonpublic unless the matter is filed with the Commission as a Notice of Penalty, or, if disclosure is required, dismissed. The disposition of each Possible Violation, Alleged Violation, or Confirmed Violation that relates to a Cybersecurity Incident or that would jeopardize the security of the Bulk-Power System if publicly disclosed shall remain nonpublic unless the Commission directs otherwise.

(d) All dispositions by ~~REGIONAL ENTITY~~NPCC of Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards shall be reported to NERC for review and, in the case of Confirmed Violations, penalties or sanctions, and settlements, for approval. Following approval of a disposition by NERC, NERC shall file the disposition with the Commission, if required by, and in accordance with, Section 215(e) of the Act and Section 39.7 of the ERO Regulations. NERC shall review ~~REGIONAL ENTITY~~'sNPCC dispositions based on the following criteria:

(i) whether the disposition is supported by a sufficient record compiled by ~~REGIONAL ENTITY~~NPCC in accordance with the NERC Rules of Procedure, NERC directives and Commission requirements, taking into account the nature of the Possible Violation, Alleged Violation, or Confirmed Violation,

(ii) whether the disposition is consistent with any applicable directives issued pursuant to Section 8(c) of this Agreement, any applicable directions or guidance issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, or other applicable NERC guidance, concerning the Reliability Standards to which the Possible Violation, Alleged Violation, or Confirmed Violation relates,

(iii) if the disposition is a Confirmed Violation or settlement, whether it provides for a penalty or sanction, or a determination of no penalty or sanction, determined in accordance with the NERC Sanction Guidelines, Appendix 4B to the NERC Rules of Procedure, and

(iv) whether the disposition is reasonably consistent with other dispositions by ~~REGIONAL ENTITY~~NPCC and by other Regional Entities of Possible Violations, Alleged Violations, and Confirmed Violations involving the same or similar facts and circumstances.

NERC may reject any disposition, with an explanation of why NERC believes the disposition does not meet the above criteria. ~~{REGIONAL ENTITY}~~NPCC may submit a disposition requiring NERC approval that has been rejected by NERC, or a revised disposition following a rejection, directly to the NERC Board Compliance Committee for approval without revising the disposition to address all the grounds on which NERC originally rejected the disposition. The final approval of ~~{REGIONAL ENTITY}~~'sNPCC disposition of a Possible Violation, Alleged Violation, or Confirmed Violation shall be made by the NERC Board Compliance Committee, provided, that the NERC Board or NERC Board Compliance Committee may, by appropriate resolution, delegate authority for final approval of dispositions of specified categories of Possible Violations, Alleged Violations, or Confirmed Violations to the NERC President.

(e) All appeals of penalties imposed by ~~{REGIONAL ENTITY}~~NPCC as a result of a decision by ~~{REGIONAL ENTITY}~~'sNPCC Hearing Body shall be filed with, heard by and disposed of by, NERC in accordance with the NERC Rules of Procedure.

(f) ~~{REGIONAL ENTITY}~~NPCC shall maintain the capability to conduct investigations of Possible Violations and Alleged Violations of Reliability Standards and to conduct such investigations in a confidential manner.

(g) ~~{REGIONAL ENTITY}~~NPCC shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan.

(h) As part of its compliance monitoring and enforcement program, ~~{REGIONAL ENTITY}~~NPCC shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. ~~A Regional Entity NPCC~~ may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(i) As often as NERC deems necessary, but no less than every five years, NERC shall review ~~{REGIONAL ENTITY}~~'sNPCC compliance monitoring and enforcement program to determine that: (i) the program meets all applicable legal requirements; (ii) actual practices

reflect the requirements; and (iii) the program administered pursuant to the Delegated Authority promotes consistent interpretations across North America of Reliability Standards and comparable levels of sanctions and penalties for violations of Reliability Standards constituting comparable levels of threat to reliability of the Bulk-Power System.

7. Delegation-Related Activities.

NERC will engage ~~[REGIONAL ENTITY]~~NPCC on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed on **Exhibit E**. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (f), each of which shall be considered a statutory activity:

(a) Certification of Bulk-Power System Entities. The NERC Board shall set criteria for certification in accordance with the NERC Rules of Procedure. ~~[REGIONAL ENTITY]~~NPCC shall issue certifications in accordance with the NERC Rules of Procedure.

(b) Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.

(i) The NERC Board shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by ~~[REGIONAL ENTITY]~~NPCC and other Regional Entities. ~~[REGIONAL ENTITY]~~NPCC shall provide timely and accurate information relating to registrations to NERC, on at least a monthly basis, to enable NERC to maintain a registration database that is accurate and up-to-date.

(iii) The NERC Board Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) Reliability Assessment and Performance Analysis. ~~REGIONAL~~

~~ENTITY~~NPCC shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure.

~~REGIONAL ENTITY~~NPCC shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives. NERC shall develop data-gathering quality control procedures, forms and reporting mechanisms, which shall be used by ~~REGIONAL ENTITY~~NPCC and other Regional Entities in carrying out their responsibilities under this subsection (c).

(d) Event Analysis and Reliability Improvement. ~~REGIONAL ENTITY~~NPCC shall

conduct event analysis pursuant to the NERC Rules of Procedure and applicable governmental regulations. NERC and ~~REGIONAL ENTITY~~NPCC shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, ~~REGIONAL ENTITY~~NPCC shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) Training and Education. ~~REGIONAL ENTITY~~NPCC may provide training and

education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) Situation Awareness and Infrastructure Security.

(i) ~~REGIONAL ENTITY~~NPCC shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure and applicable governmental regulations, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System

(ii) ~~{REGIONAL ENTITY}'s~~NPCC shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of ~~{REGIONAL ENTITY}'s~~NPCC performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and ~~{REGIONAL ENTITY}'s~~NPCC that matters relating to NERC's oversight of ~~{REGIONAL ENTITY}'s~~NPCC performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and ~~{REGIONAL ENTITY}'s~~NPCC and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with ~~{REGIONAL ENTITY}'s~~NPCC and other Regional Entities, performance goals, measures and other parameters (including, without limiting the scope of such goals, measures and parameters, financial performance goals, measures and parameters), and performance reports, which shall be used to measure NERC's and ~~{REGIONAL ENTITY}'s~~NPCC performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. ~~{REGIONAL ENTITY}'s~~NPCC shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate ~~{REGIONAL ENTITY}'s~~NPCC performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters and performance reports to evaluate ~~{REGIONAL ENTITY}'s~~NPCC performance of its delegated functions and related activities and to provide advice and direction to ~~{REGIONAL ENTITY}'s~~NPCC on performance improvements. The performance goals, measures and other parameters and the values of such goals, measures and parameters, shall be reviewed by NERC, ~~{REGIONAL ENTITY}'s~~NPCC and the other Regional Entities, revised if appropriate, and made

public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, ~~{REGIONAL ENTITY}NPCC~~ shall be required to develop, submit for NERC approval, and implement action plans to address areas of its performance that are reasonably determined by NERC, based on analysis of ~~{REGIONAL ENTITY}'sNPCC~~ performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring ~~{REGIONAL ENTITY}NPCC~~ to adopt and implement an action plan or other remedial action, NERC shall issue a notice to ~~{REGIONAL ENTITY}NPCC~~ of the need and basis for an action plan or other remedial action and provide an opportunity for ~~{REGIONAL ENTITY}NPCC~~ to submit a written response contesting NERC's evaluation of ~~{REGIONAL ENTITY}'sNPCC~~ performance and the need for an action plan. ~~{REGIONAL ENTITY}NPCC~~ may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board review and reconsider the request. NERC and ~~{REGIONAL ENTITY}NPCC~~ shall work collaboratively as needed in the development and implementation of ~~{REGIONAL ENTITY}'sNPCC~~ action plan. A final action plan submitted by ~~{REGIONAL ENTITY}NPCC~~ to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to ~~{REGIONAL ENTITY}NPCC~~ standardized training and education programs, which shall be designed taking into account input from ~~{REGIONAL ENTITY}NPCC~~ and other Regional Entities, for ~~{REGIONAL ENTITY}NPCC~~ personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to ~~{REGIONAL ENTITY}NPCC~~ concerning the manner in which ~~{REGIONAL ENTITY}NPCC~~ shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with ~~{REGIONAL ENTITY}NPCC~~ and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and ~~REGIONAL ENTITY~~NPCC and, if applicable, other Regional Entities are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President; *provided*, that before the NERC President issues a directive pursuant to this paragraph (ii), ~~REGIONAL ENTITY~~NPCC and, if applicable, other Regional Entities, shall be given a reasonable opportunity to present their positions on, and a suggested alternative version or versions of, the proposed directive to the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, ~~REGIONAL ENTITY~~NPCC subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by ~~REGIONAL ENTITY~~NPCC the NERC Board (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without ~~REGIONAL ENTITY~~'sNPCC agreement, *provided*, that ~~REGIONAL ENTITY~~NPCC shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and ~~REGIONAL ENTITY~~NPCC and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which ~~REGIONAL ENTITY~~NPCC and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The Board or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power

System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the Board or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. ~~[REGIONAL ENTITY]~~NPCC either individually or in conjunction with other Regional Entities, may request that the NERC Board or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with ~~[REGIONAL ENTITY]~~NPCC either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) Any audits of ~~[REGIONAL ENTITY]~~NPCC performed by NERC shall be limited to an examination of ~~[REGIONAL ENTITY]'s~~NPCC compliance with this Agreement, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c).

9. Funding. ~~[REGIONAL ENTITY]~~NPCC and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed on **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) ~~[REGIONAL ENTITY]~~NPCC shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. ~~[REGIONAL ENTITY]'s~~ NPCC proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, ~~[REGIONAL ENTITY]~~NPCC to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E**. ~~[REGIONAL ENTITY]'s~~ NPCC business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) ~~[REGIONAL ENTITY]~~NPCC and NERC agree that the portion of ~~[REGIONAL ENTITY]'s~~NPCC approved budget for the functions and activities described in Sections 5, 6

and 7 and listed on **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by ~~REGIONAL ENTITY~~NPCC and approved by NERC and the Commission. If ~~REGIONAL ENTITY~~NPCC proposes to use a formula other than Net Energy for Load beginning in the following year, ~~REGIONAL ENTITY~~NPCC shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and ~~REGIONAL ENTITY~~NPCC to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide ~~REGIONAL ENTITY~~NPCC with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) ~~REGIONAL ENTITY~~NPCC shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed on Exhibit E, as well as for all other activities of ~~REGIONAL ENTITY~~NPCC to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund ~~REGIONAL ENTITY~~'sNPCC performance of its Delegated Authority and related activities in accordance with ~~REGIONAL ENTITY~~'sNPCC Commission-approved business plan and budget, in the amount of ~~REGIONAL~~

~~ENTITY~~'s NPCC assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting ~~REGIONAL ENTITY~~'s NPCC approved assessments from end users and other entities and payment of the approved assessment amount to ~~REGIONAL ENTITY~~, NPCC unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon ~~REGIONAL ENTITY~~, NPCC that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without ~~REGIONAL ENTITY~~'s NPCC consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and ~~REGIONAL ENTITY~~, NPCC fiscal year budget with the actual results at the NERC and Regional Entity levels. ~~REGIONAL ENTITY~~, NPCC shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) ~~REGIONAL ENTITY~~, NPCC shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) ~~REGIONAL ENTITY~~, NPCC shall submit audited financial statements annually, including supporting materials, in a form provided by NERC no later than May 1 of the following year.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which ~~REGIONAL ENTITY~~, NPCC shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of ~~REGIONAL ENTITY~~, NPCC) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which ~~REGIONAL ENTITY~~, NPCC shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of ~~REGIONAL ENTITY~~, NPCC. *Provided*, that, subject to approval by NERC and the

Commission, ~~REGIONAL ENTITY~~NPCC may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. ~~REGIONAL ENTITY~~NPCC may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit ~~REGIONAL ENTITY~~NPCC from contracting with other entities to assist it in carrying out its Delegated Authority, provided ~~REGIONAL ENTITY~~NPCC retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on [January 1, 2011] (the “Effective Date”).

(b) The term of the Agreement shall be five (5) years from the Effective Date, prior to which time NERC shall conduct an audit pursuant to subsection 6(i) to ensure that ~~[REGIONAL ENTITY]~~NPCC continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. If ~~[REGIONAL ENTITY]~~NPCC meets such requirements, this Agreement may be renewed for another five (5) year term. This Agreement may be renewed for successive additional five (5) year renewal terms provided that prior to the end of each renewal term, NERC shall conduct an audit pursuant to subsection 6(i) to ensure that ~~[REGIONAL ENTITY]~~NPCC continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. Provided, that either Party may terminate this Agreement as of the end of a term by giving written notice to terminate at least one (1) year prior to the end of the term. If this Agreement is not renewed or becomes subject to termination for any reason, the Parties shall work to provide for a transition of ~~[REGIONAL ENTITY]~~'s NPCC Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement. The termination of this Agreement shall not take effect until such transition has been effected, unless the transition period exceeds one year, at which time ~~[REGIONAL ENTITY]~~NPCC may unilaterally terminate.

(c) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by ~~[REGIONAL ENTITY]~~NPCC and NERC.

(d) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. ~~{REGIONAL ENTITY}~~NPCC and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and ~~{REGIONAL ENTITY}~~NPCC shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of the ~~{REGIONAL ENTITY}~~'sNPCC or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that the ~~{REGIONAL ENTITY}~~NPCC or NERC is found liable for gross negligence or intentional misconduct, in which case ~~{REGIONAL ENTITY}~~NPCC or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party.

15. Confidentiality. During the course of the Parties' performance under this Agreement, a Party may receive Confidential Information, as defined in Section 1500 of NERC's Rules of Procedure. Except as set forth herein, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party that provided the Confidential Information with prompt

notice of such request or requirement in order to enable such issuing Party to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information. In addition, each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein. This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of ~~REGIONAL ENTITY~~NPCC under this Agreement without first obtaining the consent of ~~REGIONAL ENTITY~~NPCC which consent shall not be unreasonably withheld or delayed. To the extent ~~REGIONAL ENTITY~~NPCC does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of ~~REGIONAL ENTITY~~NPCC under this Agreement, ~~REGIONAL ENTITY~~NPCC shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by ~~REGIONAL ENTITY~~NPCC to NERC and the Commission, or at such other time as may be mutually agreed by ~~REGIONAL ENTITY~~NPCC and NERC.

18. **Dispute Resolution**. In the event a dispute arises under this Agreement between NERC and ~~[REGIONAL ENTITY]~~NPCC (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to ~~[REGIONAL ENTITY]'s~~NPCC performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. ~~[REGIONAL ENTITY]~~NPCC shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, *provided*, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive

officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), *provided*, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. *Provided, however*, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. Whether expressly so stated or not, all notices, demands, requests, and other communications required or permitted by or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand or reputable overnight courier:

If to NERC:

If to ~~REGIONAL ENTITY~~NPCC:

	North American Electric <u>Northeast</u>
Reliability Corporation	<u>Power</u>
116-390 Village Blvd.	<u>Coordinating Council, Inc.</u>
Princeton, NJ 08540-5721	<u>1040 Avenue of the Americas – 10th Floor</u>
<u>New York 10018 -3703</u>	<u>New York,</u>
Attn: General Counsel	Attn: <u>Edward Schwerdt</u>
Facsimile: (609) 452-9550	Facsimile: <u>212-302-2782</u>

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of New Jersey without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in New Jersey. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in New Jersey for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that ~~REGIONAL ENTITY~~NPCC may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. **Entire Agreement.** This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. **Execution of Counterparts.** This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN
ELECTRIC RELIABILITY CORPORATION

NORTHEAST POWER
~~REGIONAL~~
ENTITY COORDINATING
COUNCIL, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



Northeast Power Coordinating Council, Inc. (NPCC)
Exhibit A — Regional Boundaries— Geographic Area

~~Exhibit A to the delegation agreement for each Regional Entity receiving Delegated Authority shall describe the geographic or electrical boundaries covered by the proposed delegation of authority. Exhibit A for each Regional Entity shall reflect coordination with neighboring Regional Entities, as appropriate, to ensure that all relevant areas are either included within the geographic boundaries of a Regional Entity or specifically identified as not being within the geographic boundaries of any Regional Entity. Any exclusions of geographic or electrical areas or of Registered Entities from the scope of the Regional Entity's Delegated Authority within the geographic or electrical boundaries shown on Exhibit A, and any additions of geographic or electrical areas or of Registered Entities located outside the boundaries shown on Exhibit A to the scope of the Regional Entity's Delegated Authority, shall be specifically stated or described in Exhibit A.~~

The geographic area covered by NPCC includes New York state, the six New England states, and Ontario, Quebec, and the Maritime Provinces in Canada. The total population served is approximately 56 million. The area covered is approximately 1 million square miles.

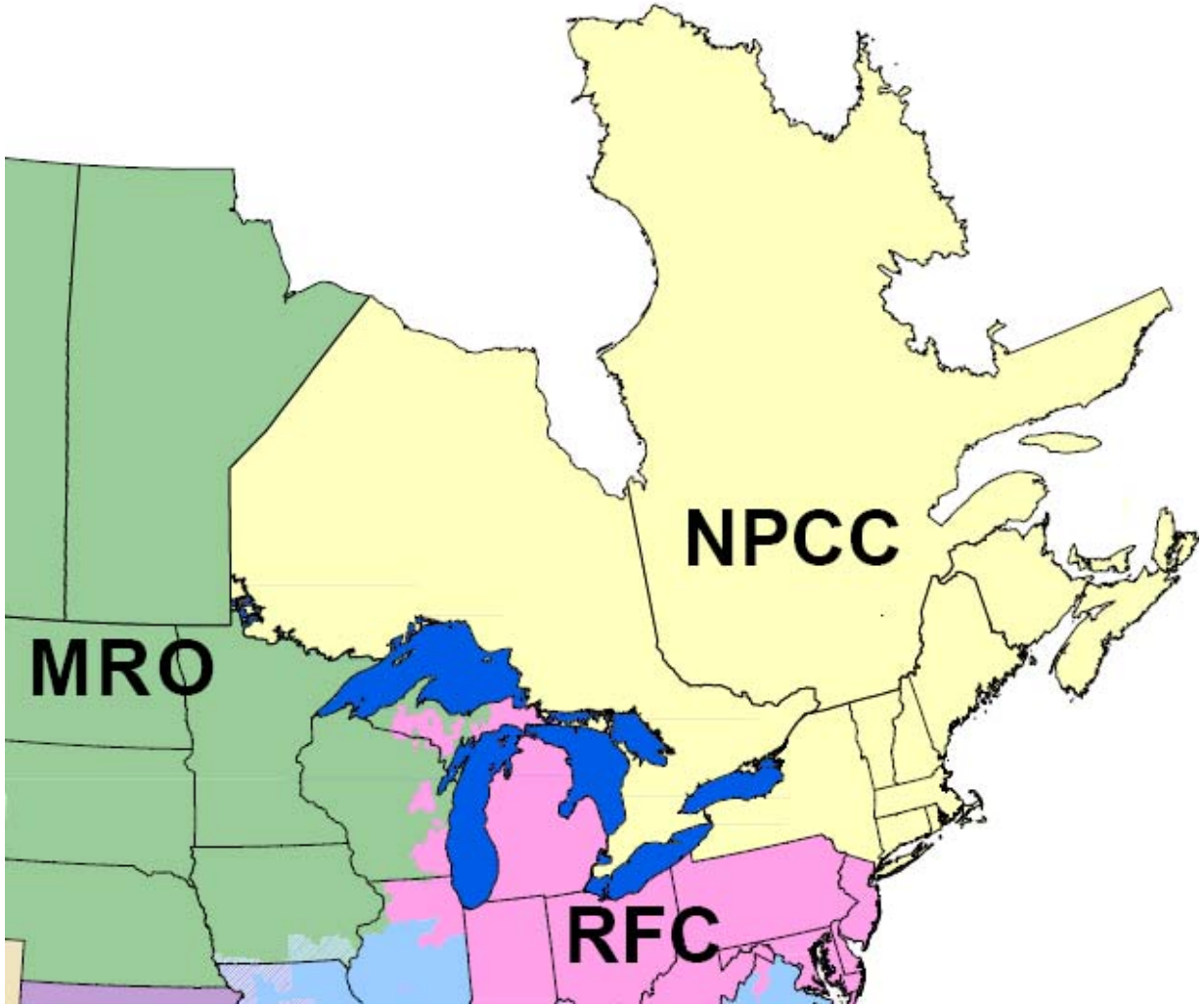


Exhibit B – Governance

Exhibit B shall set forth the Regional Entity’s bylaws, which NERC agrees demonstrate that the Regional Entity meets the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence of the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

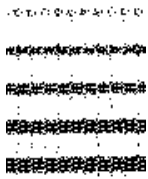


Exhibit B – Governance

AMENDED AND RESTATED

BYLAWS

OF

NORTHEAST POWER COORDINATING COUNCIL, INC.

I. Offices

The principal office of Northeast Power Coordinating Council, Inc. (“NPCC”) shall be located in New York County, State of New York.

II. Purpose of Northeast Power Coordinating Council, Inc.

The purpose of NPCC is to promote and enhance the reliable and efficient operation of the international, interconnected bulk power system in Northeastern North America through (i) the development of regional reliability standards and compliance assessment and enforcement of continent-wide and regional reliability standards, coordination of system planning, design and operations, and assessment of reliability, pursuant to an agreement with the Electric Reliability Organization (“ERO”) which designates NPCC as a regional entity and delegates authority from the U.S. Federal Energy Regulatory Commission (“FERC”), and by Memoranda of Understanding with applicable Canadian Provincial regulatory and/or governmental authorities (collectively, “statutory activities”), and (ii) the establishment of regionally-specific criteria, and monitoring and enforcement of compliance with such criteria (collectively, “non-statutory criteria services”). In the development of regionally-specific reliability criteria, NPCC, to the extent possible, facilitates attainment of fair, effective and efficient competitive electric markets.

III. Terms

Terms not defined in these Bylaws shall have the definitions set forth in the Federal Power Act, Part 39 of the regulations of the FERC, as further clarified in FERC’s April 19, 2007 Order 119 FERC 61,060, and if not defined in any of those sources, shall be defined in accordance with their commonly understood and used technical meanings in the electric power industry, including applicable codes and standards.



Exhibit B – Governance

AMENDED AND RESTATED

BYLAWS

OF

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“Bulk Power System” shall be deemed to refer to the interconnected electrical systems within Northeastern North America comprising generation and transmission facilities on which faults or disturbances can have a significant adverse impact outside of the local area. In this context, local areas and the specific facilities that comprise the bulk power system are determined by the Members of NPCC, utilizing a reliability impact based methodology.

“Northeastern North America” shall be deemed to comprise the geographical area within the perimeter border enclosing the State of New York, the six New England States of the United States, and the Canadian Provinces of Ontario, Québec, New Brunswick and Nova Scotia, including any radial load or generation connecting to these systems.

IV. Membership

- A. List of Members. The Members of NPCC are listed on Schedule A attached hereto.
- B. Eligibility. Upon suitable application describing the nature and activities of the applicant, additional entities shall be accepted by the Board of Directors of NPCC (the “Board”) as Members in the appropriate categories, defined as follows:
- (1) **General Membership** is voluntary and is open to any person or entity, including any entity participating in the Registered Ballot Body of the ERO that has an interest in the reliable operation of the Northeastern North American bulk power system. General Members are subject to compliance with reliability standards and receive additional services from the regional entity division of NPCC.
 - (2) **Full Membership** shall be available to entities which are General Members that also participate in electricity markets in the international, interconnected bulk power system in Northeastern North America. Independent system operators (“ISOs”), regional transmission organizations (“RTOs”), Transcos and other organizations or entities that perform the Balancing Authority function operating in Northeastern North America are expected to be Full Members of NPCC. The New York State Reliability Council and any other sub-regional reliability councils which may be formed are also expected to be Full Members. Full Members are subject to compliance with regionally-specific criteria, in addition to reliability standards, and receive additional services from the criteria services division of NPCC.
- C. Application as a Member. Any person or entity that is eligible to become a Member of NPCC in accordance with Article IV.B. may become either a General Member or a Full Member by completing and submitting to NPCC a membership application on a form prescribed by the Board. Any person or entity that applies to NPCC as a Member shall comply with the conditions and obligations of membership specified in these Bylaws. As an additional condition of membership in NPCC, each person or entity registering as a Member shall execute an agreement with NPCC, in a form to be specified by the Board, that such person or entity will hold all Directors, officers, employees and agents of NPCC, as well as volunteers participating in good faith in the activities of NPCC, harmless, to the extent permitted by U.S. Federal or Canadian Provincial laws, rules and regulations, for any injury or damage caused by any act or omission of any Director, officer, employee, agent or volunteer in the course of performance of his or her duties on behalf of NPCC, other than for acts of gross negligence, intentional misconduct or a breach of confidentiality.

If not a natural person, the Member shall designate a representative and an alternate representative with authority to receive notices, cast votes, execute waivers and consents, and enter into binding agreements on behalf of the Member. NPCC shall maintain a current roster of the Members of NPCC, including each Member’s designated representative and alternate representative. From time to time, the Board may establish a date by which Members shall submit their application renewals. All Members shall confirm their applications within thirty (30) calendar days of the date of receipt of request by NPCC, using an application renewal form prescribed by the Board. Any Member that has not submitted an application renewal within thirty (30) calendar days following the date established by the Board shall be removed from the NPCC roster. NPCC shall notify any Member that is removed from the roster of Members of such removal, by notice sent to such former Member’s last known address on the records of NPCC.

- D. **Voting. There shall be eight (8) voting sectors (“Voting Sectors”), defined as follows:**

Sector (1). Transmission Owners: This Voting Sector shall consist of any entity within Northeastern North America that owns at least 200 circuit miles of integrated transmission

facilities, or has an Open Access Transmission Tariff or equivalent on file with the FERC or the appropriate regulatory or governmental authority. This sector includes transmission owners that have placed their transmission under the operational control of an ISO/RTO, independent transmission companies and merchant transmission owners/developers.

Sector (2). Reliability Coordinators: This Voting Sector shall consist of any entity within Northeastern North America certified as a Reliability Coordinator.

Sector (3). Transmission Dependent Utilities (“TDUs”); Distribution Companies and Load-Serving Entities (“LSEs”). This Voting Sector shall consist of entities within Northeastern North America that are:

- (a) Entities with a regulatory contract, or other legal obligation to serve wholesale aggregators or end-use customers, and that depend primarily on the transmission systems of third parties to provide this service;
- (b) Agents or associates that represent groups of TDUs;
- (c) Electric distribution companies;
- (d) Entities serving end-use customers under a regulated tariff, a contract governed by a regulatory tariff, or other legal obligation to serve; or
- (e) Each member of a generation and transmission (“G&T”) cooperative or a joint-action agency permitted to designate the G&T or joint action agency to represent it in this sector.

Sector (4). Generator Owners: This Voting Sector shall consist of entities within Northeastern North America that are affiliated and/or independent generators.

Sector (5). Marketers, Brokers and Aggregators: This Voting Sector shall consist of entities within Northeastern North America that are:

- (a) Entities providing energy to end-use customers under a power marketing agreement or other authorization not classified as a regulated tariff;
- (b) Entities that buy, sell, or broker energy and related services for resale in wholesale or retail markets, whether a non-jurisdictional entity operating within its charter or an entity licensed by a jurisdictional regulator; or
- (c) Generation and transmission cooperatives and joint-action agencies that perform an electricity broker, aggregator, or marketer function.

Sector (6). Customers: This Voting Sector shall consist of entities within Northeastern North America that are:

- (a) Entities or customers that take delivery of energy that is not

purchased for resale within Northeastern North America;

- (b) Agents or associations representing groups of large end users within Northeastern North America; or
- (c) Agents, state consumer advocates, or other advocate groups representing groups of small customers within Northeastern North America.

Sector (7). State and Provincial Regulatory and/or Governmental Authorities.

This Voting Sector shall consist of State and Provincial regulatory or governmental authorities within Northeastern North America.

Sector (8). Sub-Regional Reliability Councils, other Regional Entities and Interested Entities: This Voting Sector shall consist of:

- (a) Any entity within Northeastern North America authorized by an appropriate regulatory and/or governmental authority to be a Sub-Regional Reliability Council;

Any other delegated Regional Entity; or

- (c) Any person or entity, including any entity participating in the Registered Ballot Body of the ERO, that has an interest in the reliable operation of the bulk power system in Northeastern North America.

- E. Assignment to Voting Sector. A new applicant for membership shall request to be assigned to a Voting Sector subject to Board approval. A Member may request to be assigned to any Voting Sector so long as membership in that Voting Sector is consistent with the Member's business or other activities within the NPCC region. Multiple memberships of the separate business functions of an entity are permitted, with each membership assigned to the appropriate separate sector and each membership designating a different representative and alternate. A consultant, attorney, agent, vendor, trade or industry association, state, provincial or local consumer advocate organization that provides services to or otherwise represents the interests of the Members of one or more Voting Sectors may elect to be assigned to one such Voting Sector subject to Board approval. Entities may elect to change their Voting Sector participation in connection with the Annual Meeting of Members of NPCC, subject to Board approval.
- F. Term of Membership. Membership in NPCC shall be retained so long as a Member meets its respective qualifications, obligations, and conditions of membership as set forth in this Article IV.

V. **Organization of NPCC**

- A. Each Member shall designate an executive level representative and an alternate representative with full authority to act on its behalf in carrying out the work of NPCC.
- B. NPCC shall have a Board of Directors and shall retain a Chairman, who shall serve as Chair of the Board. The Board shall also consist of two Co-Vice Chairs, the President and the Secretary, all *ex officio*; and additional Directors to be selected by the eight Voting Sectors of Members as specified below. The Directors shall designate two Co-Vice Chairs. The Co-Vice Chair designees shall be from different Voting Sectors and shall be elected by a vote of the entire Membership. In the temporary absence of the Chair, a Vice Chair designated by two-thirds vote of the Directors shall perform the duties of the Chair. NPCC's Chairman, President and officers, when serving *ex officio*, shall not have any vote on Board matters, except that the Co-Vice Chairs shall retain the voting rights that they otherwise held by virtue of serving as a Director.
- C. The officers of NPCC shall consist of a President, a Secretary and a Treasurer, with assistants as appropriate, and such additional officers as may be approved by the Members. Officers, except for the President, shall hold office for one year or until the next Annual Meeting of Members of NPCC and until their successors are duly elected and qualified.
- D. NPCC shall employ a President and staff, as required to carry out NPCC's mission and to perform the functions of NPCC. The President shall be appointed by the Board and shall serve at the Board's discretion. In the event of a vacancy in the presidency, the Board shall appoint an interim President who shall serve until such time as the Board appoints a new President.
- E. In the event a vacancy occurs in the Board of Directors, or in the office of Co-Vice Chair, Secretary, or Treasurer in the interim between Annual Meetings of Members of NPCC, the Chair may designate a person from the same Voting Sector to fill such vacancy with the approval of a majority vote of Members from the applicable Sector.
- F. In the event a vacancy occurs in the Office of Chair in the interim between Annual Meetings of Members of NPCC, the Board may fill such vacancy by a two-thirds affirmative majority of the weighted sector votes, with each Director casting one vote within the applicable sector, at a meeting of the Board at which a quorum is present. The term of office of the persons designated to fill any such vacancy shall expire on the date of the next subsequent Annual Meeting of Members of NPCC. The authority and responsibilities of the Chair and the President shall be defined by the Board.
- G. Statutory activities will be conducted by the regional entity division of NPCC. Non-statutory criteria services will be provided by the criteria services division of NPCC.

VI. **Board of Directors**

- A. **Hybrid Board.** NPCC shall have a Board of Directors consisting of stakeholders balanced by sector and an independent Chairman, two Co-Vice Chairs, the President, and the Secretary.
- B. **Term and Compensation.** The term of office of the Directors shall be three (3) years. Initial terms of Directors shall be staggered by the Board so that members serve initial terms of one, two, or three years. There shall be no limit on the number of terms which may be served by any individual. Directors shall serve without compensation, including when performing duties of a Co-Vice Chair.

- C. Powers and Duties. The Board shall develop NPCC policies, direct the activities of NPCC, accept additional entities as Members, review and approve or modify Member Voting Sector assignment, and make assignments to the committees of NPCC. The Board shall (i) approve a Regional Delegation Agreement with the ERO which delegates authority from FERC in the United States and additional agreements with appropriate Canadian Provincial regulatory and/or governmental authorities, (ii) approve and oversee NPCC's Regional Reliability Standards Development Process and submit such Regional Standards to the ERO for adoption by FERC and appropriate Canadian Provincial regulatory and/or governmental authorities, (iii) approve the NPCC Compliance Enforcement Program and the assessment and enforcement of mandatory compliance with Reliability Standards consistent with the Regional Delegation Agreement and agreements with Canadian Provincial regulatory and/or governmental authorities, and (iv) oversee NPCC's assessment and enforcement of mandatory compliance with regionally-specific reliability criteria through administration of the NPCC Reliability Compliance and Enforcement Program. The duties of the Board shall also include consideration and resolution of budgetary matters, including the levying of any special assessments, and determination of any annual membership fee for Full Members. However, the Board may not amend these Bylaws or establish, modify or eliminate any of NPCC's Regional Reliability Standards, regionally-specific reliability criteria, guides, programs or procedures; nor may the Board add, modify, or eliminate Voting Sectors established pursuant to these Bylaws.

To carry out the purposes of NPCC, the Board, acting through the President and NPCC staff, shall enlist such personnel from Members as may be necessary; and, within the limits of the annual budget, may employ such personnel, incur such administrative expenses, and retain such independent professional consulting services for NPCC and the committees of NPCC as it may deem desirable.

- D. Board Composition. NPCC shall have a Board of Directors that shall consist of up to eight (8) voting sectors. The voting sectors shall include the following:

Sector (1). Transmission Owners (Maximum of 3, with no more than 1 per Balancing Authority Area)

Sector (2). Reliability Coordinators (Maximum of 3)

Sector (3). Transmission Dependent Utilities ("TDUs"); Distribution Companies and Load-Serving Entities ("LSEs") (Maximum of 3)

Sector (4). Generator Owners (Maximum of 3)

Sector (5). Marketers, Brokers and Aggregators (Maximum of 3)

Sector (6). Customers (Maximum of 3)

Sector (7). Regulators (Maximum of 3)

Sector (8). Sub-Regional Reliability Councils, other Regional Entities and Interested Entities (Maximum of 3, with a representative of the New York State Reliability Council, LLC included)

- E. Quorum and Voting Requirements for the Board. At any meeting of the Board, attendance in person or by proxy by at least one-half of the Directors in each of at least sixty percent (60%) of the sectors shall constitute a quorum. Except as otherwise expressly provided in NPCC's Certificate of Incorporation, these Bylaws or applicable law, actions by the Board shall be approved upon receipt of a two-thirds affirmative majority of the weighted sector votes, with each

Director casting one vote within the applicable sector, at a meeting of the Board at which a quorum is present. The following process shall be used to determine if there are sufficient affirmative votes:

- The number of votes cast is the sum of affirmative and negative votes, excluding abstentions.
- The number of affirmative votes cast in each Voting Sector will be divided by the sum of affirmative and negative votes cast in that Voting Sector to determine the fractional affirmative vote for each Voting Sector. Abstentions will not be counted for the purposes of determining the fractional affirmative vote for a Voting Sector.
- The sum of the fractional affirmative votes from all sectors divided by the number of sectors voting will be used to determine if a two-thirds affirmative majority has been achieved. A sector will be considered as “voting” if any Member of the sector casts either an affirmative or a negative vote.

An action will be approved if the sum of fractional affirmative votes from all sectors divided by the number of voting sectors is at least two-thirds.

F. Board Action Without Meeting. Any action required, or permitted to be taken at a meeting of the Board of Directors, may be taken without a meeting if the action is taken by all members of the Board. The action must be evidenced by one or more written consents (which may be in electronic form) describing the action taken, signed by each Director, and included in the minute book of NPCC. Any action taken under this Section VI.F. is effective when the last Director signs the consent, unless the consent specifies a different effective date.

G. Election and Removal of Directors. The Initial Board shall be the persons named in the Certificate of Incorporation and shall serve until the first Annual Meeting of the Members. The Initial Board shall nominate a list of Directors consistent with the Board composition requirements set forth in Section VI.D. At the first meeting of the Members, the Members from each sector shall vote to elect Directors in their respective sector. A Director shall be elected by a vote of the majority of the Members in the respective sector. No sector shall elect more Directors than the number of Members in such sector.

A Director may be removed for cause by at least two-thirds of the Members in their respective sector at a regular meeting or at a special meeting called for that purpose; *provided* that there is a quorum of that sector’s Members present at that meeting, or by at least a majority of the Directors present at a meeting called for that purpose, and *provided, further*, that there is a quorum of not less than a majority present at the meeting of Directors at which such action is taken.

H. Indemnification. Subject to the limitation set forth in Section VI.I. below, NPCC shall indemnify its Directors, Officers, employees and other corporate agents, including volunteers participating in good faith in the activities of NPCC and persons serving on duly constituted committees of NPCC (collectively, “NPCC Indemnitees”), in each case, to the full extent from time to time permitted by New York Not-for-Profit Corporation Law (“N-PCL”) and other applicable law. Such right of indemnification shall inure to the benefit of the legal representative of any NPCC Indemnitee. The foregoing right of indemnification shall be in addition to, and not in restriction or limitation of, any right such NPCC Indemnitee may have under applicable law (including the N-PCL).

- I. Limitation on Indemnification. The maximum amount of losses (i.e., damages, judgments, fines, penalties, liability, costs and expenses, including reasonable attorneys' fees and expenses) for which NPCC will be obligated to indemnify the NPCC Indemnitees under Section VI.H. will be the policy limit of directors and officers' ("D&O") liability insurance set forth in the D&O insurance policy maintained by NPCC.

VII. Committees

NPCC shall have such committees, subcommittees, task forces and other groups as the Board may deem appropriate, including a Regional Standards Committee (RSC), a Compliance Committee (CC), a Reliability Coordinating Committee (NPCC's principal technical committee), a Public Information Committee and an Audit and Finance Committee.

The Audit and Finance Committee shall be comprised of at least three members of the Board and include one Director which shall be designated an audit committee financial expert by the Board. A chairperson of the Audit and Finance Committee shall be designated by the Board from among the members of the committee.

Committee members shall be nominated and approved by the Board in accordance with guidelines established by the Board. Quorum and voting rules applicable to the Board shall also apply to voting on any such NPCC decision making committees, unless otherwise determined by the Board. Each committee shall establish a charter or scope of work, which shall be presented to the Board for approval.

VIII. Members' Voting Rights

- A. Quorum and Voting Requirements for Meetings of Members. At any meeting of the Members of NPCC, attendance in person or by proxy by one-half of the Members in each of at least sixty percent (60%) of the Voting Sectors on the roster of Members maintained by NPCC shall constitute a quorum. Except as otherwise expressly provided in NPCC's Certificate of Incorporation, these Bylaws or applicable law, actions by the Members of NPCC shall be approved upon receipt of a two-thirds affirmative majority vote of the sectors at a meeting of the Members of NPCC at which a quorum is present, where (i) each Member shall have one vote within a sector, except that if less than one-half of the Members in a sector are present, in person or by proxy, at the meeting, the vote of that sector shall be weighted by a percentage equal to the number of Members of the sector present in person or by proxy at the meeting divided by one-half of the Members in the sector; (ii) the vote of each sector of NPCC shall be allocated for and against the proposed action based on the respective percentages of votes cast for and against the proposed action by the Members in that sector voting in person or by proxy; and (iii) the proportions of the votes of each sector allocated for and against the proposed action shall be summed to determine the total number of votes for and against the proposed action.

The following process is used to determine if there are sufficient affirmative votes:

- The number of votes cast is the sum of affirmative and negative votes, excluding abstentions.
- The number of affirmative votes cast in each sector will be divided by the sum of affirmative and negative votes cast to determine the fractional affirmative vote for each sector. Abstentions will not be counted for the purposes of determining the fractional affirmative vote for a sector.

- The sum of the fractional affirmative votes from all sectors divided by the number of sectors voting will be used to determine if a two-thirds affirmative majority has been achieved. (A sector will be considered as “voting” if any Member of the sector casts either an affirmative or a negative vote.)
- B. Waivers of Notice of Meetings of Members; Member Meeting Adjournments. Notice of a Meeting of Members need not be given to any Member who signs a waiver of notice, in person or by proxy, whether before or after the meeting. The attendance of any Member at a meeting, in person or by proxy, without protesting prior to the conclusion of the meeting the lack of notice of such meeting, shall constitute a waiver of notice of the meeting by such Member. When any Meeting of Members is adjourned to another time or place, it shall not be necessary to give notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and if at the adjourned meeting only such business is transacted as might have been transacted at the original meeting.
- C. Actions Without a Meeting of Members. Any action, required or permitted to be taken at a Meeting of Members, may be taken without a meeting if the action is consented to in writing by the minimum number of Members that would be required to approve the action at a Meeting of Members at which all Members were present. The call for action without a Meeting of Members may be initiated by the Chairman of the Board or by a number of Members constituting at least ten percent (10%) of the Members on the roster of Members maintained by NPCC, which number shall include Members in at least four (4) of the Voting Sectors. Notice of the proposal for action without a meeting shall be provided to all Members on the roster of Members maintained by NPCC at least seven (7) days prior to the date established for the tabulation of consents. The Members shall receive written notice of the results within fourteen (14) days of the action vote, and all written responses of the Members shall be filed with the minutes of proceedings of Members.
- D. Meeting of Members to be Open. Notice to the public of the dates, places, and times of Meetings of Members, and all non-confidential material provided to the Members, shall be posted on NPCC’s web site at approximately the same time that notice is given to the Members. Meetings of Members shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; *provided* that the meeting may be held in or adjourn to closed session to discuss matters of a confidential nature, including, but not limited to, personnel matters, compliance and enforcement matters, litigation, or commercially sensitive or critical energy infrastructure information of any entity.
- E. Electronic Voting. Upon completion of applicable processes that permit parties to comment on the subject issue(s), electronic voting on matters before the membership, Board or any committee is permitted. A quorum will be determined to exist for purposes of conducting an electronic vote when NPCC receives completed ballots from two-thirds of the total number of outstanding ballots. In the event that a quorum exists for purposes of an electronic vote but the matter has not been resolved, NPCC may continue to solicit additional responses in order to resolve the matter by electronic voting.

IX. Membership Rights and Obligations, and Organizational Process

- A. All General and Full Members shall have the following rights and obligations:
- (1) Rights:
 - (a) Attendance at all meetings of the general membership of NPCC; and, subject to procedures established by the committees and to the terms of applicable confidentiality agreements, attendance at

- meetings of NPCC's committees, task forces and any other such NPCC groups.
- (b) Access to minutes of each committee, subcommittee, task force or any other NPCC group, subject to procedures established by the committees and to the terms of applicable confidentiality agreements.
 - (c) Vote to amend these Bylaws.
 - (d) Vote to establish, modify or eliminate NPCC Regional Reliability Standards and programs.
 - (e) For Full Members only: Vote to establish, modify or eliminate NPCC regionally-specific reliability criteria.
- (2) Obligations:
- (a) Each Member shall agree, in writing, to accept the responsibility to promote, support, and comply with the purposes and policies of NPCC as set forth in its Certificate of Incorporation and Bylaws as from time to time adopted, approved or amended.
 - (b) Each Member acknowledges that it has the responsibility to plan and design its bulk power system and conduct its operations in compliance with ERO Reliability Standards, Regional Reliability Standards and Regional Variances consistent with applicable laws, regulations, permits and licenses.
 - (c) Each Member agrees to submit such data and reports as required by NPCC in order to perform compliance enforcement obligations delegated to it by the ERO, subject to established procedures and to the terms of applicable confidentiality agreements.
 - (d) In addition, each Full Member shall:
 - (i) plan and design its bulk power system in compliance with Criteria, Guides, and Procedures established by NPCC and applicable ERO Standards;
 - (ii) conduct its operations in compliance with Criteria, Guides, and Procedures established by NPCC and applicable ERO Standards consistent with applicable laws, regulations, permits and licenses;
 - (iii) assure that, whenever it enters into arrangements with non-members which could have an impact on the reliability of the international, interconnected bulk power systems in Northeastern North America, the arrangements will not adversely impact the ability of the Full Members to comply with regionally-specific criteria established by NPCC, ERO Standards, or the criteria of regional reliability organizations established in areas in which the facilities used for such arrangements are located;
 - (iv) notify NPCC of its existing facilities and operating procedures and of its plans for major additions or modifications affecting the operation of the interconnected systems; and shall report to NPCC any decision as to significant alterations or changes proposed for their respective electric systems, whether in generation, transmission, inter-system communication or control and protective equipment, or in operating procedures; such report to be submitted promptly and, except in cases

of emergency, before final commitments are undertaken or changes in operating procedures become effective;

- (v) promptly notify NPCC and all other Members in writing or electronically if its bulk power system is not being designed or operated, or its operations are not being conducted in compliance with Criteria, Guides, and Procedures established by NPCC, stating its reasons, and providing its plan and schedule to achieve compliance;
- (vi) submit such data and reports as required by the Reliability Compliance and Enforcement Program and to abide by the compliance assessments and sanctions prescribed by NPCC's enforcement procedures, subject to Alternative Dispute Resolution; and
- (vii) undertake and perform the administrative and financial obligations described in Article XIII of these Bylaws.

B. Standards Development Procedure. NPCC shall develop a Regional Reliability Standards Development Procedure that provides the design-basis approach to a consensus building process by which NPCC may develop Regional Reliability Standards and Regional Variances to be proposed to the ERO for adoption, under delegated authority by the FERC and the Canadian Provincial regulatory and/or governmental authorities.

C. Procedures for Enforcing Compliance with Reliability Standards. Where regulatory approval has been obtained or governmental authority has been provided, upon the determination of the NPCC Board that a user, owner or operator of the bulk power system has violated a reliability standard, NPCC shall enforce compliance for such violations, pursuant to procedures and processes that shall be specified in the NPCC Compliance Enforcement Program. Such procedures and processes shall provide for reasonable notice and opportunity for hearing. Any sanction imposed for a violation of a Reliability Standard shall bear a reasonable relation to the seriousness of the violation and shall take into consideration circumstances surrounding the violation and efforts of the owner, operator, or user of the bulk power system to remedy the violation in a timely manner. Subject to any necessary action by any applicable governmental authorities, no sanction imposed for a violation of a reliability standard shall take effect until the thirty-first (31st) day after the NPCC Board, where authorized by law or agreement, files with the FERC or other applicable Canadian regulatory and/or governmental authority's notice of the sanction and the record of the proceedings in which the violation and sanction were determined, or such other date as ordered by the FERC or other applicable Canadian regulatory and/or governmental authorities or as prescribed by applicable law.

X. Full Members: Enforcement of Mandatory Compliance With Regionally-specific Criteria
Subject to approval of the Full Members, NPCC shall establish an NPCC Reliability Criteria Compliance and Enforcement Program, including matrices for measuring compliance, levying non-monetary sanctions, and procedures for Alternative Dispute Resolution. Such program shall be administered by the NPCC Board. The Reliability Coordinating Committee, with the full cooperation of each member, shall expeditiously evaluate, as appropriate, alterations or measures designed to correct any assessed non-compliance and shall report such studies to the NPCC Board.

XI. Meetings

Meetings of NPCC may be held on such dates as the Board may from time to time determine and shall be held in such places as the Board may from time to time designate. Special meetings may be called from time to time by the Chair, the Board, or by a number of

Members constituting at least ten percent (10%) of the Members on the roster of Members maintained by NPCC, which number shall include Members in at least four (4) of the Voting Sectors. Notice of all meetings, stating the time and place, shall be given by NPCC in writing to each Member by issuing the notice at least one week prior to the date of the meeting. The Secretary, Assistant Secretary, or, in their absence, a secretary *pro tempore* designated by the Chair or the President, shall keep the records of NPCC meetings.

When appropriate, the membership, the Board and the committees may use proxies or teleconference facilities. Such participation shall constitute attendance for purposes of quorum requirements.

XII. Budget

The Board shall prepare or cause to be prepared an annual budget for the administrative and other expenses of NPCC, including the expenditures for the fiscal year for any material special projects undertaken by NPCC and reasonable and proper reserves and provisions for contingencies, an accompanying business plan for NPCC, and a funding mechanism including any supplemental funding mechanism, for each fiscal year. The annual budget, business plan, and funding mechanism of NPCC shall be developed in the form and format and on the schedule stipulated by the ERO for a fiscal year commencing on January 1 and ending on December 31. Each annual budget, business plan, and funding mechanism shall be approved by the Board at a regular meeting or a special meeting of the Board duly called for that purpose. The Board shall approve each annual budget, business plan, and funding mechanism on or before the date stipulated by the ERO during the year prior to the start of the fiscal year in order to allow for timely submittal of the approved annual budget, business plan, and funding mechanism to the FERC and the applicable Canadian regulatory and/or governmental authorities.

If the ERO or a regulatory and/or governmental authority by order remands an annual budget, business plan, or annual, modified, or supplemental funding mechanism, the Board shall promptly address such other through appropriate follow-up measures with the Members and regulatory and/or governmental authorities.

Each Full Member shall be notified of the annual administrative expense budget for the criteria services division, on or before December 1st of the preceding year.

XIII. Funding

NPCC's annual administrative expenses, including any special assessments approved by the Board, shall be apportioned and funded as follows:

- A. Funding of NPCC General Member regional entity division activities shall be through mechanisms established by the ERO, FERC and applicable Canadian regulatory and/or governmental authorities.
- B. General Members shall not be assessed an annual membership fee.
- C. Full Members, other than Full Members that perform the Balancing Authority function, shall not be assessed an annual membership fee.
- D. Full Members that perform the Balancing Authority function shall be assessed and pay a proportional share of the expenses for non-statutory criteria services in proportion to the ratio of the second previous year's Net Energy for Load within the Balancing Authority Area to the aggregate Net Energy for Load within all Balancing Authority Areas in Northeastern North America. NPCC will directly assign non-statutory criteria services costs to a Balancing Authority Area or entity where significant costs are incurred by NPCC for such Area or entity.
- E. No Full Member shall, without its consent, be responsible for expenses of NPCC in any one calendar year in excess of its assessed portion of the amount budgeted for non-statutory criteria services for that year; provided, however, that special assessments may be separately budgeted and their cost allocated by the Board to the Full Members that perform the Balancing Authority function.

XIV. Termination of Membership and Cessation of Non-Statutory Criteria Services

- A. Termination. All General Members and Full Members, other than Full Members that perform the Balancing Authority function, may terminate their membership in NPCC at any time upon fifteen (15) days' written or electronic notice without liability to NPCC. A Full Member that performs the Balancing Authority function may terminate its rights and obligations under these Bylaws (other than its obligation to pay its proportionate share of the non-statutory expenses of NPCC, including special assessments, if applicable, for the full calendar year within which such termination is effective) at any time upon one year's written notice to the President; whereupon, it shall cease to be a Full Member of NPCC as of the date such termination is effective. The President shall promptly inform all Members of receipt of any such notices.
- B. Cessation of Non-Statutory Criteria Services. The Full Members of NPCC may elect by a majority vote to cease non-statutory criteria services.

XV. Conflicts of Interest

NPCC has developed a Code of Conduct that sets forth NPCC policies with respect to, among other things, conflicts of interest. On an annual basis, Directors shall evidence their compliance with NPCC conflict of interest principles by either: (i) signing an Individual Participant Implementation Agreement and thereby agreeing to comply with NPCC's Code of Conduct to the best of his/her ability; or (ii) agreeing that the execution of a Member Entity Implementation Agreement by the employer of such Board member evidences the Board member's agreement to be bound by its employer's Code of Conduct when performing NPCC activities. The Board shall establish similar Code of Conduct compliance requirements for NPCC staff and membership personnel participating on committees, task forces, and working groups as appropriate.

XVI. General

- A. No Member shall be liable for the failure of any other Member to perform its obligations hereunder.
- B. No NPCC officer, member of the Board or member of any other NPCC committee or group, or employee of NPCC shall be personally liable to NPCC or any member thereof, for damages for breach of any duty owed to NPCC or any member thereof, except for liabilities arising from breach of any duty based upon an act or omission (i) in breach of the duty of loyalty owed to NPCC or any individual member, (ii) not in good faith or involving a knowing violation of law, or (iii) resulting in receipt of an improper personal benefit by such NPCC officer, member of the Board or member of any other NPCC committee or group, or employee of NPCC. Neither the amendment nor repeal of this paragraph, nor the adoption of any provision of these Bylaws inconsistent with this paragraph, shall eliminate or reduce the protection offered by this paragraph to an NPCC officer, member of the Board or member of any other such NPCC committee or group, or employee of NPCC in respect of any matter which occurred, or any cause of action, suit or claim which, but for this paragraph, would have accrued or arisen, prior to such amendment, repeal, or adoption.
- C. Those entities listed as Members on Schedule A and subsequent applicants granted membership in NPCC shall be deemed to have accepted and to be bound by all the terms and conditions of these Bylaws, as adopted on July 24, 2007.

APPROVED 7-24-07

Exhibit C – Regional Standard Development Procedure

Exhibit C shall set forth the Regional Entity’s standards development procedure, which NERC agrees meets the following common attributes:

COMMON ATTRIBUTE 1

Proposed regional reliability standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA and any applicable authorities in Canada. No regional reliability standard shall be effective within the NPCC area unless filed by NERC with FERC and applicable authorities in Canada and approved by FERC and applicable authorities in Canada.

COMMON ATTRIBUTE 2

NPCC regional reliability standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. A NPCC reliability standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. A regional reliability standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

COMMON ATTRIBUTE 3

NPCC regional reliability standards, when approved by FERC and applicable authorities in Canada, shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the NPCC area, regardless of membership in the region.

COMMON ATTRIBUTE 4

Requester — The requester is the sponsor of the regional reliability standard request and may assist in the development of the standard. Any member of ~~[Regional Entity Name], NPCC~~, or group within ~~[Regional Entity Name]NPCC~~ shall be allowed to request that a regional reliability standard be developed, modified, or withdrawn. Additionally, any entity (person, organization, company, government agency, individual, etc.) that is directly and materially affected by the reliability of the bulk power system in the NPCC area shall be allowed to request a regional reliability standard be developed, modified, or withdrawn.

COMMON ATTRIBUTE 5

Regional Standards Committee — The NPCC Regional Standards Committee manages the standards development process. The NPCC Regional Standards Committee will consider which requests for new or revised standards shall be assigned for development (or existing standards considered for deletion). The NPCC Regional Standards Committee will advise the NPCC board on standards presented for adoption.

COMMON ATTRIBUTE 6

[Registered ballot body — The registered ballot body comprises all entities or individuals that qualify for one of the stakeholder segments; are registered with NPCC as potential ballot participants in the voting on standards; and are current with any designated fees. Each member of the registered ballot body is eligible to vote on standards. [Each standard action has its own ballot pool formed of interested members of the registered ballot body. Each ballot pool comprises those members of the registered ballot body that respond to a pre-ballot survey for that particular standard action indicating their desire to participate in such a ballot pool.] The representation model of the registered ballot body is provided in Appendix A.]

COMMON ATTRIBUTE 7

NPCC will coordinate with NERC such that the acknowledgement of receipt of a standard request identified in step 1, notice of comment posting period identified in step 4, and notice for vote identified in step 5 below are concurrently posted on both the NPCC and NERC websites.

COMMON ATTRIBUTE 8

An acceptable standard request shall contain a description of the proposed regional reliability standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed standard.

COMMON ATTRIBUTE 9

Within [no greater than 60] days of receipt of a completed standard request, the NPCC Regional Standards Committee shall determine the disposition of the standard request.

COMMON ATTRIBUTE 10

The NPCC Regional Standards Committee may take one of the following actions:

- Accept the standard request as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The [standards committee](#)NPCC Regional Standards Committee may, at its discretion, expand or narrow the scope of the standard request under consideration. The [standards committee](#)NPCC Regional Standards Committee shall prioritize the development of standard in relation to other proposed standards, as may be required based on the volume of requests and resources.
- Reject the standard request. If the [standards committee](#)NPCC Regional Standards Committee rejects a standard request, a written explanation for rejection will be delivered to the requester within [no greater than 30] days of the decision.
- Remand the standard request back to the requester for additional work. The standards process manager will make reasonable efforts to assist the requester in addressing the deficiencies identified by the NPCC Regional Standards Committee. The requester may then resubmit the modified standard request using the process above. The requester may choose to withdraw the standard request from further consideration prior to acceptance by the NPCC Regional Standards Committee.

COMMON ATTRIBUTE 11

Any standard request that is accepted by the NPCC Regional Standards Committee for development of a standard (or modification or deletion of an existing standard) shall be posted for public viewing on the NPCC website within [no greater than 30] days of acceptance by the committee.

COMMON ATTRIBUTE 12

The standards process manager shall submit the proposed members of the drafting team to the NPCC Regional Standards Committee. The NPCC Regional Standards Committee shall approve the drafting team membership within 60 days of accepting a standard request for development, modifying the recommendations of the standards process manager as the committee deems appropriate, and assign development of the proposed standard to the drafting team.

COMMON ATTRIBUTE 13

At the direction from the NPCC Regional Standards Committee, the NPCC standards process manager shall facilitate the posting of the draft standard on the [Regional Entity Name](#)NPCC website, along with a draft implementation plan and supporting documents, for a no less than a [30]-day comment period. The [NPCC](#) standards process manager shall provide notice to

~~{Regional Entity Name}NPCC~~ stakeholders and other potentially interested entities, both within and outside of the ~~{Regional Entity Name}NPCC~~ area, of the posting using communication procedures then currently in effect or by other means as deemed appropriate.

COMMON ATTRIBUTE 14

The drafting team shall prepare a summary of the comments received and the changes made to the proposed standard as a result of these comments. The drafting team shall summarize comments that were rejected by the drafting team and the reason(s) that these comments were rejected, in part or whole. The summary, along with a response to each comment received will be posted on the ~~{Regional Entity Name}NPCC~~ website no later than the next posting of the proposed standard.

COMMON ATTRIBUTE 15

Upon recommendation of the drafting team, and if the ~~{standards} committee~~NPCC Regional Standards Committee concurs that all of the requirements for development of the standard have been met, the standards process manager shall post the proposed standard and implementation plan for ballot and shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

COMMON ATTRIBUTE 16

The NPCC standards process manager shall schedule a vote by the ~~{Regional Entity Name} {NPCC Regional Standards Committee} registered ballot body~~{standards} committee. The vote shall commence no sooner than [15] days and no later than [30] days following the issuance of the notice for the vote.

COMMON ATTRIBUTE 17

~~{Alternative 17A: For an RE that chooses to vote using a balanced stakeholder committee.}~~

~~The {standards} committee shall give due consideration to the work of the drafting team, as well as the comments of stakeholders and minority objections, in approving a proposed regional~~

~~reliability standard for submittal to the [Regional Entity Name] board. The [standards] committee may vote to approve or not approve the standard. Alternatively, the [standards] committee may remand the standard to the drafting team for further work or form a new drafting team for that purpose.~~

~~[Alternative 17B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]~~

The ~~[Regional Entity Name]~~NPCC registered ballot body shall be able to vote on the proposed standard during a period of ~~[not less than 10]~~ days.

COMMON ATTRIBUTE 18

~~[Alternative 18A: For an RE that chooses to vote using a balanced stakeholder committee.]~~

~~The [standards] committee may not itself modify the standard without issuing a new notice to stakeholders regarding a vote of the modified standard.~~

~~[Alternative 18B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]~~

All members of ~~[Regional Entity Name]~~NPCC are eligible to participate in voting on proposed new standards, standard revisions or standard deletions. [Alternatively: Each standard action requires formation of a ballot pool of interested members of the registered ballot body.]

COMMON ATTRIBUTE 19

~~[Alternative 19A: For an RE that chooses to vote using a balanced stakeholder committee.]~~

~~Actions by the committee shall be recorded in the regular minutes of the committee.~~

~~[Alternative 19B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]~~

Approval of the proposed regional reliability standard shall require a [two thirds] majority in the affirmative (affirmative votes divided by the sum of affirmative and negative votes). Abstentions and non-responses shall not count toward the results, except that abstentions may be used in the determination of a quorum. A quorum shall mean [XX%] of the members of the [registered ballot body/ballot pool] submitted a ballot.

COMMON ATTRIBUTE 20

Under no circumstances may the board substantively modify the proposed regional reliability standard.

COMMON ATTRIBUTE 21

Once a regional reliability standard is approved by the [NPCC](#) board, the standard will be submitted to NERC for approval and filing with FERC [and applicable authorities in Canada and Mexico.]

COMMON ATTRIBUTE 22

- **Open** - Participation in the development of a regional reliability standard shall be open to all organizations that are directly and materially affected by the [\[Regional Entity Name\]NPCC](#) bulk power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in [\[Regional Entity Name\]NPCC](#), and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to the [\[Regional Entity Name\]NPCC](#) members and others.

COMMON ATTRIBUTE 23

- **Balanced** - The [\[Regional Entity Name\]NPCC](#) standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.

COMMON ATTRIBUTE 24

- **Inclusive** — Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the [\[Regional Entity Name\]NPCC](#) area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.

COMMON ATTRIBUTE 25

- **Fair due process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.

COMMON ATTRIBUTE 26

- **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the [regional entity's](#) Web site.

COMMON ATTRIBUTE 27

- Does not unnecessarily delay development of the proposed reliability standard.

COMMON ATTRIBUTE 28

Each standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

COMMON ATTRIBUTE 29

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all regional reliability standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

COMMON ATTRIBUTE 30

To ensure uniformity of regional reliability standards, a regional reliability standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

COMMON ATTRIBUTE 31

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

COMMON ATTRIBUTE 32

Applicability	<p>Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions.</p> <p>If not applicable to the entire [Regional Entity Name]NPCC area, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.</p>
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COMMON ATTRIBUTE 33

Measure(s)	<p>Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.</p>
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COMMON ATTRIBUTE 34

Compliance Monitoring Process	<p>Defines for each measure:</p> <ul style="list-style-type: none">• The specific data or information that is required to measure performance or outcomes.
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	<p><u>2.</u>• The entity that is responsible for providing the data or information for measuring performance or outcomes.</p> <p><u>3.</u>• The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes.</p> <p><u>4.</u>• The entity that is responsible for evaluating data or information to assess performance or outcomes.</p> <p><u>5.</u>• The time period in which performance or outcomes is measured, evaluated, and then reset.</p> <p><u>6.</u>• Measurement data retention requirements and assignment of responsibility for data archiving.</p>
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~~**EXHIBIT D – COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM**~~

~~**2.0 – REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM**~~

~~**[REGIONAL ENTITY]**~~

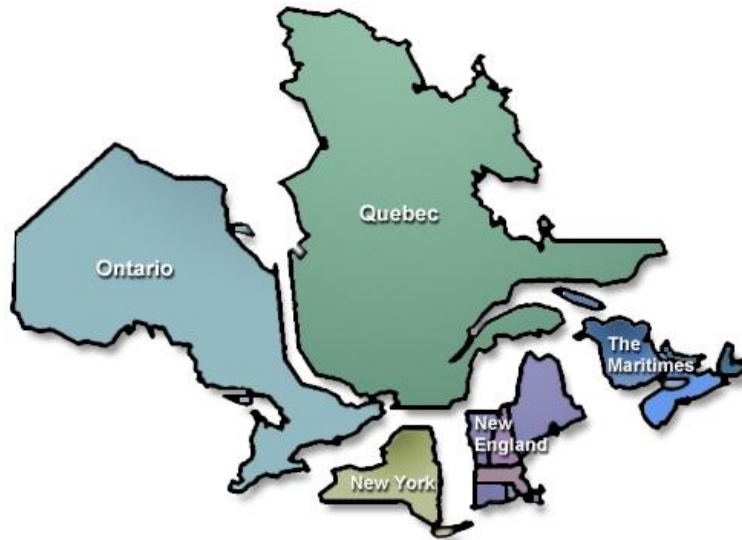


NORTHEAST POWER COORDINATING COUNCIL, INC.
1515 BROADWAY, NEW YORK, NY 10036-8901 TELEPHONE: (212) 840-1070 FAX: (212) 302-2782

Exhibit C

Northeast Power Coordinating Council, Inc.

Regional Reliability Standards Development Procedure



**Approved by NPCC Board of Directors
September 19, 2007**

NPCC

REGIONAL RELIABILITY STANDARDS DEVELOPMENT PROCEDURE

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I. EXECUTIVE SUMMARY

The purpose of the Northeast Power Coordinating Council, Inc. ("NPCC"), is to enhance the reliability of the international, interconnected bulk power system in Northeastern North America through the development of more stringent and specific regional reliability standards and compliance assessment and enforcement of continent-wide and regional reliability standards pursuant to the execution and implementation of a Regional Delegation Agreement with the Electric Reliability Organization ("ERO") and applicable Canadian Memoranda of Understanding that are backstopped by the Federal Energy Regulatory Commission ("FERC") and Canadian Provincial authorities. In the development and enforcement of Regional Reliability Standards, NPCC, to the extent possible, facilitates attainment of fair, effective, efficient, and competitive electric markets.

General Membership in NPCC is voluntary and is open to any person or entity, including any entity participating in the Registered Ballot Body of the ERO that has an interest in the reliable operation of the Northeastern North American bulk power system.

The NPCC Regional Reliability Standards Development Procedure describes the procedures, policies and practices implemented to ensure an "open, fair, and inclusive" process for the transparent initiation, development, implementation and revision of NPCC Regional Reliability Standards necessary for the reliable operation of the international and interconnected bulk power system in Northeast North America. These Standards will, in all cases, not be inconsistent with or less stringent than any requirements of the North American Electric Reliability Council/Electric Reliability Organization (NERC/ERO) Reliability Standards. The procedure will not unnecessarily delay the development of the proposed reliability standards. Each regional reliability standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of pertinent reliability principles and criteria, thereby ensuring that no standard undermines reliability through an unintended consequence.

II. REGIONAL RELIABILITY STANDARD DEVELOPMENT PROCEDURE

1. CHARACTERISTIC ATTRIBUTES

The NPCC Regional Reliability Standards Development Procedure is:

- **Open** — The NPCC Regional Reliability Standards Development Procedure provides any person the ability to participate in the development of a standard. Any entity that is directly and materially affected by the reliability of the NPCC's bulk power system has the ability to participate in the development and approval of reliability standards. There are no undue financial barriers to participation. Participation in the open comment process is not conditional upon membership in the ERO, NPCC or any organization, and participation is not unreasonably restricted on the basis of technical qualifications or other such requirements. NPCC utilizes a website to accomplish this. Online posting and review of standards and the real time sharing of comments uploaded to the website allow complete transparency.

- **Inclusive** — The NPCC Regional Reliability Standards Development Procedure provides any person with a direct and material interest the right to participate by expressing an opinion and its basis, have that position considered, and appealed through an established appeals process if adversely affected.
- **Balanced** — The NPCC Regional Reliability Standards Development Procedure has a balance of interests and all those entities that are directly and materially affected by the reliability of the NPCC's bulk power system are welcome to participate and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter. This will be accomplished through the NPCC Bylaws defining eight sectors (categories) for voting.
- **Fair Due Process** — The NPCC Regional Reliability Standards Development Procedure provides for reasonable notice and opportunity for public comment. The procedure includes public notice of the intent to develop a standard, a 45 calendar day public comment period on the proposed standard request, or standard with due consideration of those public comments, and responses to those comments will be posted on the NPCC website. A final draft will be posted for a 30 calendar day pre-balloting period, and then a ballot of NPCC Members will be conducted. Upon approval by the NPCC Members, the NPCC Board then votes to approve submittal of the Regional Standard to NERC.
- **Transparent** — All actions material to the development of Regional Reliability Standards are transparent and information regarding the progress is posted on the NPCC website as well as through extensive email lists.

In as much as NPCC is one of several regional entities within the Eastern Interconnection of North America, there will be **no presumption of validity** by the ERO for any NPCC Regional Reliability Standard. In order to receive the approval of the ERO, the NPCC Reliability Standards Development Process must also achieve the following objectives:

- **No Adverse Impact on Reliability of the Interconnection** —An NPCC Regional Reliability Standard provides a level of bulk power system reliability that is necessary and adequate to protect public health, safety, welfare, and North American security and will not have an adverse impact on the reliability of the Interconnection or other Regions within the Interconnection.
- **Justifiable Difference** — An NPCC Regional Reliability Standard is based on justifiable differences between Regions, such as different electrical systems or facilities, sensitivity of load to disruptions, sensitivity of generation to disruptions, frequency and voltage sensitivity, system operating limit development and facilities ratings process, electrical system interactions, etc.
- **Uniformity**- NPCC Regional Reliability Standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk

power system of the North American continent. A NPCC Reliability Standard shall be more stringent than a continent-wide reliability standard, may include a regional variation that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the northeast's bulk power system, where the interpretation of the phrase "physical difference" will be consistent with FERC's Order, issued September 22, 2004, Granting Request For Clarification regarding Docket No. PL04-5-000, Policy Statement on Matters Related to Bulk Power System Reliability.

- **No Undue Adverse Impact on Commerce** — An NPCC Regional Reliability Standard will not cause any undue adverse impact on business activities that are not necessary for reliability of the Region and its interconnected Regions. All regional reliability standards shall be consistent with NERC's market principles.

Other Attributes of the NPCC Regional Reliability Standards Development Procedure include;

- **Maintenance of Regional Reliability Standards**-NPCC Regional Standards will be reviewed for possible revision at least every three years and follow the same process as a new standard. The old standard will remain in place until such time as the revised version has passed through the entire process, at which point the old standard will be retired in accordance with any applicable new implementation plan associated with the approved revised standard. The review process shall be conducted by soliciting comments from the stakeholders and through open posting on the NPCC website. If no changes are warranted, Regional Standards Committee (RSC) shall recommend to the NPCC Board that the standard be reaffirmed. If the review indicates a need to revise or withdraw a standard, a regional standard authorization request shall be prepared by the RSC and submitted in accordance with the standards development process contained in this procedure.
- **Maintenance of Regional Reliability Standards Development Procedure**-This NPCC Regional Reliability Standards Development Procedure will be reviewed for possible revision at least once every five years or more frequently if needed and subject to the same procedure as that of the development of a standard. All such revisions shall be subject to approval by the NPCC Board, NERC, FERC, and could be subject to approval, if required, by applicable authorities in Canada. The NPCC RSC has the authority to make non-substantive changes to this procedure and subsequently notify the NPCC Board for their concurrence at their next scheduled meeting.
- **Interpretation of Standards**- All persons who are directly and materially affected by the NPCC's bulk power system reliability shall be permitted to request an interpretation of a standard. The person requesting an interpretation will send an email request to the Regional Standards Process Manager (RSPM), as noted on the NPCC website, explaining the specific circumstances surrounding the request and what clarifications are required as applied to those circumstances. The request should indicate the material

impact to the requesting party or others caused by the lack of clarity or a possibly incorrect interpretation of the standard. The RSPM along with guidance from the RSC will forward the request to the originating Task Force which acted as the drafting team for that regional reliability standard. The Task Force will address, through a written response, the request for clarification as soon as practical, but not more than 45 business days from its receipt by the Task Force. This written interpretation will be posted along with the final approved and adopted standard and will stand until such time as the standard is revised through the normal RSAR process, at which time the standard will be modified to incorporate the clarifications provided by the interpretation.

2. ELEMENTS OF A RELIABILITY STANDARD

- **Elements of a Regional Reliability Standard**

To ensure uniformity of regional reliability standards, a regional reliability standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

All mandatory requirements of a regional reliability standard shall be within the standard document. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

The most current version of the approved NERC Reliability Standard template and its associated elements as or if applicable, will be used at the time of the development of the NPCC Regional Reliability Standard to ensure all essential elements are contained therein to achieve consistency and uniformity and meet all statutory requirements. A sample of the elements contained in the standard appears in Table 1 below, however the latest ERO Board approved Standard template, that may be found on the NERC website, will supersede the list below at the time the regional standard is developed.

Table 1- Elements of a Regional Reliability Standard

Identification Number	A unique identification number assigned in accordance with an administrative classification system to facilitate tracking and reference. (i.e. “NPCC- BAL-002-0-Date” which refers to NPCC Regional Standard, referencing NERC BAL-002 Version 0, with NPCC Effective Date-final adoption by all Regional Authorities)
Title	A brief, descriptive phrase identifying the topic of the standard.
Applicability	Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions. The standard will be applicable to the Bulk Power System unless otherwise noted.
Effective Date	The effective date of the standard or, prior to approval of the

and Status	standard, the proposed effective date.
Purpose	The purpose of the standard. The purpose shall explicitly state what outcome will be achieved or is expected by this standard.
Requirement(s)	Explicitly stated technical, performance, and preparedness requirements. Each requirement identifies what entity is responsible and what action is to be performed or what outcome is to be achieved. Each statement in the requirements section shall be a statement for which compliance is mandatory.
Risk Factor(s)	<p>The potential reliability significance of each requirement, designated as a High, Medium, or Lower Risk Factor in accordance with the criteria listed below:</p> <p>A High Risk Factor requirement (a) is one that, if violated, could directly cause or contribute to bulk power system instability, separation, or a cascading sequence of failures, or could place the bulk power system at an unacceptable risk of instability, separation, or cascading failures; or (b) is a requirement in a planning timeframe that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly cause or contribute to bulk power system instability, separation, or a cascading sequence of failures, or could place the bulk power system at an unacceptable risk of instability, separation, or cascading failures, or could hinder restoration to a normal condition.</p> <p>A Medium Risk Factor requirement (a) is a requirement that, if violated, could directly affect the electrical state or the capability of the bulk power system, or the ability to effectively monitor and control the bulk power system, but is unlikely to lead to bulk power system instability, separation, or cascading failures; or (b) is a requirement in a planning timeframe that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly affect the electrical state or capability of the bulk power system, or the ability to effectively monitor, control, or restore the bulk power system, but is unlikely, under emergency, abnormal, or restoration conditions anticipated by the preparations, to lead to bulk power system instability, separation, or cascading failures, nor to hinder restoration to a normal condition.</p> <p>A Lower Risk Factor requirement is administrative in nature and (a) is a requirement that, if violated, would not be expected to affect the electrical state or capability of the bulk power system, or the ability to effectively monitor and control the bulk power system; or (b) is a requirement in a planning time frame that, if violated, would not, under the emergency, abnormal, or restorative conditions anticipated by the preparations, be expected to affect the electrical state or capability of the bulk power system, or the ability to effectively monitor, control, or restore the bulk power system.</p>

Measure(s)	Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.
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Table 2 — Compliance Elements of a Regional Reliability Standard

Compliance Monitoring Process	<p>Defines for each measure:</p> <ul style="list-style-type: none"> • The specific data or information that is required to measure performance or outcomes. • The entity that is responsible for providing the data or information for measuring performance or outcomes. • The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes. • The entity that is responsible for evaluating data or information to assess performance or outcomes. • The time period in which performance or outcomes is measured, evaluated, and then reset. • Measurement data retention requirements and assignment of responsibility for data archiving. • Violation severity levels.
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Supporting Information Elements

Interpretation	Any interpretation of regional reliability standard that is developed and approved in accordance with the “Interpretation of Standards” section of Appendix A of this procedure, to expound on the application of the standard for unusual or unique situations or to provide clarifications.
Implementation Plan	Each regional reliability standard shall have an associated implementation plan describing the effective date of the standard or effective dates if there is a phased implementation. The implementation plan may also describe the implementation of the standard in the compliance program and other considerations in the initial use of the standard, such as necessary tools, training, etc. The implementation plan must be posted for at least one public comment period and is approved as part of the ballot of the standard.

<p>Supporting References</p>	<p>This section references related documents that support reasons for, or otherwise provide additional information related to the regional reliability standard. Examples include, but are not limited to:</p> <ul style="list-style-type: none"> • Glossary of terms • Developmental history of the standard and prior versions • Notes pertaining to implementation or compliance • Standard references • Standard supplements • Procedures • Practices • Training references • Technical references • White papers • Internet links to related information
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3. TERMS AND FUNCTIONS

- **Regional Standards Committee (RSC)**—An NPCC committee charged with management of the NPCC Standards Procedure under a sector based voting structure as described in the NPCC Bylaws. The NPCC RSC will consider requests for new or revised standards and be available for advisement to the NPCC Board on the standards.

The RSC may not itself modify the standard without issuing a new notice to stakeholders regarding a vote of the modified standard. Any RSC action will only be activated in the event of a minor correction of a standard such as errata.

The RSC is an open and balanced stakeholder committee inclusive of all stakeholder interests that provide for or are materially impacted by the reliability of the bulk power system.

The RSC disposition regarding the regional standard authorization request, which will in all cases be within 60 calendar days of receipt of a completed standard request, shall include:

- Accept the standard request as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The RSC may, at its discretion, expand or narrow the scope of the standard request under consideration. The RSC shall prioritize the development of standards in relation to other proposed standards, as may be required based on the volume of requests and resources.

- Reject the standard request. If the RSC rejects a standard request, a written explanation for rejection will be delivered to the requester within 30 calendar days of the decision.
- Remand the standard request back to the requester for additional work. The standards process manager will make reasonable efforts to assist the requester in addressing the deficiencies identified by the RSC. The requester may then resubmit the modified standard request using the process above. The requester may choose to withdraw the standard request from further consideration prior to acceptance by the RSC.

The NPCC Standard Process responsibilities of the RSC will include:

- Review of NPCC Draft Standards for such factors as completeness, sufficient detail, rational result, and compatibility with existing standards; clarifying standard development issues not specified in this procedure. Under no circumstance will the RSC change the substance of a draft standard.
 - Due consideration to the work of the drafting team as well as the comments of stakeholders and minority objections, in approving a proposed regional reliability standard to go to ballot.
 - Approve standards for pre-ballot posting under a sector based voting structure as described later in the NPCC ~~Inc.~~ Bylaws or
 - Remand the standard back to the Task Force acting as the drafting team for further work or recommend a change in those participating in the drafting team (i.e. a new drafting team).
- **Regional Standards Process Manager (RSPM)** - The Regional Reliability Standards Procedure shall be administered by a NPCC staff Regional Standards Process Manager. The RSPM is responsible for ensuring that the development and revision of standards is in accordance with this manual. The RSPM works to ensure the integrity of the process, format, consistency of quality, and completeness of the reliability standards. The RSPM facilitates all steps in the process.
 - **Reliability Coordinating Committee (RCC)** —The RCC, will support the standards development process through the assignment of NPCC Task Forces. They will also provide a technical advisory role in the Regional Reliability Standards development procedure through recommendations.
 - **Requester**— A Requester is any individual or an entity (organization, company, government authority, etc.) that submits a complete request for development, revision, or withdrawal of a standard. Any person or an entity that is directly and materially affected by an existing standard or the need for a new standard may submit a request for a new standard or revision to a standard. The Requester is assisted by the RSAR drafting team (if one is appointed by the RSC) to respond to comments and to decide if and when the RSAR is forwarded to the RSC with a request to draft a standard. The Requester is responsible for the RSAR, assisted by the RSAR drafting team and Regional Standards Process Manager, until such time the RSC authorizes

development of the standard. The Requester has the option at any time to allow the RSAR drafting team to assume full responsibility for the RSAR. The Requester may chose to participate in subsequent standard drafting efforts related to the RSAR.

- **Task Forces and Working Groups**,—The committees, task forces and working groups within NPCC , serve an active role in the standards process:
 - Identify the need for new or modified regional standards.
 - Initiate NPCC Standards actions by developing Regional Standard Authorization Requests (RSARs).
 - Develop comments (views and objections) to standards actions.
 - Participate in NPCC Standard drafting.
 - Provide technical oversight in response to changing industry conditions and ERO Requirements.
 - Conduct Field Tests as required

4. PROCEDURE DESCRIPTION

STEPS 1 AND 2: REQUEST TO DEVELOP A NEW REGIONAL STANDARD

Requests to develop a new Regional Reliability Standard shall be submitted to the RSPM by completing a **Regional Standard Authorization Request (RSAR)** (*see Appendix A*). The RSAR is a description of the new or revised standard in sufficient detail to clearly define the scope, purpose, and importance of the Regional Standard, impacted parties or other relevant information. A “needs” statement will provide the justification for the development of the standard, including an assessment of the reliability and market interface impacts of implementing or not implementing the standard. The RSPM shall maintain the RSAR form and make it available electronically on the NPCC website.

Any person or entity (“Requester”) directly or materially affected by an existing standard or the need for a new or revised standard may initiate a RSAR.

The Requester will submit the RSAR to the RSPM electronically and the RSPM will acknowledge receipt of the RSAR immediately, through electronic receipt. The RSAR, as a minimum, needs to contain the following information in order to be qualified for consideration. The NPCC RSPM will assist the Requester to ensure all the following information is submitted (on the RSAR) in a form appearing in Appendix A:

1. Proposed Title and Date of New RSAR
2. Requester’s Name and Contact Information
3. Purpose of the Regional Standard
4. Description of Industry Need
5. Provide a Brief Description of the Standard
6. Identification of the Entities in the Functional Model as being responsible to adhere to the standard.
7. Necessary information to assist the drafting the team, to the extent feasible, to allow them to draft the standard.
8. A cross references to existing NPCC or NERC documents

The RSPM shall forward all properly completed RSARs to the RSC. The RSC shall meet at established intervals to review all pending RSARs. The frequency of this review process will depend on workload, but in no case shall a properly completed RSAR wait for RSC action more than 60 calendar days from the date of receipt. The RSC may take one of the following actions:

- Remand the RSAR back to the RSPM for additional work. In this case, the RSPM may request additional information or clarification for the RSAR from the Requester.
- Accept the RSAR as a candidate for a new or revised standard. In this case, the RSC will forward the RSAR to the RCC to assign a NPCC Task Force to provide technical support and analysis of comments for that RSAR, and assist the Requester and the RSPM in the remaining steps of the process. The RSPM shall post notification of intent to develop a standard on both NPCC and ERO websites within 30 calendar days of acceptance.
- Reject the RSAR. In this case, the RSC will provide a written explanation for rejection to the Requester within 30 calendar days of the rejection decision.

STEPS 3, 4, AND 5: RSC ACCEPTS RSAR AND RCC ASSIGNS TF TO DRAFT NEW OR REVISED STANDARD

A RSAR that is accepted by the RSC will be submitted to the RCC. Within 60 calendar days the RCC shall assign the development of the standard to a Task Force Drafting Team. The RSPM shall solicit and recommend a list of additional candidates for appointment to the team and shall submit the list to the RSC. This list shall include the Requester. The RSC may select other individuals to serve, with the Task Force to draft the Standard. This team shall consist of a small group of people who collectively have the necessary technical expertise and work process skills.

The RSPM shall assign NPCC staff personnel to assist in the drafting of the standard including compliance measure, process and elements. The drafting of measures and compliance administration aspects of the standard will be coordinated with the Compliance Program.

STEP 6: SOLICIT PUBLIC COMMENTS ON DRAFT STANDARD

Once a draft standard has been verified by the RSC to be within the scope and purpose of the RSAR, the RSPM will post the draft standard for the purpose of soliciting public comments. The posting of the draft standard will be linked to the RSAR for reference. In addition to the standard, an implementation plan shall be posted to provide additional details to the public and aid in their commenting and decision process. Comments on the draft standard will be accepted for a 45 calendar day period from the public notice of posting. Comments will be accepted on-line using the NPCC Open Process web-based application.

Final draft standards will be concurrently posted on the ERO website for comments.

STEPS 7, 8, AND 9: OPEN PROCESS POSTING AND ANALYSIS OF THE COMMENTS

The RSPM will assemble the comments on the new draft standard and distribute those comments to the Task Force acting as the standard drafting team. The Task Force shall give prompt consideration to the written views and comments of all participants. An effort to address all expressed comments shall be made, and each commenter shall be advised of the disposition of the comment and the reasons therefore, in addition to public posting of the responses.

The Task Force acting as the Standard Drafting Team shall take one of the following actions:

- Submit the draft standard for RCC endorsement as it stands, along with the comments received and responses to the comments. Based on the comments received, the Task Force acting as the standard drafting team may include revisions that are not substantive. A substantive change is one that directly and materially affects the application of the standard, including, for example: changing “shall” to “should,” changing “should” to “shall”; adding, deleting, or revising requirements; or adding, deleting, or revising measures for which compliance is mandatory.
- Make substantive revisions to the draft standard and reposts it for further open review and comment.
- Task Force recommends Field Test if necessary to RSC.

Requester also may withdraw the request for a standard.

RCC submits proposed RRS to the RSC along with its recommendation based on comments, Task Force statements and any field test results.

STEPS 10 AND 11: RSC APPROVES OF THE NEW OR REVISED STANDARD FOR POSTING

If the RSC, acting with consideration of any recommendations by the RCC and utilizing the composite sector voting structure, as outlined in the NPCC, votes to post the draft standard for approval, the draft standard, all comments received, and the responses to those comments shall be posted electronically for the NPCC Members, by the RSPM and made public through the NPCC Website (www.npcc.org) for a 30 calendar day “pre-ballot review” and request for balloting. If the RSC decides more work is needed, the draft standard will be remanded back to the drafting Task Force. All actions of the RCC, Task Forces acting as drafting teams and the Regional Standards Committee will be recorded in regular minutes of the group(s) and posted on the NPCC website. Once the notice for a ballot has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued

STEPS 12, 13 AND 14: BALLOT OF STANDARD

Upon notification of a ballot, the Members of NPCC’s registered ballot body will cast their vote consistent with the NPCC Bylaws. This ballot shall commence no sooner than 15 calendar days and no later than 30 calendar days following the notification of ballot. All members of the NPCC are eligible to participate in the voting on proposed, standard revisions or deletions of regional standards. The ballot period will typically begin immediately following the 30 calendar day pre-ballot posting and will last at least 10 business days.

The NPCC registered ballot body comprises all entities or individuals that qualify for one of the eight NPCC stakeholder sectors and are registered with NPCC as potential Exhibit C – Amended and Restated NPCC Regional Delegation Agreement

Approved by FERC Effective January 3, 2009

ballot participants in the voting on standards. Each member of the NPCC registered ballot body is eligible to vote on standards.

In order for a NPCC Regional Standard to be approved;

- A quorum must be established by at least 50% of the NPCC Members of at least 60% of the Voting Sectors on the roster of Members maintained by NPCC.
- A two-thirds majority of the total weighted sector votes cast must be affirmative. The number of votes cast is the sum of affirmative and negative votes, excluding abstentions, and non-responses. Weighted sector vote will be calculated as follows;
 - Affirmative votes cast in each sector will be divided by the sum of affirmative and negative votes cast, in that same sector, to determine the fractional affirmative vote for each sector. Abstentions and non-responses will not be counted for the purposes of determining the fractional affirmative vote for a sector.
 - The sum of the fractional affirmative votes from all sectors divided by the number of sectors voting will be used to determine if a two-thirds majority has been achieved. (A sector will be considered as “voting” if any member of the sector in the ballot pool casts either an affirmative or a negative vote.)
 - A standard will be approved if the sum of fractional affirmative votes from all sectors divided by the number of voting sectors is at least 2/3.

Ballots will be cast electronically and alternatives are as follows;

- Affirmative
- Affirmative with Comments
- Negative
- Negative with Comments
- Abstain

The RSPM shall post the final outcome of the ballot process. If the standard is rejected, it may be withdrawn by either the RCC or the original Requester, or the standard may be remanded by the RSC back to the Task Force acting as the drafting team to address the issues. All comments submitted during the process will be posted and archived for consideration when redrafting the standard upon review.

The standard, once approved by ballot, and a recommendation will be forwarded to the NPCC Board for final Regional approval. The Board may not make substantive modifications to the standard. If the Board does not approve the standard for transmittal to NERC it will be remanded back to the RSC.

If the standard is approved, the standard will be submitted to the NERC/ERO Board of Trustees for approval.

STEPS 15, 16 AND 17: IMPLEMENTATION OF THE NPCC REGIONAL STANDARD

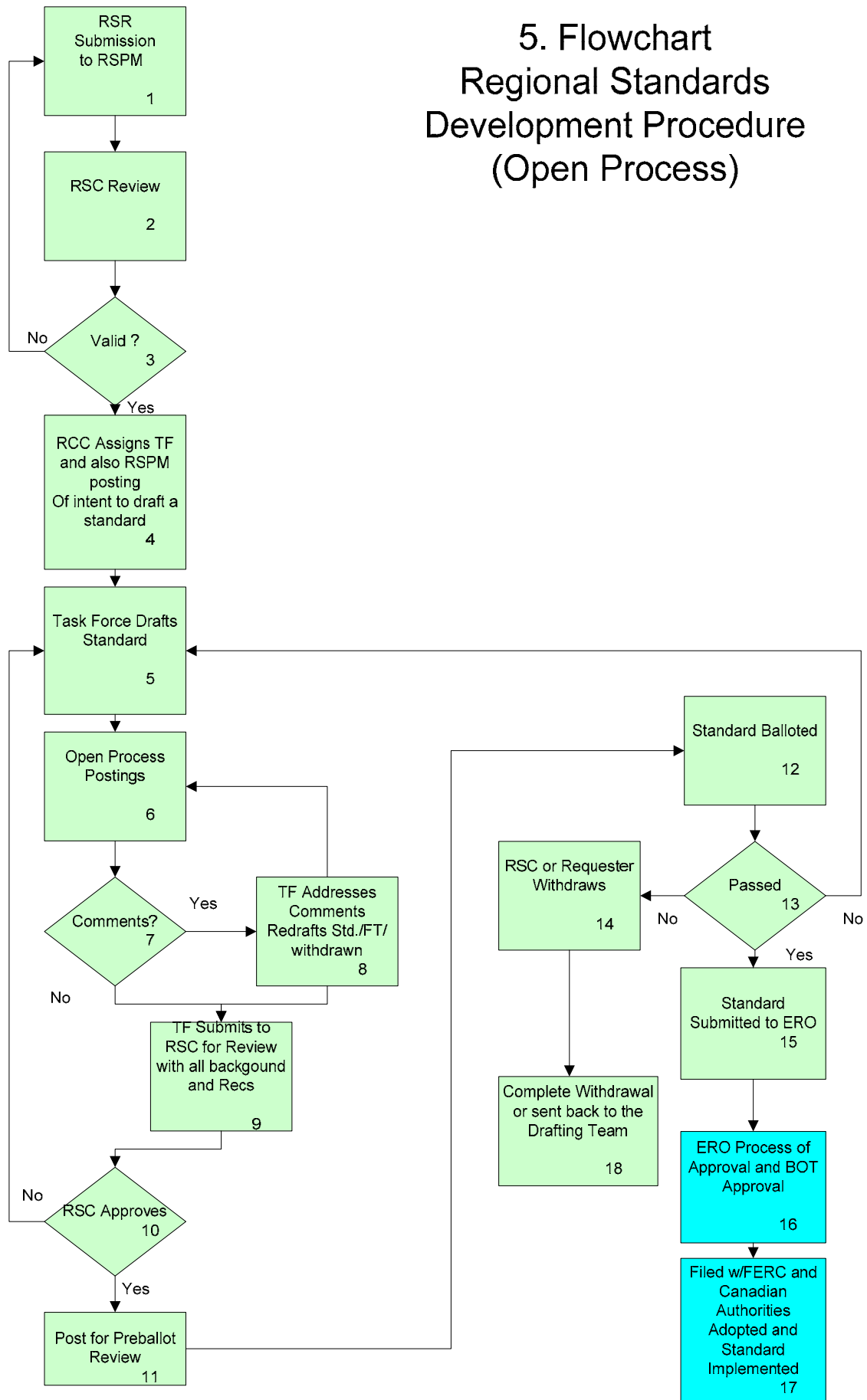
Upon approval within the NPCC , the standard will be submitted to the NERC/ERO for approval(s) and filing with FERC and applicable Canadian Governmental and/or Regulatory Authorities for adoption.

Once a reliability standard is adopted and made effective, all users, owners, planners, and operators of the Bulk Power System in the NPCC geographic area of the Northeast are required to comply with the standard. The NERC/ERO Board of Trustees has established a separate compliance program, also administered in the Northeast by NPCC , to measure compliance with the standards and administer sanctions as appropriate. After adoption of a NPCC Regional Standard, the standard will be forwarded to the compliance program for compliance monitoring and enforcement.

STEP 18: WITHDRAWAL OF STANDARD

Upon rejection of a proposed standard, the RCC or the requester may withdraw the standard completely or remand it back to the Task Force acting as the standard drafting team for further work.

5. Flowchart Regional Standards Development Procedure (Open Process)



6. ERO and Regulatory Process and Approvals

- **NERC/ERO Comment Period** —NERC/ERO shall publicly notice and request comment on the NPCC Regional Reliability Standard, allowing a minimum of 45 calendar days for comment on NERC’s website and actively notify all adjoining Regions. Concurrent with this regional posting, final drafts will be forwarded to NERC for posting on the NERC website to ensure full industry awareness of the standard and expedite and coordinate all commenting. All comments will be responded to electronically through a posted response on the NPCC website or a link on the NERC website. NPCC shall have an opportunity to resolve any objections identified in the comments and may choose to withdraw the request, revise the NPCC Regional Reliability Standard and request another posting for comment, or submit the NPCC Regional Reliability Standard along with a response to any objections received, for approval by NERC.
- **NERC/ERO Approval of NPCC Regional Reliability Standards** — Proposed regional reliability standards shall be subject to approval by the NERC/ERO who shall have a process to evaluate and recommend whether a proposed non-Interconnection-wide NPCC Regional Reliability Standard has been developed in accordance with all applicable procedural requirements and whether NPCC has considered and addressed stakeholder objections. NPCC Board, having been notified of the results of the regional ballot concerning a NPCC Regional Reliability Standard, shall vote to submit the Standard to the NERC/ERO Board for approval as a NERC Reliability Standard. The NERC/ERO Board shall consider NPCC’s request, the scope and implications of the Standard, the recommendation for action on the Standard, any unresolved stakeholder comments, and NPCC’s consideration of comments and unresolved issues if any, in determining whether to approve the NPCC Regional Reliability Standard as a NERC Reliability Standard.
- **Regulatory Authority Approval** — An NPCC Regional Reliability Standard that has been approved by the NERC/ERO board shall be filed with FERC and applicable Canadian Governmental and/or Regulatory Authorities for approval and shall become effective and enforceable within the U.S., per Section 215 of the Federal Power Act, only when adopted by FERC, and within Canada, only when adopted by applicable Canadian Governmental and/or Regulatory Authorities. The regional reliability standard, once adopted will be made part of the body of NERC reliability standards and shall be mandatory and enforceable on all applicable bulk power system owners, operators, and users within the NPCC Region, regardless of membership status.

7. Appeals

- Persons who have directly and materially affected interests and who have been or will be adversely affected by any substantive or procedural action or inaction related to the development, approval, revision, reaffirmation, or withdrawal of a regional reliability standard shall have the right to appeal.

This appeals process applies only to the standards process as defined in this procedure.

The burden of proof to show adverse effect shall be on the appellant. Appeals shall be made within 30 calendar days of the date of the action purported to cause the adverse effect, except appeals for inaction, which may be made at any time. In all cases, the request for appeal must be made prior to the next step in the process.

The final decisions of any appeal shall be documented in writing and made public.

The appeals process provides two levels, with the goal of expeditiously resolving the issue to the satisfaction of the participants:

- Level 1 Appeal

Level 1 is the required first step in the appeals process. The appellant submits a complaint in writing to the RSPM that describes the substantive or procedural action or inaction associated with a reliability standard or the standards process. The appellant describes in the complaint the actual or potential adverse impact to the appellant. Assisted by any necessary staff and committee resources, the RSPM shall prepare a written response addressed to the appellant as soon as practical, but not more than 45 calendar days after receipt of the complaint. If the appellant accepts the response as a satisfactory resolution of the issue, both the complaint and response will be made a part of the public record associated with the standard and posted with the standard.

- Level 2 Appeal

If after the Level 1 Appeal the appellant remains unsatisfied with the resolution, as indicated by the appellant in writing to the regional standards process manager, the RSPM shall convene a Level 2 Appeals Panel. This panel shall consist of five members total appointed by the NPCC's board.

In all cases, Level 2 Appeals Panel members shall have no direct affiliation with the participants in the appeal.

The RSPM shall post the complaint and other relevant materials and provide at least 30 calendar days notice of the meeting of the Level 2 Appeals Panel. In addition to the appellant, any person that is directly and materially affected by the substantive or procedural action or inaction referenced in the complaint shall be heard by the panel. The panel shall not consider any expansion of the scope of the appeal that was not presented in the Level 1 Appeal. The panel may in its decision find for the appellant and remand the issue to the RSC with a statement of the issues and facts in regard to which fair and equitable action was not taken. The panel may find against the appellant with a specific statement of the facts that demonstrate fair and equitable treatment of the appellant and the appellant's objections. The panel may not, however, revise,

approve, disapprove, or adopt a reliability standard. The actions of the Level 2 Appeals Panel shall be publicly posted.

In addition to the foregoing, a procedural objection that has not been resolved may be submitted to the NPCC Board for consideration at the time the board decides whether to adopt a particular reliability standard. The objection must be in writing, signed by an officer of the objecting entity, and contain a concise statement of the relief requested and a clear demonstration of the facts that justify that relief. The objection must be filed no later than 30 calendar days after the announcement of the vote on the standard in question.

APPENDIX A

Information in a Regional Standard Authorization Request (RSAR)

The tables below identify information to be submitted in a Regional Standard Authorization Request to the NPCC Regional Standards Process Manager, NPCCstandard@npcc.org . The NPCC Regional Standards Process Manager shall be responsible for implementing and maintaining this form as needed to support the information requirements of the standards process.

Regional Standard Authorization Request Form

Title of Proposed Standard:
Request Date:

RSAR Requester Information

<i>Name:</i>	RSAR Type (Check box for one of these selections.)	
Company:	<input type="checkbox"/>	New Standard
Telephone:	<input type="checkbox"/>	Revision to Existing Standard
Fax:	<input type="checkbox"/>	Withdrawal of Existing Standard
Email:	<input type="checkbox"/>	Urgent Action

Purpose (Describe the purpose of the proposed standard – what the standard will achieve in support of reliability.)
Industry Need (Provide a detailed statement justifying the need for the proposed standard, along with any supporting documentation.)
Brief Description (Describe the proposed standard in sufficient detail to clearly define the scope in a manner that can be easily understood by others.)

Reliability Functions

The Standard will Apply to the Following Functions (Check all applicable boxes.)		
<input type="checkbox"/>	Reliability Coordinator	The entity that is the highest level of authority who is responsible for the reliable operation of the Bulk Electric System, has the Wide Area view of the Bulk Electric System, and has the operating tools, processes and procedures, including the authority to prevent or mitigate emergency operating situations in both next-day analysis and real-time operations. The Reliability Coordinator has the purview that is broad enough to enable the calculation of Interconnection Reliability Operating Limits, which may be based on the operating parameters of transmission systems beyond any Transmission Operator’s vision.
<input type="checkbox"/>	Balancing Authority	The responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area, and supports Interconnection frequency in real time.
<input type="checkbox"/>	Interchange Authority	Authorizes valid and balanced Interchange Schedules.
<input type="checkbox"/>	Planning Authority	The responsible entity that coordinates and integrates transmission facility and service plans, resource plans, and protection systems.
<input type="checkbox"/>	Transmission Service Provider	The entity that administers the transmission tariff and provides Transmission Service to Transmission Customers under applicable transmission service agreements.
<input type="checkbox"/>	Transmission Owner	The entity that owns and maintains transmission facilities.
<input type="checkbox"/>	Transmission Operator	The entity responsible for the reliability of its “local” transmission system, and that operates or directs the operations of the transmission facilities.
<input type="checkbox"/>	Transmission Planner	The entity that develops a long-term (generally one year and beyond) plan for the reliability (adequacy) of the interconnected bulk electric transmission systems within its portion of the Planning Authority Area.

<input type="checkbox"/>	Resource Planner	The entity that develops a long-term (generally one year and beyond) plan for the resource adequacy of specific loads (customer demand and energy requirements) within a Planning Authority Area.
<input type="checkbox"/>	Generator Operator	The entity that operates generating unit(s) and performs the functions of supplying energy and Interconnected Operations Services.
<input type="checkbox"/>	Generator Owner	Entity that owns and maintains generating units.
<input type="checkbox"/>	Purchasing-Selling Entity	The entity that purchases or sells, and takes title to, energy, capacity, and Interconnected Operations Services. Purchasing-Selling Entities may be affiliated or unaffiliated merchants and may or may not own generating facilities.
<input type="checkbox"/>	Distribution Provider	Provides and operates the “wires” between the transmission system and the customer.
<input type="checkbox"/>	Load-Serving Entity	Secures energy and transmission service (and related Interconnected Operations Services) to serve the electrical demand and energy requirements of its end-use customers.

Reliability and Market Interface Principles

Applicable Reliability Principles (Check all boxes that apply.)	
<input type="checkbox"/>	1. Interconnected bulk power systems shall be planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions as defined in the NERC Standards.
<input type="checkbox"/>	2. The frequency and voltage of interconnected bulk power systems shall be controlled within defined limits through the balancing of real and reactive power supply and demand.
<input type="checkbox"/>	3. Information necessary for the planning and operation of interconnected bulk power systems shall be made available to those entities responsible for planning and operating the systems reliably.
<input type="checkbox"/>	4. Plans for emergency operation and system restoration of interconnected bulk power systems shall be developed, coordinated, maintained, and implemented.
<input type="checkbox"/>	5. Facilities for communication, monitoring, and control shall be provided, used, and maintained for the reliability of interconnected bulk power systems.
<input type="checkbox"/>	6. Personnel responsible for planning and operating interconnected bulk power systems shall be trained, qualified, and have the responsibility and authority to implement actions.
<input type="checkbox"/>	7. The security of the interconnected bulk power systems shall be assessed, monitored, and maintained on a wide-area basis.
Does the proposed Standard comply with all of the following Market Interface Principles? (Select ‘yes’ or ‘no’ from the drop-down box.)	
Recognizing that reliability is a Common Attribute of a robust North American economy:	
1. A reliability standard shall not give any market participant an unfair competitive advantage. Yes	

2. A reliability standard shall neither mandate nor prohibit any specific market structure. Yes
3. A reliability standard shall not preclude market solutions to achieving compliance with that standard. Yes
4. A reliability standard shall not require the public disclosure of commercially sensitive information. All market participants shall have equal opportunity to access commercially non-sensitive information that is required for compliance with reliability standards. Yes

Detailed Description (Provide enough detail so that an independent entity familiar with the industry could draft a standard based on this description.)

Related Standards

Standard No.	Explanation

^{-t}
Related SARs or RSARs

SAR ID	Explanation



Northeast Power Coordinating Council, Inc.

Exhibit D – Compliance Monitoring and Enforcement Program

1.0 Regional Compliance Monitoring and Enforcement Program

1.1 Obligations of NPCC

NPCC will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within [REGIONAL ENTITY]'s the U.S. portion of NPCC's geographic or electrical boundaries, and such other scope, set forth on Exhibit A of this Agreement, subject to any deviations from the NERC Compliance Monitoring and Enforcement Program described in Section 1.2 below (the "Compliance Program").

1.2 Deviations from the NERC Compliance Monitoring and Enforcement Program

Compliance monitoring and enforcement programs will be implemented within the Canadian portion of NPCC's geographic area, consistent with individual Canadian Provincial Memoranda of Understanding (MOU) or Agreements and Canadian laws. All executed MOU's and Agreements will be provided to NERC as allowable under Canadian law.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

[REGIONAL ENTITY]NPCC shall establish and maintain a hearing body with authority to ~~conduct and~~ render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, ~~which shall be either [REGIONAL ENTITY]'s board or a balanced compliance panel.~~ The NPCC Compliance Committee, reporting directly to [REGIONAL ENTITY]'s board. ~~[REGIONAL ENTITY]'s hearing body is [its board]~~ [if not the board, insert the name of the committee or group serving as the hearing body].

[If the hearing body is a compliance panel other than the board, provide here a description of how the NPCC Board, will be responsible for impaneling a Hearing Body, when required. The Hearing Body will consist of five voting members of the ~~compliance panel are selected and~~ NPCC Compliance Committee plus two alternates and business will always be conducted by five voting members as described in the NPCC Hearing Procedure (each member of the Hearing Body will be from a different voting sector). An independent Hearing Officer, who is not a member of the Compliance Committee, the NPCC Board, or NPCC Staff, will conduct the hearing. Committee members who represent the Registered Entity involved in the ~~qualifications~~Hearing cannot participate on the Hearing Body. The Hearing Body will utilize a simple majority vote to ~~be selected for the compliance panel.~~] resolve issues. This voting rule, along with the structure of the Hearing Body,

fully supports the requirement that no two stakeholder sectors may control, and no single stakeholder sector may veto, a matter before the Hearing Body.

~~[REGIONAL ENTITY]~~

⁵ NPCC shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: ~~[Describe any deviations, or state "None". If there are deviations from the NERC pro forma Hearing Procedures, [REGIONAL ENTITY]'s Hearing Procedures shall be included as a separate attachment to this Exhibit D.]None~~

3.0 OTHER DECISION-MAKING BODIES

~~If [Regional Entity] uses other decision making bodies within its compliance program, provide here a description of the function of that body to the extent not described elsewhere in the Agreement or exhibits, how the members of that body are selected, and the qualifications to be selected for that body.]~~

NPCC Compliance Staff will be the sole decision making body to review and make final determinations on compliance submittals from Registered Entities related to Self-Certification; Self-Reporting; Exception Reporting; and Periodic Data Submittals. NPCC Compliance Staff will initially review all submittals received to assure that the information forwarded is accurate and complete. This process will be conducted by the staff members and may require contact via e-mail or phone to confirm information. If after, initially receiving a compliance submittal, the Compliance Staff identifies an instance of non-compliance, a Notice of Possible Violation (NOPV), without penalty, is issued to the registered entity and NERC while the Compliance Staff continues its more detailed and comprehensive review of the submittal. It is during this review that the Compliance Staff confirms the violation, calculates an appropriate penalty or sanction and issues a Notice of Confirmed Violation (NOCV).

Exhibit E — Funding

1. Scope of activities funded through the ERO funding mechanism

~~[Regional Entity]~~NPCC shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and ~~[Regional Entity]~~NPCC in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of ~~[Regional Entity's]~~NPCC's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require ~~[Regional Entity]~~NPCC (i) to submit to NERC draft(s) of ~~[Regional Entity]'s~~NPCC's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by ~~[Regional Entity]~~NPCC Board of ~~Trustees~~Directors to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of ~~[Regional Entity]'s~~NPCC's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The ~~[Regional Entity]~~NPCC business plan and budget submission shall include supporting materials, including ~~[Regional Entity]'s~~NPCC's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. ~~[Regional Entity]'s~~ NPCC's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) -NERC shall review and approve ~~[Regional Entity]'s~~NPCC's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in -Section 1 of this **Exhibit E**, or shall direct ~~[Regional Entity]~~NPCC to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~[Regional Entity]'s~~NPCC's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of ~~[REGIONAL ENTITY]'s~~ NPCC delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. ~~[Regional Entity]~~ NPCC shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying ~~[Regional Entity's]~~ NPCC's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of ~~[Regional Entity's]~~ NPCC's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

~~[IF NERC WILL BILL AND COLLECT ASSESSMENTS DIRECTLY FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):]~~

(a) NERC shall submit invoices to the load-serving entities or designees identified by ~~[Regional Entity]~~ NPCC covering the NERC and ~~[Regional Entity]~~ NPCC assessments approved for collection.

~~[IF THE REGIONAL ENTITY WILL ACT AS THE BILLING AND COLLECTION AGENT ON BEHALF OF NERC TO BILL AND COLLECT ASSESSMENTS FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):]~~

~~(a) NERC and [Regional Entity] agree that [Regional Entity] shall act as the billing and collection agent on behalf of NERC to bill and collect [Regional Entity]'s assessments from load-serving entities and designees (or such other entities as agreed by NERC and [Regional Entity]). [Regional Entity] agrees that it shall (i) issue all invoices to load-serving entities and other entities in a prompt and timely manner after receipt from NERC of the information needed to issue the invoices; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC in a timely manner, as follows: Prior to the start of each calendar quarter, and once per week thereafter until all billings for the quarter are collected, [Regional Entity] will electronically transfer to NERC, in immediately available funds, all payments received by [Regional Entity] from load-serving entities or other entities for payment of invoices. On the same day that [Regional Entity] makes each electronic transfer of funds to NERC, [Regional Entity] shall send an e-mail to the Chief Financial Officer or Controller of NERC detailing the~~

~~collections being transmitted, including a listing of the load-serving entities or other entities from which payments were collected and the amount collected from each entity. [Note: If NERC and Regional Entity have a different collection and payment arrangement, the preceding two sentences will be modified accordingly to describe it.]~~

~~[Regional Entity] agrees that it shall not in any way use its position as billing and collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of Reliability Standards (including Regional Reliability Standards and Regional Variances), administration of the compliance monitoring and enforcement program and other compliance and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of [Regional Entity's] budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this Agreement.~~

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from ERO Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, ~~[Regional Entity]NPCC~~ shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, ~~[Regional Entity]NPCC~~ is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within ~~[REGIONAL ENTITY]'sNPCC~~ region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within ~~[Regional Entity]'sNPCC~~ region.

(c) Upon approval by ERO Governmental Authorities of ~~[Regional Entity]'sNPCC~~ annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay ~~[Regional Entity's]NPCC's~~ annual assessment to ~~Regional EntityNPCC~~ in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by ~~[Regional Entity],NPCC~~ other than penalty monies received from an operational function or division or affiliated entity of ~~[Regional Entity],NPCC~~ shall be applied as a general offset to ~~[Regional Entity]'sNPCC~~ budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of ~~[Regional Entity]NPCC~~ shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for ~~[Regional Entity's]NPCC's~~ Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this Exhibit E (such delegated functions and activities referred to in this Section 6 as “statutory activities”), ~~[Regional Entity]~~NPCC’s Criteria Services division performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as “non-statutory activities”): ~~[List and describe all non-statutory activities performed by Regional Entity, or state “None”.]~~

~~[Regional Entity]~~

NPCC List of Criteria Services Division Functions (Non-Statutory Activities)

1. Regionally-specific Criteria

- NPCC develops and maintains regionally-specific more stringent criteria
- NPCC develops and maintains criteria establishing resource adequacy requirements within the Region

2. Criteria Compliance Program

- NPCC monitors and assesses compliance with its more stringent regional criteria
- NPCC conducts a Reliability Compliance and Enforcement Program (RCEP) utilizing non-monetary sanctions

NPCC shall employ the following methods and procedures to (i) keep its funding mechanisms for its regional entity division (statutory activities) separate from its funding mechanisms for its criteria services division (non-statutory activities), and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: ~~[List and describe the methods and procedures Regional Entity employs to keep costs and funding of statutory activities separate from costs and funding]~~

1. Funding of NPCC Criteria Services Division (non-statutory activities).- A separate membership based funding mechanism is utilized for non-statutory activities, including at a minimum a description of how Regional Entity’s bank accounts

2. NPCC procedures for separating funding and receivables/payables procedures are set up for both statutory and non-statutory functions, a description of how Regional Entity ensures each employee involved in both statutory and non-statutory functions keeps accurate time records reflecting his/her expenditures for regional entity division (statutory activities, and a description of how Regional Entity’s general and administrative costs are allocated between statutory activities and) and criteria services division (non-statutory activities.-#)

NPCC utilizes the necessary descriptions are lengthy they may be provided in a separate attachment labeled “Attachment E-1”, and state here “See Attachment E-1.” If Regional Entity has listed no non-statutory functions in the preceding paragraph, state here “Not applicable.”]NERC System of Accounts (NSOA) to provide consistency for account codes, divisional separation codes and activity codes. In August of 2007, NPCC CBRE (which prior to the merger performed statutory activities) merged into and with Northeast Power Coordinating Council, Inc. (referred to as NPCC) (which prior to the merger performed non-statutory activities) with the merged corporation having divisional separation for Regional Entity and Criteria Services. As recommended by NERC, NPCC uses the not-for-profit MIP Fund Accounting program by Sage Software to

accurately account for income, time and labor. Effective January 1, 2008, with corporate restructuring of NPCC completed in later 2007, 2008 actual program costs are being charged to appropriate program areas.

~~Regional Entity~~NPCC does not conduct resource or transmission planning, is not an Independent System Operator (ISO), nor does it perform the functions of a Reliability Coordinator (RC). As such, while at this time, there is a breakout for Criteria related activities, all functions performed by NPCC are in the furtherance of NERC's statutory mission and reliability of the international bulk power system in Northeastern North America.

Methodology

NPCC's revenue and expenditure classification methodology identifies appropriate methods of accounting for income, time and costs to ensure that U.S. Federal/statutory and Canadian provincial and/or governmental authorities' agreed upon revenue and expenses are accounted for separately from NPCC's regionally-specific Criteria development and Criteria compliance (non-statutory) income, time and expense.

Division Codes

There are two division codes that are used by NPCC in accounting for revenues and expenses. The codes are as follows:

<u>Division ID</u>	<u>Division Name</u>
<u>RE</u>	<u>Regional Entity – U.S. Statutory and Canadian Regulatory and/or Governmental Authority authorized</u>
<u>CSD</u>	<u>Criteria Services - Non-Statutory</u>

The two division codes allow NPCC to separate Regional Entity statutory activity revenues and expenses from Criteria Services non-statutory activity revenues and expenses. These categories were developed to ensure that non-statutory related revenues and expenses are segregated and accounted for separately from statutory-related revenues and expenses.

Program Codes

As required by NERC, NPCC adopted a financial accounting system consistent with NERC's functional categories. At NPCC, functional categories are referred to as Program Codes.

There are twelve program codes that are used by NPCC in accounting for expenses. The codes are as follows:

<u>Program ID</u>	<u>Program Name</u>
-------------------	---------------------

<u>300</u>	<u>Reliability Standards</u>
<u>400</u>	<u>Compliance Enforcement and Organization Registration and Certification</u>
<u>800</u>	<u>Reliability Assessment and Performance Analysis</u>
<u>700</u>	<u>Reliability Readiness Evaluation and Improvement</u>
<u>900</u>	<u>Training and Education</u>
<u>1000</u>	<u>Situational Awareness and Infrastructure Security</u>
<u>ADMIN</u>	<u>General Administration</u>
<u>FINANCE</u>	<u>Accounting and Finance</u>
<u>HR</u>	<u>Human Resources</u>
<u>IT</u>	<u>Information Technology</u>
<u>LEGAL</u>	<u>Legal and Regulatory</u>
<u>MEMBERS</u>	<u>Members Forum</u>

Program codes are used to further delineate expenses into functional groupings that are assigned to program heads. NPCC staff utilize their assigned program codes (the program where they reside for payroll purposes) when coding expenses, unless otherwise authorized by management.

When time is spent in support of both statutory activities and non-statutory activities (applicable to a limited number of employees in the Administrative Services functions of General Administration, Accounting and Finance, Human resources, Information Technology, Legal and Regulatory and Members Forms), staff members develop accurate timesheet allocations between division codes.

Divisional separation with regard to statutory activities (Regional Entity division) and non-statutory activities (Criteria Services division) is reflected in the NPCC balance sheet and general ledger through the MIP Fund Accounting software programs.

NPCC shall provide its budget for such non-statutory activities to NERC at the same time that ~~[Regional Entity]NPCC~~ submits its ~~proposed annual business plan and budget for statutory activities~~ request to NERC pursuant to Section 9 of the Agreement. ~~[Regional Entity's]~~. NPCC's budget for non-statutory activities that is provided to NERC shall contain a detailed list of ~~[Regional Entity's]NPCC's~~ non-statutory activities and a description of the funding sources for the non-statutory activities. ~~[Regional Entity] NPCC~~ agrees that no costs ~~(which shall include a~~

~~reasonable allocation of [Regional Entity]'s general and administrative costs)~~ of non-statutory activities are to be included in the calculation of ~~[Regional Entity's] assessments, dues, fees, and other~~ NPCC's charges for its ~~statutory~~ activities pursuant to this Agreement.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if ~~[Regional Entity]NPCC~~ determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, ~~[Regional Entity]NPCC~~ shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in ~~[Regional Entity]'sNPCC's~~ approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct ~~[Regional Entity]NPCC~~ to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~[Regional Entity]'sNPCC's~~ approved amended or supplemental business plan and budget and proposed supplemental- assessment to the Commission for approval.

8. NERC Review of ~~Regional Entity~~NPCC Financial Statements

NERC shall conduct reviews of the quarterly and annual financial statements submitted by ~~[Regional Entity]NPCC~~ pursuant to Section 9(h) and (i) of the Agreement. ~~[Regional Entity]NPCC~~ shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC based on its reviews.

ATTACHMENT 5A

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED DELEGATION AGREEMENT

WITH

RELIABILITYFIRST CORPORATION

CLEAN VERSION



320 SPRINGSIDE DRIVE, SUITE 300, AKRON, OH 44333
TELEPHONE: (330) 456-2488 FACSIMILE: (330) 456-3648

April 30, 2010

Mr. David Cook
Vice President & General Counsel
NERC
1120 G St. NW, Suite 990
Washington, DC 20005

Re: REVISED ReliabilityFirst REGIONAL DELEGATION AGREEMENT

Dear David,

The ReliabilityFirst Corporation (ReliabilityFirst) Board of Directors passed the motion below regarding the Revised and Amended Regional Delegation Agreement during the April 30, 2010 ReliabilityFirst Board of Directors meeting via conference call:

The ReliabilityFirst Board of Directors approves the proposed Revised and Amended pro-forma Regional Delegation Agreement and its exhibits and, further directs the President to execute the Regional Delegation Agreement. The Board understands that minor editorial changes may still be made to the Agreement as it is finalized and prepared for filing with FERC in May 2010.

Pursuant to your request, ReliabilityFirst is hereby providing final ReliabilityFirst Regional Delegation Agreement to you on April 30, 2010 for presentation to the NERC Board. Please do not hesitate to contact me with questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim R. Gallagher".

Timothy R. Gallagher
President and CEO

CC: Jim Keller
Susan Ivey
Larry Bugh

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND RELIABILITYFIRST CORPORATION**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”) made as of [January 1, 2011], between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and ReliabilityFirst Corporation (ReliabilityFirst), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified on **Exhibit A** to this Agreement, and for other purposes. NERC and ReliabilityFirst may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824n) (hereafter “the Act”), which, among other things, provides for the establishment of an electric reliability organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as Reliability*First* provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, Reliability*First* is not organized on an Interconnection-wide basis and therefore is not entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through Reliability*First* to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that ReliabilityFirst meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and ReliabilityFirst, having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and ReliabilityFirst agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to ReliabilityFirst to propose and enforce Reliability Standards pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, ReliabilityFirst hereby represents and warrants to NERC that:

(i) ReliabilityFirst is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. ReliabilityFirst is governed in accordance with its bylaws by a combination independent and balanced stakeholder board. Pursuant to these bylaws, no two industry sectors can control any ReliabilityFirst decision and no single industry sector can veto any ReliabilityFirst decision. The relevant portions of such bylaws are attached hereto in **Exhibit B**¹, and as so attached are in full force and effect. No other such corporate governance documents are binding upon ReliabilityFirst.

(ii) As set forth in **Exhibit C** hereto², ReliabilityFirst has developed a standards development procedure, which provides the process that ReliabilityFirst may use to develop Regional Reliability Standards that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, ReliabilityFirst has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within ReliabilityFirst's geographic boundaries as shown on **Exhibit A**.

(b) NERC hereby represents and warrants to ReliabilityFirst that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

3. Covenants.

¹ The **Exhibit B** from ReliabilityFirst shall meet the requirements contained in **Exhibit B** to this Agreement.

² The **Exhibit C** from ReliabilityFirst shall meet the requirements contained in **Exhibit C** to this Agreement.

(a) During the term of this Agreement, ReliabilityFirst shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC's approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of ReliabilityFirst under this Agreement without first obtaining the consent of ReliabilityFirst, which consent shall not be unreasonably withheld or delayed.

(c) During the term of this Agreement, NERC and ReliabilityFirst shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of ReliabilityFirst in Sections 2 and 3 above, the corporate governance documents set forth in **Exhibit B**, the standards development process set forth in **Exhibit C**, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to ReliabilityFirst for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth on **Exhibit A**, *provided*, that ReliabilityFirst shall not monitor and enforce compliance with Reliability Standards for ReliabilityFirst or an affiliated entity with respect to reliability functions for which ReliabilityFirst or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to ReliabilityFirst within, or additions to this delegation of authority to ReliabilityFirst beyond, the geographic boundaries set forth on **Exhibit A** are stated on **Exhibit A**.

(b) In circumstances where ReliabilityFirst or an affiliated entity is a Registered Entity, ReliabilityFirst shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce ReliabilityFirst's or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit ReliabilityFirst from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified on **Exhibit A** that is within the United States. Any delegation of authority by ERO Governmental Authorities in Canada or Mexico shall be governed by a separate agreement and is outside the scope of this Agreement; provided, however, that both ReliabilityFirst and NERC shall endeavor to ensure that this Agreement and such separate agreements are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, ReliabilityFirst shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, ReliabilityFirst shall be entitled to:

- (i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords ReliabilityFirst reasonable notice and opportunity to be heard; and
- (ii) develop Regional Reliability Standards through ReliabilityFirst's process as set forth in **Exhibit C**. Proposals approved through ReliabilityFirst's process shall be reviewed by the NERC Board after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an

Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. ReliabilityFirst may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, ReliabilityFirst shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the geographic boundaries set forth, or as otherwise specified, in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and ReliabilityFirst agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, *inter alia*, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. ReliabilityFirst may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the

Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, ReliabilityFirst agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) ReliabilityFirst shall report promptly to NERC any Possible Violation, Alleged Violation, or Confirmed Violation of a Reliability Standard, and its eventual disposition by ReliabilityFirst. Such report shall include the owner's, operator's, or user's name, which Reliability Standard or Reliability Standards were the subject of the Possible Violation, Alleged Violation, or Confirmed Violation, when the Possible Violation, Alleged Violation, or Confirmed Violation occurred, other pertinent facts including circumstances surrounding the Possible Violation, Alleged Violation, or Confirmed Violation with any known risk to the Bulk-Power System, when the Possible Violation, Alleged Violation, or Confirmed Violation was or will be mitigated, the name of a person knowledgeable about the Possible Violation, Alleged Violation, or Confirmed Violation to serve as a point of contact with the Commission, and any other information required by NERC compliance program procedures. NERC shall promptly forward such report to the Commission. NERC and ReliabilityFirst shall cooperate in filing such periodic summary reports as the Commission shall from time to time direct on Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards and summary analyses of such Possible Violations, Alleged Violations, and Confirmed Violations.

(c) Each Possible Violation, Alleged Violation, or Confirmed Violation shall be treated as nonpublic unless the matter is filed with the Commission as a Notice of Penalty, or, if disclosure is required, dismissed. The disposition of each Possible Violation, Alleged Violation, or Confirmed Violation that relates to a Cybersecurity Incident or that would jeopardize the security of the Bulk-Power System if publicly disclosed shall remain nonpublic unless the Commission directs otherwise.

(d) All dispositions by ReliabilityFirst of Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards shall be reported to NERC for review and, in the case of Confirmed Violations, penalties or sanctions, and settlements, for approval. Following approval of a disposition by NERC, NERC shall file the disposition with the Commission, if required by, and in accordance with, Section 215(e) of the Act and Section 39.7

of the ERO Regulations. NERC shall review ReliabilityFirst's dispositions based on the following criteria:

(i) whether the disposition is supported by a sufficient record compiled by ReliabilityFirst in accordance with the NERC Rules of Procedure, NERC directives and Commission requirements, taking into account the nature of the Possible Violation, Alleged Violation, or Confirmed Violation,

(ii) whether the disposition is consistent with any applicable directives issued pursuant to Section 8(c) of this Agreement, any applicable directions or guidance issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, or other applicable NERC guidance, concerning the Reliability Standards to which the Possible Violation, Alleged Violation, or Confirmed Violation relates,

(iii) if the disposition is a Confirmed Violation or settlement, whether it provides for a penalty or sanction, or a determination of no penalty or sanction, determined in accordance with the NERC Sanction Guidelines, Appendix 4B to the NERC Rules of Procedure, and

(iv) whether the disposition is reasonably consistent with other dispositions by ReliabilityFirst and by other Regional Entities of Possible Violations, Alleged Violations, and Confirmed Violations involving the same or similar facts and circumstances.

NERC may reject any disposition, with an explanation of why NERC believes the disposition does not meet the above criteria. ReliabilityFirst may submit a disposition requiring NERC approval that has been rejected by NERC, or a revised disposition following a rejection, directly to the NERC Board Compliance Committee for approval without revising the disposition to address all the grounds on which NERC originally rejected the disposition. The final approval of ReliabilityFirst's disposition of a Possible Violation, Alleged Violation, or Confirmed Violation shall be made by the NERC Board Compliance Committee, provided, that the NERC Board or NERC Board Compliance Committee may, by appropriate resolution, delegate authority for final approval of dispositions of specified categories of Possible Violations, Alleged Violations, or Confirmed Violations to the NERC President.

(e) All appeals of penalties imposed by ReliabilityFirst as a result of a decision by ReliabilityFirst's Hearing Body shall be filed with, heard by and disposed of by, NERC in accordance with the NERC Rules of Procedure.

(f) ReliabilityFirst shall maintain the capability to conduct investigations of Possible Violations and Alleged Violations of Reliability Standards and to conduct such investigations in a confidential manner.

(g) ReliabilityFirst shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan.

(h) As part of its compliance monitoring and enforcement program, ReliabilityFirst shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(i) As often as NERC deems necessary, but no less than every five years, NERC shall review ReliabilityFirst's compliance monitoring and enforcement program to determine that: (i) the program meets all applicable legal requirements; (ii) actual practices reflect the requirements; and (iii) the program administered pursuant to the Delegated Authority promotes consistent interpretations across North America of Reliability Standards and comparable levels of sanctions and penalties for violations of Reliability Standards constituting comparable levels of threat to reliability of the Bulk-Power System.

7. Delegation-Related Activities.

NERC will engage ReliabilityFirst on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed on **Exhibit E**. These delegation-related activities shall include, but are not

limited to, those described in subsections (a) through (f), each of which shall be considered a statutory activity:

(a) Certification of Bulk-Power System Entities. The NERC Board shall set criteria for certification in accordance with the NERC Rules of Procedure. ReliabilityFirst shall issue certifications in accordance with the NERC Rules of Procedure.

(b) Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.

(i) The NERC Board shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by ReliabilityFirst and other Regional Entities. ReliabilityFirst shall provide timely and accurate information relating to registrations to NERC, on at least a monthly basis, to enable NERC to maintain a registration database that is accurate and up-to-date.

(iii) The NERC Board Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) Reliability Assessment and Performance Analysis. ReliabilityFirst shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. ReliabilityFirst shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives. NERC shall develop data-gathering quality control procedures, forms and reporting mechanisms, which shall be used by ReliabilityFirst and other Regional Entities in carrying out their responsibilities under this subsection (c).

(d) Event Analysis and Reliability Improvement. ReliabilityFirst shall conduct event analysis pursuant to the NERC Rules of Procedure and applicable governmental regulations. NERC and ReliabilityFirst shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, ReliabilityFirst shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) Training and Education. ReliabilityFirst may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) Situation Awareness and Infrastructure Security.

(i) ReliabilityFirst shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure and applicable governmental regulations, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System

(ii) ReliabilityFirst shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of ReliabilityFirst's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and ReliabilityFirst that matters relating to NERC's oversight of ReliabilityFirst's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and ReliabilityFirst and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with ReliabilityFirst and other Regional Entities, performance goals, measures and other parameters (including, without limiting the

scope of such goals, measures and parameters, financial performance goals, measures and parameters), and performance reports, which shall be used to measure NERC's and ReliabilityFirst's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. ReliabilityFirst shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate ReliabilityFirst's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters and performance reports to evaluate ReliabilityFirst's performance of its delegated functions and related activities and to provide advice and direction to ReliabilityFirst on performance improvements. The performance goals, measures and other parameters and the values of such goals, measures and parameters, shall be reviewed by NERC, ReliabilityFirst and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, ReliabilityFirst shall be required to develop, submit for NERC approval, and implement action plans to address areas of its performance that are reasonably determined by NERC, based on analysis of ReliabilityFirst's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring ReliabilityFirst to adopt and implement an action plan or other remedial action, NERC shall issue a notice to ReliabilityFirst of the need and basis for an action plan or other remedial action and provide an opportunity for ReliabilityFirst to submit a written response contesting NERC's evaluation of ReliabilityFirst's performance and the need for an action plan. ReliabilityFirst may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board review and reconsider the request. NERC and ReliabilityFirst shall work collaboratively as needed in the development and implementation of ReliabilityFirst's action plan. A final action plan submitted by ReliabilityFirst to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to ReliabilityFirst standardized training and education programs, which shall be designed taking into account input from ReliabilityFirst and other

Regional Entities, for ReliabilityFirst personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to ReliabilityFirst concerning the manner in which ReliabilityFirst shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered “directives.” NERC shall initiate the development of a directive through a collaborative process with ReliabilityFirst and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and ReliabilityFirst and, if applicable, other Regional Entities are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President; *provided*, that before the NERC President issues a directive pursuant to this paragraph (ii), ReliabilityFirst and, if applicable, other Regional Entities, shall be given a reasonable opportunity to present their positions on, and a suggested alternative version or versions of, the proposed directive to the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, ReliabilityFirst, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by ReliabilityFirst, the NERC Board (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without ReliabilityFirst’s agreement, *provided*, that ReliabilityFirst shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and ReliabilityFirst and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President

makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which ReliabilityFirst, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The Board or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the Board or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. ReliabilityFirst, either individually or in conjunction with other Regional Entities, may request that the NERC Board or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with ReliabilityFirst, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) Any audits of ReliabilityFirst performed by NERC shall be limited to an examination of ReliabilityFirst's compliance with this Agreement, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c)

9. Funding. ReliabilityFirst and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed on **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) ReliabilityFirst shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. ReliabilityFirst's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, ReliabilityFirst to carry out its Delegated

Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E**. ReliabilityFirst's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) ReliabilityFirst and NERC agree that the portion of ReliabilityFirst's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by ReliabilityFirst and approved by NERC and the Commission. If ReliabilityFirst proposes to use a formula other than Net Energy for Load beginning in the following year, ReliabilityFirst shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and ReliabilityFirst to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equity requirement.

(d) NERC shall provide ReliabilityFirst with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) ReliabilityFirst shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed on Exhibit E, as well as for all other activities of ReliabilityFirst, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund ReliabilityFirst's performance of its Delegated Authority and related activities in accordance with ReliabilityFirst's Commission-approved business plan and budget, in the amount of ReliabilityFirst's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting ReliabilityFirst's approved assessments from end users and other entities and payment of the approved assessment amount to ReliabilityFirst, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon ReliabilityFirst that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without ReliabilityFirst's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and ReliabilityFirst fiscal year budget with the actual results at the NERC and Regional Entity levels. ReliabilityFirst shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) ReliabilityFirst shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) ReliabilityFirst shall submit audited financial statements annually, including supporting materials, in a form provided by NERC no later than May 1 of the following year.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which ReliabilityFirst shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of ReliabilityFirst) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which ReliabilityFirst shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of ReliabilityFirst. *Provided*, that, subject to approval by NERC and the Commission, ReliabilityFirst may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. ReliabilityFirst may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit ReliabilityFirst from contracting with other entities to assist it in carrying out its Delegated Authority, provided ReliabilityFirst retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on [January 1, 2011] (the "Effective Date").

(b) The term of the Agreement shall be five (5) years from the Effective Date, prior to which time NERC shall conduct an audit pursuant to subsection 6(i) to ensure that ReliabilityFirst continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. If ReliabilityFirst meets such requirements, this Agreement may be renewed for another five (5) year term. This Agreement may be renewed for successive additional five (5) year renewal terms provided that prior to the end of each renewal term, NERC shall conduct an audit pursuant to subsection 6(i) to ensure that ReliabilityFirst continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. Provided, that either Party may terminate this Agreement as of the end of a term by giving written notice to terminate at least one (1) year prior to the end of the term. If this Agreement is not renewed or becomes subject to termination for any reason, the Parties shall work to provide for a transition of ReliabilityFirst's Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement. The termination of this Agreement shall not take effect until such transition has been effected, unless the transition period exceeds one year, at which time ReliabilityFirst may unilaterally terminate.

(c) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by ReliabilityFirst and NERC.

(d) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and

Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. ReliabilityFirst and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and ReliabilityFirst shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of the ReliabilityFirst's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that the ReliabilityFirst or NERC is found liable for gross negligence or intentional misconduct, in which case ReliabilityFirst or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party.

15. Confidentiality. During the course of the Parties' performance under this Agreement, a Party may receive Confidential Information, as defined in Section 1500 of NERC's Rules of Procedure. Except as set forth herein, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive

compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information. In addition, each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein. This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of ReliabilityFirst under this Agreement without first obtaining the consent of ReliabilityFirst, which consent shall not be unreasonably withheld or delayed. To the extent ReliabilityFirst does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of ReliabilityFirst under this Agreement, ReliabilityFirst shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by ReliabilityFirst to NERC and the Commission, or at such other time as may be mutually agreed by ReliabilityFirst and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and ReliabilityFirst (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to ReliabilityFirst's performance of its obligations

under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures (“Dispute Resolution”) to attempt to resolve the dispute. ReliabilityFirst shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party’s position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party’s designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party’s position with respect to the dispute, and naming the Party’s designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party’s notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, *provided*, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), *provided*, that the chief executive officers may agree prior to the end of such twenty (20) business day

period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. *Provided, however*, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. Whether expressly so stated or not, all notices, demands, requests, and other communications required or permitted by or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand or reputable overnight courier:

If to NERC:

North American Electric
Reliability Corporation
116-390 Village Blvd.
Princeton, NJ 08540-5721
Attn: General Counsel

If to ReliabilityFirst:

ReliabilityFirst Corporation
320 Springside Drive
Suite 300
Akron, OH 44333
Attn: Timothy Gallagher, President

Facsimile: (609) 452-9550

Facsimile: (330) 456-3648

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of New Jersey without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in New Jersey. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in New Jersey for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that ReliabilityFirst may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN
ELECTRIC RELIABILITY CORPORATION

RELIABILITYFIRST
CORPORATION

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A - Boundaries of Delegation Agreement

The Boundaries of **ReliabilityFirst** Corporation (**ReliabilityFirst**) are defined by the service territories of Load Serving Entities (LSEs) and include all of New Jersey, Delaware, Pennsylvania, Maryland, District of Columbia, West Virginia, Ohio, Indiana, Lower Michigan and portions of Upper Michigan, Wisconsin, Illinois, Kentucky, Tennessee and Virginia as shown on the map below. In addition, transmission systems and generation within the metered boundaries of the LSEs are within **ReliabilityFirst** even if outside the respective service territories shown. The area is electrically contiguous.

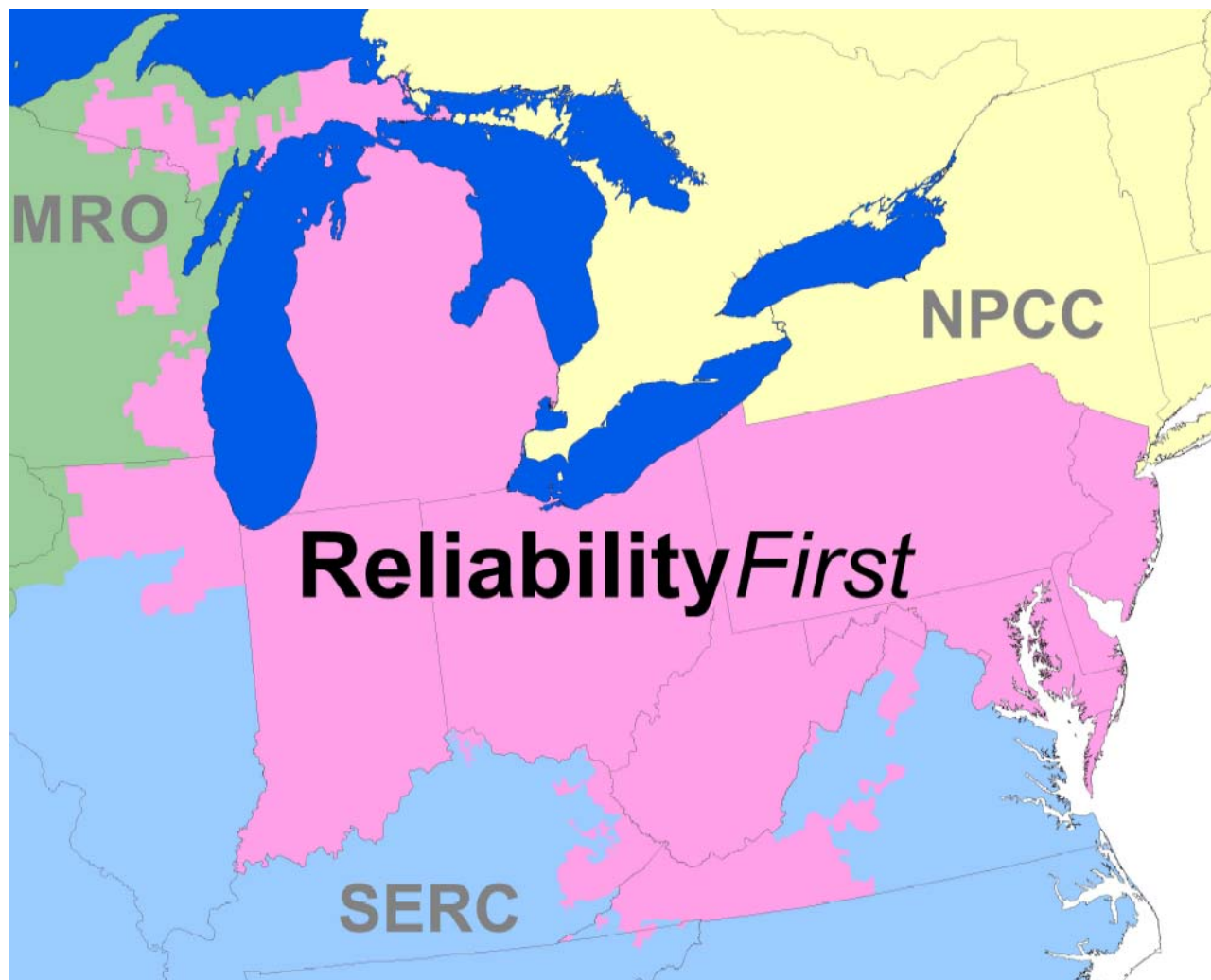


Exhibit B – Governance

Exhibit B shall set forth the Regional Entity’s bylaws, which, along with portions of the Standards Development Process as set out in Exhibit C, NERC agrees demonstrate that the Regional Entity meets the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence of the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)



AMENDED AND RESTATED BYLAWS

OF

Reliability*First* Corporation

a Delaware nonprofit corporation

Adopted December 19, 2006

Amended September 21, 2007¹

Amended December 6, 2007²

Amended May 22, 2008³

Amended December 4, 2008⁴

¹ Section 5.9.2

² Sections 1.2, 1.26, 16.1

³ Sections 1.12, 7.13, 7.14

⁴ Sections 5.8, 6.8, 6.9, 6.10.2, 6.10.4, 7.4, 7.5, 7.7, 7.9, 7.11.13

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**AMENDED AND RESTATED
BYLAWS OF
ReliabilityFirst Corporation
a Delaware nonprofit corporation
(the “Corporation”)**

[As adopted by the Members on December 19, 2006,
amended by the Board of Directors on September 21, 2007,
amended by the Members on December 6, 2007,
amended by the Board of Directors on May 22, 2008,
and amended by the Members on December 4, 2008]

**ARTICLE I.
DEFINITIONS**

Section 1.1. Act. “Act” shall mean Section 215 of the Federal Power Act (16 U.S.C. §824n).

Section 1.2. Adjunct Member. “Adjunct Member” shall mean any entity that does not qualify to join an Industry Sector but has been approved for membership. Adjunct Members may include Regulatory Participants.

Section 1.3. Affiliate. “Affiliate” shall mean, with respect to any entity, any other entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such entity, as determined in the sole discretion of the Board of the Corporation. For this purpose, “control” may be presumed by the direct or indirect ownership of ten percent (10%) or more of the outstanding voting capital stock or other equity interests having ordinary voting power.

Section 1.4. Associate Member. “Associate Member” shall mean any entity that has joined an Industry Sector and is an Affiliate or Related Party of a Regular Member.

Section 1.5. Board. “Board” shall mean the Board of Directors of the Corporation.

Section 1.6. Bulk Power System. “Bulk Power System” shall mean facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof) and electric energy from generation facilities needed to maintain transmission system reliability, but does not include facilities used in the local distribution of electricity.

Section 1.7. Certificate of Incorporation. “Certificate of Incorporation” shall mean the Certificate of Incorporation of the Corporation filed with the Delaware Secretary of State, as from time to time amended.

Section 1.8. Commission. “Commission” shall mean the Federal Energy Regulatory Commission.

Section 1.9. Delegation Agreement. “Delegation Agreement” shall mean the delegation agreement, as supplemented or amended from time to time, between NERC and the Corporation pursuant to which NERC has delegated its authority to the Corporation to propose and enforce Reliability Standards within the Region.

Section 1.10. Electronic Transmission. “Electronic transmission” shall mean any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

Section 1.11. ERO. “ERO” shall mean the electric reliability organization established under the Act to enforce Reliability Standards applicable to all owners, operators and users of the Bulk Power System in North America.

Section 1.12. Hearing Body. “Hearing Body” shall mean a group established with authority to conduct and render decisions in a formal compliance hearing of an entity registered in the NERC compliance registry who is the subject of a notice of alleged violation, proposed penalty or sanction, contested mitigation plan or contested remedial action directive.

Section 1.13. Industry Sector. “Industry Sector” shall mean a group of Bulk Power System owners, operators or users in the Region with substantially similar interests as pertinent to the purposes and operations of the Corporation of the Bulk Power System. The Industry Sectors shall consist of the following: (1) Suppliers, (2) Transmission Companies, (3) RTOs, (4) Small LSEs, (5) Medium LSEs, and (6) Large LSEs.

Section 1.14. Large LSEs. “Large LSEs” shall mean entities that serve, or whose Related Parties serve, end use load with annual energy delivery to such load in the Region of 50,000 GWh or greater.

Section 1.15. Medium LSEs. “Medium LSEs” shall mean entities that serve, or whose Related Parties serve, end use load with annual energy delivery to such load in the Region between 10,000 GWh and 50,000 GWh.

Section 1.16. Members. “Members” shall mean Regular Members, Associate Members and Adjunct Members.

Section 1.17. NERC. “NERC” shall mean the North American Electric Reliability Corporation, or any successor entity, which has been certified by the Commission as the ERO pursuant to the Act to establish and enforce Reliability Standards for the Bulk Power System.

Section 1.18. NERC Rules. “NERC Rules” shall mean the NERC Rules of Procedure as approved by the Commission.

Section 1.19. Net Energy for Load. “Net Energy for Load” shall mean net generation of an electric system plus energy received from others less energy delivered to others through interchange. It includes system losses, but excludes energy required for storage of energy at energy storage facilities. Calculations of net energy for load for all purposes under these Bylaws shall be based on the most recent calendar year for which data on net energy for load of the Region is available.

Section 1.20. Person. “Person” shall mean a natural person, corporation, cooperative, partnership, association, or other private or public entity.

Section 1.21. Region. “Region” shall mean the geographic boundaries of the Corporation described in the Delegation Agreement.

Section 1.22. Regional Entity. “Regional Entity” shall mean any entity with which NERC has entered into a delegation agreement to delegate, or which the Commission or a governmental authority in Canada or Mexico has directly assigned, enforcement authority for reliability standards for the Bulk Power System in a defined geographic area of North America.

Section 1.23. Regional Variance. “Regional Variance” shall mean an aspect of a Reliability Standard that applies only within a particular Regional Entity or group of Regional Entities. A Regional Variance may be used to qualify how a particular Regional Entity or Regional Entities achieves the objectives of a Reliability Standard or may establish different measures or performance criteria as necessary to achieve reliability within the particular Regional Entity or group of Regional Entities. A Regional Variance may not be inconsistent with any Reliability Standard as it would otherwise exist without the Regional Variance. Such a Regional Variance may be proposed by a Regional Entity and, if adopted by NERC and approved by the Commission, shall be enforced within the applicable Regional Entity or Regional Entities pursuant to delegated authority.

Section 1.24. Regional Reliability Standard. “Regional Reliability Standard” shall mean a type of Reliability Standard that is applicable only within a particular Regional Entity or group of Regional Entities. A Regional Reliability Standard may augment, add detail to, or implement another Reliability Standard or cover matters not addressed by other Reliability Standards. Regional Reliability Standards, upon adoption by NERC and approval by the Commission, shall be Reliability Standards and shall be enforced within the applicable Regional Entity or Regional Entities pursuant to delegated authorities.

Section 1.25. Regular Member. “Regular Member” shall mean any entity that has joined an Industry Sector that either (i) has no Affiliates or Related Parties that are Members or (ii) is the entity designated to be the Regular Member by any related group of Associate Members.

Section 1.26. Regulatory Participant. “Regulatory Participant” shall mean any state, District of Columbia or any provincial regulatory agency in the Region exercising authority over the rates, terms or conditions of electric service of an entity other than itself within the Region, or the planning, siting, construction or operation of electric

facilities of an entity other than itself within the Region, as well as the Commission, regional advisory bodies that may be established by the Commission, or any federal regulator or agency or any entity authorized by any state, the District of Columbia or any province to represent utility consumers.

Section 1.27. Related Party. “Related Party” shall mean, solely for purposes of the governance provisions of these Bylaws, any entity that is registered as part of another entity or is registered for other entities in the NERC Compliance Registry. For purposes of these Bylaws, a representative of a state or federal government agency shall not be deemed a Related Party with respect to each other, and a public body’s regulatory authority, if any, over a Member shall not be deemed to make it a Related Party with respect to that Member.

Section 1.28. Reliability Coordinator. “Reliability Coordinator” shall mean any entity that is recognized as a reliability coordinator by NERC in the Region that does not otherwise qualify as a Transmission Company or RTO.

Section 1.29. Reliability Standard. “Reliability Standard” shall mean a requirement to provide for Reliable Operation of the Bulk Power System, including, without limitation, the foregoing requirements for the operation of existing Bulk Power System facilities, including cyber security protection, and the design of planned additions or modifications to such facilities to the extent necessary for reliable operation of the Bulk Power System, but shall not include any requirement to enlarge Bulk Power System facilities or to construct new transmission capacity or generation capacity.

Section 1.30. Reliable Operation. “Reliable Operation” shall mean operating the elements of the Bulk Power System within equipment and electric system thermal, voltage and stability limits so that instability, uncontrolled separation, or cascading failure of the Bulk Power System will not occur as a result of a sudden disturbance, including a cyber security incident, or unanticipated failure of system elements.

Section 1.31. RTOs. “RTOs” shall mean PJM Interconnection L.L.C. and Midwest Independent Transmission System Operator, Inc., or such other entity that has been recognized by the Commission as a regional transmission operator or recognized functional equivalent in the Region.

Section 1.32. Small LSEs. “Small LSEs” shall mean (i) owners or operators of entities (or their representatives) that serve, or whose Related Parties serve, end use load with annual energy delivery to such load in the Region of 10,000 GWh or less, and (ii) end-use customers interconnected with the Bulk Power System with load of at least 100 MW at one location in the Region.

Section 1.33. Suppliers. “Suppliers” shall mean owners or operators of electric generation connected to the transmission system and wholesale power marketers in the Region.

Section 1.34. Transmission Companies. “Transmission companies” shall mean (i) owners (or those with ownership entitlement), planners and operators of

transmission facilities included in the Bulk Power System in the Region and (ii) Reliability Coordinators.

ARTICLE II. PURPOSE AND ACTIVITIES

Section 2.1. Purpose. The business or purposes to be conducted or promoted by the Corporation are:

- (a) to be a Regional Entity and exercise enforcement authority for Reliability Standards for the Bulk Power System in the Region pursuant to the Delegation Agreement;
- (b) to carry out certain of NERC's activities that are in furtherance of NERC's responsibilities as the ERO under the Act or in support of delegated functions, as specified in the NERC Rules or the Delegation Agreement; and
- (c) to engage in any other lawful act or activity for which not for profit corporations may be organized under the Delaware General Corporation Law.

The Corporation shall be exempt from federal income taxation pursuant to Section 501(c) of the Internal Revenue Code of 1986, as amended (hereinafter the "Code") as an organization described in Section 501(c)(6) of the Code. The Corporation shall not engage directly or indirectly in any activity which would invalidate its status as an organization exempt from taxation under Section 501(a) of the Code as an organization described in Section 501(c)(6) of the Code. No part of the net income to the Corporation shall inure to the benefit of or be distributed to its directors, officers, members or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services actually rendered.

Section 2.2. Activities. In support and furtherance of its purpose, and in accordance with and at all times subject to the NERC Rules and the Delegation Agreement, the Corporation's responsibilities shall include, but not be limited to, the following:

- (a) Reliability Standards. The Corporation shall:
 - (1) propose Reliability Standards, Regional Variances or modifications thereof to NERC; and
 - (2) develop Regional Reliability Standards through the Corporation's standards development procedure.
- (b) Enforcement. The Corporation shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the Region through the Corporation's compliance enforcement program.

(c) Delegation-Related Services. The Corporation, on behalf of NERC, shall carry out certain of NERC's activities that are in furtherance of NERC's responsibilities as the ERO under the Act or in support of delegated functions, including:

- (1) Organization registration and certification.
- (2) Reliability readiness audit and improvement.
- (3) Reliability assessment and performance analysis.
- (4) Training and education.
- (5) Situational awareness and infrastructure security.

(d) Budget. The Corporation shall prepare and submit a budget to NERC for the amount of costs the Corporation will incur in support of delegated functions that are in furtherance of NERC's responsibilities as the ERO under the Act.

(e) Non-delegated Functions. The Corporation may conduct such other activities for or on behalf of the Members that are not delegated to the Corporation by NERC under the Delegation Agreement if authorized by the Board and not inconsistent with the Act, NERC Rules, the Delegation Agreement or these Bylaws.

Section 2.3. Not-for-Profit Corporation. The Corporation is operated as a Delaware non-stock nonprofit corporation and is organized pursuant to the general corporation law of the State of Delaware.

ARTICLE III. POWERS

Section 3.1. Powers. The Corporation shall have the power to engage in any lawful act or activity for which corporations may be organized under the general corporation law of the State of Delaware, subject to any limitations provided in applicable federal, provincial or state law or in the Certificate of Incorporation or these Bylaws.

ARTICLE IV. OFFICES

Section 4.1. Principal Office. The principal office of the Corporation shall be located initially within the Region, at such location as the Board may from time to time determine, giving consideration to the total cost to the Corporation and convenience of travel for staff, Members and Regulatory Participants. Once established, the principal office may remain in its location, even if outside the Region.

ARTICLE V. MEMBERS

Section 5.1. General. The terms and conditions of membership in the Corporation shall be as provided in the Certificate of Incorporation and these Bylaws if not inconsistent therewith. All Regular Members and Associate Members shall be required to join a single Industry Sector.

Section 5.2. Classes of Members. The Corporation shall have three (3) classes of Members: Regular Members, Associate Members and Adjunct Members.

5.2.1 Regular Members. Except as set forth in Sections 5.5 and 6.5 of these Bylaws, Regular Members shall have the right to vote on all matters within their Industry Sector. Regular Members shall have all the rights and obligations of being a Member in the Corporation.

5.2.2 Associate Members. Associate Members shall not be entitled to vote within their Industry Sector or for any other purpose as a Member. Associate Members shall otherwise have all the rights and obligations of being a Member in the Corporation.

5.2.3 Adjunct Members. Adjunct Members shall not be entitled to vote for any purpose as a Member. Adjunct Members shall otherwise have all the rights of being a Member in the Corporation.

Section 5.3. Qualifications of Members. Any entity eligible to join an Industry Sector may be a Regular Member or Associate Member of the Corporation. Any entity not eligible to join an Industry Sector may be an Adjunct Member of the Corporation.

Section 5.4. Admission of Members. New Members may join the Corporation upon submittal of an application, in a form approved by the Board, and upon payment of such fees or charges, if any, as may be established by the Board or required by NERC. Each Regular Member and Associate Member shall designate the Industry Sector it wishes to join. A Regular Member and Associate Member may change its Industry Sector designation once each calendar year upon notice to the Corporation. Such notice must be provided to the Secretary of the Corporation at least sixty (60) days before an annual or other meeting of Members if the change is to be effective for such meeting. The President shall review a membership application and may request demonstration by the applicant that it qualifies for membership in a particular Industry Sector. Any dispute with respect to a Regular Member's or Associate Member's qualifications for a particular Industry Sector shall be resolved by the Board. The President shall have authority to approve an application for membership, subject to review by the Board.

Section 5.5. Voting Rights. Each Regular Member in good standing shall be entitled to one vote in the Industry Sector in which it belongs on all matters submitted to a vote of Members. The Board may suspend voting rights for a Regular Member delinquent by more than 60 days in payment of any penalties or because of the Regular Member's failure to meet other obligations to the Corporation. Except with respect to the election of Industry Sector directors as described elsewhere in the Certificate of

Incorporation and these Bylaws, matters properly brought before the Members at an annual or special meeting shall be acted upon by the Industry Sectors voting together as a single class. The vote of each Industry Sector shall be split into an affirmative component based on votes for the matter(s) presented, and a negative component based on votes against the matter(s) presented, in direct proportion to the votes cast within the Industry Sector for and against the matter presented, rounded to two decimal places. If authorized in advance by the Board, voting may be held electronically under such terms and conditions as are approved by the Board.

Section 5.6. Transfer of Membership. A Member of the Corporation may not transfer its membership or a right arising from it except to any Person succeeding to all or substantially all of the assets of the Member. If challenged, the President shall have authority to approve any such transfer, subject to review by the Board.

Section 5.7. Obligations of Members. By applying for and becoming a Regular or Associate Member of the Corporation, each Member agrees to comply with all Reliability Standards, all NERC standards and requirements, and the other obligations of Members of the Corporation set forth in these Bylaws or duly adopted by the Board in order to achieve the purposes of the Corporation. A Regular or Associate Member also agrees to obligate all of its Affiliates that have an impact on reliability in the Region to comply with all Reliability Standards and NERC standards and requirements. These obligations include but are not limited to: (a) obligations to provide data and information needed to perform the functions of the Corporation, (b) payment of any authorized penalties resulting from non-compliance with Reliability Standards, (c) in the case of Regular Members, electing the Board, and (d) providing qualified candidates to serve on organizational working groups. Adjunct Members agree to provide data and information needed to perform the functions of the Corporation.

Section 5.8. Withdrawal. A Member may withdraw from participation in the Corporation upon notice given in writing or by electronic transmission to the Corporation. Such notice shall specify a date, not earlier than thirty (30) days from the date of notice, on which the withdrawal shall become effective.

Section 5.9. Funding and Dues.

5.9.1 NERC Funding. In accordance with and at all times subject to the NERC Rules and the Delegation Agreement, the Corporation shall equitably allocate its dues, fees and other charges for the delegated functions conducted by the Corporation among all end users. The Corporation shall submit to NERC annually a list of all load-serving entities within the Region. NERC will bill all load-serving entities in the Region for the Corporation's costs for the delegated functions based on Net Energy for Load and be responsible for collection.

5.9.2 Application Fee, User-Fees and Other Charges. The Corporation may charge a nominal fee, which shall be determined by the President, for the submission of

applications for membership. The Board of Directors may from time to time fix the amount of user-fees or other charges, if any, for activities that are not delegated to the Corporation by NERC under the Delegation Agreement and determine the methods of collection from entities that choose to participate in such activities.

Section 5.10. Penalties. If the Corporation initiates an investigation that leads to the imposition of a penalty, the Corporation shall receive any penalty monies that results from the investigation. All monies which the Corporation collects from the issuance of penalties shall be applied as a general offset to the Corporation's budget requirements for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the Corporation.

ARTICLE VI. MEETING OF MEMBERS

Section 6.1. Annual Meeting of Members. The Members shall hold an annual meeting in December of each year, or at such other time specified by the Board. At the annual meeting of Members: (i) each Industry Sector shall elect the successor(s), if any, for any director(s) from their Industry Sector whose term will expire before the next annual meeting of the Members, provided however, that any Industry Sector may elect a successor director representing such Industry Sector prior to such annual meeting, in accordance with the provisions of this Article VI, in which case the election of such succeeding director(s) shall be reported to the Corporation at such annual meeting; (ii) the President and Treasurer shall report on the activities and financial condition of the Corporation; (iii) the Industry Sectors shall elect a slate of at-large and independent directors to fill vacancies or expiring terms; and (iv) the Industry Sectors shall consider and act upon such other matters as are consistent with the notice of the annual meeting. The failure to hold an annual meeting in accordance with these Bylaws shall not affect the validity of a corporate action.

Section 6.2. Special Meetings of Members. Special meetings of the Members may be called by six (6) directors on the Board, by the President, or by Members if at least ten percent (10%) of the Regular Members sign, date, and deliver to the President one or more written demands for a special meeting describing the purpose for which it is to be held. Within fifteen (15) days after receipt of a demand for a special meeting from Regular Members, the President shall cause a special meeting to be called and held on notice in accordance with Section 6.4 of these Bylaws. If the President fails to cause a special meeting to be called and held as required by this Section 6.2, a Regular Member making the demand may call the meeting by giving notice under Section 6.4. In either event, notice of the meeting and the costs of the meeting shall be at the expense of the Corporation. The business transacted at a special meeting is limited to the purposes stated within the notice of the meeting. Business transacted at a special meeting that is not included in those stated purposes is voidable by or on behalf of the Corporation, unless ninety percent (90%) of the Regular Members entitled to vote were present at such meeting or have waived notice of the meeting under Section 6.4.

Section 6.3. Location of Meetings of Members. Meetings of Members shall be held at a location designated by the President or the Board. If a Regular Member calls

a meeting pursuant to Section 6.2, the Regular Members making the demand for the meeting may designate the location, provided the meeting must be held within the Region and in a facility of appropriate size to accommodate the Members.

Section 6.4. Notice of Meetings.

6.4.1 Notice Requirements. Notice of meetings of Members must be given at least five (5) days before the date of a meeting and not more than sixty (60) days before the date of a meeting. The notice must contain the date, time and place of the meeting, instructions for electronic attendance or voting, if applicable, and an agenda of the matters upon which action may be taken at the meeting. A matter may be added to the agenda of a meeting at the meeting upon the affirmative vote of three-quarters (3/4) of the Industry Sector votes cast on a motion to amend the agenda. If the meeting is an adjourned meeting and the date, time and place of the meeting were announced at the time of the adjournment, notice is not required unless a new record date for the adjourned meeting is or must be fixed. Notice shall be deemed given by the Corporation to the Members when (a) posted on the Corporation's public website in a reasonably prominent location, and (b) sent by mail, facsimile or reputable overnight delivery service or by electronic transmission to each Member's representative authorized pursuant to Section 6.10.1

6.4.2 Waiver of Notice; Objections. A Member may waive notice of a meeting of Members. A waiver of notice by a Member entitled to notice is effective whether given before, at, or after the meeting, and whether given in writing, or by attendance. Attendance by a Member at a meeting is a waiver of notice of that meeting, unless the Member objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, or objects before a vote on an item of business because the item may not lawfully be considered at that meeting and does not participate in the consideration of the item at that meeting.

Section 6.5. Record Date. The Board may fix a date not more than sixty (60) days before the date of a meeting of Members as the date for the determination of the Members entitled to notice of and entitled to vote at the meeting. When a date is so fixed, only Members on that date are entitled to notice and to vote at the meeting unless the Board fixes a new date for determining the right to notice and to vote, which it must do if the meeting is adjourned to a date more than sixty (60) days after the record date for determining Members entitled to notice of the original meeting.

Section 6.6. Right to Vote; Act of Members.

6.6.1 Industry Sector Voting. Voting of the Members shall be by Industry Sector, with each Industry Sector entitled to cast one vote. Each Member entitled to vote in an Industry Sector shall be entitled to cast one vote in its Industry Sector. The vote of each Industry Sector shall be split into an affirmative component based on votes for the pending motion, and a negative component based on votes against the pending motion, in direct proportion to the votes cast within the Industry Sector for and against the pending motion, rounded to two decimal places. To the extent practicable, all Member votes may be held electronically under such terms and conditions as are approved by the Board.

6.6.2 Act of Members. If a quorum is present, except with respect to any matter described in Section 6.6.3, a majority of the Industry Sector votes cast on the matter shall be the act of the Members.

6.6.3 Special Voting Requirements. Notwithstanding any other provision of these Bylaws, and except as set forth in the Certificate of Incorporation and Section 13.2 of these Bylaws, two-thirds (2/3) of the Industry Sector votes cast shall be required to:

(a) Amend the Bylaws, except as otherwise provided in Section 19.1 of these Bylaws. The substance of the proposed amendment must be contained in the notice of the meeting at which the vote will be taken; however, the Members may modify a proposed Bylaw amendment at the meeting.

(b) Approve any proposal to terminate the Corporation.

Section 6.7. Quorum. A quorum for a meeting of Members is a majority of the Regular Members entitled to vote in each Industry Sector at the meeting. A quorum for a meeting of an Industry Sector is a majority of the Regular Members of that Industry Sector entitled to vote at the meeting. In both cases, electronic participation is acceptable if authorized by the Board. A quorum is necessary for the transaction of business at a meeting of Members or of any Industry Sector. If a quorum is not present, a meeting may be adjourned for that reason by the Industry Sectors or Regular Members then represented or present.

Section 6.8. Action by Ballot. All elections of directors shall be by written ballot. Any other action that may be taken at a regular or special meeting of Members or any Industry Sector may be taken without a meeting or during a meeting if the Corporation mails or delivers a written ballot to every Regular Member entitled to vote on the matter. Approval by written ballot is valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. Solicitations for votes by written ballot must: (i) indicate the number of responses needed to meet the quorum requirements; (ii) state the percentage of approvals necessary to approve the matter; (iii) specify the time by which a ballot must be received by the Corporation in order to be counted; and (iv) may not be revoked once received. If authorized by the Board, the requirement of a written ballot shall be satisfied by a ballot submitted by electronic transmission provided that any such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the Member.

Section 6.9. Action by Electronic Communication. A conference among Members by a means of communication through which the participants may simultaneously hear each other during the conference is a meeting of the Members, if the same notice is given of the conference as would be required for a meeting and if the number of persons participating in the conference is a quorum. Participation in a meeting by this means is personal presence at the meeting. A Member may participate

in a meeting of the Members by a means of communication through which the Member, other persons participating, and all persons physically present at the meeting may simultaneously communicate with each other during the meeting. Participation in a meeting by this means constitutes personal presence at the meeting.

Section 6.10. Member Representatives; Proxies.

6.10.1 Designation of Representative. Each year prior to the annual meeting of Members, each Regular Member shall designate the individual authorized to vote on Corporation matters on behalf of the Member, in accordance with procedures approved by the Board. A Regular Member may change such designation at any time by providing at least twenty-four (24) hour written notice to the Secretary of the Corporation. Such notice may be provided by electronic transmission.

6.10.2 Authorization. The individual designated to vote by a Regular Member may appoint a proxy to vote or otherwise act for the Regular Member at any meeting by signing an appointment form either personally or by an attorney so designated by the Regular Member. Such authorization may be in writing or by means of electronic transmission to the person who will be the holder of the proxy, provided that such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the Member representative.

6.10.3 Effective Period. An appointment of a proxy is effective when received by the Secretary or other officer or agent authorized to tabulate votes. An appointment is valid for the next regular or specially scheduled meeting or ballot by electronic transmission. However, a proxy is not valid for more than sixty (60) days from its date of execution.

6.10.4 Revocation. An appointment of a proxy is revocable by a Regular Member. Appointment of a proxy is revoked by the person appointing the proxy either by open declaration at a meeting or by signing and delivering a revocation in writing or by electronic transmission to the Secretary or other officer or agent authorized to tabulate proxy votes. This may be done either in a statement that the appointment of the proxy is revoked or by a subsequent appointment that shall serve to cancel all prior proxies.

Section 6.11. Public Notice of Member Meetings. Notice to the public of the dates, times and places of meetings of the Members, and all nonconfidential material provided to the Members, shall be posted on the Corporation's website at approximately the same time that notice is given to the Members. Meetings of the Members shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided, that the meeting may be held in or adjourn to closed session to discuss matters of a confidential nature, including, but not limited to, personnel matters, compliance and enforcement matters, litigation or commercially sensitive or critical infrastructure information of a Member or other Person.

Section 6.12. Posting of Minutes. Minutes of meetings of Members shall be posted on the Corporation's website when available.

Section 6.13. Reimbursement of Member Expenses. The Corporation will be under no obligation to reimburse Members for expenses associated with their attendance at regular or special Member meetings.

ARTICLE VII. BOARD OF DIRECTORS

Section 7.1. General. The composition of the Board and the terms of office of the directors, the manner of their nomination, election or appointment, and other terms and conditions of their service, shall be as provided in the Certificate of Incorporation and these Bylaws if not inconsistent therewith.

Section 7.2. Management of Corporation. The business of the Corporation shall be managed under the direction of the Board. Specific functions of the Board shall include, but not be limited to:

- (a) govern the Corporation and oversee all of its activities;
- (b) establish and oversee all organizational groups;
- (c) approve, revise and enforce Reliability Standards utilizing a fair, open, balanced and inclusive process;
- (d) establish compliance monitoring procedures and requirements, and penalties and sanctions for non-compliance consistent with applicable NERC Rules;
- (e) impose penalties and sanctions consistent with the NERC Rules and the procedures approved by the Board;
- (f) establish and approve an annual budget for submission to NERC;
- (g) hire the Corporation's president and approve his or her salary;
- (h) annually at the first regular Board meeting following the annual meeting of Members, elect a Chair ("Chair") and a vice-chair from among the directors on the Board; and
- (i) establish Board committees as appropriate.

Section 7.3. Voting. Each director shall have one vote with respect to decisions of the Board.

Section 7.4. Composition of the Board.

- (a) The Board shall consist of fourteen (14) or fifteen (15) directors which number shall be established from time to time by resolution of the Board,

which resolution shall in no event have the effect of terminating the term of any incumbent director.

(b) Eight directors shall be elected by the Industry Sectors as follows:

- (i) Suppliers shall elect two (2) directors;
- (ii) Transmission Companies shall elect two (2) directors;
- (iii) RTOs shall select one (1) director;
- (iv) Small LSEs shall elect one (1) director;
- (v) Medium LSEs shall elect one (1) director; and
- (vi) Large LSEs shall elect one (1) director.

(c) Three (3) directors shall be at-large. At-large directors shall be elected by all of the Industry Sectors voting together as a single class.

(d) Three (3) directors, if the Board consists of fourteen (14) directors, and four (4) directors, if the Board consists of fifteen (15) directors, shall be independent from the Corporation and any Member or any Affiliate or Related Party of any Member. Independent directors shall be elected by all of the Industry Sectors voting together as a single class.

(e) Industry Sectors shall elect their respective sector and at-large directors from among individuals holding senior management positions in Member organizations. Any sector-elected or at-large director whose Member organization changes Industry Sectors or who ceases to hold a senior management position in a Member organization shall continue to serve out his or her remaining term, unless such director resigns or is removed. When selecting at-large directors, Industry Sectors shall consider such factors as the geographic and functional representation of the Board. No two directors may be employees of a single Member or any Affiliate or Related Party of a Member or any Affiliate.

(f) An independent director is a person (i) who is not an officer or employee of the Corporation, an officer, director, or employee of a Member, or an officer, director or employee of any entity that would reasonably be perceived as having a direct financial interest in the outcome the Board's decisions, or (ii) who does not have a relationship that would interfere with the exercise of independent judgment in carry out the responsibilities of a director. The Board may adopt additional standards for director independence not inconsistent herewith.

(g) At-large and independent directors shall be nominated by the nominating and governance committee of the Board. The nominating and governance committee shall seek out for nomination independent directors from diverse backgrounds, who will contribute to the effective functioning of the Board and the Corporation by bringing a broad range of industry expertise, viewpoints,

experiences, skill sets and knowledge. If an incumbent independent director is not re-nominated, the nominating and governance committee will use reasonable efforts to ensure that diverse candidates are in the pool of potential nominees for the open independent director position and may retain an independent consultant to identify individuals qualified and willing to serve as an independent director.

(h) Any director which the full Board has determined has a conflict of interest on any compliance or enforcement matter brought before the Board shall not vote on such matter and shall recuse himself or herself from all Board deliberations concerning such matter.

(i) There will be no alternates or proxies for directors.

Section 7.5. Terms of Directors. The directors will be divided into three classes. The number of directors in each class shall be as nearly equal as possible. The term of office of the first class will expire at the second annual meeting of Members; the term of office of the second class will expire one year thereafter; and the term of office of the third class two years thereafter. At each annual meeting of Members, directors shall be chosen for a three year term to succeed those whose term expires. No two at-large directors and no two directors of the same Industry Sector shall be in the same class. At least one (1) independent director shall be in each class. Each director shall hold office until (a) the expiration of the term for which he or she was elected and until his or her successor is elected and qualified, or (b) his or her earlier death, resignation or removal. Any director may be removed at any time by the affirmative vote of two-thirds of the Industry Sector or Industry Sectors, as applicable, electing such director. A director may be removed by the Board for non-attendance at three consecutive Board meetings.

Section 7.6. Reimbursement. Independent directors shall have the right to reimbursement by the Corporation of their actual reasonable travel expenses to Board meetings or when specifically selected to represent the Corporation at a business meeting. The directors elected by the Industry Sectors and the at-large directors shall not be reimbursed by the Corporation for any expenses, unless specifically approved in advance by resolution of the Board.

Section 7.7. Resignations; Vacancies.

(a) Resignations. A director may resign at any time from the Board upon notice given in writing or by electronic transmission to the Corporation. Such resignation shall take effect at the time of its receipt by the Corporation.

(b) Vacancies. If an Industry Sector or at-large director resigns, dies or otherwise becomes incapacitated or is removed during the term of office for which elected, the directorship shall thereupon be vacant and shall be filled by the Industry Sector or Industry Sectors, as applicable, by written or electronic ballot in accordance with the procedures and requirements set forth above. The successor director elected by the Industry Sector shall hold office for the unexpired term of the vacated directorship replaced. If an independent director resigns, dies or otherwise becomes incapacitated or is removed during the term

of office for which elected or ceases to be independent, as determined by the Board, his or her directorship shall thereupon be vacant and may be filled by the Board until the next annual meeting of Members, at which time a permanent successor shall be elected by the Industry Sectors for the remainder of the unexpired term. Upon an increase in the number of directors on the Board in accordance with Section 7.4(a) of these Bylaws, the independent directorship created thereby may be filled by resolution of the Board and any independent director so chosen shall hold office until the next annual meeting of Members, at which time a permanent successor shall be elected by the Industry Sectors for the remainder of such director's unexpired term.

Section 7.8. Meetings; Notice; Waiver.

(a) Meetings. An annual meeting of the Board shall be held without notice immediately following the annual meeting of the Members. The Board shall elect the Chair and Vice-Chair for the next year at the annual meeting. In addition, regular meetings may be held at such time or times as fixed by the Board. Special meetings of the Board may be called by the Board's Chair, the President or by any three directors and shall be held at the principal office of the Corporation, or such other place within the Region as determined by the Chair or the President after consultation with the Board.

(b) Notice. Notice of the dates, times, and places of all regular and special meetings of the Board shall be published by the Secretary and provided to all directors and Members not less than three (3) days prior to the date of the meeting. Notice shall be deemed given by the Corporation to directors and the Members when (a) posted on the Corporation's public website in a reasonably prominent location, and (b) sent by mail, facsimile or reputable overnight delivery service or by electronic transmission to each director and each Member's representative authorized pursuant to Section 6.10.1.

(c) Waiver. Any person entitled to notice of a regular or special meeting of the Board may waive notice thereof. A waiver of notice by a person entitled to notice is effective whether given before, at, or after the meeting, and whether given in writing or by attendance. Attendance by a director at a meeting of the Board is a waiver of notice of that meeting, unless the director objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, or objects before a vote on an item of business because the item may not lawfully be considered at that meeting and does not participate in the consideration of the item at that meeting.

Section 7.9. Quorum. For the Board to take action at a meeting, a quorum of directors must be present. A quorum is a majority of the directors then in office, provided that: (a) if there are three or four independent directors holding office, two independent directors must be present to constitute a quorum, or (b) if there are two independent directors holding office, one independent director must be present to constitute a quorum. If there is only one independent director or no independent directors holding office, there is no requirement that an independent director be present

in order for the Board to have a quorum. In the absence of a quorum, a majority of the directors present may adjourn a meeting, without notice, except as may be given at such meeting, until a quorum is present.

Section 7.10. Board Action. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board, unless the act of a greater number is required by law or these Bylaws.

Section 7.11. Action Without a Meeting. Any action required or permitted to be taken at any meeting of the Board or any committee thereof may be taken without a meeting if all members of the Board or committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceeding of the Board or the committee. Any nonconfidential material provided to the Board or a committee in connection with such action shall be posted on the Corporation's website at approximately the same time that it is given to the Board or the committee. The results of all actions taken by the Board or any committee thereof without a meeting shall be promptly posted on the Corporation's website.

Section 7.12. Action by Electronic Communication. A conference among directors by a means of communication through which the directors may simultaneously hear each other during the conference is a Board meeting if the same notice is given of the conference as would be required for a meeting and if the number of directors participating in the conference is a quorum. Participation in a meeting by this means constitutes personal presence at the meeting. A director may participate in a Board meeting by any means of communication through which the director, other directors participating, and all directors physically present at the meeting may simultaneously communicate with each other during the meeting.

Section 7.13. Board Committees. The Board shall have an audit committee, compensation committee, nominating and governance committee and compliance committee, and such other committees the Board deems necessary and appropriate. Each committee shall be comprised of not less than three directors. The compliance committee shall be comprised of a minimum of five directors, a majority of whom are independent directors. All independent directors shall serve on the compliance committee. The Board may require that a minimum number of independent directors serve on any or all other Board committees. The Board shall have the power to appoint, and to delegate authority to, such other committees of the Board as it determines to be appropriate from time to time. The Board may require any committee to adopt a charter, subject to approval by the Board, governing the activities and authority of the committee and the composition of its members.

Section 7.14. Hearing Body. The Hearing Body shall consist of the Board compliance committee.

7.14.1 Quorum. For the Hearing Body to take action at a hearing, a quorum of members must be present. A quorum is a majority of members of the Hearing Body, provided that two independent directors are present. If a quorum of the Hearing Body does not remain after any recusals and rulings on motions for disqualification, the

compliance committee shall appoint a new member to the Hearing Body from among other directors to create a quorum, provided that the requirement that at least two independent directors are present for a quorum shall at all times continue to be met. Such new member shall serve on the Hearing Body for purposes of the subject hearing through the conclusion of the hearing but not thereafter.

7.14.2 Voting. Each Hearing Body member shall have one vote with respect to matters presented at a hearing. Action may be taken at a hearing at which a quorum is present upon the vote of the majority of members present.

Section 7.15. Public Notice of Board Meetings. Notice to the public of the dates, times and places of Board meetings, including committees thereof, and all nonconfidential material provided to the Board or the committees, shall be posted on the Corporation's website, and notice of Board and committee meetings shall be sent by electronic transmission to Members, at approximately the same time that notice is given to the Board or the committee, as the case may be. Board and committee Meetings shall be open to all Members and the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided, that any meeting may be held in or adjourn to closed session to discuss matters of a confidential nature, including, but not limited to, personnel matters, compliance and enforcement matters, litigation or commercially sensitive or critical infrastructure information of a Member or other Person.

Section 7.16. Posting of Minutes. Minutes of Board and committee meetings shall be posted on the Corporation's website when available.

Section 7.17. Compensation of Directors. The directors elected by the Industry Sectors and the at-large directors shall not receive compensation for their service to the Corporation as directors on the Board. The independent directors shall be entitled to such compensation as the Board may from time to time determine. Nothing contained in these Bylaws shall preclude any director from receiving compensation for services to the Corporation in any other capacity.

ARTICLE VIII. ORGANIZATIONAL GROUPS

Section 8.1. Establishment of Organizational Groups. The Board shall establish such organizational groups, consisting of committees, sub-committees, task forces and working groups of Members, as are necessary and appropriate to accomplish the purposes of the Corporation in an efficient and cost-effective manner. All organizational groups shall be subject to the direction and control of the Board. The membership of organizational groups shall be determined based upon experience, expertise and geographic diversity and to the extent practicable shall include balanced representation of the Industry Sectors. The Board shall establish policies and procedures governing the creation of organizational groups, how they are populated, how voting and related matters are conducted, how they may be reorganized and the direction and termination of such groups. The Board shall conduct a review of all

organizational groups of the Corporation on an annual basis to ensure that the business of the Corporation is conducted in an efficient, cost-effective manner.

Section 8.2. Reimbursement. The Board may authorize reimbursement for persons acting on behalf of the Corporation, as necessary in the interests of the Corporation.

ARTICLE IX. OFFICERS

Section 9.1. Officers. The officers of the Corporation shall include a President, one or more Vice Presidents, a Secretary, a Treasurer and any other officers as may be elected or appointed in accordance with the provisions of this Article. The Board may elect or appoint any additional officers that it deems desirable, such other officers to have the authority and perform the duties prescribed by the Board. The same individual may hold any number of offices, except that of President.

Section 9.2. Election and Term of Office. The officers of the Corporation shall be elected annually by the Board at the annual meeting of the Board. Each officer shall hold office at the pleasure of the Board. If the election of officers is not held at such meeting, such election shall be held as soon thereafter as is convenient. New officers may be created and the positions filled at any meeting of the Board. Each elected officer shall hold office until his or her successor has been duly elected and qualified or upon his or her earlier resignation or removal.

Section 9.3. Removal. Any officer elected by the Board may be removed by the affirmative vote of two-thirds (2/3) of the Board whenever in its judgment the best interests of the Corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the officer so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Section 9.4. Vacancies. A vacancy in any office because of death, incapacity, resignation, removal, disqualification, or otherwise, may be filled by the Board for the unexpired portion of the term.

Section 9.5. President. The President shall:

- (a) be the principal executive and operating officer of the Corporation;
- (b) sign certificates of membership, and may sign any deeds, mortgages, deeds of trust, notes, bonds, contracts or other instruments authorized by the Board to be executed, except in cases in which the signing and execution thereof shall be expressly delegated by the Board or by these Bylaws to some other officer or agent of the Corporation; and
- (c) perform all duties incident to the office of President, including hiring and directing staff, and such other duties as may be prescribed by the Board from time to time.

Section 9.6. Vice Presidents. The Vice President(s) shall perform such duties and have such powers as the Board or President may from time to time prescribe. At the request of the Board, the Vice President (or in the event there be more than one Vice President, the Vice Presidents in the order designated, or in the absence of any designation, then in the order of their election) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President.

Section 9.7. Secretary. The Secretary shall ensure that the following duties are carried out:

- (a) the minutes of the meetings of the Members and of the Board, and each committee thereof, are recorded;
- (b) all required notices are duly given in accordance with these Bylaws and as required by law;
- (c) a register of the current names and addresses of all Members is maintained and posted on the Corporation's website;
- (d) a complete copy of the Certificate of Incorporation and Bylaws of the Corporation containing all amendments thereto are kept on file at all times and posted on the Corporation's website, which copies shall always be open to the inspection of any Member; and
- (e) generally perform all duties incident to the office of Secretary and such other duties as may be prescribed by the Board from time to time.

Section 9.8. Treasurer. The Treasurer shall be responsible for the following activities:

- (a) maintain custody of all funds and securities of the Corporation;
- (b) receipt of and the issuance of receipts for all monies due and payable to the Corporation and for deposit of all such monies in the name of the Corporation in such bank or banks or financial institutions as shall be selected by the Board; and
- (c) generally perform all duties incident to the office of Treasurer and such other duties as may be prescribed by the Board from time to time.

ARTICLE X. CERTIFICATES OF MEMBERSHIP

Section 10.1. Certificates of Membership. The Board may, but need not, provide for the issuance of certificates evidencing membership in the Corporation, which certificates shall be in such form as may be determined by the Board.

ARTICLE XI.
BOOKS AND RECORDS

Section 11.1. Books and Records; Financial Statements. The Corporation shall keep at such office selected by the Board correct and complete copies of its Certificate of Incorporation and Bylaws, accounting records, and minutes of meetings of Members, Board, and committees having any of the authority of the Board. A Member, or the agent or attorney of a Member, may inspect all books and records for any proper purpose at any reasonable time. Upon request, the Corporation shall give the Member a statement showing the financial result of all operations and transactions affecting income and expenses during its last annual accounting period and a balance sheet containing a summary of its assets and liabilities as of the closing date of the accounting period.

ARTICLE XII.
FISCAL YEAR

Section 12.1. Fiscal Year. The fiscal year of the Corporation shall be the calendar year.

ARTICLE XIII.
TRANSFER OF ASSETS

Section 13.1. Member Approval Not Required. Subject to restrictions set forth in the Certificate of Incorporation, the Corporation, by affirmative vote of the Board, may sell, lease, transfer, or dispose of its property and assets in the usual and regular course of its activities and grant a security interest in all or substantially all of its property and assets in the usual and regular course of its activities, upon those terms and conditions and for those considerations, which may be money, securities, or other instruments for the payment of money or other property, as the Board considers expedient, in which case no Member approval is required.

Section 13.2. Member Approval Required. Subject to restrictions set forth in the Certificate of Incorporation, the Corporation may sell, lease, transfer, or dispose of all or substantially all of its property and assets, including its good will, not in the usual and regular course of its activities, upon those terms and conditions and for those considerations, which may be money, securities, or other instruments for the payment of money or other property, as the Board considers expedient only when approved at a regular or special meeting of the Members by the affirmative vote of two-thirds (2/3) of all the Members. Notice of the meeting must be given to the Members. The notice must state that a purpose of the meeting is to consider the sale, lease, transfer, or other disposition of all or substantially all of the property and assets of the Corporation.

ARTICLE XIV.
CONTRACTS, CHECKS, DEPOSITS, AND GIFTS

Section 14.1. Contracts. The Board may authorize any officer or officers or agent or agents of the Corporation, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or may be confined to specific instances.

Section 14.2. Checks, Drafts, or Orders. All checks, drafts, or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Corporation, may be signed by such officer or officers or agent or agents of the Corporation, and in such manner, as shall from time to time be determined by resolution of the Board.

Section 14.3. Deposits. All funds of the Corporation shall be deposited to the credit of the Corporation in such banks, trust companies, or other depositories as the Board may select.

Section 14.4. Gifts. The Board may accept on behalf of the Corporation any contribution, gift, bequest, or devise for any purpose of the Corporation.

ARTICLE XV.
INSURANCE, LIMITATION ON LIABILITY AND INDEMNIFICATION

Section 15.1. Insurance. The President is authorized to procure insurance to protect the Corporation against damages arising out of or related to any directive, order, procedure, action or requirement of the Corporation.

Section 15.2. Limitations on Liability. As provided in Article Fourteenth of the Certificate of Incorporation, a director of the Corporation shall not be personally liable to the Corporation or its Members for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its Members, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law or (iv) for any transaction from which the director derived any improper personal benefit. If the Delaware General Corporation Law is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law, as so amended. Any repeal or modification of Article Fifteenth of these Bylaws by the Members of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.

Section 15.3. Right to Indemnification.

15.3.1 Indemnified Persons. Each person who was or is made a party or is threatened to be made a party to or is involved in or called as a witness in any Proceeding because he or she is an Indemnified Person shall be indemnified and held

harmless by the Corporation to the fullest extent permitted under the Delaware General Corporation Law (the “DGCL”), as the same now exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than the DGCL permitted the Corporation to provide prior to such amendment). Such indemnification shall cover all expenses incurred by an Indemnified Person (including, but not limited to, attorneys’ fees and other expenses of litigation) and all liabilities and losses (including, but not limited to, judgments, fines, ERISA or other excise taxes or penalties and amounts paid or to be paid in settlement) incurred by such person in connection therewith.

15.3.2 Denial of Authorization for Certain Proceedings. Notwithstanding anything to the contrary in this Section 15.3, except with respect to indemnification of Indemnified Persons specified in paragraph 15.3.3 of this Section 15.3, the Corporation shall indemnify an Indemnified Person in connection with a Proceeding (or part thereof) initiated by such person only if authorization for such Proceeding (or part thereof) was not denied by the Board of the Corporation prior to the earlier of 60 days after receipt of notice thereof from such Indemnified Person.

15.3.3 Certain Defined Terms. For purposes of this Section 15.3, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

(1) a “Proceeding” is any investigation, action, suit or proceeding, whether civil, criminal, administrative or investigative, and any appeal therefrom.

(2) an “Indemnified Person” is a person who is, was, or had agreed to become a Director of the Corporation (including, in the case of such person seeking indemnification while serving as a Director who is or was an officer of the Corporation, such person in his capacity as an officer.)

15.3.4 Expenses. Expenses, including attorneys’ fees, incurred by a person indemnified pursuant to paragraph 15.3.1 in defending or otherwise being involved in a Proceeding shall be paid by the Corporation in advance of the final disposition of such Proceeding, including any appeal therefrom, upon receipt of an undertaking (the “Undertaking”) by or on behalf of such person to repay such amount if it shall ultimately be determined that he or she is not entitled to be indemnified by the Corporation; provided that in connection with a Proceeding (or part thereof) initiated by such person, except a Proceeding authorized by paragraph 15.3.5, the Corporation shall pay said expenses in advance of final disposition only if authorization for such Proceeding (or part thereof) was not denied by the Board of the Corporation prior to the earlier of 60 days after receipt of a request for such advancement accompanied by the Undertaking. A person to whom expenses are advanced pursuant hereto shall not be obligated to repay such expenses until the final determination of any pending Proceeding in a court of competent jurisdiction concerning the right of such person to be indemnified or the obligation of such person to repay such expenses.

15.3.5 Protection of Rights. If a claim by an Indemnified Person under paragraph 15.3.1 is not promptly paid in full by the Corporation after a written claim has been

received by the Corporation or if expenses pursuant to paragraph 15.3.4 have not been promptly advanced after a written request for such advancement by an Indemnified Person (accompanied by the Undertaking required by paragraph 15.3.4) has been received by the Corporation, the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim or the advancement of expenses. If successful, in whole or in part, in such suit, such claimant shall also be entitled to be paid the reasonable expense thereof. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any Proceeding in advance of its final disposition where the Undertaking has been tendered to the Corporation that indemnification of the claimant is prohibited by law, but the burden of proving such defense shall be on the Corporation. Neither the failure of the Corporation (including the Board, independent legal counsel, or the Members) to have made a determination, if required, prior to the commencement of such action that indemnification of the claimant is proper in the circumstances, nor an actual determination by the Corporation (including the Board, independent legal counsel, or the Members) that indemnification of the claimant is prohibited, shall be a defense to the action or create a presumption that indemnification of the claimant is prohibited.

15.3.6 Miscellaneous.

(a) Non-Exclusivity of Rights. The rights conferred on any person by this Section 15.3 shall not be exclusive of any other rights which such person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, Bylaw, agreement, vote of Members or disinterested directors or otherwise. The Board shall have the authority, by resolution, to provide for such other indemnification of directors, and such indemnification of officers, delegates, employees, agents, or others of the Corporation as it shall deem appropriate.

(b) Insurance, contracts, and funding. The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee, delegate or agent of the Corporation against any expenses, liabilities or losses, whether or not the Corporation would have the power to indemnify such person against such expenses, liabilities or losses under the DGCL. The Corporation may enter into contracts with any director, officer, or employee of the Corporation in furtherance of the provisions of this Section 15.3 and may create a trust fund, grant a security interest or use other means (including, without limitation, a letter of credit) to ensure the payment of such amounts as may be necessary to effect the advancing of expenses and indemnification as provided in such contracts or as otherwise provided in this Section 15.3.

(c) Contractual nature. The provisions of this Section 15.3 shall continue as to a person who has ceased to be a director and shall inure to the benefit of the heirs, executors and administrators of such person. This Section 15.3 shall be deemed to be a contract between the Corporation and each person who, at any time that this Section 15.3 is in effect, serves or agrees to serve in any capacity which entitles him to indemnification and advancement of expenses hereunder and any repeal or other modification of this Section 15.3 or any repeal

or modification of the DGCL or any other applicable law shall not limit any rights of indemnification for Proceedings then existing or arising out of events, acts or omissions occurring prior to such repeal or modification, including, without limitation, the right to indemnification and advancement of expenses for Proceedings commenced after such repeal or modification to enforce this Section 15.3 with regard to Proceedings arising out of acts, omissions or events arising prior to such repeal or modification.

(d) Cooperation. Each Indemnified Person shall cooperate with the person, persons or entity making the determination with respect to such Indemnified Person's entitlement to indemnification under this Section 15.3, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to such Indemnified Person and reasonably necessary to such determination. Any costs or expenses (including attorneys' fees and disbursements) incurred by such Indemnified Person in so cooperating with the person, persons or entity making such determination shall be borne by the Corporation (irrespective of the determination as to such Indemnified Person's entitlement to indemnification) and the Corporation hereby indemnifies and agrees to hold such Indemnified Person harmless therefrom.

(e) Subrogation. In the event of any payment under this Section 15.3 to an Indemnified Person, the Corporation shall be subrogated to the extent of such payment to all of the rights of recovery of such Indemnified Person, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Corporation to bring suit to enforce such rights.

(f) Severability. If this Section 15.3 or any portion hereof shall be invalidated or held to be unenforceable on any ground by any court of competent jurisdiction, the decision of which shall not have been reversed on appeal, this Section 15.3 shall be deemed to be modified to the minimum extent necessary to avoid a violation of law and, as so modified, this Section 15.3 and the remaining provisions hereof shall remain valid and enforceable in accordance with their terms to the fullest extent permitted by law.

ARTICLE XVI. TRANSITION

Section 16.1. Transition Standards. The Corporation will use the existing standards, criteria, rules or guides from each existing reliability council region for those Members that join the Corporation as in effect immediately prior to formation of the Corporation until such standards, criteria, rules or guides are adopted, superseded, or rejected by the Corporation. The Corporation will establish any necessary transition committees, subcommittees, working groups or task forces to administer the existing regional reliability standards, criteria, rules and guides until they are adopted, superseded, or rejected by the Corporation. The Corporation will employ its best

efforts, within two (2) years of its formation, to work toward a uniform set of Reliability Standards for the entire Region. The Board will develop and implement a standards process and a plan for transition to new Reliability Standards. This process will include a requirement that two-thirds of the directors present at a meeting must vote to adopt new Reliability Standards.

ARTICLE XVII.
PARTICIPATION BY REGULATORY PARTICIPANTS

Section 17.1. Regulatory Participants. All Regulatory Participants shall be entitled to and be provided with the same rights to notice of and participation in meetings or other activities of the Corporation as are provided to Members, but shall not have the right to vote.

ARTICLE XVIII.
BUDGET AND BUSINESS PLAN

Section 18.1. Budget and Business Plan. Each annual budget and business plan of the Corporation shall be approved by the Board in sufficient time in each fiscal year to allow for timely submittal of the approved annual budget and business plan to NERC in accordance with the NERC Rules. The Corporation shall post a draft of each budget and business plan on the Corporation's website for purposes of review and comment by the Members at least ten (10) days prior to the Board meeting at which the budget and business plan are to be approved.

ARTICLE XIX.
AMENDMENT OF BYLAWS

Section 19.1. Amendment Of Bylaws. The power to adopt, amend or repeal these Bylaws is vested in the Members as set forth in Section 6.6.3 of these Bylaws; provided, however, that upon the passage of any federal electric reliability legislation, and/or the adoption of any rules or regulations of the Commission, NERC or other governmental entity with jurisdiction, the Board shall have authority to amend these Bylaws as necessary and appropriate to comply with such law, legislation, rules and regulations.

Exhibit C – Regional Standard Development Procedure

Exhibit C shall set forth the Regional Entity's standards development procedure, which NERC agrees meets the following common attributes:

COMMON ATTRIBUTE 1

Proposed regional reliability standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA [add reference to any applicable authorities in Canada and Mexico]. No regional reliability standard shall be effective within the [Regional Entity Name] area unless filed by NERC with FERC [and applicable authorities in Canada and Mexico] and approved by FERC [and applicable authorities in Canada and Mexico].

COMMON ATTRIBUTE 2

[Regional Entity Name] regional reliability standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. A [Regional Entity Name] reliability standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. A regional reliability standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

COMMON ATTRIBUTE 3

[Regional Entity Name] regional reliability standards, when approved by FERC [add applicable authorities in Canada], shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the [Regional Entity Name] area, regardless of membership in the region.

COMMON ATTRIBUTE 4

Requester — The requester is the sponsor of the regional reliability standard request and may assist in the development of the standard. Any member of [Regional Entity Name], or group within [Regional Entity Name] shall be allowed to request that a regional reliability standard be developed, modified, or withdrawn. Additionally, any entity (person, organization, company, government agency, individual, etc.) that is directly and materially affected by the reliability of the bulk power system in the [Regional Entity Name] area shall be allowed to request a regional reliability standard be developed, modified, or withdrawn.

COMMON ATTRIBUTE 5

[Standards or other named] committee — The [Regional Entity Name] [standards] committee manages the standards development process. The [standards] committee will consider which requests for new or revised standards shall be assigned for development (or existing standards considered for deletion). The [standards] committee will advise the [Regional Entity Name] board on standards presented for adoption.

COMMON ATTRIBUTE 6

[Alternative 6A: For a Regional Entity that chooses to vote using a balanced stakeholder committee.]

The [standards] committee is a balanced stakeholder committee, inclusive of all stakeholder interests that provide for or are materially impacted by the reliability of the bulk power system. [The [standards] committee votes to approve standards.] See Appendix A for the representation model of the [standards] committee.

[Alternative 6B: For a Regional Entity that chooses to vote using a balanced ballot body of stakeholders.]

[Registered ballot body] — The registered ballot body comprises all entities or individuals that qualify for one of the stakeholder segments; are registered with [Regional Entity Name] as potential ballot participants in the voting on standards; and are current with any designated fees. Each member of the registered ballot body is eligible to vote on standards. [Each standard action has its own ballot pool formed of interested members of the registered ballot body. Each ballot pool comprises those members of the registered ballot body that respond to a pre-ballot survey for that particular standard action indicating their desire to participate in such a ballot pool.] The representation model of the registered ballot body is provided in Appendix A.]

COMMON ATTRIBUTE 7

[Regional Entity Name] will coordinate with NERC such that the acknowledgement of receipt of a standard request identified in step 1, notice of comment posting period identified in step 4, and notice for vote identified in step 5 below are concurrently posted on both the [Regional Entity Name] and NERC websites.

COMMON ATTRIBUTE 8

An acceptable standard request shall contain a description of the proposed regional reliability standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed standard.

COMMON ATTRIBUTE 9

Within [no greater than 60] days of receipt of a completed standard request, the [standards] committee shall determine the disposition of the standard request.

COMMON ATTRIBUTE 10

The [standards] committee may take one of the following actions:

- Accept the standard request as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The [standards] committee may, at its discretion, expand or narrow the scope of the standard request under consideration. The [standards] committee shall prioritize the development of standard in relation to other proposed standards, as may be required based on the volume of requests and resources.
- Reject the standard request. If the [standards] committee rejects a standard request, a written explanation for rejection will be delivered to the requester within [no greater than 30] days of the decision.
- Remand the standard request back to the requester for additional work. The standards process manager will make reasonable efforts to assist the requester in addressing the deficiencies identified by the [standards] committee. The requester may then resubmit the modified standard request using the process above. The requester may choose to withdraw the standard request from further consideration prior to acceptance by the [standards] committee.

COMMON ATTRIBUTE 11

Any standard request that is accepted by the [standards] committee for development of a standard (or modification or deletion of an existing standard) shall be posted for public viewing on the [Regional Entity Name] website within [no greater than 30] days of acceptance by the committee.

COMMON ATTRIBUTE 12

The standards process manager shall submit the proposed members of the drafting team to the [standards] committee. The [standards] committee shall approve the drafting team membership within 60 days of accepting a standard request for development, modifying the recommendations of the standards process manager as the committee deems appropriate, and assign development of the proposed standard to the drafting team.

COMMON ATTRIBUTE 13

At the direction from the [standards] committee, the standards process manager shall facilitate the posting of the draft standard on the [Regional Entity Name] website, along with a draft implementation plan and supporting documents, for a no less than a [30]-day comment period. The standards process manager shall provide notice to [Regional Entity Name] stakeholders and other potentially interested entities, both within and outside of the [Regional Entity Name] area, of the posting using communication procedures then currently in effect or by other means as deemed appropriate.

COMMON ATTRIBUTE 14

The drafting team shall prepare a summary of the comments received and the changes made to the proposed standard as a result of these comments. The drafting team shall summarize comments that were rejected by the drafting team and the reason(s) that these comments were rejected, in part or whole. The summary, along with a response to each comment received will be posted on the [Regional Entity Name] website no later than the next posting of the proposed standard.

COMMON ATTRIBUTE 15

Upon recommendation of the drafting team, and if the [standards] committee concurs that all of the requirements for development of the standard have been met, the standards process manager shall post the proposed standard and implementation plan for ballot and shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

COMMON ATTRIBUTE 16

The standards process manager shall schedule a vote by the [Regional Entity Name] [registered ballot body/[standards] committee]. The vote shall commence no sooner than [15] days and no later than [30] days following the issuance of the notice for the vote.

COMMON ATTRIBUTE 17

[Alternative 17A: For an RE that chooses to vote using a balanced stakeholder committee.]

The [standards] committee shall give due consideration to the work of the drafting team, as well as the comments of stakeholders and minority objections, in approving a proposed regional reliability standard for submittal to the [Regional Entity Name] board. The [standards]

committee may vote to approve or not approve the standard. Alternatively, the [standards] committee may remand the standard to the drafting team for further work or form a new drafting team for that purpose.

[Alternative 17B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

The [Regional Entity Name] registered ballot body shall be able to vote on the proposed standard during a period of [not less than 10] days.

COMMON ATTRIBUTE 18

[Alternative 18A: For an RE that chooses to vote using a balanced stakeholder committee.]

The [standards] committee may not itself modify the standard without issuing a new notice to stakeholders regarding a vote of the modified standard.

[Alternative 18B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

All members of [Regional Entity Name] are eligible to participate in voting on proposed new standards, standard revisions or standard deletions. [Alternatively: Each standard action requires formation of a ballot pool of interested members of the registered ballot body.]

COMMON ATTRIBUTE 19

[Alternative 19A: For an RE that chooses to vote using a balanced stakeholder committee.]

Actions by the committee shall be recorded in the regular minutes of the committee.

[Alternative 19B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

Approval of the proposed regional reliability standard shall require a [two thirds] majority in the affirmative (affirmative votes divided by the sum of affirmative and negative votes). Abstentions and non-responses shall not count toward the results, except that abstentions may be used in the determination of a quorum. A quorum shall mean [XX%] of the members of the [registered ballot body/ballot pool] submitted a ballot.

COMMON ATTRIBUTE 20

Under no circumstances may the board substantively modify the proposed regional reliability standard.

COMMON ATTRIBUTE 21

Once a regional reliability standard is approved by the board, the standard will be submitted to NERC for approval and filing with FERC [and applicable authorities in Canada and Mexico.]

COMMON ATTRIBUTE 22

- **Open** - Participation in the development of a regional reliability standard shall be open to all organizations that are directly and materially affected by the [Regional Entity Name] bulk power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in [Regional Entity Name], and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to the [Regional Entity Name] members and others.

COMMON ATTRIBUTE 23

- **Balanced** - The [Regional Entity Name] standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.

COMMON ATTRIBUTE 24

- **Inclusive** — Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the [Regional Entity Name] area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.

COMMON ATTRIBUTE 25

- **Fair due process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.

COMMON ATTRIBUTE 26

- **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.

COMMON ATTRIBUTE 27

- Does not unnecessarily delay development of the proposed reliability standard.

COMMON ATTRIBUTE 28

Each standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

COMMON ATTRIBUTE 29

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all regional reliability standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

COMMON ATTRIBUTE 30

To ensure uniformity of regional reliability standards, a regional reliability standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

COMMON ATTRIBUTE 31

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

COMMON ATTRIBUTE 32

Applicability	<p>Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions.</p> <p>If not applicable to the entire [Regional Entity Name] area, then a clear identification of the portion of the bulk power system to which the standard applies.</p> <p>Any limitation on the applicability of the standard based on electric facility requirements should be described.</p>
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COMMON ATTRIBUTE 33

Measure(s)	<p>Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.</p>
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COMMON ATTRIBUTE 34

Compliance Monitoring Process	<p>Defines for each measure:</p> <ul style="list-style-type: none"> • The specific data or information that is required to measure performance or outcomes. • The entity that is responsible for providing the data or information for measuring performance or outcomes. • The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes. • The entity that is responsible for evaluating data or
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	<p>information to assess performance or outcomes.</p> <ul style="list-style-type: none">• The time period in which performance or outcomes is measured, evaluated, and then reset.• Measurement data retention requirements and assignment of responsibility for data archiving.
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Reliability*First* Corporation Reliability Standards Development Procedure

Reliability*First* Reliability Standards Development Procedure
Board Approval December 6th, 2007
Standards Committee Modified April 1st, 2008 - Board Concurrence May 22nd, 2008

Reliability *First* Corporation Reliability Standards Development Procedure

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Reliability *First* Reliability Standards Development Procedure

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Reliability*First* Corporation Reliability Standards Development Procedure

Introduction

This procedure establishes the process for adoption of a Regional Reliability Standard¹ (hereinafter referred to as “Standard”) of the Reliability*First* Corporation (Reliability*First*) and the development of consensus for adoption, approval, revision, reaffirmation, and deletion of such Standards¹. Reliability*First* Standards provide for the reliable regional and sub-regional planning and operation of the Bulk Power System² (BPS), consistent with Good Utility Practice² within the Reliability*First* geographical footprint.

This procedure was developed under the direction of the Reliability*First* Board of Directors (Board), who may request changes to this Reliability*First* Reliability Standards Development Procedure (hereinafter referred to as “this Procedure”) as deemed appropriate. A procedure for revising this Procedure is contained in Appendix A. This Procedure is consistent with the North American Electric Reliability Council (NERC) Reliability Standards Development Procedure.

Proposed Standards shall be subject to approval by NERC, as the electric reliability organization, and by the Federal Energy Regulatory Commission (FERC) before becoming mandatory and enforceable under Section 215 of the FPA. No Standard shall be effective within the Reliability*First* area unless filed by NERC with FERC and approved by FERC.

Reliability*First* Standards shall provide for as much uniformity as possible with NERC reliability standards across the interconnected BPS. A Reliability*First* Standard shall be more stringent than a NERC reliability standard, including a regional difference that addresses matters that the NERC reliability standard does not, or shall be a regional difference necessitated by a physical difference in the BPS. A Reliability*First* Standard that satisfies the statutory and regulatory criteria for approval of proposed NERC reliability standards, and that is more stringent than a NERC reliability standard, would generally be acceptable.

Reliability*First* Standards, when approved by FERC, shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable BPS owners, operators, and users within the Reliability*First* area, regardless of membership in the region.

¹ Legacy standards, such as ECAR Documents, MAIN Guides, and MAAC Procedures shall be considered Reliability*First* Regional Reliability Standards for the purposes of this document until otherwise acted upon by the Reliability*First* Board

² As defined in the Reliability*First* By-laws Board Approval December 6th, 2007

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Background

Regions may develop, through their own processes, separate “Regional Standards” (Reliability*First* Standards) that go beyond, add detail to, or implement NERC reliability standards, or otherwise address issues that are not addressed in NERC reliability standards.

As a condition of Reliability*First* membership, all Reliability*First* Members² agree to adhere to the NERC reliability standards. As such, the Reliability*First* and its Members will adhere to the NERC reliability standards in addition to the Reliability*First* Standards. NERC reliability standards and the Reliability*First* Standards are both to be included within the Reliability*First* Compliance Program.

Reliability*First* Standards are intended to apply only to that part of the Eastern Interconnection within the Reliability*First* geographical footprint. The development of these Reliability*First* Standards is developed according to the following principles via the process contained within this Procedure:

- Developed in a fair and open process that provided an opportunity for all interested parties to participate;
- Does not have an adverse impact on commerce that is not necessary for reliability;
- Provides a level of BPS reliability that is adequate to protect public health, safety, welfare, and national security and would not have a significant adverse impact on reliability; and
- Based on a justifiable difference between Regions or between sub-Regions within the Regional geographic area.

² As defined in the Reliability*First* By-laws
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Regional Reliability Standard Definition, Characteristics, and Elements

Definition of a Reliability Standard

As contained in the ReliabilityFirst By-laws, ReliabilityFirst “Regional Reliability Standard” shall mean a type of Reliability Standard that is applicable only within a particular Regional Entity or group of Regional Entities. A Regional Reliability Standard may augment, add detail to, or implement another Reliability Standard or cover matters not addressed by other Reliability Standards. Regional Reliability Standards, upon adoption by NERC and approval by the Commission, shall be Reliability Standards and shall be enforced within the applicable Regional Entity or Regional Entities pursuant to delegated authorities.

Inherent in this definition, a ReliabilityFirst Standard will define certain obligations or requirements of entities that own, operate, plan, and use the BPS within the ReliabilityFirst geographical footprint. These obligations or requirements as contained in the ReliabilityFirst Standards are to be measurable consistent with Good Utility Practice. Standards are not to include processes or procedures that implement a Standard. In addition, obligations, requirements or procedures imposed upon ReliabilityFirst by NERC reliability standards are not to be ReliabilityFirst Standards, unless those obligations, requirements or procedures require the establishment of a “policy or standard” as defined by the ReliabilityFirst By-laws.

Characteristics of a Regional Reliability Standard

A Standard is policy or standard, including adequacy criteria to provide for the reliable regional and sub-regional planning and operation of the BPS, consistent with Good Utility Practice

A Standard shall generally have the following characteristics:

- **Measurable** - A Standard shall establish technical or performance requirements that can be practically measured.
- **Relative to NERC Reliability Standards** - A Standard generally must go beyond, add detail to, or implement NERC Reliability Standards, or cover matters not addressed in NERC Reliability Standards.

Format Requirements of a Regional Reliability Standard

A Standard shall consist of the format requirements shown in the Regional Reliability Standard Template. These requirements apply to the development and revision of Standards. These requirements are necessary to achieve Standards that are measurable,

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enforceable, and consistent. Supporting documents to aid in the implementation of a Standard may be referenced by the Standard but are not part of the Standard itself.

Regional Reliability Standard Format Requirement Template

Identification Number	A unique identification number assigned in accordance with an administrative classification system to facilitate tracking and reference Reliability <i>First</i> documentation.
Title	A brief, descriptive phrase identifying the topic of the Standard.
Applicability	Clear identification of the functional classes of entities responsible for complying with the Standard, noting any specific additions or exceptions. If not applicable to the entire Reliability <i>First</i> area, then a clear identification of the portion of the BPS to which the Standard applies. Any limitation on the applicability of the Standard based on electric facility requirements should be described.
Effective Date and Status	The effective date of the Standard or, prior to approval of the Standard, the proposed effective date.
Purpose	The purpose of the Standard. The purpose shall explicitly state what outcome will be achieved or is expected by this Standard.
Requirement(s)	Explicitly stated technical, performance, and preparedness requirements. Each requirement identifies what entity is responsible and what action is to be performed or what outcome is to be achieved. Each statement in the requirements section shall be a statement for which compliance is mandatory.

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Risk Factor(s)	<p>The potential reliability significance of each requirement, designated as a High, Medium, or Lower Risk Factor in accordance with the criteria listed below:</p> <p>A High Risk Factor requirement (a) is one that, if violated, could directly cause or contribute to BPS instability, separation, or a cascading sequence of failures, or could place the BPS at an unacceptable risk of instability, separation, or cascading failures; or (b) is a requirement in a planning timeframe that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly cause or contribute to BPS instability, separation, or a cascading sequence of failures, or could place the BPS at an unacceptable risk of instability, separation, or cascading failures, or could hinder restoration to abnormal condition.</p> <p>A Medium Risk Factor requirement (a) is a requirement that, if violated, could directly affect the electrical state or the capability of the BPS, or the ability to effectively monitor and control the BPS, but is unlikely to lead to BPS instability, separation, or cascading failures; or (b) is a requirement in a planning timeframe that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly affect the electrical state or capability of the BPS, or the ability to effectively monitor, control, or restore the BPS, but is unlikely, under emergency, abnormal, or restoration conditions anticipated by the preparations, to lead to BPS instability, separation, or cascading failures, nor to hinder restoration to a normal condition.</p> <p>A Lower Risk Factor requirement is administrative in nature and (a) is a requirement that, if violated, would not be expected to affect the electrical state or capability of the BPS, or the ability to effectively monitor and control the BPS; or (b) is a requirement in a planning time frame that, if violated, would not, under the emergency, abnormal, or restorative conditions anticipated by the preparations, be expected to affect the electrical state or capability of the BPS, or the ability to effectively monitor, control, or restore the BPS.</p>
Measure(s)	<p>Each requirement shall be addressed by one or more measurements. Measurements that will be used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measurement identifies to whom the measurement applies. Each measurement shall be tangible, practical, and as objective as is practical. Achieving the full compliance level of each measurement should be a necessary and sufficient indicator that the requirement was met.</p>

Compliance Administration Elements

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<p>Compliance Monitoring Process</p>	<p>Defines for each measure:</p> <ul style="list-style-type: none"> • The specific data or information that is required to measure performance or outcomes. • The entity that is responsible to provide the data or information for measuring performance or outcomes. • The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes. • The entity that is responsible for evaluating data or information to assess performance or outcomes. • The time period in which performance or outcomes is measured, evaluated, and then reset. • Measurement data retention requirements and assignment of responsibility for data archiving. • Violation severity levels.
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Supporting Information Elements

Interpretations	Any Reliability <i>First</i> interpretations of the Standards that were developed, and approved in accordance with the “Interpretation of Standards” section of this Procedure, to expound on the application of the Standard for unusual or unique situations or provide clarifications.
Implementation Plan	Each Reliability <i>First</i> Standard shall have an associated implementation plan describing the effective date of the Standard or effective dates if there is a phased implementation. The implementation plan may also describe the implementation of the Standard in the compliance program and other considerations in the initial use of the Standard, such as necessary tools, training, etc. The implementation plan must be posted for at least one public comment period and is approved as part of the ballot of the standard.
Supporting References	This section references related documents that support reasons for, or otherwise provide additional information related to the Standard Examples include, but are not limited to: <ul style="list-style-type: none"> • Glossary of Terms • Developmental history of the Standard and prior versions • Subcommittee(s) responsible for Standard • Notes pertaining to implementation or compliance • Standard references • Procedures/Practices • Training and/or Technical Reference

Roles in the Regional Reliability Standards Development Process

Process Roles

Originator - Any entity (person, organization, company, government agency, individual, etc.) that is directly and materially affected by the reliability of the Reliability*First* BPS, is allowed to request a Standard be developed or an existing Standard is modified, or deleted, by creating a Standards Authorization Request (SAR). See Appendix B.

Board – The Reliability*First* Board shall act on any proposed Standard that has gone through the process contained in this Procedure. Once the Reliability*First* Board approves a Standard, compliance with the Standard will be enforced consistent with the By-laws and the terms of the Standard.

Standards Committee (SC) - The Reliability*First* SC will consider which requests for new or revised Standards shall be assigned for development (or existing Standards considered for deletion). The SC manages the Standards development process. The SC

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will advise the ReliabilityFirst Board on Standards presented for adoption by the ReliabilityFirst Board.

Standards Process Manager (SPM) – A person or persons on the ReliabilityFirst staff assigned the task of ensuring that the development, revision or deletion of Standards is in accordance with this Procedure. The SPM works to ensure the integrity of the process and consistency of quality and completeness of the Standards. The SPM facilitates the administration of all actions contained in all steps in the process.

Standards Process Staff – Employees of the ReliabilityFirst that work with or for the SPM.

Interim Compliance Committee (ICC) – The ReliabilityFirst committee responsible for the administration of the ReliabilityFirst Compliance Program. The duties of this committee includes, but not limited to, providing inputs and comments during the standards development process to ensure the measures will be effective and other aspects of the Compliance Program can be practically implemented.

Standard Drafting Team (SDT) – Normally a team of technical experts, and typically includes a member of the ReliabilityFirst Standards staff and the Originator, assigned the task of developing a proposed Standard based upon an approved SAR using the Standard development process contained in this Procedure.

Ballot Body (BB) – The Ballot Body comprises all entities that qualify for one or more of the categories and are registered with ReliabilityFirst as potential ballot participants in the voting on standards. The categories of registration within the Ballot Body and the registration process are described in Appendix D.

Ballot Pool – The Ballot Pool is comprised of those members of the Ballot Body that register to vote for each particular standard that is up for vote. A separate Ballot Pool is established for each standard up for vote. Only individuals who have joined the Ballot Pool for that particular standard are eligible to vote on a standard.

Regional Reliability Standard Development Process (Flow chart of Process shown in Appendix C)

Assumptions and Prerequisites

The ReliabilityFirst Regional Reliability Standards Development Process has the following characteristics:

- **Fair due process** - The ReliabilityFirst standards development process shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the

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proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.

- **Openness** - Participation is open to all Organizations who are directly and materially affected by the Reliability*First* region BPS reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in the Reliability*First*, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of SDTs are open to the Reliability*First* membership and to others.
- **Balanced** - The Reliability*First* standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.
- **Inclusive** - Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the BPS in the Reliability*First* area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.
- **Transparent** - All actions material to the development of Reliability*First* Standards shall be transparent. All standards development meetings shall be open and publicly noticed on Reliability*First*'s Web site.
- Does not unnecessarily delay development of the proposed Standard.

Note: The term “days” refers to calendar days.

Each standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional BPS. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

While Reliability*First* Standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that BPS reliability and electricity markets are inseparable and mutually interdependent, all Reliability*First* Standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

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ReliabilityFirst will coordinate with NERC such that the acknowledgement of receipt of a standard request identified in step 1, notice of comment posting period identified in step 4, and notice for vote identified in step 5 below are concurrently posted on both the ReliabilityFirst and NERC websites.

Step 1 - Development of a Standards Authorization Request (SAR) to Develop, Revise or Delete a Regional Reliability Standard

Any individual representing an organization (Originator) which is directly or materially impacted by the operation of the BPS within the geographical footprint of the ReliabilityFirst may request, via a submittal of a Standard Authorization Request (SAR) form, the development, modification, or deletion of a ReliabilityFirst Standard. Any such request shall be submitted to the ReliabilityFirst SPM, or his/her designee, or by another process as otherwise posted on the ReliabilityFirst website. The SAR form may be downloaded from the ReliabilityFirst website.

The SAR contains a description of the proposed Standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed Standard. The SPM will verify that the submitted SAR form has been adequately completed. The SPM may offer the Originator suggestions regarding changes and/or improvements to improve clarity and assist the ReliabilityFirst community to understand the Originator's intent and objectives. The Originator is free to accept or reject these suggestions. Within 15 days the SPM will electronically acknowledge receipt of the SAR.

The SPM will forward all adequately completed SARs to the ReliabilityFirst SC. Within 60 days of receipt of an adequately completed SAR, the SC shall determine the disposition of the SAR. The disposition decision and decision process shall use the normal "business rules and procedures" of the SC then in effect. The SC may take one of the following actions:

- Accept the SAR as a candidate for: development of a new Standard, revision of an existing Standard or deletion of an existing Standard. The SC may, in its sole discretion, expand or narrow the scope of the SAR under consideration. The SC shall prioritize the development of SARs as may be required based on the number of SARs under development at any time.
- Reject the SAR. If the SC rejects a SAR, a written explanation for rejection will be delivered to the Originator within 30 days of the decision.
- Remand the SAR back to the Originator for additional work. The SPM will make reasonable efforts to assist the Originator in addressing the deficiencies identified by the SC. The Originator may then resubmit the modified SAR using the process above. The Originator may choose to withdraw the SAR from further consideration prior to re-submittal to the SC

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Any SAR that is accepted by the SC for development of a Standard (or modification or deletion of an existing Standard) shall be posted for public viewing on the ReliabilityFirst website within no greater than 30 days of acceptance by the SC. The status of posted SARs will be publicly noted at regularly scheduled (appropriately two weeks) intervals.

Any documentation of the deliberations of the SC concerning SARs shall be made available according to the “ReliabilityFirst Standards Committee Governance” document then in effect.

The SC shall submit a written report to the ReliabilityFirst Board on a periodic basis (at least at every regularly scheduled ReliabilityFirst Board meeting) showing the status of all SARs that have been brought to the SC for consideration.

Step 2 – Formation of the Standard Drafting Team and Declaration of Milestone Date

Upon acceptance by the SC of a SAR for development of a new Standard (or modification or deletion of an existing Standard), the SC shall direct the SPM to develop a qualified balance slate for the SDT using the specific directions and preferences of the SC. The SPM will send out self-nomination forms to solicit SDT nominees. The SDT will consist of a group of people (members of ReliabilityFirst and, as appropriate, non-members) who collectively have the necessary technical expertise and work process skills. The SPM will recommend a slate of ad-hoc individuals or a preexisting task force, work group or similar for the SDT based upon the SC’s desired SDT capabilities.

The SC may also direct the SPM to designate an existing ReliabilityFirst committee (or subset thereof) as the SDT augmented by other persons as may be appropriate for the subject matter. The SC will insure that SDT membership includes all necessary administrative support. This support typically includes a ReliabilityFirst staff member and the Originator if he/she chooses to participate. The SC appoints the interim chair (should not be a staff person) of the SDT. The SDT will elect the permanent Chair and Vice-chair at its first meeting.

The SPM submits the proposed list of names of the SDT to the SC. The SC will either accept the recommendations of the SPM or modify the SDT slate, as it deems appropriate within 60 days of accepting a SAR for development.

Upon approval of the SDT slate, the SC will declare a preliminary date on which the SDT is expected to have ready a completed draft Standard and associated supporting documentation available for consideration by the ReliabilityFirst membership.

Step 3 – Work and Work Product of the Standard Drafting Team

The SDT will then develop a work plan for completing the Standard development work, including the establishment of milestones for completing critical elements of the work in sufficient detail to ensure that the SDT will meet the date objective established by the SC

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or the SDT shall propose an alternative date. This plan is then delivered to the SC for its concurrence.

The SDT is to meet, either in person or via electronic means as necessary, establish sub-work teams (made up of members of the SDT) as necessary, and performs other activities to address the parameters of the SAR and the milestone date(s) established by the SC.

The work product of the SDT will consist of the following:

- A draft Standard consistent with the SAR on which it was based.
- An assessment of the impact of the SAR on neighboring regions, and appropriate input from the neighboring regions if the SAR is determined to impact any neighboring region.
- An implementation plan, including the nature, extent and duration of field-testing, if any.
- Identification of any existing Standard that will be deleted, in part or whole, or otherwise impacted by the implementation of the draft Standard.
- Technical reports, white papers and/or work papers that provide technical support for the draft Standard under consideration.
- Document the perceived reliability impact should the Standard be approved.

Upon completion of these tasks, the SDT submits these documents to the SC, which will verify that the proposed Standard is consistent with the SAR on which it was developed

The SDT regularly (at least once each month) informs the SC of its progress in meeting a timely completion of the draft Standard. The SDT may request of the SC scope changes of the SAR at any point in the Standard development process.

The SC may, at any time, exercise its authority over the Standards development process by directing the SDT to move to Step 4 and post for comment the current work product. If there are competing drafts, the SC may, at its sole discretion, have posted the version(s) of the draft Standard for comment on the Reliability*First* website. The SC may take this step at any time after a SDT has been commissioned to develop the Standard.

Step 4 – Comment Posting Period

At the direction from the SC, the SPM then facilitates the posting of the draft Standard on the Reliability*First* website, along with a draft implementation plan and supporting documents, for a 30-day comment period. The SPM shall also inform Reliability*First* Members and other potentially interested entities inside or outside of Reliability*First* of the posting using typical membership communication procedures then currently in effect or by other means as deemed appropriate. As early as the start of the first posting for comment, entities may join one of the five categories of the Ballot Pool established for the eventual voting on the proposed standard being posted. The Ballot Pool category description and associated requirements are in Appendix D.

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Within 30 days of the conclusion of 30-day comment posting period the SDT shall convene and consider changes to the draft Standard, the implementation plan and/or supporting technical documents based upon comments received. Based upon these comments, the SDT may elect to return to step 3 to revise the draft Standard, implementation plan and/or supporting technical documentation.

The SDT shall prepare a “modification report” summarizing the comments received and the changes made as a result of these comments. The modification report also summarizes comments that were rejected by the SDT and the reason(s) that these comments were rejected, in part or whole. Responses to all comments will be posted on the ReliabilityFirst website no later than the next posting of the proposed Standard.

Step 5 – Posting for Voting by ReliabilityFirst Registered Ballot Body

Upon recommendation of the SDT, and if the SC concurs that all of the requirements for development of the Standard have been met, the SPM will post the revised draft Standard, implementation plan, supporting technical documentation and the “modification report”. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

Entities may register in the BB at any time during the Standards process. The BB category description and associated rules are in Appendix D.

By 11:59 PM Central Prevailing Time (CPT) of the seventh day of the 15 day pre ballot posting period, registered BB entities intending to vote on the proposed standard must have joined one of the five categories of the Ballot Pool established for the eventual voting on the proposed standard being posted. The SPM will schedule a Vote by the Ballot Pool which is to be scheduled to commence no sooner than 15 days and no later than 30 days following this posting. The Vote by the Ballot Pool is an advisory to the ReliabilityFirst Board.

The Ballot Pool shall be allowed to vote over a period of 15 days. It is expected that votes will be submitted electronically, but may be submitted through other means as approved by the SC.

All entities registered as part of the BB are eligible to participate in voting on proposed new Standards, Standard revisions or Standard deletions. There is a requirement to separately join a Ballot Pool to participate in voting for each standard. Each entity can join only in one category of the Ballot Pool and shall have one vote.

The voting results will be composed of only the votes from BB entities that have joined the Ballot Pool for the standard being voted on and responding within the 15 day voting period. Votes may be accompanied by comments explaining the vote, but are not required. All comments shall be responded to and posted to the ReliabilityFirst website prior to going to the SC or Board.

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Step 6A – Voting Receives Simple Majority of Affirmative Category Votes

A simple majority³ of votes within a category determines the vote for that category. If there is a simple affirmative majority of category votes (only those categories with votes cast will be considered) during the 15-day voting period and a quorum is met (a quorum consists of a simple majority of individuals who have joined the Ballot Pool), the SC will forward the Standard to the Reliability*First* Board for action (Step 7).

Step 6B – Voting Does Not Receive Simple Majority of Affirmative Category Votes or a Quorum is Not Met

If a draft Standard does not receive a simple affirmative majority of votes determined for each category (only those categories with votes cast will be considered) during the 15-day voting period or a quorum is not met during the 15-day voting period, the SC may:

- Direct the existing SDT to reconsider or modify certain aspects of the draft Standard and/or implementation plan. The resulting draft Standard and/or implementation plan will be posted for a second voting period. The SC may require a second comment period prior to the second voting period. The second posting of the draft Standard, implementation plan, and supporting documentation shall be within 60 days of the SC action.
 - If there is a simple affirmative majority of categories with votes cast and a quorum is met during the second voting period, the SC will forward it to the Reliability*First* Board for action (Step 7).
 - If a draft Standard does not receive a simple majority of affirmative category votes cast during the second voting period or a quorum is not met, the SC will refer the draft Standard and implementation plan to the Reliability*First* Board. The SC may also submit an assessment, opinion and recommendations to the Reliability*First* Board (Step 7).
- Revise the SAR on which the draft Standard was based and remand the development work back to the original SDT or a newly appointed SDT. The resulting draft Standard and/or implementation plan will be posted for a second voting period. The SC may require a second comment period prior to a second voting period. The second posting of the draft Standard, implementation plan, and supporting documentation shall be within 60 days of the SC action.
 - If there is a simple affirmative majority of categories with votes cast during the second voting period and a quorum is met, the SC will forward it to the Reliability*First* Board for action (Step 7).

³ For the purposes of determining majority within a category, an abstention is not considered a vote. Board Approval December 6th, 2007
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- If a draft Standard does not receive a simple majority of affirmative category votes cast during the second voting period or a quorum is not met, the SC will refer the draft Standard and implementation plan to the *ReliabilityFirst* Board. The SC may also submit an assessment, opinion and recommendations to the *ReliabilityFirst* Board (Step 7).
- Recommend termination of all work on the development of the Standard action under consideration and so notify the *ReliabilityFirst* Board.

Step 7 – Action by the ReliabilityFirst Board

A draft Standard submitted to the *ReliabilityFirst* Board for action must be publicly posted at least 30 days prior to action by the Board. At a regular or special meeting, the *ReliabilityFirst* Board shall consider adoption of the draft Standard. The Board will consider the results of the voting and dissenting opinions. The Board will consider any advice offered by the SC.

Draft Standards that received a simple affirmative majority of categories with votes cast shall be delivered to the *ReliabilityFirst* Board for their action. The *ReliabilityFirst* Board shall be provided with an “informational package” which includes:

- The draft Standard and any modification or deletion of other related existing Standard(s)
- Implementation Plan (including recommending field testing and effective dates)
- Technical Documentation supporting the draft Standard
- A summary of the vote and summary of the comments and responses that accompanied the votes.

The *ReliabilityFirst* Board is expected to either:

- Approve the draft Standard action with only minor or no modification. Under no circumstances may the Board substantively modify the proposed regional reliability standard.
- Remand to the SC with comments and instructions, or
- Disapprove the draft Standard action without recourse.

Draft Standards that did not receive a simple affirmative majority of categories with votes cast in the second voting period shall be delivered to the *ReliabilityFirst* Board for their action. The *ReliabilityFirst* Board shall be provided with an “informational package”.

The *ReliabilityFirst* Board is expected to either:

- Approve the draft Standard action with only minor or no modification. Under no circumstances may the Board substantively modify the proposed regional reliability standard.

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- Remand to the SC with comments and instructions, or
- Disapprove the draft Standard action without recourse.

Once a regional Reliability*First* Standard is approved by the Board, the standard will be submitted to NERC for approval and filing with FERC.

Step 8 - Implementation of a Regional Reliability Standard

Upon approval of a draft Standard action by FERC, the SPM will notify the membership of the effective date through the normal and customary membership communication procedures and processes then in effect. The SPM will also notify the Reliability*First* Compliance Staff for integration into the Reliability*First* Compliance Program.

Appendix A

Maintenance of Regional Reliability Standards Development Process

Significant changes to this Procedure shall begin with the preparation of a SAR and be handled using the same procedure as a request to add, modify, or delete a Standard.

The Reliability*First* SC has the authority to make ‘minor’ changes to this Procedure as deemed appropriate by the SC and subject to the SC voting practices and procedures according to the “Reliability*First* Standards Committee Governance” document then in effect. The SC shall promptly notify the Reliability*First* Board of such ‘minor’ changes to this Procedure for their review and concurrence at the next Reliability*First* Board meeting.

Maintenance of Regional Reliability Standards

The SC shall ensure that each Standard shall be reviewed at least once every five years from the effective date of the Standard or the latest revision to the Standard, whichever is the later. The review process shall be conducted by soliciting comments from the stakeholders. If no changes are warranted, the SC shall recommend to the Reliability*First* Board that the Standard be reaffirmed. If the review indicates a need to revise or delete a Standard, a SAR shall be prepared and submitted in accordance with the standards development process contained in this Procedure.

Urgent Action

Under certain conditions, the SC may designate a proposed Standard or revision to a Standard as requiring urgent action. Urgent action may be appropriate when a delay in implementing a proposed Standard or revision could materially impact reliability of the BPS. The SC must use its judgment carefully to ensure an urgent action is truly necessary and not simply an expedient way to change or implement a Standard.

A requester prepares a SAR and a draft of the proposed Standard and submits both to the SPM. The SAR must include a justification for urgent action. The SPM submits the request to the SC for its consideration. If the SC designates the requested Standard or revision as an urgent action item, then the SPM shall immediately post the draft for pre-ballot review. This posting requires a minimum 30-day posting period before the ballot and applies the same voting procedure as detailed in Step 5. Processing will continue as outlined in the subsequent steps. In the event additional drafting is required, a SDT will be assembled as outlined in the Procedure.

Any Standard approved as an urgent action shall have a termination date specified that shall not exceed one year from the approval date. Should there be a need to make the Standard permanent, then the Standard would be required to go through the full Standard

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development process. All urgent action Standards require ReliabilityFirst Board, NERC and FERC approval, as outlined for Standards in the regular process.

Urgent actions that expire may be renewed using the urgent action process again, in the event a permanent Standard is not adopted. In determining whether to authorize an urgent action Standard for a renewal ballot, the SC shall consider the impact of the Standard on the reliability of the BPS and whether expeditious progress is being made toward a permanent replacement Standard. The SC shall not authorize a renewal ballot if there is insufficient progress toward adopting a permanent replacement Standard or if the SC lacks confidence that a reasonable completion date is achievable. The intent is to ensure that an urgent action Standard does not in effect take on a degree of permanence due to the lack of an expeditious effort to develop a permanent replacement Standard. With these principles, there is no predetermined limit on the number of times an urgent action may be renewed. However, each urgent action Standard renewal shall be effective only upon approval by the ReliabilityFirst Board, NERC and FERC.

Any person or entity, including the SDT working on a permanent replacement Standard, may at any time submit a SAR proposing that an urgent action Standard become a permanent Standard by following the full Standards process.

Interpretations of Standards

All persons who are directly and materially affected by the reliability of ReliabilityFirst BPS shall be permitted to request an interpretation of the standard. The person requesting an interpretation will send a request to the SPM explaining the specific circumstances surrounding the request and what clarifications are required as applied to those circumstances. The request should indicate the material impact to the requesting party or others caused by the lack of clarity or a possibly incorrect interpretation of the standard.

The SPM, along with guidance from the SC, will assemble a team with the relevant expertise to address the request. The Interpretation Drafting Team (IDT) typically consists of members from the original SDT. The SPM submits the proposed list of names of the IDT to the SC. The SC will either accept the recommendations of the SPM or modify the IDT slate.

As soon as practical (not more than 45 days), the team will draft a written interpretation to the standard addressing the issues raised. Once the IDT has completed a draft interpretation to the Standard addressing only the issues raised, the team will forward the draft interpretation to the SPM. The SPM will forward the draft interpretation to the Interim Compliance Committee (ICC). The ICC is to assess if the inclusion of the interpretation lessens the measurability of the Standard. In addition, the SPM will forward the interpretation to the Reliability Committee (RC). Barring receipt of an opinion from either the ICC or RC within 21 calendar days, that the interpretation sufficiently lessens measurability or is not technically appropriate for the Standard, respectively, the SPM will forward the interpretation to the SC. The SC will determine if

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the interpretation is consistent with the Standard. The SC will forward the interpretation to the Reliability *First* Board for informational purposes as being appended to the approved Standard.

Note: In the event that the ICC determines that measurability is lessened, the ICC shall provide an explanation of its reasoning to the SPM and IDT for inclusion in a subsequent revision. The RC shall in a similar manner provide an explanation of its reasoning if it determines that the interpretation makes the standard technically inappropriate. In either case, the IDT and SPM will continue to re-circulate the interpretation as stated above.

The interpretation will stand until such time as the standard is revised through the normal process, at which time the standard will be modified to incorporate the clarifications provided by the interpretation.

Appeals

Persons who have directly and materially affected interests and who have been or will be adversely affected by any substantive or procedural action or inaction related to the development, approval, revision, reaffirmation, or withdrawal of a Standard shall have the right to appeal. This appeals process applies only to the Standards process as defined in this Procedure.

The burden of proof to show adverse effect shall be on the appellant. Appeals shall be made within 30 days of the date of the action purported to cause the adverse effect, except appeals for inaction, which may be made at any time. In all cases, the request for appeal must be made prior to the next step in the process.

The final decisions of any appeal shall be documented in writing and made public.

The appeals process provides two levels, with the goal of expeditiously resolving the issue to the satisfaction of the participants:

Level 1 Appeal

Level 1 is the required first step in the appeals process. The appellant submits a complaint in writing to the SPM that describes the substantive or procedural action or inaction associated with a Standard or the standards process. The appellant describes in the complaint the actual or potential adverse impact to the appellant. Assisted by any necessary staff and committee resources, the SPM shall prepare a written response addressed to the appellant as soon as practical but not more than 45-days after receipt of the complaint. If the appellant accepts the response as a satisfactory resolution of the issue, both the complaint and response will be made a part of the public record associated with the standard.

Level 2 Appeal

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If after the Level 1 Appeal the appellant remains unsatisfied with the resolution, as indicated by the appellant in writing to the SPM, the SPM shall convene a Level 2 Appeals Panel. This panel shall consist of five members total appointed by the Reliability*First* Board.

In all cases, Level 2 Appeals Panel members shall have no direct affiliation with the participants in the appeal.

The SPM shall post the complaint and other relevant materials and provide at least 30-days notice of the meeting of the Level 2 Appeals Panel. In addition to the appellant, any person that is directly and materially affected by the substantive or procedural action or inaction referenced in the complaint shall be heard by the panel. The panel shall not consider any expansion of the scope of the appeal that was not presented in the Level 1 Appeal. The panel may in its decision find for the appellant and remand the issue to the SC with a statement of the issues and facts in regard to which fair and equitable action was not taken. The panel may find against the appellant with a specific statement of the facts that demonstrate fair and equitable treatment of the appellant and the appellant's objections. The panel may not, however, revise, approve, disapprove, or adopt a reliability standard. The actions of the Level 2 Appeals Panel shall be publicly posted.

In addition to the foregoing, a procedural objection that has not been resolved may be submitted to the Reliability*First* Board for consideration at the time the Board decides whether to adopt a particular reliability standard. The objection must be in writing, signed by an officer of the objecting entity, and contain a concise statement of the relief requested and a clear demonstration of the facts that justify that relief. The objection must be filed no later than 30-days after the announcement of the vote on the Standard in question.

Appendix B

Standard Authorization Request

The SC shall be responsible for implementing and maintaining this form as needed to support the information requirements of the standards development process in this Procedure. Changes to this form are considered minor, and therefore subject to only the approval of the SC.

ReliabilityFirst Standard Authorization Request Form

**ReliabilityFirst
will complete**

Title of Proposed Standard
Request Date

ID
Authorized for Posting
Authorized for Development

SAR Originator Information

Name	SAR Type (Check box for one of these selections.)	
Company	<input type="checkbox"/>	New Standard
Telephone	<input type="checkbox"/>	Revision to Existing Standard
Fax	<input type="checkbox"/>	Withdrawal of Existing Standard
E-mail	<input type="checkbox"/>	Urgent Action

Purpose (Provide one or two sentences.)

Industry Need (Provide one or two sentences.)

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Brief Description (A few sentences or a paragraph.)

Reliability Functions

The Standard will Apply to the Following Functions (Check box for each one that applies.)

	Reliability Authority	Ensures the reliability of the bulk transmission system within its Reliability Authority area. This is the highest reliability authority.
	Balancing Authority	Integrates resource plans ahead of time, and maintains load-interchange-resource balance within its metered boundary and supports system frequency in real time
	Generator Owner	Owns and maintains generating units
	Interchange Authority	Authorizes valid and balanced Interchange Schedules
	Planning Authority	Plans the BPS
	Resource Planner	Develops a long-term (generally one year and beyond) plan for the resource adequacy of specific loads (customer demand and energy requirements) within a Planning Authority Area
	Transmission Planner	Develops a long-term (generally one year and beyond) plan for the reliability (adequacy) of the interconnected bulk electric transmission systems within its portion of the Planning Authority Area
	Transmission Service Provider	Provides transmission services to qualified market participants under applicable transmission service agreements
	Transmission Owner	Owns transmission facilities
	Transmission Operator	Operates and maintains the transmission facilities, and executes switching orders
	Distribution Provider	Provides and operates the “wires” between the transmission system and the customer

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	Generator Operator	Operates generating unit(s) and performs the functions of supplying energy and Interconnected Operations Services
	Purchasing-Selling Entity	The function of purchasing or selling energy, capacity and all necessary Interconnected Operations Services as required
	Load-Serving Entity	Secures energy and transmission (and related generation services) to serve the end user
	Market Operator	Integrates energy, capacity, balancing, and transmission resources to achieve an economic, reliability-constrained dispatch of resources. The dispatch may be either cost-based or bid-based
	Regional Reliability Organizations	An entity that ensures that a defined area of the BPS is reliable, adequate and secure. A member of the North American Electric Reliability Council. The Regional Reliability Organization can serve as the Compliance Monitor

NOTE: The SDT may find it necessary to modify the initial reliability function responsibility assignment as a result of the standards development and comments received.

Reliability Principles

<i>Applicable Reliability Principles (Check box for all that apply.)</i>	
	1. Interconnected BPS shall be planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions as defined in the NERC Standards.
	2. The frequency and voltage of interconnected BPS shall be controlled within defined limits through the balancing of real and reactive power supply and demand.
	3. Information necessary for the planning and operation of interconnected BPS shall be made available to those entities responsible for planning and operating the systems reliably.
	4. Plans for emergency operation and system restoration of interconnected BPS shall be developed, coordinated, maintained, and implemented.
	5. Facilities for communication, monitoring, and control shall be provided, used, and maintained for the reliability of interconnected BPS.
	6. Personnel responsible for planning and operating interconnected BPS shall be trained, qualified, and have the responsibility and authority to implement actions.
	7. The security of the interconnected BPS shall be assessed, monitored, and maintained on a wide-area basis.

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Market Interface Principles

<i>Does the proposed Standard comply with all of the following Market Interface Principles?</i>	
Recognizing that reliability is an essential requirement of a robust North American economy:	
yes or no	1. A reliability standard shall not give any market participant an unfair competitive advantage.
yes or no	2. A reliability standard shall neither mandate nor prohibit any specific market structure.
yes or no	3. A reliability standard shall not preclude market solutions to achieving compliance with that standard.
yes or no	4. A reliability standard shall not require the public disclosure of commercially sensitive information. All market participants shall have equal opportunity to access commercially non-sensitive information that is required for compliance with reliability standards.

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Detailed Description (Provide enough detail so that an independent entity familiar with the industry could draft a Standard based on this description.)

Related Standards (NERC and Regional)

Standard No.	Explanation

Related SARs

SAR ID	Explanation

Implementation Plan

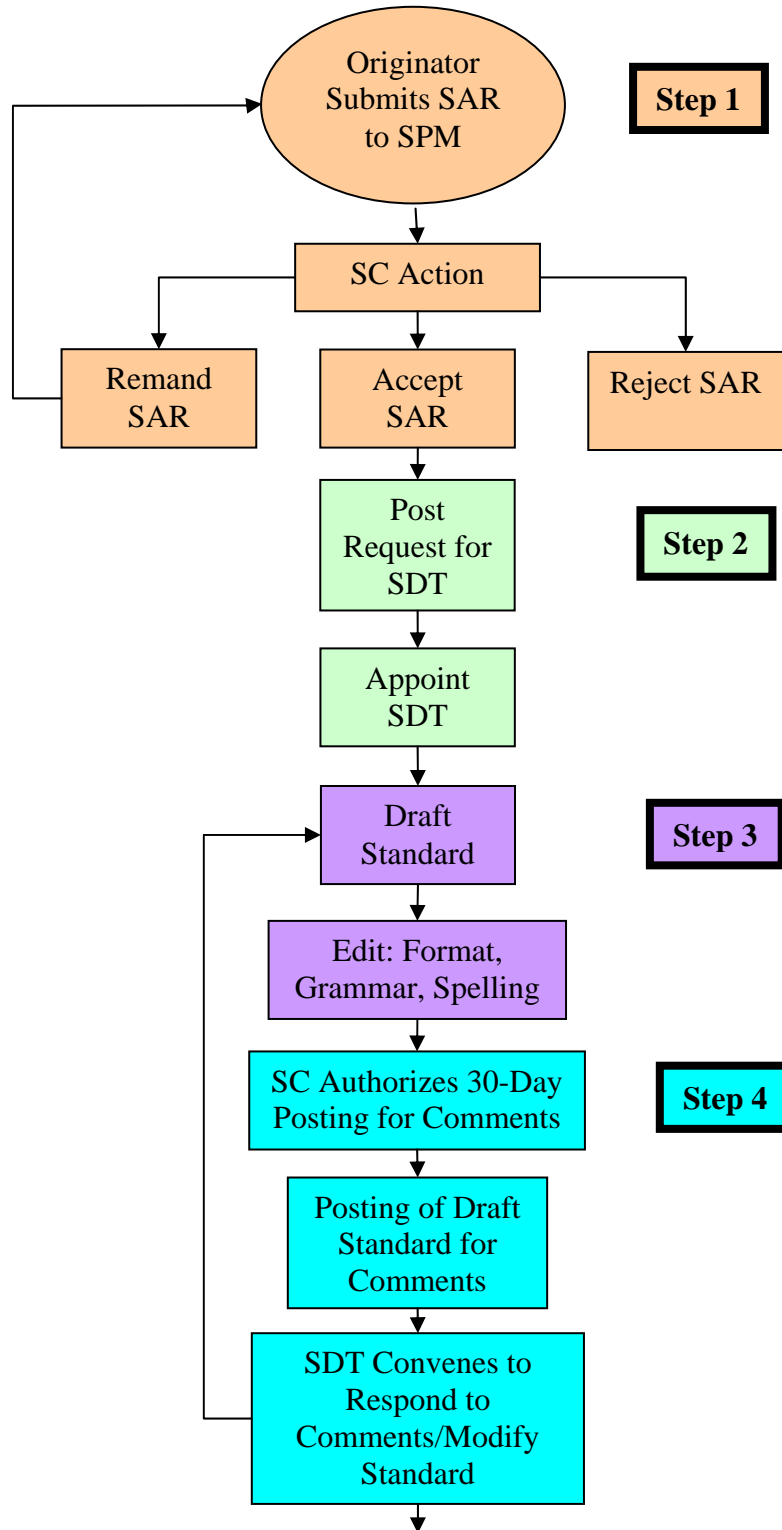
Description <i>(Provide plans for the implementation of the proposed standard, including any known systems or training requirements. Include the reliability risk(s) associated with the violation that the standard will mitigate, and the costs associated with implementation.)</i>
Proposed Implementation days after Board adoption or
on (date):

Assignments

	<i>Assignment</i>
Team Members	
ReliabilityFirst Staff	

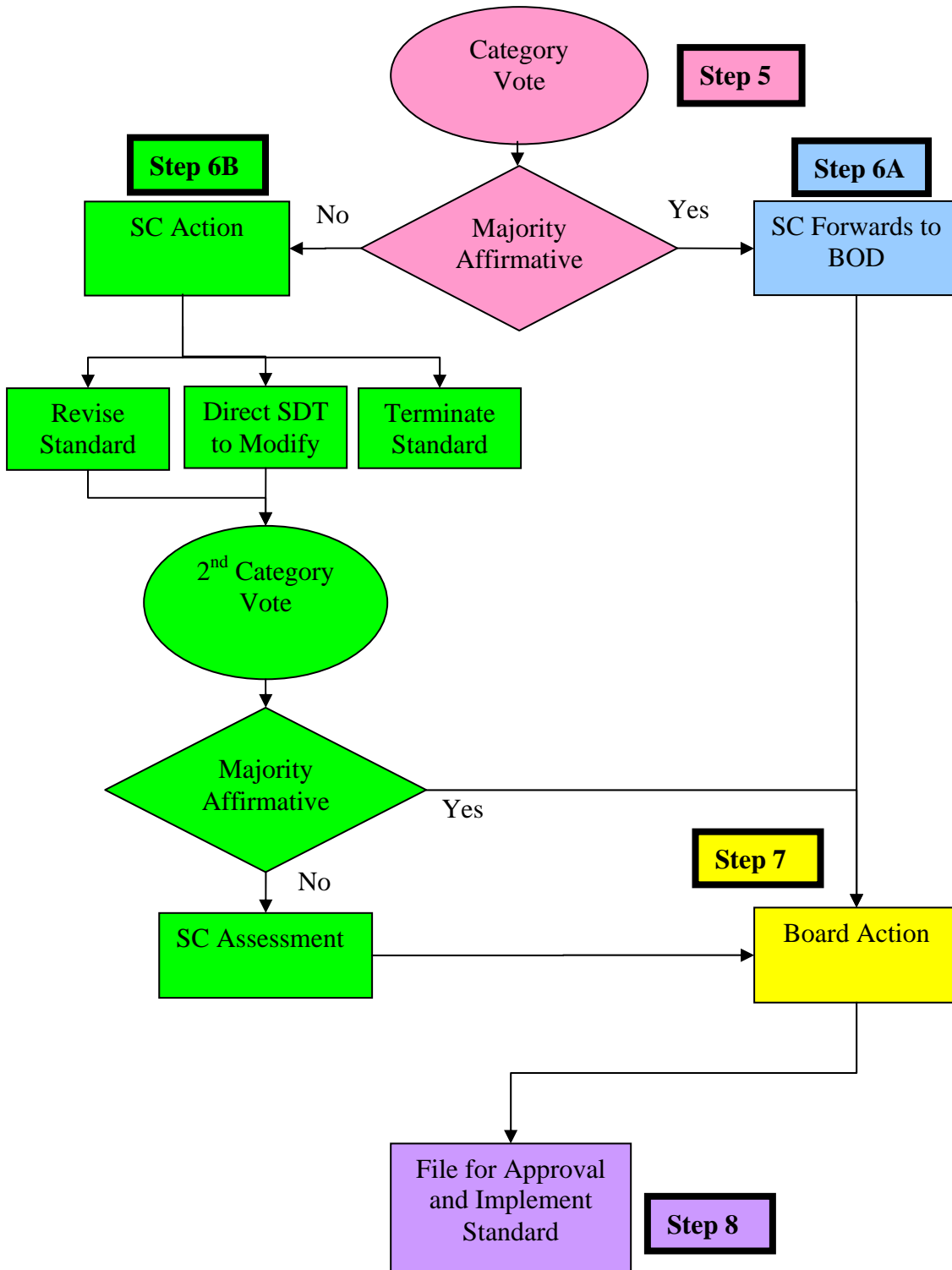
Appendix C

Flowchart for Standards Process



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Appendix D

Ballot Pool Categories

For the purposes of category Ballot Pool registration and voting, an entity shall register in only one of the following categories for each standard that will be voted on (only one vote is allowed per entity per vote):

Category 1 – Transmission Owner, Transmission Operator, Transmission Service Provider

Category 2 – Generator Owner, Generator Operator

Category 3 – Load Serving Entity, Purchasing and Selling Entity, End User

Category 4 – Reliability Coordinator, Planning Coordinator, Transmission Planner, Resource Planner, Regional Transmission Organization, Balancing Authority, regulatory or governmental agency

Category 5 – Distribution Provider

Ballot Body Registration

Entities may register in the BB at any time during the Standards process. The SPM shall review all applications for joining the BB, and make a determination of whether they qualify for the self-selection category(ies). In order to comment or vote you must have an active membership in the BB. When you submit your registration request to join the BB, you are placed in a “pending stage” until your account is activated. Activation of your account may take up to 24 hours. You will be unable to submit comments or join a Ballot Pool until your account is activated. The contact designated as primary representative to ReliabilityFirst is the voting member with the secondary contact as the backup.

Note: Registration for a BB is not the same as registration for the compliance registry. Although the terminology used to describe the BB categories in most cases has the same meaning as the terms used in the NERC Functional Model, registration in a BB goes beyond the compliance registry in that entities smaller than those stated in the compliance registry guidelines are allowed to register in a BB. Entities shall have evidence that they qualify for the BB category they register in. Such evidence shall be available for the SPM review to verify BB registration and may include compliance registration.

Ballot Pool Formation

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In order to participate in voting on a particular standard, an entity must join the Ballot Pool being established for the standard as follows:

1 – As early as the start of the first posting for comment, entities may join one of the five categories of the Ballot Pool established for the eventual voting on the proposed standard being posted.

2 - By close of business of the seventh day of the 15 day pre ballot posting period, entities wishing to vote must have joined one of the five categories of the Ballot Pool established for the eventual voting on the proposed standard being posted.

EXHIBIT D – COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

ReliabilityFirst will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within ReliabilityFirst's geographic or electrical boundaries, and such other scope, set forth on **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

ReliabilityFirst shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either ReliabilityFirst's board or a balanced compliance panel reporting directly to ReliabilityFirst's board. ReliabilityFirst's hearing body is a composition of members of the ReliabilityFirst Compliance Committee as established by the Board of Directors of ReliabilityFirst as set out in the ReliabilityFirst Compliance Committee Charter. No two industry sectors may control any decision and no single segment may veto any matter brought before the Hearing Body either before or after any recusals or disqualifications.

ReliabilityFirst shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: None.

3.0 OTHER DECISION-MAKING BODIES

None.

Exhibit E — Funding

1. Scope of activities funded through the ERO funding mechanism

ReliabilityFirst shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and ReliabilityFirst, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of ReliabilityFirst's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require ReliabilityFirst (i) to submit to NERC draft(s) of ReliabilityFirst's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by ReliabilityFirst Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of ReliabilityFirst's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The ReliabilityFirst business plan and budget submission shall include supporting materials, including ReliabilityFirst's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. ReliabilityFirst's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve ReliabilityFirst's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct ReliabilityFirst to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ReliabilityFirst's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of *ReliabilityFirst's* delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. *ReliabilityFirst* shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying *ReliabilityFirst's* assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of *ReliabilityFirst's* assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

(a) NERC shall submit invoices to the load-serving entities or designees identified by *ReliabilityFirst* covering the NERC and *ReliabilityFirst* assessments approved for collection.

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from ERO Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, *ReliabilityFirst* shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, *ReliabilityFirst* is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within *ReliabilityFirst's* region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within *ReliabilityFirst's* region.

(c) Upon approval by ERO Governmental Authorities of *ReliabilityFirst's* annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay *ReliabilityFirst's* annual assessment to Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by *ReliabilityFirst*, other than penalty monies received from an operational function or division or affiliated entity of *ReliabilityFirst*, shall be applied as a general offset to *ReliabilityFirst's* budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of *ReliabilityFirst* shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for ReliabilityFirst's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), ReliabilityFirst performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): **None**

ReliabilityFirst shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: [List and describe the methods and procedures Regional Entity employs to keep costs and funding of statutory activities separate from costs and funding of non-statutory activities, including at a minimum a description of how Regional Entity's bank accounts and receivables/payables procedures are set up for both statutory and non-statutory functions, a description of how Regional Entity ensures each employee involved in both statutory and non-statutory functions keeps accurate time records reflecting his/her activities, and a description of how Regional Entity's general and administrative costs are allocated between statutory activities and non-statutory activities. If the necessary descriptions are lengthy they may be provided in a separate attachment labeled "Attachment E-1", and state here "See Attachment E-1." **Not applicable**

ReliabilityFirst shall provide its budget for such non-statutory activities to NERC at the same time that ReliabilityFirst submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. ReliabilityFirst's budget for non-statutory activities that is provided to NERC shall contain a detailed list of ReliabilityFirst's non-statutory activities and a description of the funding sources for the non-statutory activities. ReliabilityFirst agrees that no costs (which shall include a reasonable allocation of ReliabilityFirst's general and administrative costs) of non-statutory activities are to be included in the calculation of ReliabilityFirst's assessments, dues, fees, and other charges for its statutory activities. **Not applicable**

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if ReliabilityFirst determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, ReliabilityFirst shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in ReliabilityFirst's approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct ReliabilityFirst to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ReliabilityFirst's approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Statements

NERC shall conduct reviews of the quarterly and annual financial statements submitted by ReliabilityFirst pursuant to Section 9(h) and (i) of the Agreement. ReliabilityFirst shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC based on its reviews.

ATTACHMENT 5B

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED DELEGATION AGREEMENT

WITH

RELIABILITYFIRST CORPORATION

REDLINED AGAINST

REVISED PRO FORMA DELEGATION AGREEMENT

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
~~AND [REGIONAL ENTITY]~~**

AND RELIABILITYFIRST CORPORATION

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”) made as of [January 1, 2011], between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and ~~[REGIONAL ENTITY]~~ReliabilityFirst Corporation (ReliabilityFirst), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified on **Exhibit A** to this Agreement, and for other purposes. NERC and ~~[REGIONAL ENTITY]~~ReliabilityFirst may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824n) (hereafter “the Act”), which, among other things, provides for the establishment of an electric reliability organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as ~~[REGIONAL ENTITY]~~ReliabilityFirst provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, ~~[REGIONAL ENTITY]~~ReliabilityFirst is not organized on an Interconnection-wide basis and therefore ~~[is/is not]~~ entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through ~~[REGIONAL ENTITY]~~ReliabilityFirst to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that ~~[REGIONAL ENTITY]~~ReliabilityFirst meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and ~~[REGIONAL ENTITY]~~ReliabilityFirst, having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and ~~[REGIONAL ENTITY]~~ReliabilityFirst agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to ~~[REGIONAL ENTITY]~~ReliabilityFirst to propose and enforce Reliability Standards pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, ~~REGIONAL ENTITY~~ ReliabilityFirst hereby represents and warrants to NERC that:

(i) ~~REGIONAL ENTITY~~ ReliabilityFirst is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. ~~REGIONAL ENTITY~~ ReliabilityFirst is governed in accordance with its bylaws by ~~[select appropriate: an independent board/a balanced stakeholder board/~~ a combination independent and balanced stakeholder board]. Pursuant to these bylaws, no two industry sectors can control any ~~REGIONAL ENTITY~~ ReliabilityFirst decision and no single industry sector can veto any ~~REGIONAL ENTITY~~ ReliabilityFirst decision. The relevant portions of such bylaws are attached hereto in **Exhibit B**¹, and as so attached are in full force and effect. No other such corporate governance documents are binding upon ~~REGIONAL ENTITY~~ ReliabilityFirst.

(ii) As set forth in **Exhibit C** hereto², ~~REGIONAL ENTITY~~ ReliabilityFirst has developed a standards development procedure, which provides the process that ~~REGIONAL ENTITY~~ ReliabilityFirst may use to develop Regional Reliability Standards ~~[and Regional Variances, if the regional entity is organized on an Interconnection-wide basis]~~ that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, ~~REGIONAL ENTITY~~ ReliabilityFirst has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within ~~REGIONAL ENTITY~~ ReliabilityFirst's geographic boundaries as shown on **Exhibit A**.

¹ The **Exhibit B** from ~~REGIONAL ENTITY~~ ReliabilityFirst shall meet the requirements contained in **Exhibit B** to this Agreement.

² The **Exhibit C** from ~~REGIONAL ENTITY~~ ReliabilityFirst shall meet the requirements contained in **Exhibit C** to this Agreement.

(b) NERC hereby represents and warrants to ~~[REGIONAL ENTITY]~~ReliabilityFirst that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

3. Covenants.

(a) During the term of this Agreement, ~~[REGIONAL ENTITY]~~ReliabilityFirst shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC's approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of ~~[REGIONAL ENTITY]~~ReliabilityFirst under this Agreement without first obtaining the consent of ~~[REGIONAL ENTITY]~~ReliabilityFirst, which consent shall not be unreasonably withheld or delayed.

(c) During the term of this Agreement, NERC and ~~[REGIONAL ENTITY]~~ReliabilityFirst shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of ~~[REGIONAL ENTITY]~~ReliabilityFirst in Sections 2 and 3 above, the corporate governance documents set forth in **Exhibit B**, the standards development process set forth in **Exhibit C**, and the

compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to ~~{REGIONAL ENTITY}~~ReliabilityFirst for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth on **Exhibit A**, *provided*, that ~~{REGIONAL ENTITY}~~ReliabilityFirst shall not monitor and enforce compliance with Reliability Standards for ~~{REGIONAL ENTITY}~~ReliabilityFirst or an affiliated entity with respect to reliability functions for which ~~{REGIONAL ENTITY}~~ReliabilityFirst or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to ~~{REGIONAL ENTITY}~~ReliabilityFirst within, or additions to this delegation of authority to ~~{REGIONAL ENTITY}~~ReliabilityFirst beyond, the geographic boundaries set forth on **Exhibit A** are stated on **Exhibit A**.

(b) In circumstances where ~~{REGIONAL ENTITY}~~ReliabilityFirst or an affiliated entity is a Registered Entity, ~~{REGIONAL ENTITY}~~ReliabilityFirst shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce ~~{REGIONAL ENTITY}~~ReliabilityFirst's or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit ~~{REGIONAL ENTITY}~~ReliabilityFirst from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified on **Exhibit A** that is within the United States. Any delegation of authority by ERO Governmental Authorities in Canada or Mexico shall be governed by a separate agreement and is outside the scope of this Agreement; provided, however, that both ~~{REGIONAL ENTITY}~~ReliabilityFirst and NERC shall endeavor to ensure that this Agreement and such separate agreements are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, ~~{REGIONAL ENTITY}~~ReliabilityFirst shall comply with the

applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, ~~REGIONAL ENTITY~~ ReliabilityFirst shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords ~~REGIONAL ENTITY~~ ReliabilityFirst reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards ~~and Regional Variances, if Regional Entity is organized on an Interconnection-wide basis~~ through ~~REGIONAL ENTITY~~ through ReliabilityFirst's process as set forth in **Exhibit C**. Proposals approved through ~~REGIONAL ENTITY~~ ReliabilityFirst's process shall be reviewed by the NERC Board after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. ~~REGIONAL ENTITY~~ ReliabilityFirst may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not

find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, ~~[REGIONAL ENTITY]~~ReliabilityFirst shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the geographic boundaries set forth, or as otherwise specified, in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and ~~[REGIONAL ENTITY]~~ReliabilityFirst agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, *inter alia*, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. ~~[REGIONAL ENTITY]~~ReliabilityFirst may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, ~~[REGIONAL ENTITY]~~ReliabilityFirst agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) ~~[REGIONAL ENTITY]~~ReliabilityFirst shall report promptly to NERC any Possible Violation, Alleged Violation, or Confirmed Violation of a Reliability Standard, and its eventual disposition by ~~[REGIONAL ENTITY]~~ReliabilityFirst. Such report shall include the owner's, operator's, or user's name, which Reliability Standard or Reliability Standards were the subject of the Possible Violation, Alleged Violation, or Confirmed Violation, when the Possible Violation, Alleged Violation, or Confirmed Violation occurred, other pertinent facts including circumstances surrounding the Possible Violation, Alleged Violation, or Confirmed Violation with any known risk to the Bulk-Power System, when the Possible Violation, Alleged Violation, or Confirmed Violation was or will be mitigated, the name of a person

knowledgeable about the Possible Violation, Alleged Violation, or Confirmed Violation to serve as a point of contact with the Commission, and any other information required by NERC compliance program procedures. NERC shall promptly forward such report to the Commission. NERC and ~~[REGIONAL ENTITY]~~ReliabilityFirst shall cooperate in filing such periodic summary reports as the Commission shall from time to time direct on Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards and summary analyses of such Possible Violations, Alleged Violations, and Confirmed Violations.

(c) Each Possible Violation, Alleged Violation, or Confirmed Violation shall be treated as nonpublic unless the matter is filed with the Commission as a Notice of Penalty, or, if disclosure is required, dismissed. The disposition of each Possible Violation, Alleged Violation, or Confirmed Violation that relates to a Cybersecurity Incident or that would jeopardize the security of the Bulk-Power System if publicly disclosed shall remain nonpublic unless the Commission directs otherwise.

(d) All dispositions by ~~[REGIONAL ENTITY]~~ReliabilityFirst of Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards shall be reported to NERC for review and, in the case of Confirmed Violations, penalties or sanctions, and settlements, for approval. Following approval of a disposition by NERC, NERC shall file the disposition with the Commission, if required by, and in accordance with, Section 215(e) of the Act and Section 39.7 of the ERO Regulations. NERC shall review ~~[REGIONAL ENTITY]~~ReliabilityFirst's dispositions based on the following criteria:

(i) whether the disposition is supported by a sufficient record compiled by ~~[REGIONAL ENTITY]~~ReliabilityFirst in accordance with the NERC Rules of Procedure, NERC directives and Commission requirements, taking into account the nature of the Possible Violation, Alleged Violation, or Confirmed Violation,

(ii) whether the disposition is consistent with any applicable directives issued pursuant to Section 8(c) of this Agreement, any applicable directions or guidance issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, or other applicable NERC guidance, concerning the Reliability Standards to which the Possible Violation, Alleged Violation, or Confirmed Violation relates,

(iii) if the disposition is a Confirmed Violation or settlement, whether it provides for a penalty or sanction, or a determination of no penalty or sanction,

determined in accordance with the NERC Sanction Guidelines, Appendix 4B to the NERC Rules of Procedure, and

(iv) whether the disposition is reasonably consistent with other dispositions by ~~{REGIONAL ENTITY}~~ ReliabilityFirst and by other Regional Entities of Possible Violations, Alleged Violations, and Confirmed Violations involving the same or similar facts and circumstances.

NERC may reject any disposition, with an explanation of why NERC believes the disposition does not meet the above criteria. ~~{REGIONAL ENTITY}~~ ReliabilityFirst may submit a disposition requiring NERC approval that has been rejected by NERC, or a revised disposition following a rejection, directly to the NERC Board Compliance Committee for approval without revising the disposition to address all the grounds on which NERC originally rejected the disposition. The final approval of ~~{REGIONAL ENTITY}~~ ReliabilityFirst's disposition of a Possible Violation, Alleged Violation, or Confirmed Violation shall be made by the NERC Board Compliance Committee, provided, that the NERC Board or NERC Board Compliance Committee may, by appropriate resolution, delegate authority for final approval of dispositions of specified categories of Possible Violations, Alleged Violations, or Confirmed Violations to the NERC President.

(e) All appeals of penalties imposed by ~~{REGIONAL ENTITY}~~ ReliabilityFirst as a result of a decision by ~~{REGIONAL ENTITY}~~ ReliabilityFirst's Hearing Body shall be filed with, heard by and disposed of by, NERC in accordance with the NERC Rules of Procedure.

(f) ~~{REGIONAL ENTITY}~~ ReliabilityFirst shall maintain the capability to conduct investigations of Possible Violations and Alleged Violations of Reliability Standards and to conduct such investigations in a confidential manner.

(g) ~~{REGIONAL ENTITY}~~ ReliabilityFirst shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan.

(h) As part of its compliance monitoring and enforcement program, ~~{REGIONAL ENTITY}~~ ReliabilityFirst shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under

Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(i) As often as NERC deems necessary, but no less than every five years, NERC shall review ~~REGIONAL ENTITY~~ [ReliabilityFirst](#)'s compliance monitoring and enforcement program to determine that: (i) the program meets all applicable legal requirements; (ii) actual practices reflect the requirements; and (iii) the program administered pursuant to the Delegated Authority promotes consistent interpretations across North America of Reliability Standards and comparable levels of sanctions and penalties for violations of Reliability Standards constituting comparable levels of threat to reliability of the Bulk-Power System.

7. Delegation-Related Activities.

NERC will engage ~~REGIONAL ENTITY~~ [ReliabilityFirst](#) on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed on **Exhibit E**. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (f), each of which shall be considered a statutory activity:

(a) Certification of Bulk-Power System Entities. The NERC Board shall set criteria for certification in accordance with the NERC Rules of Procedure. ~~REGIONAL ENTITY~~ [ReliabilityFirst](#) shall issue certifications in accordance with the NERC Rules of Procedure.

(b) Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.

(i) The NERC Board shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by ~~REGIONAL ENTITY~~ [ReliabilityFirst](#) and other Regional Entities. ~~REGIONAL ENTITY~~ [ReliabilityFirst](#) shall provide timely and accurate information

relating to registrations to NERC, on at least a monthly basis, to enable NERC to maintain a registration database that is accurate and up-to-date.

(iii) The NERC Board Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) Reliability Assessment and Performance Analysis. ~~REGIONAL ENTITY~~ ReliabilityFirst shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. ~~REGIONAL ENTITY~~ ReliabilityFirst shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives. NERC shall develop data-gathering quality control procedures, forms and reporting mechanisms, which shall be used by ~~REGIONAL ENTITY~~ ReliabilityFirst and other Regional Entities in carrying out their responsibilities under this subsection (c).

(d) Event Analysis and Reliability Improvement. ~~REGIONAL ENTITY~~ ReliabilityFirst shall conduct event analysis pursuant to the NERC Rules of Procedure and applicable governmental regulations. NERC and ~~REGIONAL ENTITY~~ ReliabilityFirst shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, ~~REGIONAL ENTITY~~ ReliabilityFirst shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) Training and Education. ~~REGIONAL ENTITY~~ ReliabilityFirst may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) Situation Awareness and Infrastructure Security.

(i) ~~{REGIONAL ENTITY}~~ReliabilityFirst shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure and applicable governmental regulations, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System

(ii) ~~{REGIONAL ENTITY}~~ReliabilityFirst shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of ~~{REGIONAL ENTITY}~~ReliabilityFirst's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and ~~{REGIONAL ENTITY}~~ReliabilityFirst that matters relating to NERC's oversight of ~~{REGIONAL ENTITY}~~ReliabilityFirst's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and ~~{REGIONAL ENTITY}~~ReliabilityFirst and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with ~~{REGIONAL ENTITY}~~ReliabilityFirst and other Regional Entities, performance goals, measures and other parameters (including, without limiting the scope of such goals, measures and parameters, financial performance goals, measures and parameters), and performance reports, which shall be used to measure NERC's and ~~{REGIONAL ENTITY}~~ReliabilityFirst's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. ~~{REGIONAL ENTITY}~~ReliabilityFirst shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate ~~{REGIONAL ENTITY}~~ReliabilityFirst's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters and performance reports to evaluate ~~{REGIONAL ENTITY}~~ ReliabilityFirst's performance of its delegated functions and related activities and to provide advice and direction to ~~{REGIONAL ENTITY}~~ ReliabilityFirst on performance improvements. The performance goals, measures and other parameters and the values of such goals, measures and parameters, shall be reviewed by NERC, ~~{REGIONAL ENTITY}~~ ReliabilityFirst and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, ~~{REGIONAL ENTITY}~~ ReliabilityFirst shall be required to develop, submit for NERC approval, and implement action plans to address areas of its performance that are reasonably determined by NERC, based on analysis of ~~{REGIONAL ENTITY}~~ ReliabilityFirst's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring ~~{REGIONAL ENTITY}~~ ReliabilityFirst to adopt and implement an action plan or other remedial action, NERC shall issue a notice to ~~{REGIONAL ENTITY}~~ ReliabilityFirst of the need and basis for an action plan or other remedial action and provide an opportunity for ~~{REGIONAL ENTITY}~~ ReliabilityFirst to submit a written response contesting NERC's evaluation of ~~{REGIONAL ENTITY}~~ ReliabilityFirst's performance and the need for an action plan. ~~{REGIONAL ENTITY}~~ ReliabilityFirst may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board review and reconsider the request. NERC and ~~{REGIONAL ENTITY}~~ ReliabilityFirst shall work collaboratively as needed in the development and implementation of ~~{REGIONAL ENTITY}~~ ReliabilityFirst's action plan. A final action plan submitted by ~~{REGIONAL ENTITY}~~ ReliabilityFirst to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to ~~{REGIONAL ENTITY}~~ ReliabilityFirst standardized training and education programs, which shall be designed taking into account input from ~~{REGIONAL ENTITY}~~ ReliabilityFirst and other Regional Entities, for ~~{REGIONAL ENTITY}~~ ReliabilityFirst personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to ~~[REGIONAL ENTITY]~~ReliabilityFirst concerning the manner in which ~~[REGIONAL ENTITY]~~ReliabilityFirst shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered “directives.” NERC shall initiate the development of a directive through a collaborative process with ~~[REGIONAL ENTITY]~~ReliabilityFirst and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and ~~[REGIONAL ENTITY]~~ReliabilityFirst and, if applicable, other Regional Entities are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President; *provided*, that before the NERC President issues a directive pursuant to this paragraph (ii), ~~[REGIONAL ENTITY]~~ReliabilityFirst and, if applicable, other Regional Entities, shall be given a reasonable opportunity to present their positions on, and a suggested alternative version or versions of, the proposed directive to the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, ~~[REGIONAL ENTITY]~~ReliabilityFirst, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by ~~[REGIONAL ENTITY]~~ReliabilityFirst, the NERC Board (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without ~~[REGIONAL ENTITY]~~ReliabilityFirst's agreement, *provided*, that ~~[REGIONAL ENTITY]~~ReliabilityFirst shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and ~~[REGIONAL ENTITY]~~ReliabilityFirst and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the

NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which ~~{REGIONAL ENTITY}~~ ReliabilityFirst, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The Board or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the Board or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. ~~{REGIONAL ENTITY}~~ ReliabilityFirst, either individually or in conjunction with other Regional Entities, may request that the NERC Board or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with ~~{REGIONAL ENTITY}~~ ReliabilityFirst, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) Any audits of ~~{REGIONAL ENTITY}~~ ReliabilityFirst performed by NERC shall be limited to an examination of ~~{REGIONAL ENTITY}~~ ReliabilityFirst's compliance with this Agreement, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c)

9. Funding. ~~{REGIONAL ENTITY}~~ ReliabilityFirst and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed on **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) ~~{REGIONAL ENTITY}~~ ReliabilityFirst shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. ~~{REGIONAL ENTITY}~~ ReliabilityFirst's proposed business plan and budget shall

describe the activities necessary for, and provide a budget with adequate resources for, ~~[REGIONAL ENTITY]~~ReliabilityFirst to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E**. ~~[REGIONAL ENTITY]~~ReliabilityFirst's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) ~~[REGIONAL ENTITY]~~ReliabilityFirst and NERC agree that the portion of ~~[REGIONAL ENTITY]~~ReliabilityFirst's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by ~~[REGIONAL ENTITY]~~ReliabilityFirst and approved by NERC and the Commission. If ~~[REGIONAL ENTITY]~~ReliabilityFirst proposes to use a formula other than Net Energy for Load beginning in the following year, ~~[REGIONAL ENTITY]~~ReliabilityFirst shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and ~~[REGIONAL ENTITY]~~ReliabilityFirst to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide ~~[REGIONAL ENTITY]~~ReliabilityFirst with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) ~~{REGIONAL ENTITY}~~ReliabilityFirst shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed on Exhibit E, as well as for all other activities of ~~{REGIONAL ENTITY}~~ReliabilityFirst, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund ~~{REGIONAL ENTITY}~~ReliabilityFirst's performance of its Delegated Authority and related activities in accordance with ~~{REGIONAL ENTITY}~~ReliabilityFirst's Commission-approved business plan and budget, in the amount of ~~{REGIONAL ENTITY}~~ReliabilityFirst's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting ~~{REGIONAL ENTITY}~~ReliabilityFirst's approved assessments from end users and other entities and payment of the approved assessment amount to ~~{REGIONAL ENTITY}~~ReliabilityFirst, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon ~~{REGIONAL ENTITY}~~ReliabilityFirst that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without ~~{REGIONAL ENTITY}~~ReliabilityFirst's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and ~~{REGIONAL ENTITY}~~ReliabilityFirst fiscal year budget with the actual results at the NERC and Regional Entity levels. ~~{REGIONAL ENTITY}~~ReliabilityFirst shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) ~~{REGIONAL ENTITY}~~ReliabilityFirst shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) ~~{REGIONAL ENTITY}~~ReliabilityFirst shall submit audited financial statements annually, including supporting materials, in a form provided by NERC no later than May 1 of the following year.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which ~~{REGIONAL ENTITY}~~ReliabilityFirst shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of ~~{REGIONAL ENTITY}~~ReliabilityFirst) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which ~~{REGIONAL ENTITY}~~ReliabilityFirst shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of ~~{REGIONAL ENTITY}~~ReliabilityFirst. *Provided*, that, subject to approval by NERC and the Commission, ~~{REGIONAL ENTITY}~~ReliabilityFirst may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. ~~{REGIONAL ENTITY}~~ReliabilityFirst may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit ~~{REGIONAL ENTITY}~~ReliabilityFirst from contracting with other entities to assist it in carrying out its Delegated Authority, provided ~~{REGIONAL ENTITY}~~ReliabilityFirst retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and

diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on [January 1, 2011] (the “Effective Date”).

(b) The term of the Agreement shall be five (5) years from the Effective Date, prior to which time NERC shall conduct an audit pursuant to subsection 6(i) to ensure that ~~[REGIONAL ENTITY]~~ReliabilityFirst continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. If ~~[REGIONAL ENTITY]~~ReliabilityFirst meets such requirements, this Agreement may be renewed for another five (5) year term. This Agreement may be renewed for successive additional five (5) year renewal terms provided that prior to the end of each renewal term, NERC shall conduct an audit pursuant to subsection 6(i) to ensure that ~~[REGIONAL ENTITY]~~ReliabilityFirst continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. Provided, that either Party may terminate this Agreement as of the end of a term by giving written notice to terminate at least one (1) year prior to the end of the term. If this Agreement is not renewed or becomes subject to termination for any reason, the Parties shall work to provide for a transition of ~~[REGIONAL ENTITY]~~ReliabilityFirst’s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement. The termination of this Agreement shall not take effect until such transition has been effected, unless the transition period exceeds one year, at which time ~~[REGIONAL ENTITY]~~ReliabilityFirst may unilaterally terminate.

(c) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by ~~REGIONAL ENTITY~~ [ReliabilityFirst](#) and NERC.

(d) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. ~~REGIONAL ENTITY~~ [ReliabilityFirst](#) and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and ~~REGIONAL ENTITY~~ [ReliabilityFirst](#) shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of the ~~REGIONAL ENTITY~~ [ReliabilityFirst](#)'s or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that the ~~REGIONAL ENTITY~~ [ReliabilityFirst](#) or NERC is found liable for gross negligence or intentional misconduct, in which case ~~REGIONAL ENTITY~~ [ReliabilityFirst](#) or NERC shall

not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party.

15. Confidentiality. During the course of the Parties' performance under this Agreement, a Party may receive Confidential Information, as defined in Section 1500 of NERC's Rules of Procedure. Except as set forth herein, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information. In addition, each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein. This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of ~~[REGIONAL ENTITY]~~ReliabilityFirst under this Agreement without first obtaining the consent of ~~[REGIONAL ENTITY]~~ReliabilityFirst, which consent shall not be unreasonably withheld or delayed. To the extent ~~[REGIONAL ENTITY]~~ReliabilityFirst does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of ~~[REGIONAL ENTITY]~~ReliabilityFirst under this Agreement, ~~[REGIONAL ENTITY]~~ReliabilityFirst shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by ~~[REGIONAL ENTITY]~~ReliabilityFirst to NERC and the Commission, or at such other time as may be mutually agreed by ~~[REGIONAL ENTITY]~~ReliabilityFirst and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and ~~[REGIONAL ENTITY]~~ReliabilityFirst (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to ~~[REGIONAL ENTITY]~~ReliabilityFirst's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. ~~[REGIONAL ENTITY]~~ReliabilityFirst shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative

for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, *provided*, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), *provided*, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. *Provided, however*, that: (i) it is the intent of the Parties that unresolved disputes shall be

presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. Whether expressly so stated or not, all notices, demands, requests, and other communications required or permitted by or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand or reputable overnight courier:

If to NERC:
~~ENTITY~~ ReliabilityFirst:

If to ~~REGIONAL~~

North American Electric ReliabilityFirst Corporation
Reliability Corporation 320 Springside Drive
116-390 Village Blvd. Suite 300
Princeton, NJ 08540-5721
Attn: General Counsel
Facsimile: (609) 452-9550

Akron, OH 44333
Attn: Timothy Gallagher, President
Facsimile: (330) 456-3648

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of New Jersey without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in New Jersey. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in New Jersey for the purpose of hearing and determining any action not heard and determined by the Commission.

21. **Headings.** The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.
22. **Savings Clause.** Nothing in this Agreement shall be construed to preempt or limit any authority that ~~[REGIONAL ENTITY]~~ReliabilityFirst may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.
23. **Entire Agreement.** This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.
24. **Execution of Counterparts.** This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

Exhibit A — ~~Regional Boundaries-~~ Boundaries of Delegation Agreement

~~Exhibit A to the delegation agreement for each Regional Entity receiving Delegated Authority shall describe the geographic or electrical boundaries covered by the proposed delegation of authority. Exhibit A for each Regional Entity shall reflect coordination with neighboring Regional Entities, as appropriate, to ensure that all relevant areas are either included within the geographic boundaries of a Regional Entity or specifically identified as not being within the geographic boundaries of any Regional Entity. Any exclusions of geographic or electrical areas or of Registered Entities from the scope of the Regional Entity's Delegated Authority within the geographic or electrical boundaries shown on Exhibit A, and any additions of geographic or electrical areas or of Registered Entities located outside the boundaries shown on Exhibit A to the scope of the Regional Entity's Delegated Authority, shall be specifically stated or described in Exhibit A.~~

The Boundaries of **ReliabilityFirst** Corporation (**ReliabilityFirst**) are defined by the service territories of Load Serving Entities (LSEs) and include all of New Jersey, Delaware, Pennsylvania, Maryland, District of Columbia, West Virginia, Ohio, Indiana, Lower Michigan and portions of Upper Michigan, Wisconsin, Illinois, Kentucky, Tennessee and Virginia as shown on the map below. In addition, transmission systems and generation within the metered boundaries of the LSEs are within **ReliabilityFirst** even if outside the respective service territories shown. The area is electrically contiguous.

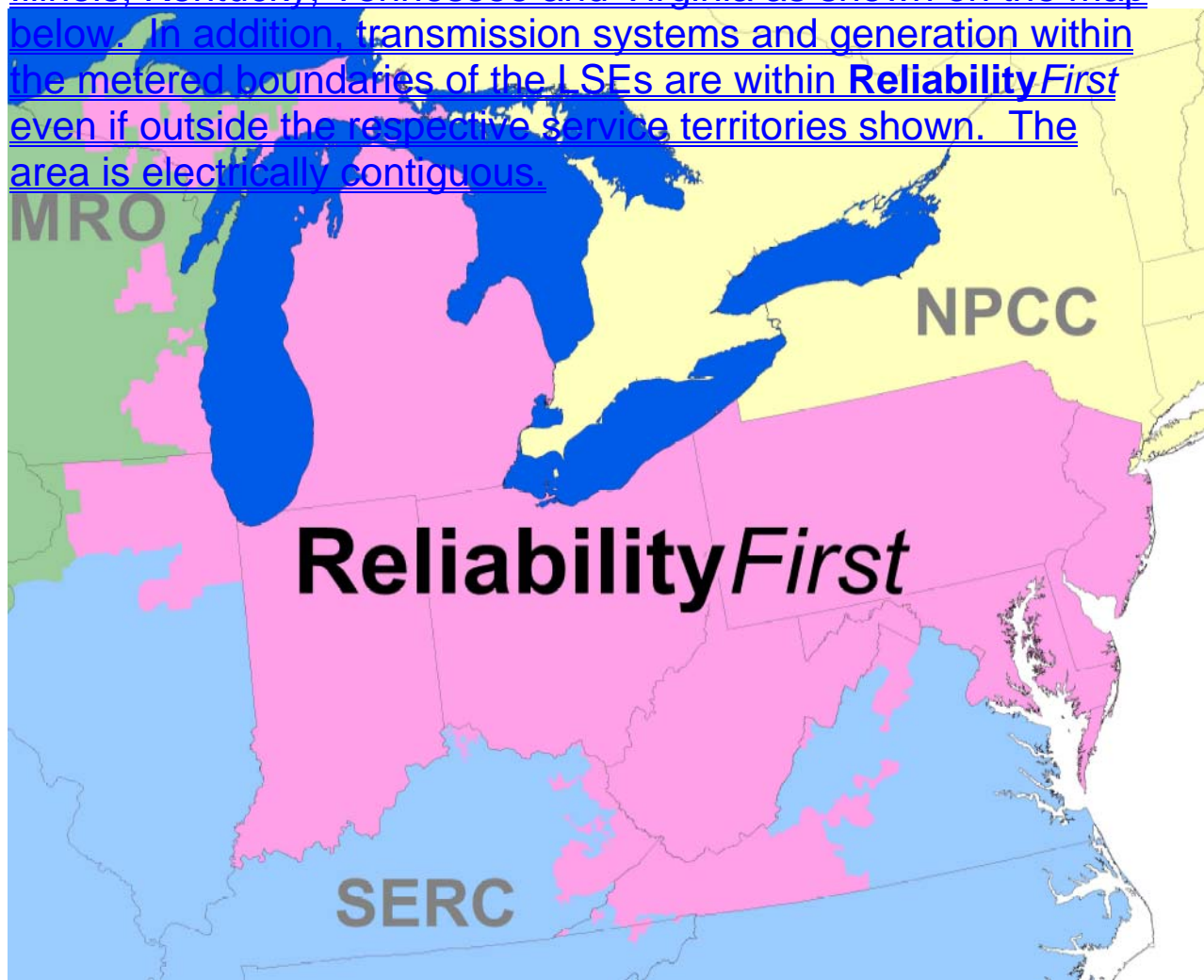


Exhibit B – Governance

Exhibit B shall set forth the Regional Entity's bylaws, which, along with portions of the Standards Development Process as set out in Exhibit C, NERC agrees demonstrate that the Regional Entity meets the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence of the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)



AMENDED AND RESTATED BYLAWS

OF

Reliability*First* Corporation

a Delaware nonprofit corporation

Adopted December 19, 2006

Amended September 21, 2007¹

Amended December 6, 2007²

Amended May 22, 2008³

Amended December 4, 2008⁴

¹ Section 5.9.2

² Sections 1.2, 1.26, 16.1

³ Sections 1.12, 7.13, 7.14

⁴ Sections 5.8, 6.8, 6.9, 6.10.2, 6.10.4, 7.4, 7.5, 7.7, 7.9, 7.11.13

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**AMENDED AND RESTATED
BYLAWS OF
ReliabilityFirst Corporation
a Delaware nonprofit corporation
(the “Corporation”)**

[As adopted by the Members on December 19, 2006,
amended by the Board of Directors on September 21, 2007,
amended by the Members on December 6, 2007,
amended by the Board of Directors on May 22, 2008,
and amended by the Members on December 4, 2008]

**ARTICLE I.
DEFINITIONS**

Section 1.1. Act. “Act” shall mean Section 215 of the Federal Power Act (16 U.S.C. §824n).

Section 1.2. Adjunct Member. “Adjunct Member” shall mean any entity that does not qualify to join an Industry Sector but has been approved for membership. Adjunct Members may include Regulatory Participants.

Section 1.3. Affiliate. “Affiliate” shall mean, with respect to any entity, any other entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such entity, as determined in the sole discretion of the Board of the Corporation. For this purpose, “control” may be presumed by the direct or indirect ownership of ten percent (10%) or more of the outstanding voting capital stock or other equity interests having ordinary voting power.

Section 1.4. Associate Member. “Associate Member” shall mean any entity that has joined an Industry Sector and is an Affiliate or Related Party of a Regular Member.

Section 1.5. Board. “Board” shall mean the Board of Directors of the Corporation.

Section 1.6. Bulk Power System. “Bulk Power System” shall mean facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof) and electric energy from generation facilities needed to maintain transmission system reliability, but does not include facilities used in the local distribution of electricity.

Section 1.7. Certificate of Incorporation. “Certificate of Incorporation” shall mean the Certificate of Incorporation of the Corporation filed with the Delaware Secretary of State, as from time to time amended.

Section 1.8. Commission. “Commission” shall mean the Federal Energy Regulatory Commission.

Section 1.9. Delegation Agreement. “Delegation Agreement” shall mean the delegation agreement, as supplemented or amended from time to time, between NERC and the Corporation pursuant to which NERC has delegated its authority to the Corporation to propose and enforce Reliability Standards within the Region.

Section 1.10. Electronic Transmission. “Electronic transmission” shall mean any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

Section 1.11. ERO. “ERO” shall mean the electric reliability organization established under the Act to enforce Reliability Standards applicable to all owners, operators and users of the Bulk Power System in North America.

Section 1.12. Hearing Body. “Hearing Body” shall mean a group established with authority to conduct and render decisions in a formal compliance hearing of an entity registered in the NERC compliance registry who is the subject of a notice of alleged violation, proposed penalty or sanction, contested mitigation plan or contested remedial action directive.

Section 1.13. Industry Sector. “Industry Sector” shall mean a group of Bulk Power System owners, operators or users in the Region with substantially similar interests as pertinent to the purposes and operations of the Corporation of the Bulk Power System. The Industry Sectors shall consist of the following: (1) Suppliers, (2) Transmission Companies, (3) RTOs, (4) Small LSEs, (5) Medium LSEs, and (6) Large LSEs.

Section 1.14. Large LSEs. “Large LSEs” shall mean entities that serve, or whose Related Parties serve, end use load with annual energy delivery to such load in the Region of 50,000 GWh or greater.

Section 1.15. Medium LSEs. “Medium LSEs” shall mean entities that serve, or whose Related Parties serve, end use load with annual energy delivery to such load in the Region between 10,000 GWh and 50,000 GWh.

Section 1.16. Members. “Members” shall mean Regular Members, Associate Members and Adjunct Members.

Section 1.17. NERC. “NERC” shall mean the North American Electric Reliability Corporation, or any successor entity, which has been certified by the Commission as the ERO pursuant to the Act to establish and enforce Reliability Standards for the Bulk Power System.

Section 1.18. NERC Rules. “NERC Rules” shall mean the NERC Rules of Procedure as approved by the Commission.

Section 1.19. Net Energy for Load. “Net Energy for Load” shall mean net generation of an electric system plus energy received from others less energy delivered to others through interchange. It includes system losses, but excludes energy required for storage of energy at energy storage facilities. Calculations of net energy for load for all purposes under these Bylaws shall be based on the most recent calendar year for which data on net energy for load of the Region is available.

Section 1.20. Person. “Person” shall mean a natural person, corporation, cooperative, partnership, association, or other private or public entity.

Section 1.21. Region. “Region” shall mean the geographic boundaries of the Corporation described in the Delegation Agreement.

Section 1.22. Regional Entity. “Regional Entity” shall mean any entity with which NERC has entered into a delegation agreement to delegate, or which the Commission or a governmental authority in Canada or Mexico has directly assigned, enforcement authority for reliability standards for the Bulk Power System in a defined geographic area of North America.

Section 1.23. Regional Variance. “Regional Variance” shall mean an aspect of a Reliability Standard that applies only within a particular Regional Entity or group of Regional Entities. A Regional Variance may be used to qualify how a particular Regional Entity or Regional Entities achieves the objectives of a Reliability Standard or may establish different measures or performance criteria as necessary to achieve reliability within the particular Regional Entity or group of Regional Entities. A Regional Variance may not be inconsistent with any Reliability Standard as it would otherwise exist without the Regional Variance. Such a Regional Variance may be proposed by a Regional Entity and, if adopted by NERC and approved by the Commission, shall be enforced within the applicable Regional Entity or Regional Entities pursuant to delegated authority.

Section 1.24. Regional Reliability Standard. “Regional Reliability Standard” shall mean a type of Reliability Standard that is applicable only within a particular Regional Entity or group of Regional Entities. A Regional Reliability Standard may augment, add detail to, or implement another Reliability Standard or cover matters not addressed by other Reliability Standards. Regional Reliability Standards, upon adoption by NERC and approval by the Commission, shall be Reliability Standards and shall be enforced within the applicable Regional Entity or Regional Entities pursuant to delegated authorities.

Section 1.25. Regular Member. “Regular Member” shall mean any entity that has joined an Industry Sector that either (i) has no Affiliates or Related Parties that are Members or (ii) is the entity designated to be the Regular Member by any related group of Associate Members.

Section 1.26. Regulatory Participant. “Regulatory Participant” shall mean any state, District of Columbia or any provincial regulatory agency in the Region exercising authority over the rates, terms or conditions of electric service of an entity other than itself within the Region, or the planning, siting, construction or operation of electric

facilities of an entity other than itself within the Region, as well as the Commission, regional advisory bodies that may be established by the Commission, or any federal regulator or agency or any entity authorized by any state, the District of Columbia or any province to represent utility consumers.

Section 1.27. Related Party. “Related Party” shall mean, solely for purposes of the governance provisions of these Bylaws, any entity that is registered as part of another entity or is registered for other entities in the NERC Compliance Registry. For purposes of these Bylaws, a representative of a state or federal government agency shall not be deemed a Related Party with respect to each other, and a public body’s regulatory authority, if any, over a Member shall not be deemed to make it a Related Party with respect to that Member.

Section 1.28. Reliability Coordinator. “Reliability Coordinator” shall mean any entity that is recognized as a reliability coordinator by NERC in the Region that does not otherwise qualify as a Transmission Company or RTO.

Section 1.29. Reliability Standard. “Reliability Standard” shall mean a requirement to provide for Reliable Operation of the Bulk Power System, including, without limitation, the foregoing requirements for the operation of existing Bulk Power System facilities, including cyber security protection, and the design of planned additions or modifications to such facilities to the extent necessary for reliable operation of the Bulk Power System, but shall not include any requirement to enlarge Bulk Power System facilities or to construct new transmission capacity or generation capacity.

Section 1.30. Reliable Operation. “Reliable Operation” shall mean operating the elements of the Bulk Power System within equipment and electric system thermal, voltage and stability limits so that instability, uncontrolled separation, or cascading failure of the Bulk Power System will not occur as a result of a sudden disturbance, including a cyber security incident, or unanticipated failure of system elements.

Section 1.31. RTOs. “RTOs” shall mean PJM Interconnection L.L.C. and Midwest Independent Transmission System Operator, Inc., or such other entity that has been recognized by the Commission as a regional transmission operator or recognized functional equivalent in the Region.

Section 1.32. Small LSEs. “Small LSEs” shall mean (i) owners or operators of entities (or their representatives) that serve, or whose Related Parties serve, end use load with annual energy delivery to such load in the Region of 10,000 GWh or less, and (ii) end-use customers interconnected with the Bulk Power System with load of at least 100 MW at one location in the Region.

Section 1.33. Suppliers. “Suppliers” shall mean owners or operators of electric generation connected to the transmission system and wholesale power marketers in the Region.

Section 1.34. Transmission Companies. “Transmission companies” shall mean (i) owners (or those with ownership entitlement), planners and operators of

transmission facilities included in the Bulk Power System in the Region and (ii) Reliability Coordinators.

ARTICLE II. PURPOSE AND ACTIVITIES

Section 2.1. Purpose. The business or purposes to be conducted or promoted by the Corporation are:

- (a) to be a Regional Entity and exercise enforcement authority for Reliability Standards for the Bulk Power System in the Region pursuant to the Delegation Agreement;
- (b) to carry out certain of NERC's activities that are in furtherance of NERC's responsibilities as the ERO under the Act or in support of delegated functions, as specified in the NERC Rules or the Delegation Agreement; and
- (c) to engage in any other lawful act or activity for which not for profit corporations may be organized under the Delaware General Corporation Law.

The Corporation shall be exempt from federal income taxation pursuant to Section 501(c) of the Internal Revenue Code of 1986, as amended (hereinafter the "Code") as an organization described in Section 501(c)(6) of the Code. The Corporation shall not engage directly or indirectly in any activity which would invalidate its status as an organization exempt from taxation under Section 501(a) of the Code as an organization described in Section 501(c)(6) of the Code. No part of the net income to the Corporation shall inure to the benefit of or be distributed to its directors, officers, members or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services actually rendered.

Section 2.2. Activities. In support and furtherance of its purpose, and in accordance with and at all times subject to the NERC Rules and the Delegation Agreement, the Corporation's responsibilities shall include, but not be limited to, the following:

- (a) Reliability Standards. The Corporation shall:
 - (1) propose Reliability Standards, Regional Variances or modifications thereof to NERC; and
 - (2) develop Regional Reliability Standards through the Corporation's standards development procedure.
- (b) Enforcement. The Corporation shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the Region through the Corporation's compliance enforcement program.

(c) Delegation-Related Services. The Corporation, on behalf of NERC, shall carry out certain of NERC's activities that are in furtherance of NERC's responsibilities as the ERO under the Act or in support of delegated functions, including:

- (1) Organization registration and certification.
- (2) Reliability readiness audit and improvement.
- (3) Reliability assessment and performance analysis.
- (4) Training and education.
- (5) Situational awareness and infrastructure security.

(d) Budget. The Corporation shall prepare and submit a budget to NERC for the amount of costs the Corporation will incur in support of delegated functions that are in furtherance of NERC's responsibilities as the ERO under the Act.

(e) Non-delegated Functions. The Corporation may conduct such other activities for or on behalf of the Members that are not delegated to the Corporation by NERC under the Delegation Agreement if authorized by the Board and not inconsistent with the Act, NERC Rules, the Delegation Agreement or these Bylaws.

Section 2.3. Not-for-Profit Corporation. The Corporation is operated as a Delaware non-stock nonprofit corporation and is organized pursuant to the general corporation law of the State of Delaware.

ARTICLE III. POWERS

Section 3.1. Powers. The Corporation shall have the power to engage in any lawful act or activity for which corporations may be organized under the general corporation law of the State of Delaware, subject to any limitations provided in applicable federal, provincial or state law or in the Certificate of Incorporation or these Bylaws.

ARTICLE IV. OFFICES

Section 4.1. Principal Office. The principal office of the Corporation shall be located initially within the Region, at such location as the Board may from time to time determine, giving consideration to the total cost to the Corporation and convenience of travel for staff, Members and Regulatory Participants. Once established, the principal office may remain in its location, even if outside the Region.

ARTICLE V. MEMBERS

Section 5.1. General. The terms and conditions of membership in the Corporation shall be as provided in the Certificate of Incorporation and these Bylaws if not inconsistent therewith. All Regular Members and Associate Members shall be required to join a single Industry Sector.

Section 5.2. Classes of Members. The Corporation shall have three (3) classes of Members: Regular Members, Associate Members and Adjunct Members.

5.2.1 Regular Members. Except as set forth in Sections 5.5 and 6.5 of these Bylaws, Regular Members shall have the right to vote on all matters within their Industry Sector. Regular Members shall have all the rights and obligations of being a Member in the Corporation.

5.2.2 Associate Members. Associate Members shall not be entitled to vote within their Industry Sector or for any other purpose as a Member. Associate Members shall otherwise have all the rights and obligations of being a Member in the Corporation.

5.2.3 Adjunct Members. Adjunct Members shall not be entitled to vote for any purpose as a Member. Adjunct Members shall otherwise have all the rights of being a Member in the Corporation.

Section 5.3. Qualifications of Members. Any entity eligible to join an Industry Sector may be a Regular Member or Associate Member of the Corporation. Any entity not eligible to join an Industry Sector may be an Adjunct Member of the Corporation.

Section 5.4. Admission of Members. New Members may join the Corporation upon submittal of an application, in a form approved by the Board, and upon payment of such fees or charges, if any, as may be established by the Board or required by NERC. Each Regular Member and Associate Member shall designate the Industry Sector it wishes to join. A Regular Member and Associate Member may change its Industry Sector designation once each calendar year upon notice to the Corporation. Such notice must be provided to the Secretary of the Corporation at least sixty (60) days before an annual or other meeting of Members if the change is to be effective for such meeting. The President shall review a membership application and may request demonstration by the applicant that it qualifies for membership in a particular Industry Sector. Any dispute with respect to a Regular Member's or Associate Member's qualifications for a particular Industry Sector shall be resolved by the Board. The President shall have authority to approve an application for membership, subject to review by the Board.

Section 5.5. Voting Rights. Each Regular Member in good standing shall be entitled to one vote in the Industry Sector in which it belongs on all matters submitted to a vote of Members. The Board may suspend voting rights for a Regular Member delinquent by more than 60 days in payment of any penalties or because of the Regular Member's failure to meet other obligations to the Corporation. Except with respect to the election of Industry Sector directors as described elsewhere in the Certificate of

Incorporation and these Bylaws, matters properly brought before the Members at an annual or special meeting shall be acted upon by the Industry Sectors voting together as a single class. The vote of each Industry Sector shall be split into an affirmative component based on votes for the matter(s) presented, and a negative component based on votes against the matter(s) presented, in direct proportion to the votes cast within the Industry Sector for and against the matter presented, rounded to two decimal places. If authorized in advance by the Board, voting may be held electronically under such terms and conditions as are approved by the Board.

Section 5.6. Transfer of Membership. A Member of the Corporation may not transfer its membership or a right arising from it except to any Person succeeding to all or substantially all of the assets of the Member. If challenged, the President shall have authority to approve any such transfer, subject to review by the Board.

Section 5.7. Obligations of Members. By applying for and becoming a Regular or Associate Member of the Corporation, each Member agrees to comply with all Reliability Standards, all NERC standards and requirements, and the other obligations of Members of the Corporation set forth in these Bylaws or duly adopted by the Board in order to achieve the purposes of the Corporation. A Regular or Associate Member also agrees to obligate all of its Affiliates that have an impact on reliability in the Region to comply with all Reliability Standards and NERC standards and requirements. These obligations include but are not limited to: (a) obligations to provide data and information needed to perform the functions of the Corporation, (b) payment of any authorized penalties resulting from non-compliance with Reliability Standards, (c) in the case of Regular Members, electing the Board, and (d) providing qualified candidates to serve on organizational working groups. Adjunct Members agree to provide data and information needed to perform the functions of the Corporation.

Section 5.8. Withdrawal. A Member may withdraw from participation in the Corporation upon notice given in writing or by electronic transmission to the Corporation. Such notice shall specify a date, not earlier than thirty (30) days from the date of notice, on which the withdrawal shall become effective.

Section 5.9. Funding and Dues.

5.9.1 NERC Funding. In accordance with and at all times subject to the NERC Rules and the Delegation Agreement, the Corporation shall equitably allocate its dues, fees and other charges for the delegated functions conducted by the Corporation among all end users. The Corporation shall submit to NERC annually a list of all load-serving entities within the Region. NERC will bill all load-serving entities in the Region for the Corporation's costs for the delegated functions based on Net Energy for Load and be responsible for collection.

5.9.2 Application Fee, User-Fees and Other Charges. The Corporation may charge a nominal fee, which shall be determined by the President, for the submission of

applications for membership. The Board of Directors may from time to time fix the amount of user-fees or other charges, if any, for activities that are not delegated to the Corporation by NERC under the Delegation Agreement and determine the methods of collection from entities that choose to participate in such activities.

Section 5.10. Penalties. If the Corporation initiates an investigation that leads to the imposition of a penalty, the Corporation shall receive any penalty monies that results from the investigation. All monies which the Corporation collects from the issuance of penalties shall be applied as a general offset to the Corporation's budget requirements for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the Corporation.

ARTICLE VI. MEETING OF MEMBERS

Section 6.1. Annual Meeting of Members. The Members shall hold an annual meeting in December of each year, or at such other time specified by the Board. At the annual meeting of Members: (i) each Industry Sector shall elect the successor(s), if any, for any director(s) from their Industry Sector whose term will expire before the next annual meeting of the Members, provided however, that any Industry Sector may elect a successor director representing such Industry Sector prior to such annual meeting, in accordance with the provisions of this Article VI, in which case the election of such succeeding director(s) shall be reported to the Corporation at such annual meeting; (ii) the President and Treasurer shall report on the activities and financial condition of the Corporation; (iii) the Industry Sectors shall elect a slate of at-large and independent directors to fill vacancies or expiring terms; and (iv) the Industry Sectors shall consider and act upon such other matters as are consistent with the notice of the annual meeting. The failure to hold an annual meeting in accordance with these Bylaws shall not affect the validity of a corporate action.

Section 6.2. Special Meetings of Members. Special meetings of the Members may be called by six (6) directors on the Board, by the President, or by Members if at least ten percent (10%) of the Regular Members sign, date, and deliver to the President one or more written demands for a special meeting describing the purpose for which it is to be held. Within fifteen (15) days after receipt of a demand for a special meeting from Regular Members, the President shall cause a special meeting to be called and held on notice in accordance with Section 6.4 of these Bylaws. If the President fails to cause a special meeting to be called and held as required by this Section 6.2, a Regular Member making the demand may call the meeting by giving notice under Section 6.4. In either event, notice of the meeting and the costs of the meeting shall be at the expense of the Corporation. The business transacted at a special meeting is limited to the purposes stated within the notice of the meeting. Business transacted at a special meeting that is not included in those stated purposes is voidable by or on behalf of the Corporation, unless ninety percent (90%) of the Regular Members entitled to vote were present at such meeting or have waived notice of the meeting under Section 6.4.

Section 6.3. Location of Meetings of Members. Meetings of Members shall be held at a location designated by the President or the Board. If a Regular Member calls

a meeting pursuant to Section 6.2, the Regular Members making the demand for the meeting may designate the location, provided the meeting must be held within the Region and in a facility of appropriate size to accommodate the Members.

Section 6.4. Notice of Meetings.

6.4.1 Notice Requirements. Notice of meetings of Members must be given at least five (5) days before the date of a meeting and not more than sixty (60) days before the date of a meeting. The notice must contain the date, time and place of the meeting, instructions for electronic attendance or voting, if applicable, and an agenda of the matters upon which action may be taken at the meeting. A matter may be added to the agenda of a meeting at the meeting upon the affirmative vote of three-quarters (3/4) of the Industry Sector votes cast on a motion to amend the agenda. If the meeting is an adjourned meeting and the date, time and place of the meeting were announced at the time of the adjournment, notice is not required unless a new record date for the adjourned meeting is or must be fixed. Notice shall be deemed given by the Corporation to the Members when (a) posted on the Corporation's public website in a reasonably prominent location, and (b) sent by mail, facsimile or reputable overnight delivery service or by electronic transmission to each Member's representative authorized pursuant to Section 6.10.1

6.4.2 Waiver of Notice; Objections. A Member may waive notice of a meeting of Members. A waiver of notice by a Member entitled to notice is effective whether given before, at, or after the meeting, and whether given in writing, or by attendance. Attendance by a Member at a meeting is a waiver of notice of that meeting, unless the Member objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, or objects before a vote on an item of business because the item may not lawfully be considered at that meeting and does not participate in the consideration of the item at that meeting.

Section 6.5. Record Date. The Board may fix a date not more than sixty (60) days before the date of a meeting of Members as the date for the determination of the Members entitled to notice of and entitled to vote at the meeting. When a date is so fixed, only Members on that date are entitled to notice and to vote at the meeting unless the Board fixes a new date for determining the right to notice and to vote, which it must do if the meeting is adjourned to a date more than sixty (60) days after the record date for determining Members entitled to notice of the original meeting.

Section 6.6. Right to Vote; Act of Members.

6.6.1 Industry Sector Voting. Voting of the Members shall be by Industry Sector, with each Industry Sector entitled to cast one vote. Each Member entitled to vote in an Industry Sector shall be entitled to cast one vote in its Industry Sector. The vote of each Industry Sector shall be split into an affirmative component based on votes for the pending motion, and a negative component based on votes against the pending motion, in direct proportion to the votes cast within the Industry Sector for and against the pending motion, rounded to two decimal places. To the extent practicable, all Member votes may be held electronically under such terms and conditions as are approved by the Board.

6.6.2 Act of Members. If a quorum is present, except with respect to any matter described in Section 6.6.3, a majority of the Industry Sector votes cast on the matter shall be the act of the Members.

6.6.3 Special Voting Requirements. Notwithstanding any other provision of these Bylaws, and except as set forth in the Certificate of Incorporation and Section 13.2 of these Bylaws, two-thirds (2/3) of the Industry Sector votes cast shall be required to:

(a) Amend the Bylaws, except as otherwise provided in Section 19.1 of these Bylaws. The substance of the proposed amendment must be contained in the notice of the meeting at which the vote will be taken; however, the Members may modify a proposed Bylaw amendment at the meeting.

(b) Approve any proposal to terminate the Corporation.

Section 6.7. Quorum. A quorum for a meeting of Members is a majority of the Regular Members entitled to vote in each Industry Sector at the meeting. A quorum for a meeting of an Industry Sector is a majority of the Regular Members of that Industry Sector entitled to vote at the meeting. In both cases, electronic participation is acceptable if authorized by the Board. A quorum is necessary for the transaction of business at a meeting of Members or of any Industry Sector. If a quorum is not present, a meeting may be adjourned for that reason by the Industry Sectors or Regular Members then represented or present.

Section 6.8. Action by Ballot. All elections of directors shall be by written ballot. Any other action that may be taken at a regular or special meeting of Members or any Industry Sector may be taken without a meeting or during a meeting if the Corporation mails or delivers a written ballot to every Regular Member entitled to vote on the matter. Approval by written ballot is valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. Solicitations for votes by written ballot must: (i) indicate the number of responses needed to meet the quorum requirements; (ii) state the percentage of approvals necessary to approve the matter; (iii) specify the time by which a ballot must be received by the Corporation in order to be counted; and (iv) may not be revoked once received. If authorized by the Board, the requirement of a written ballot shall be satisfied by a ballot submitted by electronic transmission provided that any such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the Member.

Section 6.9. Action by Electronic Communication. A conference among Members by a means of communication through which the participants may simultaneously hear each other during the conference is a meeting of the Members, if the same notice is given of the conference as would be required for a meeting and if the number of persons participating in the conference is a quorum. Participation in a meeting by this means is personal presence at the meeting. A Member may participate

in a meeting of the Members by a means of communication through which the Member, other persons participating, and all persons physically present at the meeting may simultaneously communicate with each other during the meeting. Participation in a meeting by this means constitutes personal presence at the meeting.

Section 6.10. Member Representatives; Proxies.

6.10.1 Designation of Representative. Each year prior to the annual meeting of Members, each Regular Member shall designate the individual authorized to vote on Corporation matters on behalf of the Member, in accordance with procedures approved by the Board. A Regular Member may change such designation at any time by providing at least twenty-four (24) hour written notice to the Secretary of the Corporation. Such notice may be provided by electronic transmission.

6.10.2 Authorization. The individual designated to vote by a Regular Member may appoint a proxy to vote or otherwise act for the Regular Member at any meeting by signing an appointment form either personally or by an attorney so designated by the Regular Member. Such authorization may be in writing or by means of electronic transmission to the person who will be the holder of the proxy, provided that such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the Member representative.

6.10.3 Effective Period. An appointment of a proxy is effective when received by the Secretary or other officer or agent authorized to tabulate votes. An appointment is valid for the next regular or specially scheduled meeting or ballot by electronic transmission. However, a proxy is not valid for more than sixty (60) days from its date of execution.

6.10.4 Revocation. An appointment of a proxy is revocable by a Regular Member. Appointment of a proxy is revoked by the person appointing the proxy either by open declaration at a meeting or by signing and delivering a revocation in writing or by electronic transmission to the Secretary or other officer or agent authorized to tabulate proxy votes. This may be done either in a statement that the appointment of the proxy is revoked or by a subsequent appointment that shall serve to cancel all prior proxies.

Section 6.11. Public Notice of Member Meetings. Notice to the public of the dates, times and places of meetings of the Members, and all nonconfidential material provided to the Members, shall be posted on the Corporation's website at approximately the same time that notice is given to the Members. Meetings of the Members shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided, that the meeting may be held in or adjourn to closed session to discuss matters of a confidential nature, including, but not limited to, personnel matters, compliance and enforcement matters, litigation or commercially sensitive or critical infrastructure information of a Member or other Person.

Section 6.12. Posting of Minutes. Minutes of meetings of Members shall be posted on the Corporation's website when available.

Section 6.13. Reimbursement of Member Expenses. The Corporation will be under no obligation to reimburse Members for expenses associated with their attendance at regular or special Member meetings.

ARTICLE VII. BOARD OF DIRECTORS

Section 7.1. General. The composition of the Board and the terms of office of the directors, the manner of their nomination, election or appointment, and other terms and conditions of their service, shall be as provided in the Certificate of Incorporation and these Bylaws if not inconsistent therewith.

Section 7.2. Management of Corporation. The business of the Corporation shall be managed under the direction of the Board. Specific functions of the Board shall include, but not be limited to:

- (a) govern the Corporation and oversee all of its activities;
- (b) establish and oversee all organizational groups;
- (c) approve, revise and enforce Reliability Standards utilizing a fair, open, balanced and inclusive process;
- (d) establish compliance monitoring procedures and requirements, and penalties and sanctions for non-compliance consistent with applicable NERC Rules;
- (e) impose penalties and sanctions consistent with the NERC Rules and the procedures approved by the Board;
- (f) establish and approve an annual budget for submission to NERC;
- (g) hire the Corporation's president and approve his or her salary;
- (h) annually at the first regular Board meeting following the annual meeting of Members, elect a Chair ("Chair") and a vice-chair from among the directors on the Board; and
- (i) establish Board committees as appropriate.

Section 7.3. Voting. Each director shall have one vote with respect to decisions of the Board.

Section 7.4. Composition of the Board.

- (a) The Board shall consist of fourteen (14) or fifteen (15) directors which number shall be established from time to time by resolution of the Board,

which resolution shall in no event have the effect of terminating the term of any incumbent director.

(b) Eight directors shall be elected by the Industry Sectors as follows:

- (i) Suppliers shall elect two (2) directors;
- (ii) Transmission Companies shall elect two (2) directors;
- (iii) RTOs shall select one (1) director;
- (iv) Small LSEs shall elect one (1) director;
- (v) Medium LSEs shall elect one (1) director; and
- (vi) Large LSEs shall elect one (1) director.

(c) Three (3) directors shall be at-large. At-large directors shall be elected by all of the Industry Sectors voting together as a single class.

(d) Three (3) directors, if the Board consists of fourteen (14) directors, and four (4) directors, if the Board consists of fifteen (15) directors, shall be independent from the Corporation and any Member or any Affiliate or Related Party of any Member. Independent directors shall be elected by all of the Industry Sectors voting together as a single class.

(e) Industry Sectors shall elect their respective sector and at-large directors from among individuals holding senior management positions in Member organizations. Any sector-elected or at-large director whose Member organization changes Industry Sectors or who ceases to hold a senior management position in a Member organization shall continue to serve out his or her remaining term, unless such director resigns or is removed. When selecting at-large directors, Industry Sectors shall consider such factors as the geographic and functional representation of the Board. No two directors may be employees of a single Member or any Affiliate or Related Party of a Member or any Affiliate.

(f) An independent director is a person (i) who is not an officer or employee of the Corporation, an officer, director, or employee of a Member, or an officer, director or employee of any entity that would reasonably be perceived as having a direct financial interest in the outcome the Board's decisions, or (ii) who does not have a relationship that would interfere with the exercise of independent judgment in carry out the responsibilities of a director. The Board may adopt additional standards for director independence not inconsistent herewith.

(g) At-large and independent directors shall be nominated by the nominating and governance committee of the Board. The nominating and governance committee shall seek out for nomination independent directors from diverse backgrounds, who will contribute to the effective functioning of the Board and the Corporation by bringing a broad range of industry expertise, viewpoints,

experiences, skill sets and knowledge. If an incumbent independent director is not re-nominated, the nominating and governance committee will use reasonable efforts to ensure that diverse candidates are in the pool of potential nominees for the open independent director position and may retain an independent consultant to identify individuals qualified and willing to serve as an independent director.

(h) Any director which the full Board has determined has a conflict of interest on any compliance or enforcement matter brought before the Board shall not vote on such matter and shall recuse himself or herself from all Board deliberations concerning such matter.

(i) There will be no alternates or proxies for directors.

Section 7.5. Terms of Directors. The directors will be divided into three classes. The number of directors in each class shall be as nearly equal as possible. The term of office of the first class will expire at the second annual meeting of Members; the term of office of the second class will expire one year thereafter; and the term of office of the third class two years thereafter. At each annual meeting of Members, directors shall be chosen for a three year term to succeed those whose term expires. No two at-large directors and no two directors of the same Industry Sector shall be in the same class. At least one (1) independent director shall be in each class. Each director shall hold office until (a) the expiration of the term for which he or she was elected and until his or her successor is elected and qualified, or (b) his or her earlier death, resignation or removal. Any director may be removed at any time by the affirmative vote of two-thirds of the Industry Sector or Industry Sectors, as applicable, electing such director. A director may be removed by the Board for non-attendance at three consecutive Board meetings.

Section 7.6. Reimbursement. Independent directors shall have the right to reimbursement by the Corporation of their actual reasonable travel expenses to Board meetings or when specifically selected to represent the Corporation at a business meeting. The directors elected by the Industry Sectors and the at-large directors shall not be reimbursed by the Corporation for any expenses, unless specifically approved in advance by resolution of the Board.

Section 7.7. Resignations; Vacancies.

(a) Resignations. A director may resign at any time from the Board upon notice given in writing or by electronic transmission to the Corporation. Such resignation shall take effect at the time of its receipt by the Corporation.

(b) Vacancies. If an Industry Sector or at-large director resigns, dies or otherwise becomes incapacitated or is removed during the term of office for which elected, the directorship shall thereupon be vacant and shall be filled by the Industry Sector or Industry Sectors, as applicable, by written or electronic ballot in accordance with the procedures and requirements set forth above. The successor director elected by the Industry Sector shall hold office for the unexpired term of the vacated directorship replaced. If an independent director resigns, dies or otherwise becomes incapacitated or is removed during the term

of office for which elected or ceases to be independent, as determined by the Board, his or her directorship shall thereupon be vacant and may be filled by the Board until the next annual meeting of Members, at which time a permanent successor shall be elected by the Industry Sectors for the remainder of the unexpired term. Upon an increase in the number of directors on the Board in accordance with Section 7.4(a) of these Bylaws, the independent directorship created thereby may be filled by resolution of the Board and any independent director so chosen shall hold office until the next annual meeting of Members, at which time a permanent successor shall be elected by the Industry Sectors for the remainder of such director's unexpired term.

Section 7.8. Meetings; Notice; Waiver.

(a) Meetings. An annual meeting of the Board shall be held without notice immediately following the annual meeting of the Members. The Board shall elect the Chair and Vice-Chair for the next year at the annual meeting. In addition, regular meetings may be held at such time or times as fixed by the Board. Special meetings of the Board may be called by the Board's Chair, the President or by any three directors and shall be held at the principal office of the Corporation, or such other place within the Region as determined by the Chair or the President after consultation with the Board.

(b) Notice. Notice of the dates, times, and places of all regular and special meetings of the Board shall be published by the Secretary and provided to all directors and Members not less than three (3) days prior to the date of the meeting. Notice shall be deemed given by the Corporation to directors and the Members when (a) posted on the Corporation's public website in a reasonably prominent location, and (b) sent by mail, facsimile or reputable overnight delivery service or by electronic transmission to each director and each Member's representative authorized pursuant to Section 6.10.1.

(c) Waiver. Any person entitled to notice of a regular or special meeting of the Board may waive notice thereof. A waiver of notice by a person entitled to notice is effective whether given before, at, or after the meeting, and whether given in writing or by attendance. Attendance by a director at a meeting of the Board is a waiver of notice of that meeting, unless the director objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, or objects before a vote on an item of business because the item may not lawfully be considered at that meeting and does not participate in the consideration of the item at that meeting.

Section 7.9. Quorum. For the Board to take action at a meeting, a quorum of directors must be present. A quorum is a majority of the directors then in office, provided that: (a) if there are three or four independent directors holding office, two independent directors must be present to constitute a quorum, or (b) if there are two independent directors holding office, one independent director must be present to constitute a quorum. If there is only one independent director or no independent directors holding office, there is no requirement that an independent director be present

in order for the Board to have a quorum. In the absence of a quorum, a majority of the directors present may adjourn a meeting, without notice, except as may be given at such meeting, until a quorum is present.

Section 7.10. Board Action. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board, unless the act of a greater number is required by law or these Bylaws.

Section 7.11. Action Without a Meeting. Any action required or permitted to be taken at any meeting of the Board or any committee thereof may be taken without a meeting if all members of the Board or committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceeding of the Board or the committee. Any nonconfidential material provided to the Board or a committee in connection with such action shall be posted on the Corporation's website at approximately the same time that it is given to the Board or the committee. The results of all actions taken by the Board or any committee thereof without a meeting shall be promptly posted on the Corporation's website.

Section 7.12. Action by Electronic Communication. A conference among directors by a means of communication through which the directors may simultaneously hear each other during the conference is a Board meeting if the same notice is given of the conference as would be required for a meeting and if the number of directors participating in the conference is a quorum. Participation in a meeting by this means constitutes personal presence at the meeting. A director may participate in a Board meeting by any means of communication through which the director, other directors participating, and all directors physically present at the meeting may simultaneously communicate with each other during the meeting.

Section 7.13. Board Committees. The Board shall have an audit committee, compensation committee, nominating and governance committee and compliance committee, and such other committees the Board deems necessary and appropriate. Each committee shall be comprised of not less than three directors. The compliance committee shall be comprised of a minimum of five directors, a majority of whom are independent directors. All independent directors shall serve on the compliance committee. The Board may require that a minimum number of independent directors serve on any or all other Board committees. The Board shall have the power to appoint, and to delegate authority to, such other committees of the Board as it determines to be appropriate from time to time. The Board may require any committee to adopt a charter, subject to approval by the Board, governing the activities and authority of the committee and the composition of its members.

Section 7.14. Hearing Body. The Hearing Body shall consist of the Board compliance committee.

7.14.1 Quorum. For the Hearing Body to take action at a hearing, a quorum of members must be present. A quorum is a majority of members of the Hearing Body, provided that two independent directors are present. If a quorum of the Hearing Body does not remain after any recusals and rulings on motions for disqualification, the

compliance committee shall appoint a new member to the Hearing Body from among other directors to create a quorum, provided that the requirement that at least two independent directors are present for a quorum shall at all times continue to be met. Such new member shall serve on the Hearing Body for purposes of the subject hearing through the conclusion of the hearing but not thereafter.

7.14.2 Voting. Each Hearing Body member shall have one vote with respect to matters presented at a hearing. Action may be taken at a hearing at which a quorum is present upon the vote of the majority of members present.

Section 7.15. Public Notice of Board Meetings. Notice to the public of the dates, times and places of Board meetings, including committees thereof, and all nonconfidential material provided to the Board or the committees, shall be posted on the Corporation's website, and notice of Board and committee meetings shall be sent by electronic transmission to Members, at approximately the same time that notice is given to the Board or the committee, as the case may be. Board and committee Meetings shall be open to all Members and the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided, that any meeting may be held in or adjourn to closed session to discuss matters of a confidential nature, including, but not limited to, personnel matters, compliance and enforcement matters, litigation or commercially sensitive or critical infrastructure information of a Member or other Person.

Section 7.16. Posting of Minutes. Minutes of Board and committee meetings shall be posted on the Corporation's website when available.

Section 7.17. Compensation of Directors. The directors elected by the Industry Sectors and the at-large directors shall not receive compensation for their service to the Corporation as directors on the Board. The independent directors shall be entitled to such compensation as the Board may from time to time determine. Nothing contained in these Bylaws shall preclude any director from receiving compensation for services to the Corporation in any other capacity.

ARTICLE VIII. ORGANIZATIONAL GROUPS

Section 8.1. Establishment of Organizational Groups. The Board shall establish such organizational groups, consisting of committees, sub-committees, task forces and working groups of Members, as are necessary and appropriate to accomplish the purposes of the Corporation in an efficient and cost-effective manner. All organizational groups shall be subject to the direction and control of the Board. The membership of organizational groups shall be determined based upon experience, expertise and geographic diversity and to the extent practicable shall include balanced representation of the Industry Sectors. The Board shall establish policies and procedures governing the creation of organizational groups, how they are populated, how voting and related matters are conducted, how they may be reorganized and the direction and termination of such groups. The Board shall conduct a review of all

organizational groups of the Corporation on an annual basis to ensure that the business of the Corporation is conducted in an efficient, cost-effective manner.

Section 8.2. Reimbursement. The Board may authorize reimbursement for persons acting on behalf of the Corporation, as necessary in the interests of the Corporation.

ARTICLE IX. OFFICERS

Section 9.1. Officers. The officers of the Corporation shall include a President, one or more Vice Presidents, a Secretary, a Treasurer and any other officers as may be elected or appointed in accordance with the provisions of this Article. The Board may elect or appoint any additional officers that it deems desirable, such other officers to have the authority and perform the duties prescribed by the Board. The same individual may hold any number of offices, except that of President.

Section 9.2. Election and Term of Office. The officers of the Corporation shall be elected annually by the Board at the annual meeting of the Board. Each officer shall hold office at the pleasure of the Board. If the election of officers is not held at such meeting, such election shall be held as soon thereafter as is convenient. New officers may be created and the positions filled at any meeting of the Board. Each elected officer shall hold office until his or her successor has been duly elected and qualified or upon his or her earlier resignation or removal.

Section 9.3. Removal. Any officer elected by the Board may be removed by the affirmative vote of two-thirds (2/3) of the Board whenever in its judgment the best interests of the Corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the officer so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Section 9.4. Vacancies. A vacancy in any office because of death, incapacity, resignation, removal, disqualification, or otherwise, may be filled by the Board for the unexpired portion of the term.

Section 9.5. President. The President shall:

- (a) be the principal executive and operating officer of the Corporation;
- (b) sign certificates of membership, and may sign any deeds, mortgages, deeds of trust, notes, bonds, contracts or other instruments authorized by the Board to be executed, except in cases in which the signing and execution thereof shall be expressly delegated by the Board or by these Bylaws to some other officer or agent of the Corporation; and
- (c) perform all duties incident to the office of President, including hiring and directing staff, and such other duties as may be prescribed by the Board from time to time.

Section 9.6. Vice Presidents. The Vice President(s) shall perform such duties and have such powers as the Board or President may from time to time prescribe. At the request of the Board, the Vice President (or in the event there be more than one Vice President, the Vice Presidents in the order designated, or in the absence of any designation, then in the order of their election) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President.

Section 9.7. Secretary. The Secretary shall ensure that the following duties are carried out:

- (a) the minutes of the meetings of the Members and of the Board, and each committee thereof, are recorded;
- (b) all required notices are duly given in accordance with these Bylaws and as required by law;
- (c) a register of the current names and addresses of all Members is maintained and posted on the Corporation's website;
- (d) a complete copy of the Certificate of Incorporation and Bylaws of the Corporation containing all amendments thereto are kept on file at all times and posted on the Corporation's website, which copies shall always be open to the inspection of any Member; and
- (e) generally perform all duties incident to the office of Secretary and such other duties as may be prescribed by the Board from time to time.

Section 9.8. Treasurer. The Treasurer shall be responsible for the following activities:

- (a) maintain custody of all funds and securities of the Corporation;
- (b) receipt of and the issuance of receipts for all monies due and payable to the Corporation and for deposit of all such monies in the name of the Corporation in such bank or banks or financial institutions as shall be selected by the Board; and
- (c) generally perform all duties incident to the office of Treasurer and such other duties as may be prescribed by the Board from time to time.

ARTICLE X. CERTIFICATES OF MEMBERSHIP

Section 10.1. Certificates of Membership. The Board may, but need not, provide for the issuance of certificates evidencing membership in the Corporation, which certificates shall be in such form as may be determined by the Board.

ARTICLE XI.
BOOKS AND RECORDS

Section 11.1. Books and Records; Financial Statements. The Corporation shall keep at such office selected by the Board correct and complete copies of its Certificate of Incorporation and Bylaws, accounting records, and minutes of meetings of Members, Board, and committees having any of the authority of the Board. A Member, or the agent or attorney of a Member, may inspect all books and records for any proper purpose at any reasonable time. Upon request, the Corporation shall give the Member a statement showing the financial result of all operations and transactions affecting income and expenses during its last annual accounting period and a balance sheet containing a summary of its assets and liabilities as of the closing date of the accounting period.

ARTICLE XII.
FISCAL YEAR

Section 12.1. Fiscal Year. The fiscal year of the Corporation shall be the calendar year.

ARTICLE XIII.
TRANSFER OF ASSETS

Section 13.1. Member Approval Not Required. Subject to restrictions set forth in the Certificate of Incorporation, the Corporation, by affirmative vote of the Board, may sell, lease, transfer, or dispose of its property and assets in the usual and regular course of its activities and grant a security interest in all or substantially all of its property and assets in the usual and regular course of its activities, upon those terms and conditions and for those considerations, which may be money, securities, or other instruments for the payment of money or other property, as the Board considers expedient, in which case no Member approval is required.

Section 13.2. Member Approval Required. Subject to restrictions set forth in the Certificate of Incorporation, the Corporation may sell, lease, transfer, or dispose of all or substantially all of its property and assets, including its good will, not in the usual and regular course of its activities, upon those terms and conditions and for those considerations, which may be money, securities, or other instruments for the payment of money or other property, as the Board considers expedient only when approved at a regular or special meeting of the Members by the affirmative vote of two-thirds (2/3) of all the Members. Notice of the meeting must be given to the Members. The notice must state that a purpose of the meeting is to consider the sale, lease, transfer, or other disposition of all or substantially all of the property and assets of the Corporation.

ARTICLE XIV.
CONTRACTS, CHECKS, DEPOSITS, AND GIFTS

Section 14.1. Contracts. The Board may authorize any officer or officers or agent or agents of the Corporation, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or may be confined to specific instances.

Section 14.2. Checks, Drafts, or Orders. All checks, drafts, or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Corporation, may be signed by such officer or officers or agent or agents of the Corporation, and in such manner, as shall from time to time be determined by resolution of the Board.

Section 14.3. Deposits. All funds of the Corporation shall be deposited to the credit of the Corporation in such banks, trust companies, or other depositories as the Board may select.

Section 14.4. Gifts. The Board may accept on behalf of the Corporation any contribution, gift, bequest, or devise for any purpose of the Corporation.

ARTICLE XV.
INSURANCE, LIMITATION ON LIABILITY AND INDEMNIFICATION

Section 15.1. Insurance. The President is authorized to procure insurance to protect the Corporation against damages arising out of or related to any directive, order, procedure, action or requirement of the Corporation.

Section 15.2. Limitations on Liability. As provided in Article Fourteenth of the Certificate of Incorporation, a director of the Corporation shall not be personally liable to the Corporation or its Members for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its Members, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law or (iv) for any transaction from which the director derived any improper personal benefit. If the Delaware General Corporation Law is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law, as so amended. Any repeal or modification of Article Fifteenth of these Bylaws by the Members of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.

Section 15.3. Right to Indemnification.

15.3.1 Indemnified Persons. Each person who was or is made a party or is threatened to be made a party to or is involved in or called as a witness in any Proceeding because he or she is an Indemnified Person shall be indemnified and held

harmless by the Corporation to the fullest extent permitted under the Delaware General Corporation Law (the “DGCL”), as the same now exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than the DGCL permitted the Corporation to provide prior to such amendment). Such indemnification shall cover all expenses incurred by an Indemnified Person (including, but not limited to, attorneys’ fees and other expenses of litigation) and all liabilities and losses (including, but not limited to, judgments, fines, ERISA or other excise taxes or penalties and amounts paid or to be paid in settlement) incurred by such person in connection therewith.

15.3.2 Denial of Authorization for Certain Proceedings. Notwithstanding anything to the contrary in this Section 15.3, except with respect to indemnification of Indemnified Persons specified in paragraph 15.3.3 of this Section 15.3, the Corporation shall indemnify an Indemnified Person in connection with a Proceeding (or part thereof) initiated by such person only if authorization for such Proceeding (or part thereof) was not denied by the Board of the Corporation prior to the earlier of 60 days after receipt of notice thereof from such Indemnified Person.

15.3.3 Certain Defined Terms. For purposes of this Section 15.3, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

(1) a “Proceeding” is any investigation, action, suit or proceeding, whether civil, criminal, administrative or investigative, and any appeal therefrom.

(2) an “Indemnified Person” is a person who is, was, or had agreed to become a Director of the Corporation (including, in the case of such person seeking indemnification while serving as a Director who is or was an officer of the Corporation, such person in his capacity as an officer.)

15.3.4 Expenses. Expenses, including attorneys’ fees, incurred by a person indemnified pursuant to paragraph 15.3.1 in defending or otherwise being involved in a Proceeding shall be paid by the Corporation in advance of the final disposition of such Proceeding, including any appeal therefrom, upon receipt of an undertaking (the “Undertaking”) by or on behalf of such person to repay such amount if it shall ultimately be determined that he or she is not entitled to be indemnified by the Corporation; provided that in connection with a Proceeding (or part thereof) initiated by such person, except a Proceeding authorized by paragraph 15.3.5, the Corporation shall pay said expenses in advance of final disposition only if authorization for such Proceeding (or part thereof) was not denied by the Board of the Corporation prior to the earlier of 60 days after receipt of a request for such advancement accompanied by the Undertaking. A person to whom expenses are advanced pursuant hereto shall not be obligated to repay such expenses until the final determination of any pending Proceeding in a court of competent jurisdiction concerning the right of such person to be indemnified or the obligation of such person to repay such expenses.

15.3.5 Protection of Rights. If a claim by an Indemnified Person under paragraph 15.3.1 is not promptly paid in full by the Corporation after a written claim has been

received by the Corporation or if expenses pursuant to paragraph 15.3.4 have not been promptly advanced after a written request for such advancement by an Indemnified Person (accompanied by the Undertaking required by paragraph 15.3.4) has been received by the Corporation, the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim or the advancement of expenses. If successful, in whole or in part, in such suit, such claimant shall also be entitled to be paid the reasonable expense thereof. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any Proceeding in advance of its final disposition where the Undertaking has been tendered to the Corporation that indemnification of the claimant is prohibited by law, but the burden of proving such defense shall be on the Corporation. Neither the failure of the Corporation (including the Board, independent legal counsel, or the Members) to have made a determination, if required, prior to the commencement of such action that indemnification of the claimant is proper in the circumstances, nor an actual determination by the Corporation (including the Board, independent legal counsel, or the Members) that indemnification of the claimant is prohibited, shall be a defense to the action or create a presumption that indemnification of the claimant is prohibited.

15.3.6 Miscellaneous.

(a) Non-Exclusivity of Rights. The rights conferred on any person by this Section 15.3 shall not be exclusive of any other rights which such person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, Bylaw, agreement, vote of Members or disinterested directors or otherwise. The Board shall have the authority, by resolution, to provide for such other indemnification of directors, and such indemnification of officers, delegates, employees, agents, or others of the Corporation as it shall deem appropriate.

(b) Insurance, contracts, and funding. The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee, delegate or agent of the Corporation against any expenses, liabilities or losses, whether or not the Corporation would have the power to indemnify such person against such expenses, liabilities or losses under the DGCL. The Corporation may enter into contracts with any director, officer, or employee of the Corporation in furtherance of the provisions of this Section 15.3 and may create a trust fund, grant a security interest or use other means (including, without limitation, a letter of credit) to ensure the payment of such amounts as may be necessary to effect the advancing of expenses and indemnification as provided in such contracts or as otherwise provided in this Section 15.3.

(c) Contractual nature. The provisions of this Section 15.3 shall continue as to a person who has ceased to be a director and shall inure to the benefit of the heirs, executors and administrators of such person. This Section 15.3 shall be deemed to be a contract between the Corporation and each person who, at any time that this Section 15.3 is in effect, serves or agrees to serve in any capacity which entitles him to indemnification and advancement of expenses hereunder and any repeal or other modification of this Section 15.3 or any repeal

or modification of the DGCL or any other applicable law shall not limit any rights of indemnification for Proceedings then existing or arising out of events, acts or omissions occurring prior to such repeal or modification, including, without limitation, the right to indemnification and advancement of expenses for Proceedings commenced after such repeal or modification to enforce this Section 15.3 with regard to Proceedings arising out of acts, omissions or events arising prior to such repeal or modification.

(d) Cooperation. Each Indemnified Person shall cooperate with the person, persons or entity making the determination with respect to such Indemnified Person's entitlement to indemnification under this Section 15.3, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to such Indemnified Person and reasonably necessary to such determination. Any costs or expenses (including attorneys' fees and disbursements) incurred by such Indemnified Person in so cooperating with the person, persons or entity making such determination shall be borne by the Corporation (irrespective of the determination as to such Indemnified Person's entitlement to indemnification) and the Corporation hereby indemnifies and agrees to hold such Indemnified Person harmless therefrom.

(e) Subrogation. In the event of any payment under this Section 15.3 to an Indemnified Person, the Corporation shall be subrogated to the extent of such payment to all of the rights of recovery of such Indemnified Person, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Corporation to bring suit to enforce such rights.

(f) Severability. If this Section 15.3 or any portion hereof shall be invalidated or held to be unenforceable on any ground by any court of competent jurisdiction, the decision of which shall not have been reversed on appeal, this Section 15.3 shall be deemed to be modified to the minimum extent necessary to avoid a violation of law and, as so modified, this Section 15.3 and the remaining provisions hereof shall remain valid and enforceable in accordance with their terms to the fullest extent permitted by law.

ARTICLE XVI. TRANSITION

Section 16.1. Transition Standards. The Corporation will use the existing standards, criteria, rules or guides from each existing reliability council region for those Members that join the Corporation as in effect immediately prior to formation of the Corporation until such standards, criteria, rules or guides are adopted, superseded, or rejected by the Corporation. The Corporation will establish any necessary transition committees, subcommittees, working groups or task forces to administer the existing regional reliability standards, criteria, rules and guides until they are adopted, superseded, or rejected by the Corporation. The Corporation will employ its best

efforts, within two (2) years of its formation, to work toward a uniform set of Reliability Standards for the entire Region. The Board will develop and implement a standards process and a plan for transition to new Reliability Standards. This process will include a requirement that two-thirds of the directors present at a meeting must vote to adopt new Reliability Standards.

ARTICLE XVII.
PARTICIPATION BY REGULATORY PARTICIPANTS

Section 17.1. Regulatory Participants. All Regulatory Participants shall be entitled to and be provided with the same rights to notice of and participation in meetings or other activities of the Corporation as are provided to Members, but shall not have the right to vote.

ARTICLE XVIII.
BUDGET AND BUSINESS PLAN

Section 18.1. Budget and Business Plan. Each annual budget and business plan of the Corporation shall be approved by the Board in sufficient time in each fiscal year to allow for timely submittal of the approved annual budget and business plan to NERC in accordance with the NERC Rules. The Corporation shall post a draft of each budget and business plan on the Corporation's website for purposes of review and comment by the Members at least ten (10) days prior to the Board meeting at which the budget and business plan are to be approved.

ARTICLE XIX.
AMENDMENT OF BYLAWS

Section 19.1. Amendment Of Bylaws. The power to adopt, amend or repeal these Bylaws is vested in the Members as set forth in Section 6.6.3 of these Bylaws; provided, however, that upon the passage of any federal electric reliability legislation, and/or the adoption of any rules or regulations of the Commission, NERC or other governmental entity with jurisdiction, the Board shall have authority to amend these Bylaws as necessary and appropriate to comply with such law, legislation, rules and regulations.

Exhibit C – Regional Standard Development Procedure

Exhibit C shall set forth the Regional Entity's standards development procedure, which NERC agrees meets the following common attributes:

COMMON ATTRIBUTE 1

Proposed regional reliability standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA [add reference to any applicable authorities in Canada and Mexico]. No regional reliability standard shall be effective within the [Regional Entity Name] area unless filed by NERC with FERC [and applicable authorities in Canada and Mexico] and approved by FERC [and applicable authorities in Canada and Mexico].

COMMON ATTRIBUTE 2

[Regional Entity Name] regional reliability standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. A [Regional Entity Name] reliability standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. A regional reliability standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

COMMON ATTRIBUTE 3

[Regional Entity Name] regional reliability standards, when approved by FERC [add applicable authorities in Canada], shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the [Regional Entity Name] area, regardless of membership in the region.

COMMON ATTRIBUTE 4

Requester — The requester is the sponsor of the regional reliability standard request and may assist in the development of the standard. Any member of [Regional Entity Name], or group within [Regional Entity Name] shall be allowed to request that a regional reliability standard be developed, modified, or withdrawn. Additionally, any entity (person, organization, company, government agency, individual, etc.) that is directly and materially affected by the reliability of the bulk power system in the [Regional Entity Name] area shall be allowed to request a regional reliability standard be developed, modified, or withdrawn.

COMMON ATTRIBUTE 5

[Standards or other named] committee — The [Regional Entity Name] [standards] committee manages the standards development process. The [standards] committee will consider which requests for new or revised standards shall be assigned for development (or existing standards considered for deletion). The [standards] committee will advise the [Regional Entity Name] board on standards presented for adoption.

COMMON ATTRIBUTE 6

[Alternative 6A: For a Regional Entity that chooses to vote using a balanced stakeholder committee.]

The [standards] committee is a balanced stakeholder committee, inclusive of all stakeholder interests that provide for or are materially impacted by the reliability of the bulk power system. [The [standards] committee votes to approve standards.] See Appendix A for the representation model of the [standards] committee.

[Alternative 6B: For a Regional Entity that chooses to vote using a balanced ballot body of stakeholders.]

[Registered ballot body] — The registered ballot body comprises all entities or individuals that qualify for one of the stakeholder segments; are registered with [Regional Entity Name] as potential ballot participants in the voting on standards; and are current with any designated fees. Each member of the registered ballot body is eligible to vote on standards. [Each standard action has its own ballot pool formed of interested members of the registered ballot body. Each ballot pool comprises those members of the registered ballot body that respond to a pre-ballot survey for that particular standard action indicating their desire to participate in such a ballot pool.] The representation model of the registered ballot body is provided in Appendix A.]

COMMON ATTRIBUTE 7

[Regional Entity Name] will coordinate with NERC such that the acknowledgement of receipt of a standard request identified in step 1, notice of comment posting period identified in step 4, and notice for vote identified in step 5 below are concurrently posted on both the [Regional Entity Name] and NERC websites.

COMMON ATTRIBUTE 8

An acceptable standard request shall contain a description of the proposed regional reliability standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed standard.

COMMON ATTRIBUTE 9

Within [no greater than 60] days of receipt of a completed standard request, the [standards] committee shall determine the disposition of the standard request.

COMMON ATTRIBUTE 10

The [standards] committee may take one of the following actions:

- Accept the standard request as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The [standards] committee may, at its discretion, expand or narrow the scope of the standard request under consideration. The [standards] committee shall prioritize the development of standard in relation to other proposed standards, as may be required based on the volume of requests and resources.
- Reject the standard request. If the [standards] committee rejects a standard request, a written explanation for rejection will be delivered to the requester within [no greater than 30] days of the decision.
- Remand the standard request back to the requester for additional work. The standards process manager will make reasonable efforts to assist the requester in addressing the deficiencies identified by the [standards] committee. The requester may then resubmit the modified standard request using the process above. The requester may choose to withdraw the standard request from further consideration prior to acceptance by the [standards] committee.

COMMON ATTRIBUTE 11

Any standard request that is accepted by the [standards] committee for development of a standard (or modification or deletion of an existing standard) shall be posted for public viewing on the [Regional Entity Name] website within [no greater than 30] days of acceptance by the committee.

COMMON ATTRIBUTE 12

The standards process manager shall submit the proposed members of the drafting team to the [standards] committee. The [standards] committee shall approve the drafting team membership within 60 days of accepting a standard request for development, modifying the recommendations of the standards process manager as the committee deems appropriate, and assign development of the proposed standard to the drafting team.

COMMON ATTRIBUTE 13

At the direction from the [standards] committee, the standards process manager shall facilitate the posting of the draft standard on the [Regional Entity Name] website, along with a draft implementation plan and supporting documents, for a no less than a [30]-day comment period. The standards process manager shall provide notice to [Regional Entity Name] stakeholders and other potentially interested entities, both within and outside of the [Regional Entity Name] area, of the posting using communication procedures then currently in effect or by other means as deemed appropriate.

COMMON ATTRIBUTE 14

The drafting team shall prepare a summary of the comments received and the changes made to the proposed standard as a result of these comments. The drafting team shall summarize comments that were rejected by the drafting team and the reason(s) that these comments were rejected, in part or whole. The summary, along with a response to each comment received will be posted on the [Regional Entity Name] website no later than the next posting of the proposed standard.

COMMON ATTRIBUTE 15

Upon recommendation of the drafting team, and if the [standards] committee concurs that all of the requirements for development of the standard have been met, the standards process manager shall post the proposed standard and implementation plan for ballot and shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

COMMON ATTRIBUTE 16

The standards process manager shall schedule a vote by the [Regional Entity Name] [registered ballot body/[standards] committee]. The vote shall commence no sooner than [15] days and no later than [30] days following the issuance of the notice for the vote.

COMMON ATTRIBUTE 17

[Alternative 17A: For an RE that chooses to vote using a balanced stakeholder committee.]

The [standards] committee shall give due consideration to the work of the drafting team, as well as the comments of stakeholders and minority objections, in approving a proposed regional reliability standard for submittal to the [Regional Entity Name] board. The [standards]

committee may vote to approve or not approve the standard. Alternatively, the [standards] committee may remand the standard to the drafting team for further work or form a new drafting team for that purpose.

[Alternative 17B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

The [Regional Entity Name] registered ballot body shall be able to vote on the proposed standard during a period of [not less than 10] days.

COMMON ATTRIBUTE 18

[Alternative 18A: For an RE that chooses to vote using a balanced stakeholder committee.]

The [standards] committee may not itself modify the standard without issuing a new notice to stakeholders regarding a vote of the modified standard.

[Alternative 18B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

All members of [Regional Entity Name] are eligible to participate in voting on proposed new standards, standard revisions or standard deletions. [Alternatively: Each standard action requires formation of a ballot pool of interested members of the registered ballot body.]

COMMON ATTRIBUTE 19

[Alternative 19A: For an RE that chooses to vote using a balanced stakeholder committee.]

Actions by the committee shall be recorded in the regular minutes of the committee.

[Alternative 19B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

Approval of the proposed regional reliability standard shall require a [two thirds] majority in the affirmative (affirmative votes divided by the sum of affirmative and negative votes). Abstentions and non-responses shall not count toward the results, except that abstentions may be used in the determination of a quorum. A quorum shall mean [XX%] of the members of the [registered ballot body/ballot pool] submitted a ballot.

COMMON ATTRIBUTE 20

Under no circumstances may the board substantively modify the proposed regional reliability standard.

COMMON ATTRIBUTE 21

Once a regional reliability standard is approved by the board, the standard will be submitted to NERC for approval and filing with FERC [and applicable authorities in Canada and Mexico.]

COMMON ATTRIBUTE 22

- **Open** - Participation in the development of a regional reliability standard shall be open to all organizations that are directly and materially affected by the [Regional Entity Name] bulk power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in [Regional Entity Name], and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to the [Regional Entity Name] members and others.

COMMON ATTRIBUTE 23

- **Balanced** - The [Regional Entity Name] standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.

COMMON ATTRIBUTE 24

- **Inclusive** — Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the [Regional Entity Name] area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.

COMMON ATTRIBUTE 25

- **Fair due process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.

COMMON ATTRIBUTE 26

- **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.

COMMON ATTRIBUTE 27

- Does not unnecessarily delay development of the proposed reliability standard.

COMMON ATTRIBUTE 28

Each standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

COMMON ATTRIBUTE 29

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all regional reliability standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

COMMON ATTRIBUTE 30

To ensure uniformity of regional reliability standards, a regional reliability standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

COMMON ATTRIBUTE 31

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

COMMON ATTRIBUTE 32

Applicability	<p>Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions.</p> <p>If not applicable to the entire [Regional Entity Name] area, then a clear identification of the portion of the bulk power system to which the standard applies.</p> <p>Any limitation on the applicability of the standard based on electric facility requirements should be described.</p>
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COMMON ATTRIBUTE 33

Measure(s)	<p>Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.</p>
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COMMON ATTRIBUTE 34

Compliance Monitoring Process	<p>Defines for each measure:</p> <ul style="list-style-type: none"> • The specific data or information that is required to measure performance or outcomes. • The entity that is responsible for providing the data or information for measuring performance or outcomes. • The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes. • The entity that is responsible for evaluating data or
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	<p>information to assess performance or outcomes.</p> <ul style="list-style-type: none">• The time period in which performance or outcomes is measured, evaluated, and then reset.• Measurement data retention requirements and assignment of responsibility for data archiving.
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Reliability*First* Corporation Reliability Standards Development Procedure

Reliability*First* Reliability Standards Development Procedure
Board Approval December 6th, 2007
Standards Committee Modified April 1st, 2008 - Board Concurrence May 22nd, 2008

Reliability *First* Corporation Reliability Standards Development Procedure

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Reliability *First* Reliability Standards Development Procedure

Board Approval December 6th, 2007

Standards Committee Modified April 1st, 2008 - Board Concurrence May 22nd, 2008

Reliability*First* Corporation Reliability Standards Development Procedure

Introduction

This procedure establishes the process for adoption of a Regional Reliability Standard¹ (hereinafter referred to as “Standard”) of the Reliability*First* Corporation (Reliability*First*) and the development of consensus for adoption, approval, revision, reaffirmation, and deletion of such Standards¹. Reliability*First* Standards provide for the reliable regional and sub-regional planning and operation of the Bulk Power System² (BPS), consistent with Good Utility Practice² within the Reliability*First* geographical footprint.

This procedure was developed under the direction of the Reliability*First* Board of Directors (Board), who may request changes to this Reliability*First* Reliability Standards Development Procedure (hereinafter referred to as “this Procedure”) as deemed appropriate. A procedure for revising this Procedure is contained in Appendix A. This Procedure is consistent with the North American Electric Reliability Council (NERC) Reliability Standards Development Procedure.

Proposed Standards shall be subject to approval by NERC, as the electric reliability organization, and by the Federal Energy Regulatory Commission (FERC) before becoming mandatory and enforceable under Section 215 of the FPA. No Standard shall be effective within the Reliability*First* area unless filed by NERC with FERC and approved by FERC.

Reliability*First* Standards shall provide for as much uniformity as possible with NERC reliability standards across the interconnected BPS. A Reliability*First* Standard shall be more stringent than a NERC reliability standard, including a regional difference that addresses matters that the NERC reliability standard does not, or shall be a regional difference necessitated by a physical difference in the BPS. A Reliability*First* Standard that satisfies the statutory and regulatory criteria for approval of proposed NERC reliability standards, and that is more stringent than a NERC reliability standard, would generally be acceptable.

Reliability*First* Standards, when approved by FERC, shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable BPS owners, operators, and users within the Reliability*First* area, regardless of membership in the region.

¹ Legacy standards, such as ECAR Documents, MAIN Guides, and MAAC Procedures shall be considered Reliability*First* Regional Reliability Standards for the purposes of this document until otherwise acted upon by the Reliability*First* Board

² As defined in the Reliability*First* By-laws Board Approval December 6th, 2007

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Background

Regions may develop, through their own processes, separate “Regional Standards” (Reliability*First* Standards) that go beyond, add detail to, or implement NERC reliability standards, or otherwise address issues that are not addressed in NERC reliability standards.

As a condition of Reliability*First* membership, all Reliability*First* Members² agree to adhere to the NERC reliability standards. As such, the Reliability*First* and its Members will adhere to the NERC reliability standards in addition to the Reliability*First* Standards. NERC reliability standards and the Reliability*First* Standards are both to be included within the Reliability*First* Compliance Program.

Reliability*First* Standards are intended to apply only to that part of the Eastern Interconnection within the Reliability*First* geographical footprint. The development of these Reliability*First* Standards is developed according to the following principles via the process contained within this Procedure:

- Developed in a fair and open process that provided an opportunity for all interested parties to participate;
- Does not have an adverse impact on commerce that is not necessary for reliability;
- Provides a level of BPS reliability that is adequate to protect public health, safety, welfare, and national security and would not have a significant adverse impact on reliability; and
- Based on a justifiable difference between Regions or between sub-Regions within the Regional geographic area.

² As defined in the Reliability*First* By-laws
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Regional Reliability Standard Definition, Characteristics, and Elements

Definition of a Reliability Standard

As contained in the ReliabilityFirst By-laws, ReliabilityFirst “Regional Reliability Standard” shall mean a type of Reliability Standard that is applicable only within a particular Regional Entity or group of Regional Entities. A Regional Reliability Standard may augment, add detail to, or implement another Reliability Standard or cover matters not addressed by other Reliability Standards. Regional Reliability Standards, upon adoption by NERC and approval by the Commission, shall be Reliability Standards and shall be enforced within the applicable Regional Entity or Regional Entities pursuant to delegated authorities.

Inherent in this definition, a ReliabilityFirst Standard will define certain obligations or requirements of entities that own, operate, plan, and use the BPS within the ReliabilityFirst geographical footprint. These obligations or requirements as contained in the ReliabilityFirst Standards are to be measurable consistent with Good Utility Practice. Standards are not to include processes or procedures that implement a Standard. In addition, obligations, requirements or procedures imposed upon ReliabilityFirst by NERC reliability standards are not to be ReliabilityFirst Standards, unless those obligations, requirements or procedures require the establishment of a “policy or standard” as defined by the ReliabilityFirst By-laws.

Characteristics of a Regional Reliability Standard

A Standard is policy or standard, including adequacy criteria to provide for the reliable regional and sub-regional planning and operation of the BPS, consistent with Good Utility Practice

A Standard shall generally have the following characteristics:

- **Measurable** - A Standard shall establish technical or performance requirements that can be practically measured.
- **Relative to NERC Reliability Standards** - A Standard generally must go beyond, add detail to, or implement NERC Reliability Standards, or cover matters not addressed in NERC Reliability Standards.

Format Requirements of a Regional Reliability Standard

A Standard shall consist of the format requirements shown in the Regional Reliability Standard Template. These requirements apply to the development and revision of Standards. These requirements are necessary to achieve Standards that are measurable,

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enforceable, and consistent. Supporting documents to aid in the implementation of a Standard may be referenced by the Standard but are not part of the Standard itself.

Regional Reliability Standard Format Requirement Template

Identification Number	A unique identification number assigned in accordance with an administrative classification system to facilitate tracking and reference ReliabilityFirst documentation.
Title	A brief, descriptive phrase identifying the topic of the Standard.
Applicability	Clear identification of the functional classes of entities responsible for complying with the Standard, noting any specific additions or exceptions. If not applicable to the entire ReliabilityFirst area, then a clear identification of the portion of the BPS to which the Standard applies. Any limitation on the applicability of the Standard based on electric facility requirements should be described.
Effective Date and Status	The effective date of the Standard or, prior to approval of the Standard, the proposed effective date.
Purpose	The purpose of the Standard. The purpose shall explicitly state what outcome will be achieved or is expected by this Standard.
Requirement(s)	Explicitly stated technical, performance, and preparedness requirements. Each requirement identifies what entity is responsible and what action is to be performed or what outcome is to be achieved. Each statement in the requirements section shall be a statement for which compliance is mandatory.

Risk Factor(s)	<p>The potential reliability significance of each requirement, designated as a High, Medium, or Lower Risk Factor in accordance with the criteria listed below:</p> <p>A High Risk Factor requirement (a) is one that, if violated, could directly cause or contribute to BPS instability, separation, or a cascading sequence of failures, or could place the BPS at an unacceptable risk of instability, separation, or cascading failures; or (b) is a requirement in a planning timeframe that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly cause or contribute to BPS instability, separation, or a cascading sequence of failures, or could place the BPS at an unacceptable risk of instability, separation, or cascading failures, or could hinder restoration to abnormal condition.</p> <p>A Medium Risk Factor requirement (a) is a requirement that, if violated, could directly affect the electrical state or the capability of the BPS, or the ability to effectively monitor and control the BPS, but is unlikely to lead to BPS instability, separation, or cascading failures; or (b) is a requirement in a planning timeframe that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly affect the electrical state or capability of the BPS, or the ability to effectively monitor, control, or restore the BPS, but is unlikely, under emergency, abnormal, or restoration conditions anticipated by the preparations, to lead to BPS instability, separation, or cascading failures, nor to hinder restoration to a normal condition.</p> <p>A Lower Risk Factor requirement is administrative in nature and (a) is a requirement that, if violated, would not be expected to affect the electrical state or capability of the BPS, or the ability to effectively monitor and control the BPS; or (b) is a requirement in a planning time frame that, if violated, would not, under the emergency, abnormal, or restorative conditions anticipated by the preparations, be expected to affect the electrical state or capability of the BPS, or the ability to effectively monitor, control, or restore the BPS.</p>
Measure(s)	<p>Each requirement shall be addressed by one or more measurements. Measurements that will be used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measurement identifies to whom the measurement applies. Each measurement shall be tangible, practical, and as objective as is practical. Achieving the full compliance level of each measurement should be a necessary and sufficient indicator that the requirement was met.</p>

Compliance Administration Elements

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Compliance Monitoring Process	Defines for each measure: <ul style="list-style-type: none">• The specific data or information that is required to measure performance or outcomes.• The entity that is responsible to provide the data or information for measuring performance or outcomes.• The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes.• The entity that is responsible for evaluating data or information to assess performance or outcomes.• The time period in which performance or outcomes is measured, evaluated, and then reset.• Measurement data retention requirements and assignment of responsibility for data archiving.• Violation severity levels.
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Supporting Information Elements

Interpretations	Any Reliability <i>First</i> interpretations of the Standards that were developed, and approved in accordance with the “Interpretation of Standards” section of this Procedure, to expound on the application of the Standard for unusual or unique situations or provide clarifications.
Implementation Plan	Each Reliability <i>First</i> Standard shall have an associated implementation plan describing the effective date of the Standard or effective dates if there is a phased implementation. The implementation plan may also describe the implementation of the Standard in the compliance program and other considerations in the initial use of the Standard, such as necessary tools, training, etc. The implementation plan must be posted for at least one public comment period and is approved as part of the ballot of the standard.
Supporting References	This section references related documents that support reasons for, or otherwise provide additional information related to the Standard Examples include, but are not limited to: <ul style="list-style-type: none"> • Glossary of Terms • Developmental history of the Standard and prior versions • Subcommittee(s) responsible for Standard • Notes pertaining to implementation or compliance • Standard references • Procedures/Practices • Training and/or Technical Reference

Roles in the Regional Reliability Standards Development Process

Process Roles

Originator - Any entity (person, organization, company, government agency, individual, etc.) that is directly and materially affected by the reliability of the Reliability*First* BPS, is allowed to request a Standard be developed or an existing Standard is modified, or deleted, by creating a Standards Authorization Request (SAR). See Appendix B.

Board – The Reliability*First* Board shall act on any proposed Standard that has gone through the process contained in this Procedure. Once the Reliability*First* Board approves a Standard, compliance with the Standard will be enforced consistent with the By-laws and the terms of the Standard.

Standards Committee (SC) - The Reliability*First* SC will consider which requests for new or revised Standards shall be assigned for development (or existing Standards considered for deletion). The SC manages the Standards development process. The SC

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will advise the ReliabilityFirst Board on Standards presented for adoption by the ReliabilityFirst Board.

Standards Process Manager (SPM) – A person or persons on the ReliabilityFirst staff assigned the task of ensuring that the development, revision or deletion of Standards is in accordance with this Procedure. The SPM works to ensure the integrity of the process and consistency of quality and completeness of the Standards. The SPM facilitates the administration of all actions contained in all steps in the process.

Standards Process Staff – Employees of the ReliabilityFirst that work with or for the SPM.

Interim Compliance Committee (ICC) – The ReliabilityFirst committee responsible for the administration of the ReliabilityFirst Compliance Program. The duties of this committee includes, but not limited to, providing inputs and comments during the standards development process to ensure the measures will be effective and other aspects of the Compliance Program can be practically implemented.

Standard Drafting Team (SDT) – Normally a team of technical experts, and typically includes a member of the ReliabilityFirst Standards staff and the Originator, assigned the task of developing a proposed Standard based upon an approved SAR using the Standard development process contained in this Procedure.

Ballot Body (BB) – The Ballot Body comprises all entities that qualify for one or more of the categories and are registered with ReliabilityFirst as potential ballot participants in the voting on standards. The categories of registration within the Ballot Body and the registration process are described in Appendix D.

Ballot Pool – The Ballot Pool is comprised of those members of the Ballot Body that register to vote for each particular standard that is up for vote. A separate Ballot Pool is established for each standard up for vote. Only individuals who have joined the Ballot Pool for that particular standard are eligible to vote on a standard.

Regional Reliability Standard Development Process (Flow chart of Process shown in Appendix C)

Assumptions and Prerequisites

The ReliabilityFirst Regional Reliability Standards Development Process has the following characteristics:

- **Fair due process** - The ReliabilityFirst standards development process shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the

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proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.

- **Openness** - Participation is open to all Organizations who are directly and materially affected by the Reliability*First* region BPS reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in the Reliability*First*, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of SDTs are open to the Reliability*First* membership and to others.
- **Balanced** - The Reliability*First* standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.
- **Inclusive** - Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the BPS in the Reliability*First* area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.
- **Transparent** - All actions material to the development of Reliability*First* Standards shall be transparent. All standards development meetings shall be open and publicly noticed on Reliability*First*'s Web site.
- Does not unnecessarily delay development of the proposed Standard.

Note: The term “days” refers to calendar days.

Each standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional BPS. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

While Reliability*First* Standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that BPS reliability and electricity markets are inseparable and mutually interdependent, all Reliability*First* Standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

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ReliabilityFirst will coordinate with NERC such that the acknowledgement of receipt of a standard request identified in step 1, notice of comment posting period identified in step 4, and notice for vote identified in step 5 below are concurrently posted on both the ReliabilityFirst and NERC websites.

Step 1 - Development of a Standards Authorization Request (SAR) to Develop, Revise or Delete a Regional Reliability Standard

Any individual representing an organization (Originator) which is directly or materially impacted by the operation of the BPS within the geographical footprint of the ReliabilityFirst may request, via a submittal of a Standard Authorization Request (SAR) form, the development, modification, or deletion of a ReliabilityFirst Standard. Any such request shall be submitted to the ReliabilityFirst SPM, or his/her designee, or by another process as otherwise posted on the ReliabilityFirst website. The SAR form may be downloaded from the ReliabilityFirst website.

The SAR contains a description of the proposed Standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed Standard. The SPM will verify that the submitted SAR form has been adequately completed. The SPM may offer the Originator suggestions regarding changes and/or improvements to improve clarity and assist the ReliabilityFirst community to understand the Originator's intent and objectives. The Originator is free to accept or reject these suggestions. Within 15 days the SPM will electronically acknowledge receipt of the SAR.

The SPM will forward all adequately completed SARs to the ReliabilityFirst SC. Within 60 days of receipt of an adequately completed SAR, the SC shall determine the disposition of the SAR. The disposition decision and decision process shall use the normal "business rules and procedures" of the SC then in effect. The SC may take one of the following actions:

- Accept the SAR as a candidate for: development of a new Standard, revision of an existing Standard or deletion of an existing Standard. The SC may, in its sole discretion, expand or narrow the scope of the SAR under consideration. The SC shall prioritize the development of SARs as may be required based on the number of SARs under development at any time.
- Reject the SAR. If the SC rejects a SAR, a written explanation for rejection will be delivered to the Originator within 30 days of the decision.
- Remand the SAR back to the Originator for additional work. The SPM will make reasonable efforts to assist the Originator in addressing the deficiencies identified by the SC. The Originator may then resubmit the modified SAR using the process above. The Originator may choose to withdraw the SAR from further consideration prior to re-submittal to the SC

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Any SAR that is accepted by the SC for development of a Standard (or modification or deletion of an existing Standard) shall be posted for public viewing on the ReliabilityFirst website within no greater than 30 days of acceptance by the SC. The status of posted SARs will be publicly noted at regularly scheduled (appropriately two weeks) intervals.

Any documentation of the deliberations of the SC concerning SARs shall be made available according to the “ReliabilityFirst Standards Committee Governance” document then in effect.

The SC shall submit a written report to the ReliabilityFirst Board on a periodic basis (at least at every regularly scheduled ReliabilityFirst Board meeting) showing the status of all SARs that have been brought to the SC for consideration.

Step 2 – Formation of the Standard Drafting Team and Declaration of Milestone Date

Upon acceptance by the SC of a SAR for development of a new Standard (or modification or deletion of an existing Standard), the SC shall direct the SPM to develop a qualified balance slate for the SDT using the specific directions and preferences of the SC. The SPM will send out self-nomination forms to solicit SDT nominees. The SDT will consist of a group of people (members of ReliabilityFirst and, as appropriate, non-members) who collectively have the necessary technical expertise and work process skills. The SPM will recommend a slate of ad-hoc individuals or a preexisting task force, work group or similar for the SDT based upon the SC’s desired SDT capabilities.

The SC may also direct the SPM to designate an existing ReliabilityFirst committee (or subset thereof) as the SDT augmented by other persons as may be appropriate for the subject matter. The SC will insure that SDT membership includes all necessary administrative support. This support typically includes a ReliabilityFirst staff member and the Originator if he/she chooses to participate. The SC appoints the interim chair (should not be a staff person) of the SDT. The SDT will elect the permanent Chair and Vice-chair at its first meeting.

The SPM submits the proposed list of names of the SDT to the SC. The SC will either accept the recommendations of the SPM or modify the SDT slate, as it deems appropriate within 60 days of accepting a SAR for development.

Upon approval of the SDT slate, the SC will declare a preliminary date on which the SDT is expected to have ready a completed draft Standard and associated supporting documentation available for consideration by the ReliabilityFirst membership.

Step 3 – Work and Work Product of the Standard Drafting Team

The SDT will then develop a work plan for completing the Standard development work, including the establishment of milestones for completing critical elements of the work in sufficient detail to ensure that the SDT will meet the date objective established by the SC

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or the SDT shall propose an alternative date. This plan is then delivered to the SC for its concurrence.

The SDT is to meet, either in person or via electronic means as necessary, establish sub-work teams (made up of members of the SDT) as necessary, and performs other activities to address the parameters of the SAR and the milestone date(s) established by the SC.

The work product of the SDT will consist of the following:

- A draft Standard consistent with the SAR on which it was based.
- An assessment of the impact of the SAR on neighboring regions, and appropriate input from the neighboring regions if the SAR is determined to impact any neighboring region.
- An implementation plan, including the nature, extent and duration of field-testing, if any.
- Identification of any existing Standard that will be deleted, in part or whole, or otherwise impacted by the implementation of the draft Standard.
- Technical reports, white papers and/or work papers that provide technical support for the draft Standard under consideration.
- Document the perceived reliability impact should the Standard be approved.

Upon completion of these tasks, the SDT submits these documents to the SC, which will verify that the proposed Standard is consistent with the SAR on which it was developed

The SDT regularly (at least once each month) informs the SC of its progress in meeting a timely completion of the draft Standard. The SDT may request of the SC scope changes of the SAR at any point in the Standard development process.

The SC may, at any time, exercise its authority over the Standards development process by directing the SDT to move to Step 4 and post for comment the current work product. If there are competing drafts, the SC may, at its sole discretion, have posted the version(s) of the draft Standard for comment on the *ReliabilityFirst* website. The SC may take this step at any time after a SDT has been commissioned to develop the Standard.

Step 4 – *Comment Posting Period*

At the direction from the SC, the SPM then facilitates the posting of the draft Standard on the *ReliabilityFirst* website, along with a draft implementation plan and supporting documents, for a 30-day comment period. The SPM shall also inform *ReliabilityFirst* Members and other potentially interested entities inside or outside of *ReliabilityFirst* of the posting using typical membership communication procedures then currently in effect or by other means as deemed appropriate. As early as the start of the first posting for comment, entities may join one of the five categories of the Ballot Pool established for the eventual voting on the proposed standard being posted. The Ballot Pool category description and associated requirements are in Appendix D.

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Within 30 days of the conclusion of 30-day comment posting period the SDT shall convene and consider changes to the draft Standard, the implementation plan and/or supporting technical documents based upon comments received. Based upon these comments, the SDT may elect to return to step 3 to revise the draft Standard, implementation plan and/or supporting technical documentation.

The SDT shall prepare a “modification report” summarizing the comments received and the changes made as a result of these comments. The modification report also summarizes comments that were rejected by the SDT and the reason(s) that these comments were rejected, in part or whole. Responses to all comments will be posted on the ReliabilityFirst website no later than the next posting of the proposed Standard.

Step 5 – Posting for Voting by ReliabilityFirst Registered Ballot Body

Upon recommendation of the SDT, and if the SC concurs that all of the requirements for development of the Standard have been met, the SPM will post the revised draft Standard, implementation plan, supporting technical documentation and the “modification report”. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

Entities may register in the BB at any time during the Standards process. The BB category description and associated rules are in Appendix D.

By 11:59 PM Central Prevailing Time (CPT) of the seventh day of the 15 day pre ballot posting period, registered BB entities intending to vote on the proposed standard must have joined one of the five categories of the Ballot Pool established for the eventual voting on the proposed standard being posted. The SPM will schedule a Vote by the Ballot Pool which is to be scheduled to commence no sooner than 15 days and no later than 30 days following this posting. The Vote by the Ballot Pool is an advisory to the ReliabilityFirst Board.

The Ballot Pool shall be allowed to vote over a period of 15 days. It is expected that votes will be submitted electronically, but may be submitted through other means as approved by the SC.

All entities registered as part of the BB are eligible to participate in voting on proposed new Standards, Standard revisions or Standard deletions. There is a requirement to separately join a Ballot Pool to participate in voting for each standard. Each entity can join only in one category of the Ballot Pool and shall have one vote.

The voting results will be composed of only the votes from BB entities that have joined the Ballot Pool for the standard being voted on and responding within the 15 day voting period. Votes may be accompanied by comments explaining the vote, but are not required. All comments shall be responded to and posted to the ReliabilityFirst website prior to going to the SC or Board.

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Step 6A – Voting Receives Simple Majority of Affirmative Category Votes

A simple majority³ of votes within a category determines the vote for that category. If there is a simple affirmative majority of category votes (only those categories with votes cast will be considered) during the 15-day voting period and a quorum is met (a quorum consists of a simple majority of individuals who have joined the Ballot Pool), the SC will forward the Standard to the Reliability*First* Board for action (Step 7).

Step 6B – Voting Does Not Receive Simple Majority of Affirmative Category Votes or a Quorum is Not Met

If a draft Standard does not receive a simple affirmative majority of votes determined for each category (only those categories with votes cast will be considered) during the 15-day voting period or a quorum is not met during the 15-day voting period, the SC may:

- Direct the existing SDT to reconsider or modify certain aspects of the draft Standard and/or implementation plan. The resulting draft Standard and/or implementation plan will be posted for a second voting period. The SC may require a second comment period prior to the second voting period. The second posting of the draft Standard, implementation plan, and supporting documentation shall be within 60 days of the SC action.
 - If there is a simple affirmative majority of categories with votes cast and a quorum is met during the second voting period, the SC will forward it to the Reliability*First* Board for action (Step 7).
 - If a draft Standard does not receive a simple majority of affirmative category votes cast during the second voting period or a quorum is not met, the SC will refer the draft Standard and implementation plan to the Reliability*First* Board. The SC may also submit an assessment, opinion and recommendations to the Reliability*First* Board (Step 7).
- Revise the SAR on which the draft Standard was based and remand the development work back to the original SDT or a newly appointed SDT. The resulting draft Standard and/or implementation plan will be posted for a second voting period. The SC may require a second comment period prior to a second voting period. The second posting of the draft Standard, implementation plan, and supporting documentation shall be within 60 days of the SC action.
 - If there is a simple affirmative majority of categories with votes cast during the second voting period and a quorum is met, the SC will forward it to the Reliability*First* Board for action (Step 7).

³ For the purposes of determining majority within a category, an abstention is not considered a vote.
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- If a draft Standard does not receive a simple majority of affirmative category votes cast during the second voting period or a quorum is not met, the SC will refer the draft Standard and implementation plan to the *ReliabilityFirst* Board. The SC may also submit an assessment, opinion and recommendations to the *ReliabilityFirst* Board (Step 7).
- Recommend termination of all work on the development of the Standard action under consideration and so notify the *ReliabilityFirst* Board.

Step 7 – Action by the ReliabilityFirst Board

A draft Standard submitted to the *ReliabilityFirst* Board for action must be publicly posted at least 30 days prior to action by the Board. At a regular or special meeting, the *ReliabilityFirst* Board shall consider adoption of the draft Standard. The Board will consider the results of the voting and dissenting opinions. The Board will consider any advice offered by the SC.

Draft Standards that received a simple affirmative majority of categories with votes cast shall be delivered to the *ReliabilityFirst* Board for their action. The *ReliabilityFirst* Board shall be provided with an “informational package” which includes:

- The draft Standard and any modification or deletion of other related existing Standard(s)
- Implementation Plan (including recommending field testing and effective dates)
- Technical Documentation supporting the draft Standard
- A summary of the vote and summary of the comments and responses that accompanied the votes.

The *ReliabilityFirst* Board is expected to either:

- Approve the draft Standard action with only minor or no modification. Under no circumstances may the Board substantively modify the proposed regional reliability standard.
- Remand to the SC with comments and instructions, or
- Disapprove the draft Standard action without recourse.

Draft Standards that did not receive a simple affirmative majority of categories with votes cast in the second voting period shall be delivered to the *ReliabilityFirst* Board for their action. The *ReliabilityFirst* Board shall be provided with an “informational package”.

The *ReliabilityFirst* Board is expected to either:

- Approve the draft Standard action with only minor or no modification. Under no circumstances may the Board substantively modify the proposed regional reliability standard.

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- Remand to the SC with comments and instructions, or
- Disapprove the draft Standard action without recourse.

Once a regional Reliability*First* Standard is approved by the Board, the standard will be submitted to NERC for approval and filing with FERC.

Step 8 - Implementation of a Regional Reliability Standard

Upon approval of a draft Standard action by FERC, the SPM will notify the membership of the effective date through the normal and customary membership communication procedures and processes then in effect. The SPM will also notify the Reliability*First* Compliance Staff for integration into the Reliability*First* Compliance Program.

Appendix A

Maintenance of Regional Reliability Standards Development Process

Significant changes to this Procedure shall begin with the preparation of a SAR and be handled using the same procedure as a request to add, modify, or delete a Standard.

The Reliability*First* SC has the authority to make ‘minor’ changes to this Procedure as deemed appropriate by the SC and subject to the SC voting practices and procedures according to the “Reliability*First* Standards Committee Governance” document then in effect. The SC shall promptly notify the Reliability*First* Board of such ‘minor’ changes to this Procedure for their review and concurrence at the next Reliability*First* Board meeting.

Maintenance of Regional Reliability Standards

The SC shall ensure that each Standard shall be reviewed at least once every five years from the effective date of the Standard or the latest revision to the Standard, whichever is the later. The review process shall be conducted by soliciting comments from the stakeholders. If no changes are warranted, the SC shall recommend to the Reliability*First* Board that the Standard be reaffirmed. If the review indicates a need to revise or delete a Standard, a SAR shall be prepared and submitted in accordance with the standards development process contained in this Procedure.

Urgent Action

Under certain conditions, the SC may designate a proposed Standard or revision to a Standard as requiring urgent action. Urgent action may be appropriate when a delay in implementing a proposed Standard or revision could materially impact reliability of the BPS. The SC must use its judgment carefully to ensure an urgent action is truly necessary and not simply an expedient way to change or implement a Standard.

A requester prepares a SAR and a draft of the proposed Standard and submits both to the SPM. The SAR must include a justification for urgent action. The SPM submits the request to the SC for its consideration. If the SC designates the requested Standard or revision as an urgent action item, then the SPM shall immediately post the draft for pre-ballot review. This posting requires a minimum 30-day posting period before the ballot and applies the same voting procedure as detailed in Step 5. Processing will continue as outlined in the subsequent steps. In the event additional drafting is required, a SDT will be assembled as outlined in the Procedure.

Any Standard approved as an urgent action shall have a termination date specified that shall not exceed one year from the approval date. Should there be a need to make the Standard permanent, then the Standard would be required to go through the full Standard

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development process. All urgent action Standards require ReliabilityFirst Board, NERC and FERC approval, as outlined for Standards in the regular process.

Urgent actions that expire may be renewed using the urgent action process again, in the event a permanent Standard is not adopted. In determining whether to authorize an urgent action Standard for a renewal ballot, the SC shall consider the impact of the Standard on the reliability of the BPS and whether expeditious progress is being made toward a permanent replacement Standard. The SC shall not authorize a renewal ballot if there is insufficient progress toward adopting a permanent replacement Standard or if the SC lacks confidence that a reasonable completion date is achievable. The intent is to ensure that an urgent action Standard does not in effect take on a degree of permanence due to the lack of an expeditious effort to develop a permanent replacement Standard. With these principles, there is no predetermined limit on the number of times an urgent action may be renewed. However, each urgent action Standard renewal shall be effective only upon approval by the ReliabilityFirst Board, NERC and FERC.

Any person or entity, including the SDT working on a permanent replacement Standard, may at any time submit a SAR proposing that an urgent action Standard become a permanent Standard by following the full Standards process.

Interpretations of Standards

All persons who are directly and materially affected by the reliability of ReliabilityFirst BPS shall be permitted to request an interpretation of the standard. The person requesting an interpretation will send a request to the SPM explaining the specific circumstances surrounding the request and what clarifications are required as applied to those circumstances. The request should indicate the material impact to the requesting party or others caused by the lack of clarity or a possibly incorrect interpretation of the standard.

The SPM, along with guidance from the SC, will assemble a team with the relevant expertise to address the request. The Interpretation Drafting Team (IDT) typically consists of members from the original SDT. The SPM submits the proposed list of names of the IDT to the SC. The SC will either accept the recommendations of the SPM or modify the IDT slate.

As soon as practical (not more than 45 days), the team will draft a written interpretation to the standard addressing the issues raised. Once the IDT has completed a draft interpretation to the Standard addressing only the issues raised, the team will forward the draft interpretation to the SPM. The SPM will forward the draft interpretation to the Interim Compliance Committee (ICC). The ICC is to assess if the inclusion of the interpretation lessens the measurability of the Standard. In addition, the SPM will forward the interpretation to the Reliability Committee (RC). Barring receipt of an opinion from either the ICC or RC within 21 calendar days, that the interpretation sufficiently lessens measurability or is not technically appropriate for the Standard, respectively, the SPM will forward the interpretation to the SC. The SC will determine if

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the interpretation is consistent with the Standard. The SC will forward the interpretation to the Reliability *First* Board for informational purposes as being appended to the approved Standard.

Note: In the event that the ICC determines that measurability is lessened, the ICC shall provide an explanation of its reasoning to the SPM and IDT for inclusion in a subsequent revision. The RC shall in a similar manner provide an explanation of its reasoning if it determines that the interpretation makes the standard technically inappropriate. In either case, the IDT and SPM will continue to re-circulate the interpretation as stated above.

The interpretation will stand until such time as the standard is revised through the normal process, at which time the standard will be modified to incorporate the clarifications provided by the interpretation.

Appeals

Persons who have directly and materially affected interests and who have been or will be adversely affected by any substantive or procedural action or inaction related to the development, approval, revision, reaffirmation, or withdrawal of a Standard shall have the right to appeal. This appeals process applies only to the Standards process as defined in this Procedure.

The burden of proof to show adverse effect shall be on the appellant. Appeals shall be made within 30 days of the date of the action purported to cause the adverse effect, except appeals for inaction, which may be made at any time. In all cases, the request for appeal must be made prior to the next step in the process.

The final decisions of any appeal shall be documented in writing and made public.

The appeals process provides two levels, with the goal of expeditiously resolving the issue to the satisfaction of the participants:

Level 1 Appeal

Level 1 is the required first step in the appeals process. The appellant submits a complaint in writing to the SPM that describes the substantive or procedural action or inaction associated with a Standard or the standards process. The appellant describes in the complaint the actual or potential adverse impact to the appellant. Assisted by any necessary staff and committee resources, the SPM shall prepare a written response addressed to the appellant as soon as practical but not more than 45-days after receipt of the complaint. If the appellant accepts the response as a satisfactory resolution of the issue, both the complaint and response will be made a part of the public record associated with the standard.

Level 2 Appeal

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If after the Level 1 Appeal the appellant remains unsatisfied with the resolution, as indicated by the appellant in writing to the SPM, the SPM shall convene a Level 2 Appeals Panel. This panel shall consist of five members total appointed by the Reliability*First* Board.

In all cases, Level 2 Appeals Panel members shall have no direct affiliation with the participants in the appeal.

The SPM shall post the complaint and other relevant materials and provide at least 30-days notice of the meeting of the Level 2 Appeals Panel. In addition to the appellant, any person that is directly and materially affected by the substantive or procedural action or inaction referenced in the complaint shall be heard by the panel. The panel shall not consider any expansion of the scope of the appeal that was not presented in the Level 1 Appeal. The panel may in its decision find for the appellant and remand the issue to the SC with a statement of the issues and facts in regard to which fair and equitable action was not taken. The panel may find against the appellant with a specific statement of the facts that demonstrate fair and equitable treatment of the appellant and the appellant's objections. The panel may not, however, revise, approve, disapprove, or adopt a reliability standard. The actions of the Level 2 Appeals Panel shall be publicly posted.

In addition to the foregoing, a procedural objection that has not been resolved may be submitted to the Reliability*First* Board for consideration at the time the Board decides whether to adopt a particular reliability standard. The objection must be in writing, signed by an officer of the objecting entity, and contain a concise statement of the relief requested and a clear demonstration of the facts that justify that relief. The objection must be filed no later than 30-days after the announcement of the vote on the Standard in question.

Appendix B

Standard Authorization Request

The SC shall be responsible for implementing and maintaining this form as needed to support the information requirements of the standards development process in this Procedure. Changes to this form are considered minor, and therefore subject to only the approval of the SC.

ReliabilityFirst Standard Authorization Request Form

**ReliabilityFirst
will complete**

Title of Proposed Standard
Request Date

ID
Authorized for Posting
Authorized for Development

SAR Originator Information

Name	SAR Type (Check box for one of these selections.)	
Company	<input type="checkbox"/>	New Standard
Telephone	<input type="checkbox"/>	Revision to Existing Standard
Fax	<input type="checkbox"/>	Withdrawal of Existing Standard
E-mail	<input type="checkbox"/>	Urgent Action

Purpose (Provide one or two sentences.)

Industry Need (Provide one or two sentences.)

Board Approval December 6th, 2007

Standards Committee Modified April 1st, 2008 - Board Concurrence May 22nd, 2008

Brief Description (A few sentences or a paragraph.)

Reliability Functions

The Standard will Apply to the Following Functions (Check box for each one that applies.)

	Reliability Authority	Ensures the reliability of the bulk transmission system within its Reliability Authority area. This is the highest reliability authority.
	Balancing Authority	Integrates resource plans ahead of time, and maintains load-interchange-resource balance within its metered boundary and supports system frequency in real time
	Generator Owner	Owns and maintains generating units
	Interchange Authority	Authorizes valid and balanced Interchange Schedules
	Planning Authority	Plans the BPS
	Resource Planner	Develops a long-term (generally one year and beyond) plan for the resource adequacy of specific loads (customer demand and energy requirements) within a Planning Authority Area
	Transmission Planner	Develops a long-term (generally one year and beyond) plan for the reliability (adequacy) of the interconnected bulk electric transmission systems within its portion of the Planning Authority Area
	Transmission Service Provider	Provides transmission services to qualified market participants under applicable transmission service agreements
	Transmission Owner	Owns transmission facilities
	Transmission Operator	Operates and maintains the transmission facilities, and executes switching orders
	Distribution Provider	Provides and operates the “wires” between the transmission system and the customer

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	Generator Operator	Operates generating unit(s) and performs the functions of supplying energy and Interconnected Operations Services
	Purchasing-Selling Entity	The function of purchasing or selling energy, capacity and all necessary Interconnected Operations Services as required
	Load-Serving Entity	Secures energy and transmission (and related generation services) to serve the end user
	Market Operator	Integrates energy, capacity, balancing, and transmission resources to achieve an economic, reliability-constrained dispatch of resources. The dispatch may be either cost-based or bid-based
	Regional Reliability Organizations	An entity that ensures that a defined area of the BPS is reliable, adequate and secure. A member of the North American Electric Reliability Council. The Regional Reliability Organization can serve as the Compliance Monitor

NOTE: The SDT may find it necessary to modify the initial reliability function responsibility assignment as a result of the standards development and comments received.

Reliability Principles

<i>Applicable Reliability Principles (Check box for all that apply.)</i>	
	1. Interconnected BPS shall be planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions as defined in the NERC Standards.
	2. The frequency and voltage of interconnected BPS shall be controlled within defined limits through the balancing of real and reactive power supply and demand.
	3. Information necessary for the planning and operation of interconnected BPS shall be made available to those entities responsible for planning and operating the systems reliably.
	4. Plans for emergency operation and system restoration of interconnected BPS shall be developed, coordinated, maintained, and implemented.
	5. Facilities for communication, monitoring, and control shall be provided, used, and maintained for the reliability of interconnected BPS.
	6. Personnel responsible for planning and operating interconnected BPS shall be trained, qualified, and have the responsibility and authority to implement actions.
	7. The security of the interconnected BPS shall be assessed, monitored, and maintained on a wide-area basis.

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Market Interface Principles

<i>Does the proposed Standard comply with all of the following Market Interface Principles?</i>	
Recognizing that reliability is an essential requirement of a robust North American economy:	
yes or no	1. A reliability standard shall not give any market participant an unfair competitive advantage.
yes or no	2. A reliability standard shall neither mandate nor prohibit any specific market structure.
yes or no	3. A reliability standard shall not preclude market solutions to achieving compliance with that standard.
yes or no	4. A reliability standard shall not require the public disclosure of commercially sensitive information. All market participants shall have equal opportunity to access commercially non-sensitive information that is required for compliance with reliability standards.

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Detailed Description (Provide enough detail so that an independent entity familiar with the industry could draft a Standard based on this description.)

Related Standards (NERC and Regional)

Standard No.	Explanation

Related SARs

SAR ID	Explanation

Implementation Plan

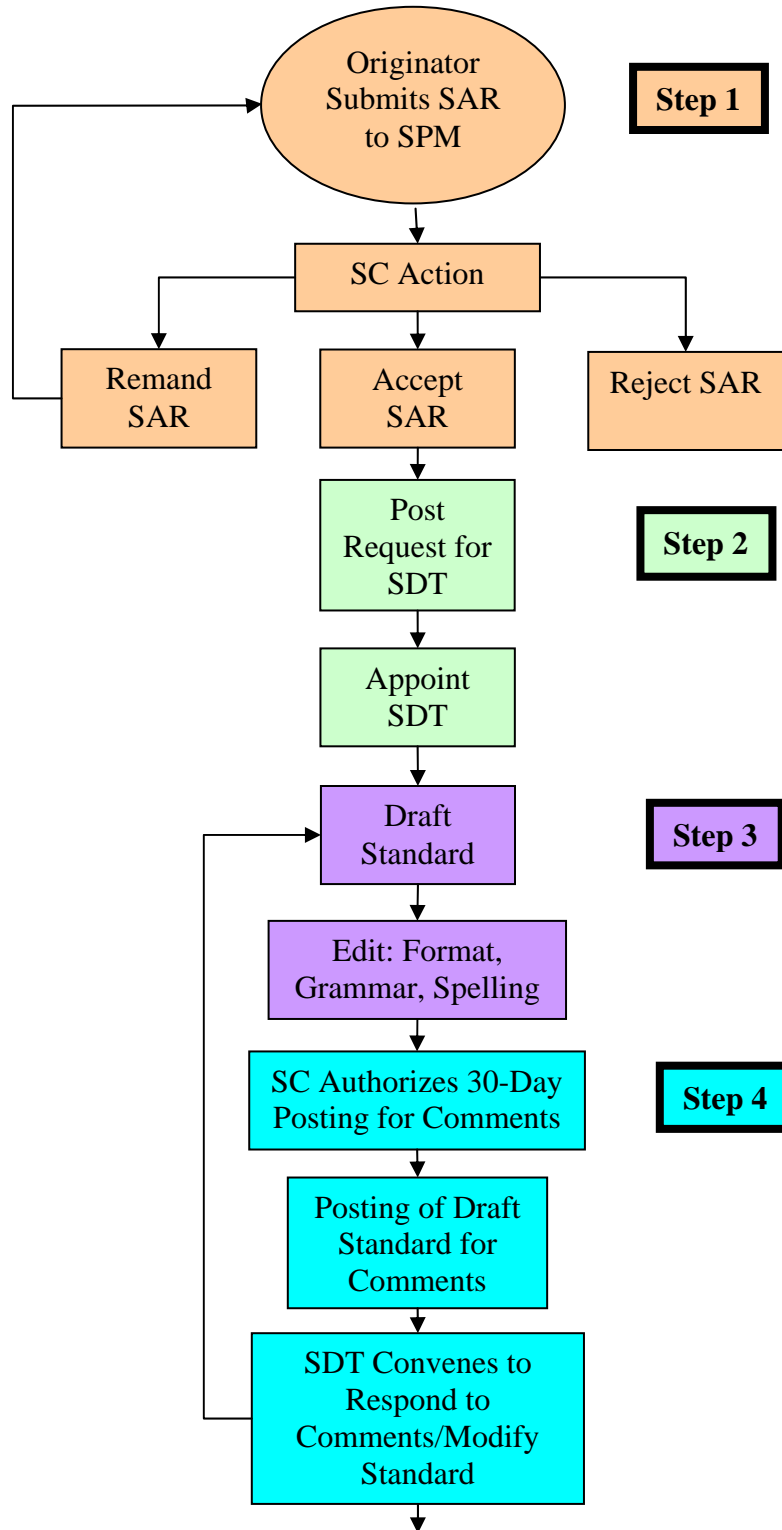
Description <i>(Provide plans for the implementation of the proposed standard, including any known systems or training requirements. Include the reliability risk(s) associated with the violation that the standard will mitigate, and the costs associated with implementation.)</i>
Proposed Implementation days after Board adoption or
on (date):

Assignments

	<i>Assignment</i>
Team Members	
ReliabilityFirst Staff	

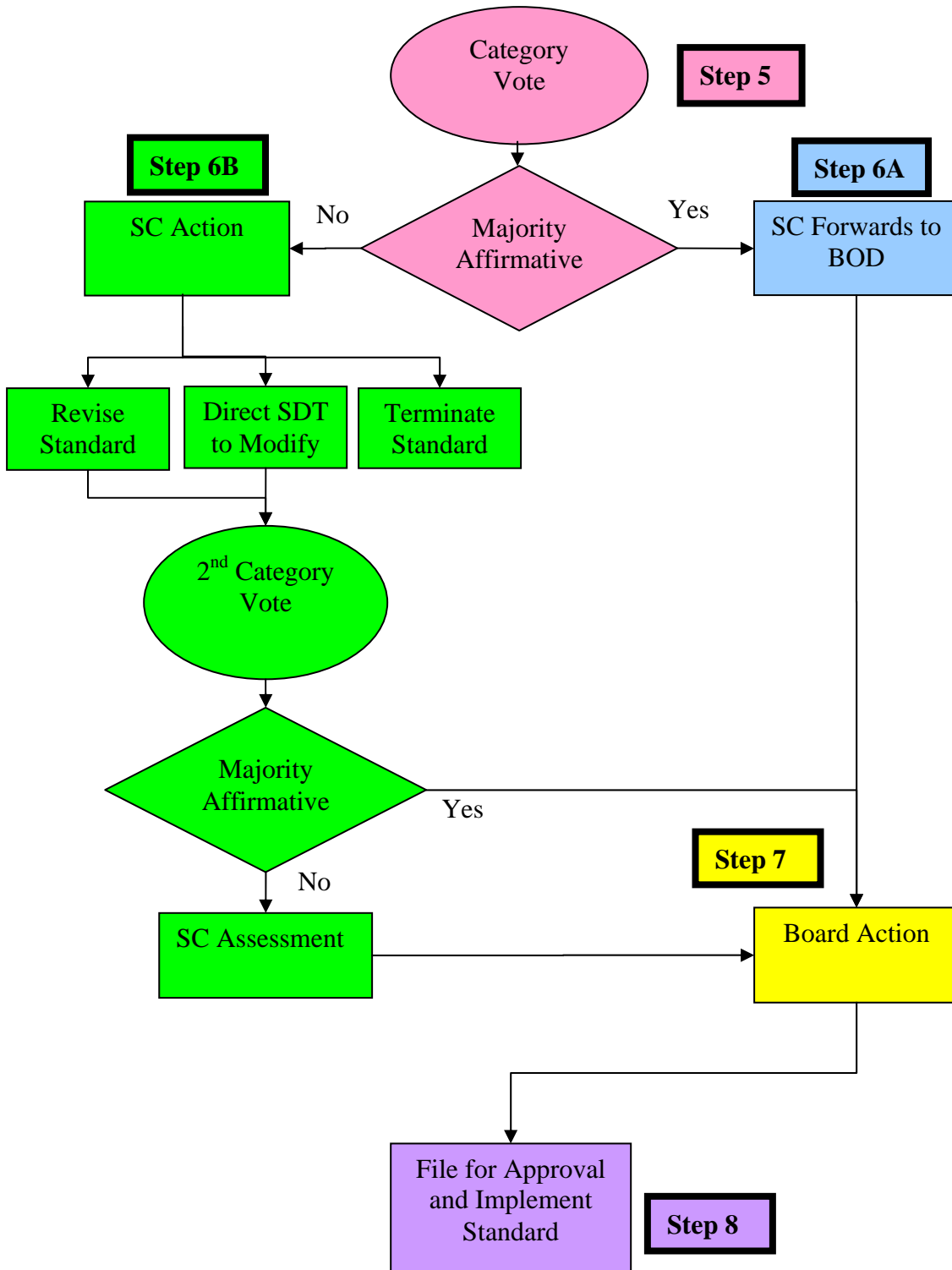
Appendix C

Flowchart for Standards Process



Board Approval December 6th, 2007

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Appendix D

Ballot Pool Categories

For the purposes of category Ballot Pool registration and voting, an entity shall register in only one of the following categories for each standard that will be voted on (only one vote is allowed per entity per vote):

Category 1 – Transmission Owner, Transmission Operator, Transmission Service Provider

Category 2 – Generator Owner, Generator Operator

Category 3 – Load Serving Entity, Purchasing and Selling Entity, End User

Category 4 – Reliability Coordinator, Planning Coordinator, Transmission Planner, Resource Planner, Regional Transmission Organization, Balancing Authority, regulatory or governmental agency

Category 5 – Distribution Provider

Ballot Body Registration

Entities may register in the BB at any time during the Standards process. The SPM shall review all applications for joining the BB, and make a determination of whether they qualify for the self-selection category(ies). In order to comment or vote you must have an active membership in the BB. When you submit your registration request to join the BB, you are placed in a “pending stage” until your account is activated. Activation of your account may take up to 24 hours. You will be unable to submit comments or join a Ballot Pool until your account is activated. The contact designated as primary representative to ReliabilityFirst is the voting member with the secondary contact as the backup.

Note: Registration for a BB is not the same as registration for the compliance registry. Although the terminology used to describe the BB categories in most cases has the same meaning as the terms used in the NERC Functional Model, registration in a BB goes beyond the compliance registry in that entities smaller than those stated in the compliance registry guidelines are allowed to register in a BB. Entities shall have evidence that they qualify for the BB category they register in. Such evidence shall be available for the SPM review to verify BB registration and may include compliance registration.

Ballot Pool Formation

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In order to participate in voting on a particular standard, an entity must join the Ballot Pool being established for the standard as follows:

1 – As early as the start of the first posting for comment, entities may join one of the five categories of the Ballot Pool established for the eventual voting on the proposed standard being posted.

2 - By close of business of the seventh day of the 15 day pre ballot posting period, entities wishing to vote must have joined one of the five categories of the Ballot Pool established for the eventual voting on the proposed standard being posted.

EXHIBIT D – COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

~~[REGIONAL ENTITY]~~ReliabilityFirst will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within ~~[REGIONAL ENTITY]~~ReliabilityFirst's geographic or electrical boundaries, and such other scope, set forth on **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

~~[REGIONAL ENTITY]~~ReliabilityFirst shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either ~~[REGIONAL ENTITY]~~ReliabilityFirst's board or a balanced compliance panel reporting directly to ~~[REGIONAL ENTITY]~~ReliabilityFirst's board. ~~[REGIONAL ENTITY]~~ReliabilityFirst's hearing body is ~~[its board] [if not the board, insert the name of the committee or group serving as the hearing body]~~a composition of members of the ReliabilityFirst Compliance Committee as established by the Board of Directors of ReliabilityFirst as set out in the ReliabilityFirst Compliance Committee Charter. No two industry sectors may control any decision and no single segment may veto any matter brought before the Hearing Body either before or after any recusals or disqualifications.

~~[If the hearing body is a compliance panel other than the board, provide here a description of how the members of the compliance panel are selected and the qualifications to be selected for the compliance panel.]~~

~~[REGIONAL ENTITY]~~ReliabilityFirst shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: ~~[Describe any deviations, or state "None". If there are deviations from the NERC pro forma Hearing Procedures, [REGIONAL ENTITY]'s Hearing Procedures shall be included as a separate attachment to this Exhibit D.]~~

3.0 OTHER DECISION-MAKING BODIES

~~If [Regional Entity] uses other decision-making bodies within its compliance program, provide here a description of the function of that body to the extent not described elsewhere in the Agreement or exhibits, how the members of that body are selected, and the qualifications to be selected for that body.]~~

None.

Exhibit E — Funding

1. Scope of activities funded through the ERO funding mechanism

~~{Regional Entity}~~ReliabilityFirst shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and ~~{Regional Entity}~~ReliabilityFirst, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of ~~{Regional Entity}'s}~~ReliabilityFirst's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require ~~{Regional Entity}~~ReliabilityFirst (i) to submit to NERC draft(s) of ~~{Regional Entity}~~ReliabilityFirst's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by ~~{Regional Entity}~~ReliabilityFirst Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of ~~{Regional Entity}~~ReliabilityFirst's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The ~~{Regional Entity}~~ReliabilityFirst business plan and budget submission shall include supporting materials, including ~~{Regional Entity}~~ReliabilityFirst's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. ~~{Regional Entity}~~ReliabilityFirst's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve ~~{Regional Entity}~~ReliabilityFirst's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct ~~{Regional Entity}~~ReliabilityFirst to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~{Regional Entity}~~ReliabilityFirst's approved business plan and budget and proposed assessments to the

Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of ~~[REGIONAL ENTITY]~~ReliabilityFirst's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. ~~[Regional Entity]~~ReliabilityFirst shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying ~~[Regional Entity's]~~ReliabilityFirst's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of ~~[Regional Entity's]~~ReliabilityFirst's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

~~[IF NERC WILL BILL AND COLLECT ASSESSMENTS DIRECTLY FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):]~~

(a) NERC shall submit invoices to the load-serving entities or designees identified by ~~[Regional Entity]~~ReliabilityFirst covering the NERC and ~~[Regional Entity]~~ReliabilityFirst assessments approved for collection.

~~[IF THE REGIONAL ENTITY WILL ACT AS THE BILLING AND COLLECTION AGENT ON BEHALF OF NERC TO BILL AND COLLECT ASSESSMENTS FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):]~~

~~(a) NERC and [Regional Entity] agree that [Regional Entity] shall act as the billing and collection agent on behalf of NERC to bill and collect [Regional Entity]'s assessments from load-serving entities and designees (or such other entities as agreed by NERC and [Regional Entity]). [Regional Entity] agrees that it shall (i) issue all invoices to load-serving entities and other entities in a prompt and timely manner after receipt from NERC of the information needed to issue the invoices; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC in a timely manner, as follows: Prior to the start of each calendar quarter, and once per week thereafter until all billings for the quarter are collected, [Regional Entity] will electronically transfer to NERC, in immediately available funds, all payments received by [Regional Entity] from load-serving entities or other entities for payment of invoices. On the same day that [Regional Entity] makes each electronic transfer of funds to NERC, [Regional Entity] shall send an e-mail to the Chief Financial Officer or Controller of NERC detailing the collections being transmitted, including a listing of the load-serving entities or~~

~~other entities from which payments were collected and the amount collected from each entity. [Note: If NERC and Regional Entity have a different collection and payment arrangement, the preceding two sentences will be modified accordingly to describe it.]~~

~~[Regional Entity] agrees that it shall not in any way use its position as billing and collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of Reliability Standards (including Regional Reliability Standards and Regional Variances), administration of the compliance monitoring and enforcement program and other compliance and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of [Regional Entity's] budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this Agreement.~~

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from ERO Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, ~~[Regional Entity]~~ReliabilityFirst shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, ~~[Regional Entity]~~ReliabilityFirst is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within ~~[REGIONAL ENTITY]~~ReliabilityFirst's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within ~~[Regional Entity]~~ReliabilityFirst's region.

(c) Upon approval by ERO Governmental Authorities of ~~[Regional Entity]~~ReliabilityFirst's annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay ~~[Regional Entity's]~~ReliabilityFirst's annual assessment to Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by ~~[Regional Entity]~~ReliabilityFirst, other than penalty monies received from an operational function or division or affiliated entity of ~~[Regional Entity]~~ReliabilityFirst, shall be applied as a general offset to ~~[Regional Entity]~~ReliabilityFirst's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of ~~[Regional Entity]~~ReliabilityFirst shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for ~~[Regional Entity]~~ReliabilityFirst's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as “statutory activities”), ~~[Regional Entity]~~ReliabilityFirst performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): ~~[List and describe all non-statutory activities performed by Regional Entity, or state “None”.]~~None

~~[Regional Entity]~~ReliabilityFirst shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: ~~[List and describe the methods and procedures Regional Entity employs to keep costs and funding of statutory activities separate from costs and funding of non-statutory activities, including at a minimum a description of how Regional Entity’s bank accounts and receivables/payables procedures are set up for both statutory and non-statutory functions, a description of how Regional Entity ensures each employee involved in both statutory and non-statutory functions keeps accurate time records reflecting his/her activities, and a description of how Regional Entity’s general and administrative costs are allocated between statutory activities and non-statutory activities. If the necessary descriptions are lengthy they may be provided in a separate attachment labeled “Attachment E-1”, and state here “See Attachment E-1.”~~ ~~If Regional Entity has listed no non-statutory functions in the preceding paragraph, state here “Not applicable.”]~~

~~[Regional Entity]~~ReliabilityFirst shall provide its budget for such non-statutory activities to NERC at the same time that ~~[Regional Entity]~~ReliabilityFirst submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. ~~[Regional Entity's]~~ReliabilityFirst's budget for non-statutory activities that is provided to NERC shall contain a detailed list of ~~[Regional Entity's]~~ReliabilityFirst's non-statutory activities and a description of the funding sources for the non-statutory activities. ~~[Regional Entity]~~ReliabilityFirst agrees that no costs (which shall include a reasonable allocation of ~~[Regional Entity]~~ReliabilityFirst's general and administrative costs) of non-statutory activities are to be included in the calculation of ~~[Regional Entity's]~~ReliabilityFirst's assessments, dues, fees, and other charges for its statutory activities. Not applicable

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if ~~[Regional Entity]~~ReliabilityFirst determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, ~~[Regional Entity]~~ReliabilityFirst shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in ~~[Regional Entity]~~ReliabilityFirst's approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct ~~[Regional Entity]~~ReliabilityFirst to make such revisions as NERC deems appropriate prior to approval.

NERC shall submit ~~{Regional Entity}~~ReliabilityFirst's approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Statements

NERC shall conduct reviews of the quarterly and annual financial statements submitted by ~~{Regional Entity}~~ReliabilityFirst pursuant to Section 9(h) and (i) of the Agreement. ~~{Regional Entity}~~ReliabilityFirst shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC based on its reviews.

ATTACHMENT 5C

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

RELIABILITY*FIRST* CORPORATION

COMPLIANCE COMMITTEE CHARTER



COMPLIANCE COMMITTEE CHARTER

The Board of Directors of ReliabilityFirst Corporation ("ReliabilityFirst") has established a Compliance Committee (the "Committee") with the general responsibilities and specific duties as described below. Capitalized terms used herein and defined shall have the meanings set forth in the Bylaws of ReliabilityFirst.

COMPOSITION

The Committee shall be comprised of five (5) directors, three (3) of whom shall be independent directors according to independence standards established under the governance guidelines adopted by the Board. Committee members shall be elected by the Board at its annual meeting and shall serve until their successors are duly elected and qualified. The Committee shall have a chair and a vice chair. The vice chair shall assume the duties of the chair in the absence of the chair at any meeting. The Committee's chair and vice chair shall both be independent directors designated by the full Board upon the recommendation of the Nominating and Governance Committee.

RESPONSIBILITY

The primary purpose of the Committee will be to: (i) oversee the processes and procedures used by ReliabilityFirst to monitor compliance with and enforce Reliability Standards (including Regional Standards) in the Region, (ii) review and evaluate ReliabilityFirst's compliance and enforcement program, (iii) monitor the compliance and enforcement activities of ReliabilityFirst, and (iv) serve as the Hearing Body for disputes relating to noncompliance with Reliability Standards in accordance with ReliabilityFirst's hearing procedures.

ATTENDANCE AND VOTING

Members of the Committee should endeavor to be present, in person or by telephone, at all meetings; however, three (3) Committee members shall constitute a quorum, provided a majority of the members at a meeting are independent directors. Each member of the Committee, including the chair, shall be entitled to one vote on each matter presented before the Committee. Action by the Committee may be taken at any duly called meeting at which a quorum is present upon the vote of a majority of the members present.

MINUTES OF MEETINGS

Minutes of each meeting shall be prepared and sent to Committee members and presented to ReliabilityFirst Directors who are not members of

the Committee at the next regularly scheduled Board meeting. The Committee's minutes will be kept by the person so designated by the chair with a copy retained by the Secretary of ReliabilityFirst.

SPECIFIC DUTIES

The Committee will:

1. Review and evaluate ReliabilityFirst's compliance monitoring and enforcement program, including the hearing and settlement procedures included therein.
2. Recommend for adoption by the Board amendments to or modifications of the compliance monitoring and enforcement program as necessary or appropriate.
3. Review the status of the ReliabilityFirst compliance registry for Registered Entities in the Region.
4. Solicit, receive, and review on a regular basis information from the ReliabilityFirst compliance staff regarding: (i) compliance audits conducted by the compliance staff, (ii) self-certification and self-reporting by Registered Entities, (iii) complaints received by ReliabilityFirst alleging violations of Reliability Standards, and (iv) compliance violation investigations conducted by the compliance staff.
5. Act as the Hearing Body under the compliance monitoring and enforcement program's hearing procedures.
6. Oversee ReliabilityFirst's annual compliance implementation plan.
7. Review the sanctions and penalties imposed by the compliance staff in connection with violations of Reliability Standards.
8. Consider any input provided by Registered Entities on compliance issues and ReliabilityFirst's compliance and enforcement activities.
9. Review information from the compliance staff regarding significant compliance issues.
10. Perform other activities as requested by the Board.
11. Conduct an evaluation of the Committee's performance and charter at least annually, and adopt such Committee Charter changes, as the Committee deems appropriate, subject to approval by the Board
12. Report regularly to the Board regarding the Committee's activities.

APPOINTMENT OF ADVISORS

The Committee shall have the sole authority to retain, and approve the fees and other retention terms of, legal and other advisors, as it deems necessary for the fulfillment of its responsibilities.

ADOPTION AND APPROVAL

As adopted by the Compliance Committee and approved by the Board of Directors on February 25, 2010.

ATTACHMENT 6A

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED DELEGATION AGREEMENT

WITH

SERC RELIABILITY CORPORATION

CLEAN VERSION



Thomas J. Galloway, Interim President and CEO
SERC Reliability Corporation
2815 Coliseum Centre Drive | Suite 500
Charlotte, NC 28217
704.357.7372 | Fax 704.357.7914 | www.serc1.org

May 3, 2010

Mr. David Cook
Vice President & General Counsel
NERC
1120 G St. NW, Suite 990
Washington, DC 20005

Re: Revised SERC Reliability Corporation Regional Delegation Agreement

Dear David:

The SERC Reliability Corporation (SERC) Board of Directors passed the motion below regarding the Revised and Amended Regional Delegation Agreement during the April 28, 2010 SERC Board of Directors meeting:

The SERC Board of Directors approves the revised Delegation Agreement under the terms and conditions set forth therein and authorizes the SERC Board Executive Committee to make any necessary non-substantive changes and amendments.

Pursuant to your request, SERC is hereby providing the final SERC Regional Delegation Agreement to you for presentation to the NERC Board of Trustees.

Please do not hesitate to contact me with questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'T.J. Galloway', is written over a light blue horizontal line.

T.J. Galloway
Interim President and CEO

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND SERC RELIABILITY CORPORATION**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”) made as of [January 1, 2011], between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and SERC Reliability Corporation (“SERC”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified on **Exhibit A** to this Agreement, and for other purposes. NERC and SERC may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824n) (hereafter “the Act”), which, among other things, provides for the establishment of an electric reliability organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as SERC provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, SERC is not organized on an Interconnection-wide basis and therefore is not entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through SERC to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that SERC meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and SERC, having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective

responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and SERC agree as follows:

1. **Definitions.** The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) **Breach** means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) **Cross-Border Regional Entity** means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) **Delegated Authority** means the authority delegated by NERC to SERC to propose and enforce Reliability Standards pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. **Representations.**

(a) For purposes of its Delegated Authority, SERC hereby represents and warrants to NERC that:

(i) SERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. SERC is governed in accordance with its bylaws by a balanced stakeholder board. Pursuant to these bylaws, no two industry sectors can control any SERC decision and no single industry sector can veto any SERC decision. The relevant portions of such bylaws are attached hereto in **Exhibit B¹**, and as so attached are in full force and effect. No other such corporate governance documents are binding upon SERC.

(ii) As set forth in **Exhibit C** hereto², SERC has developed a standards development procedure, which provides the process that SERC may use to develop Regional Reliability Standards [and Regional Variances, if the regional entity is organized on an Interconnection-wide basis] that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, SERC has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within SERC's geographic boundaries as shown on **Exhibit A**.

(b) NERC hereby represents and warrants to SERC that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

3. **Covenants.**

(a) During the term of this Agreement, SERC shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC's approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of SERC under this Agreement without first obtaining the consent of SERC, which consent shall not be unreasonably withheld or delayed.

(c) During the term of this Agreement, NERC and SERC

¹ The **Exhibit B** from SERC shall meet the requirements contained in **Exhibit B** to this Agreement.

² The **Exhibit C** from SERC shall meet the requirements contained in **Exhibit C** to this Agreement.

shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of SERC in Sections 2 and 3 above, the corporate governance documents set forth in **Exhibit B**, the standards development process set forth in **Exhibit C**, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to SERC for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth on **Exhibit A**, *provided*, that SERC shall not monitor and enforce compliance with Reliability Standards for SERC or an affiliated entity with respect to reliability functions for which SERC or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to SERC within, or additions to this delegation of authority to SERC beyond, the geographic boundaries set forth on **Exhibit A** are stated on **Exhibit A**.

(b) In circumstances where SERC or an affiliated entity is a Registered Entity, SERC shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce SERC's or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit SERC from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified on **Exhibit A** that is within the United States. Any delegation of authority by ERO Governmental Authorities in Canada or Mexico shall be governed by a separate agreement and is outside the scope of this Agreement; provided, however, that both SERC and NERC shall endeavor to ensure that this Agreement and such separate agreements are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, SERC shall comply with the applicable provisions of NERC's

Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, SERC shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords SERC reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards [and Regional Variances, if Regional Entity is organized on an Interconnection-wide basis] through SERC's process as set forth in **Exhibit C**. Proposals approved through SERC's process shall be reviewed by the NERC Board after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. SERC may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, SERC shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the geographic boundaries set forth, or as otherwise specified, in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and SERC agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, *inter alia*, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. SERC may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, SERC agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) SERC shall report promptly to NERC any Possible Violation, Alleged Violation, or Confirmed Violation of a Reliability Standard, and its eventual disposition by SERC. Such report shall include the owner's, operator's, or user's name, which Reliability Standard or Reliability Standards were the subject of the Possible Violation, Alleged Violation, or Confirmed Violation, when the Possible Violation, Alleged Violation, or Confirmed Violation occurred, other pertinent facts including circumstances surrounding the Possible Violation, Alleged Violation, or Confirmed Violation with any known risk to the Bulk-Power System, when the Possible Violation, Alleged Violation, or Confirmed Violation was or will be mitigated, the name of a person knowledgeable about the Possible Violation, Alleged Violation, or Confirmed Violation to serve as a point of contact with the Commission, and any other information required by NERC compliance program procedures. NERC shall promptly forward such report to the Commission. NERC and SERC shall cooperate in filing such periodic summary reports as the Commission shall from time to time direct on Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards and summary analyses of such Possible Violations, Alleged Violations, and Confirmed Violations.

(c) Each Possible Violation, Alleged Violation, or Confirmed Violation shall be treated as nonpublic unless the matter is filed with the Commission as a Notice of Penalty, or, if disclosure is required, dismissed. The disposition of each Possible Violation, Alleged Violation,

or Confirmed Violation that relates to a Cybersecurity Incident or that would jeopardize the security of the Bulk-Power System if publicly disclosed shall remain nonpublic unless the Commission directs otherwise.

(d) All dispositions by SERC of Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards shall be reported to NERC for review and, in the case of Confirmed Violations, penalties or sanctions, and settlements, for approval. Following approval of a disposition by NERC, NERC shall file the disposition with the Commission, if required by, and in accordance with, Section 215(e) of the Act and Section 39.7 of the ERO Regulations. NERC shall review SERC's dispositions based on the following criteria:

(i) whether the disposition is supported by a sufficient record compiled by SERC in accordance with the NERC Rules of Procedure, NERC directives and Commission requirements, taking into account the nature of the Possible Violation, Alleged Violation, or Confirmed Violation,

(ii) whether the disposition is consistent with any applicable directives issued pursuant to Section 8(c) of this Agreement, any applicable directions or guidance issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, or other applicable NERC guidance, concerning the Reliability Standards to which the Possible Violation, Alleged Violation, or Confirmed Violation relates,

(iii) if the disposition is a Confirmed Violation or settlement, whether it provides for a penalty or sanction, or a determination of no penalty or sanction, determined in accordance with the NERC Sanction Guidelines, Appendix 4B to the NERC Rules of Procedure, and

(iv) whether the disposition is reasonably consistent with other dispositions by SERC and by other Regional Entities of Possible Violations, Alleged Violations, and Confirmed Violations involving the same or similar facts and circumstances.

NERC may reject any disposition, with an explanation of why NERC believes the disposition does not meet the above criteria. SERC may submit a disposition requiring NERC approval that has been rejected by NERC, or a revised disposition following a rejection, directly to the NERC Board Compliance Committee for approval without revising the disposition to address all the grounds on which NERC originally rejected the disposition. The final approval of SERC's disposition of a Possible Violation, Alleged Violation, or Confirmed Violation shall be made by the NERC Board Compliance Committee, provided, that the NERC Board or NERC Board

Compliance Committee may, by appropriate resolution, delegate authority for final approval of dispositions of specified categories of Possible Violations, Alleged Violations, or Confirmed Violations to the NERC President.

(e) All appeals of penalties imposed by SERC as a result of a decision by SERC's Hearing Body shall be filed with, heard by and disposed of by, NERC in accordance with the NERC Rules of Procedure.

(f) SERC shall maintain the capability to conduct investigations of Possible Violations and Alleged Violations of Reliability Standards and to conduct such investigations in a confidential manner.

(g) SERC shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan.

(h) As part of its compliance monitoring and enforcement program, SERC shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(i) As often as NERC deems necessary, but no less than every five years, NERC shall review SERC's compliance monitoring and enforcement program to determine that: (i) the program meets all applicable legal requirements; (ii) actual practices reflect the requirements; and (iii) the program administered pursuant to the Delegated Authority promotes consistent interpretations across North America of Reliability Standards and comparable levels of sanctions and penalties for violations of Reliability Standards constituting comparable levels of threat to reliability of the Bulk-Power System.

(j) SERC may also perform compliance monitoring and enforcement activities outside of the Region shown on **Exhibit A**, on behalf of NERC and/or other Regional Entities, such activities to be undertaken pursuant to a contract between SERC and each such other Regional Entity that is approved by NERC and by the Commission.

7. Delegation-Related Activities.

NERC will engage SERC on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed on **Exhibit E**. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (f), each of which shall be considered a statutory activity:

(a) Certification of Bulk-Power System Entities. The NERC Board shall set criteria for certification in accordance with the NERC Rules of Procedure. SERC shall issue certifications in accordance with the NERC Rules of Procedure.

(b) Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.

(i) The NERC Board shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by SERC and other Regional Entities. SERC shall provide timely and accurate information relating to registrations to NERC, on at least a monthly basis, to enable NERC to maintain a registration database that is accurate and up-to-date.

(iii) The NERC Board Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) Reliability Assessment and Performance Analysis. SERC shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. SERC shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives. NERC shall develop data-gathering quality control procedures, forms and reporting mechanisms, which shall be used by SERC and other Regional Entities in carrying out their responsibilities under this subsection (c).

(d) Event Analysis and Reliability Improvement. SERC shall conduct event analysis pursuant to the NERC Rules of Procedure and applicable governmental regulations. NERC and SERC shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, SERC shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) Training and Education. SERC may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) Situation Awareness and Infrastructure Security.

(i) SERC shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure and applicable governmental regulations, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System

(ii) SERC shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of SERC's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and SERC that matters relating to NERC's oversight of SERC's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and SERC and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with SERC and other Regional Entities, performance goals, measures and other parameters (including, without limiting the scope of such goals, measures and parameters, financial performance goals, measures and

parameters), and performance reports, which shall be used to measure NERC's and SERC's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. SERC shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate SERC's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters and performance reports to evaluate SERC's performance of its delegated functions and related activities and to provide advice and direction to SERC on performance improvements. The performance goals, measures and other parameters and the values of such goals, measures and parameters, shall be reviewed by NERC, SERC and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, SERC shall be required to develop, submit for NERC approval, and implement action plans to address areas of its performance that are reasonably determined by NERC, based on analysis of SERC's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring SERC to adopt and implement an action plan or other remedial action, NERC shall issue a notice to SERC of the need and basis for an action plan or other remedial action and provide an opportunity for SERC to submit a written response contesting NERC's evaluation of SERC's performance and the need for an action plan. SERC may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board review and reconsider the request. NERC and SERC shall work collaboratively as needed in the development and implementation of SERC's action plan. A final action plan submitted by SERC to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to SERC standardized training and education programs, which shall be designed taking into account input from SERC and other Regional Entities, for SERC personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to SERC concerning the manner in which SERC shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a

collaborative process with SERC and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and SERC and, if applicable, other Regional Entities are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President; *provided*, that before the NERC President issues a directive pursuant to this paragraph (ii), SERC and, if applicable, other Regional Entities, shall be given a reasonable opportunity to present their positions on, and a suggested alternative version or versions of, the proposed directive to the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, SERC, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by SERC, the NERC Board (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without SERC's agreement, *provided*, that SERC shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and SERC and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which SERC, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The Board or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the Board or Board committee makes a written determination stating a

specific reason for maintaining particular guidance or directions as non-public. SERC, either individually or in conjunction with other Regional Entities, may request that the NERC Board or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with SERC, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) Any audits of SERC performed by NERC shall be limited to an examination of SERC's compliance with this Agreement, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c)

9. Funding.

SERC and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed on **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) SERC shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. SERC's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, SERC to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E**. SERC's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) SERC and NERC agree that the portion of SERC's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by SERC and approved by NERC and the Commission. If SERC proposes to use a formula other than Net Energy for Load beginning in the following year, SERC shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May

15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and SERC to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide SERC with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) SERC shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed on Exhibit E, as well as for all other activities of SERC, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund SERC's performance of its Delegated Authority and related activities in accordance with SERC's Commission-approved business plan and budget, in the amount of SERC's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting SERC's approved assessments from end users and other entities and payment of the approved assessment amount to SERC, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon SERC that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without SERC's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and SERC fiscal year budget with the actual results at the NERC and Regional Entity levels. SERC shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts.

NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) SERC shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) SERC shall submit audited financial statements annually, including supporting materials, in a form provided by NERC no later than May 1 of the following year.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which SERC shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of SERC) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which SERC shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of SERC. *Provided*, that, subject to approval by NERC and the Commission, SERC may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment.

This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. SERC may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit SERC from contracting with other entities to assist it in carrying out its Delegated Authority, provided SERC retains control and responsibility for such Delegated Authority.

11. Default and Cure.

Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such

time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on [January 1, 2011] (the “Effective Date”).

(b) The term of the Agreement shall be five (5) years from the Effective Date, prior to which time NERC shall conduct an audit pursuant to subsection 6(i) to ensure that SERC continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. If SERC meets such requirements, this Agreement may be renewed for another five (5) year term. This Agreement may be renewed for successive additional five (5) year renewal terms provided that prior to the end of each renewal term, NERC shall conduct an audit pursuant to subsection 6(i) to ensure that SERC continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. Provided, that either Party may terminate this Agreement as of the end of a term by giving written notice to terminate at least one (1) year prior to the end of the term. If this Agreement is not renewed or becomes subject to termination for any reason, the Parties shall work to provide for a transition of SERC’s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement. The termination of this Agreement shall not take effect until such transition has been effected, unless the transition period exceeds one year, at which time SERC may unilaterally terminate.

(c) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the

relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by SERC and NERC.

(d) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. SERC and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and SERC shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of the SERC's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that the SERC or NERC is found liable for gross negligence or intentional misconduct, in which case SERC or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party.

15. Confidentiality. During the course of the Parties' performance under this Agreement, a Party may receive Confidential Information, as defined in Section 1500 of NERC's Rules of Procedure. Except as set forth herein, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party, unless disclosure is required by subpoena, law, or other

directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information. In addition, each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein. This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of SERC under this Agreement without first obtaining the consent of SERC, which consent shall not be unreasonably withheld or delayed. To the extent SERC does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of SERC under this Agreement, SERC shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by SERC to NERC and the Commission, or at such other time as may be mutually agreed by SERC and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and SERC (including disputes relating to NERC's performance of its obligations under

this Agreement and/or disputes relating to SERC's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. SERC shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, *provided*, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), *provided*, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. *Provided, however,* that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice.

Whether expressly so stated or not, all notices, demands, requests, and other communications required or permitted by or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand or reputable overnight courier:

If to NERC:

North American Electric
Reliability Corporation
116-390 Village Blvd.
Princeton, NJ 08540-5721
Attn: General Counsel
Facsimile: (609) 452-9550

If to SERC:

SERC Reliability Corporation
2815 Coliseum Centre Drive
Suite 500
Charlotte, NC 28217
Attn: President and CEO
Facsimile: (704) 357-7914

20. Governing Law.

When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of New Jersey without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or

primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in New Jersey. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in New Jersey for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings.

The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause.

Nothing in this Agreement shall be construed to preempt or limit any authority that SERC may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. Entire Agreement.

This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts.

This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

SERC RELIABILITY CORPORATION

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

SERC Regional Boundaries

Exhibit A to the Amended and Restated Regional Entity Delegation Agreement between

**North American Electric Reliability Corporation
and
SERC Reliability Corporation**



1.0 Regional Boundaries

The geographic boundaries of SERC Reliability Corporation (SERC) are determined by the service areas of its membership, comprised of investor-owned utilities, municipal, cooperative, state and federal systems, merchant electricity generators and power marketers.

SERC covers an area of approximately 560,000 square miles in sixteen states: all of Alabama, Georgia, Mississippi, North Carolina and South Carolina, and portions of Arkansas, Florida, Illinois, Iowa, Kentucky, Louisiana, Missouri, Oklahoma, Tennessee, Texas and Virginia.

Service provided by SERC members in areas which overlap with neighboring regions:

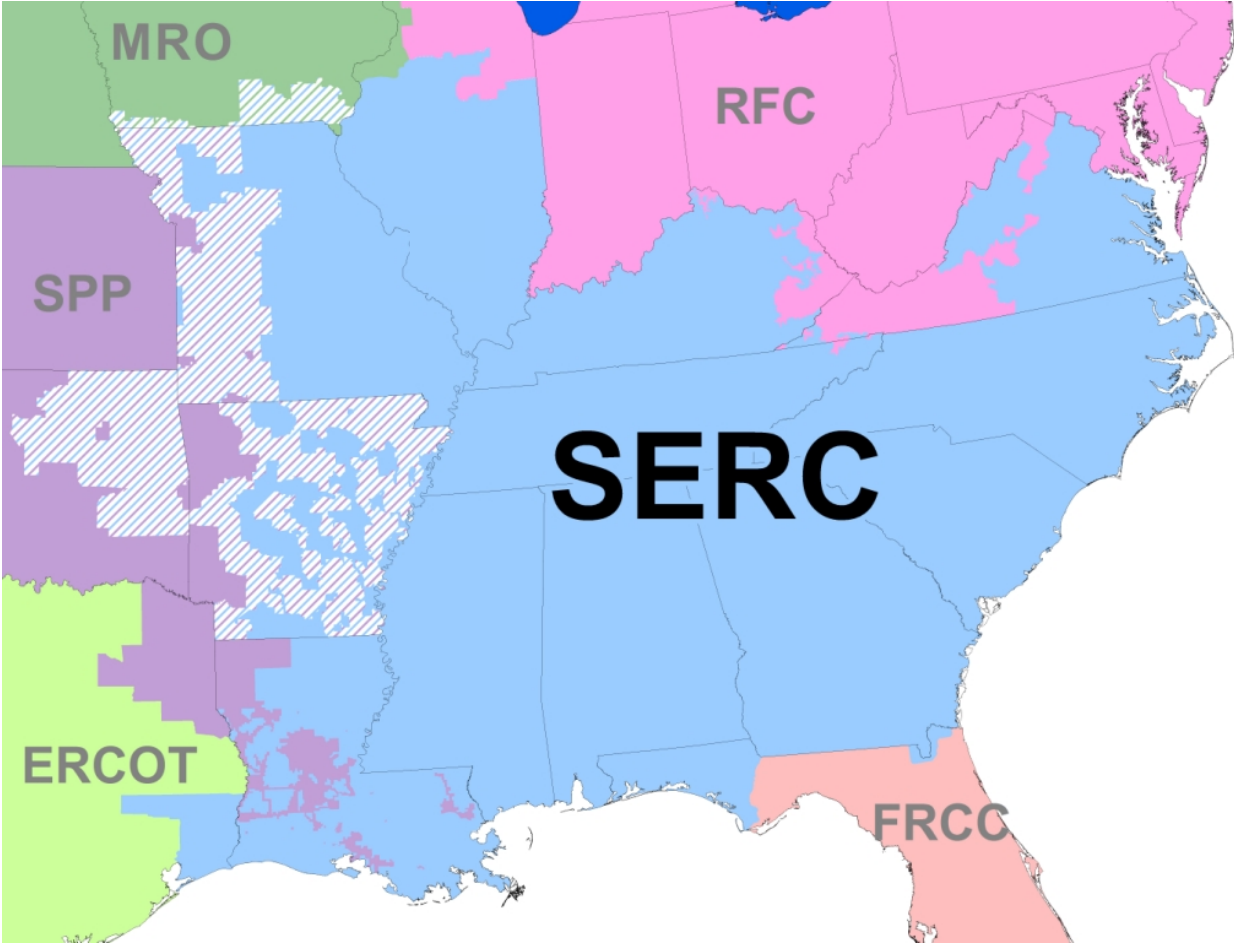
- The area in southern Iowa is served by N.E. Missouri Electric Power Cooperative, a member of Associated Electric Cooperative, Inc., and N.W. Electric Power Cooperative, a member of Associated Electric Cooperative, Inc.
- The area in eastern Oklahoma is served by KAMO Electric Cooperative, Inc., a member of Associated Electric Cooperative, Inc.
- The area in Arkansas is served by Entergy Arkansas.
- The area in western Missouri is served by N.W. Electric Power Cooperative, a member of Associated Electric Cooperative, Inc., and KAMO Electric Cooperative, Inc., a member of Associated Electric Cooperative, Inc.
- The area in N.E. Florida (part of Baker and Nassau counties) served by Okefenoke Rural Electric Membership Corporation (OREMC), a member of Georgia System Operations Corporation, and facilities physically located in Baker County, Florida owned by Georgia Transmission Corporation (GTC) are part of the SERC Region and not the FRCC Region.

A regional map is shown in Section 1.1.

SERC may also perform compliance and enforcement activities outside of the Region, on behalf of NERC and/or other Regional Entities, such activities to be undertaken pursuant to a contract between the Regional Entities that is approved by the Board Executive Committee, NERC and the Federal Energy Regulatory Commission.

Regional Boundaries

1.1 SERC Regional Map



SERC Governance

Exhibit B to the Amended and Restated Regional Entity Delegation Agreement between

**North American Electric Reliability Corporation
and
SERC Reliability Corporation**



Exhibit B – Governance

Exhibit B sets forth SERC Reliability Corporation's bylaws, which NERC agrees demonstrate that SERC meets the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence of the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

AMENDED AND RESTATED

BYLAWS

OF

SERC RELIABILITY CORPORATION

An Alabama Nonprofit Corporation

Effective [DATE]

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AMENDED AND RESTATED
BYLAWS
OF
SERC RELIABILITY CORPORATION
[Hereinafter referred to as the "Corporation"]
An Alabama Nonprofit Corporation

ARTICLE I
OFFICES

1.1 **Principal Office**. The principal office of the Corporation shall be located in the City of Charlotte, Mecklenburg County, North Carolina. The Board of Directors may by resolution change the location of this office from time to time.

1.2 **Other Offices**. The Corporation may have other offices, either within or outside of the State of Alabama, at such place or places as the Board of Directors may from time to time appoint or the business of the Corporation may require.

ARTICLE II
SEAL

2.1 **Seal**. The corporate seal shall be in circular form and shall have inscribed thereon the name of the Corporation, the words "Corporate Seal", and such other word or words, if any, as may be determined by the Board of Directors to be inscribed thereon.

ARTICLE III

MEMBERSHIP

3.1 **General.** The Corporation shall be a membership corporation. Members shall hereinafter be referred to collectively as "Members" or "Member Systems."

3.2 **Eligibility.** Membership in the Corporation is open to any entity that is a user, owner or operator of the Bulk-Power System and subject to the jurisdiction of the Federal Energy Regulatory Commission for the purpose of complying with Reliability Standards established under Section 215 of the Federal Power Act and all amendments thereto. Membership in the Corporation is voluntary; however, membership is predicated on mandatory acceptance of the responsibility to promote, support, and comply with Reliability Standards of the Corporation and the North American Electric Reliability Corporation ("NERC"), and to assist the Corporation in its compliance with the terms and provisions of a Delegation Agreement (a "Delegation Agreement") with NERC, by which NERC delegates authority to propose and enforce Reliability Standards, pursuant to 16 U.S.C. § 824n. For purposes of these Bylaws, the terms "Bulk-Power System," "Reliability Standards" and "Regional Entity" shall be as defined in 16 U.S.C. § 824n.

3.3 **Termination.** Members may cease to be a member of the Corporation by giving the Board of Directors at least 30 days written notice of their intention to cease such membership (such members shall hereinafter be referred to as "Terminated Members"). Terminated Members shall nevertheless continue to be liable for any and all obligations they may have had to pay of a share of the expenses of the Corporation incurred prior to the end of the calendar year in which such notice is given. In addition to termination of membership by the Member, the Board of Directors, following notice to the Member, may terminate the membership of a Member if in the judgment of the Board of Directors that Member has violated its obligations and responsibilities to the Corporation. This termination shall require a Bicameral Supermajority vote.

3.4 **Sectors.** Each Member and the Customer Representatives shall be classified by the Executive Committee in one of the following seven Sectors (each a "Sector", and collectively, the "Sectors"):

- (a) Investor-Owned Utility Sector – This Sector includes any investor-owned entity with substantial business interest in ownership and/or operation in any of the asset categories of generation, transmission or distribution.
- (b) Federal/State Sector – This Sector includes any U.S. federal entity that owns and/or operates electric facilities and/or provides balancing authority services, in any of the asset categories of generation, transmission, or distribution; or any entity that is owned by or subject to the governmental authority of a state and that is engaged in the generation, delivery, and/or sale of electric power to end use customers primarily with the political boundaries of the state.
- (c) Cooperative Sector – This Sector includes any non-governmental entity

that is incorporated under the laws of the state in which it operates, is owned by and provides electric service to end-use customers at cost, and is governed by a board of directors that is elected by the membership of the entity; and any non-governmental entity owned by and which provides generation and/or transmission service to such entities.

- (d) Municipal Sector – This Sector includes any entity owned by or subject to the governmental authority of a municipality, that is engaged in the generation, delivery, and/or sale of electric power to end-use customers primarily within the political boundaries of the municipality; and any entity, whose members are municipalities, formed under state law for the purpose of generating or purchasing electricity for sale at wholesale to their members.
- (e) Marketer Sector– This Sector includes any entity that is engaged in the activity of buying and selling of wholesale electric power in the Region on a physical or financial basis.
- (f) Merchant Electricity Generator Sector – This Sector includes any entity that owns or operates an electricity generating facility or provides balancing authority services for such entities. This includes, but is not limited to, small power producers and all other non-utility producers such as exempt wholesale generators who sell electricity at wholesale.
- (g) ISO-RTO/Customer Sector– This Sector includes (i) any entity that operates a FERC approved ISO or RTO and (ii) the Customer Representatives.

The Executive Committee's classification of a Member in a particular Sector may only be changed by the Executive Committee. For purposes of these bylaws, the term "Customer Representative" shall mean a person who represents an entity that receives service at retail and does not otherwise sell, purchase, or transmit power over the Bulk-Power System or own, operate or maintain, control or operate facilities or systems that are part of the Bulk-Power System.

3.5 **Transfer of Membership.** A Member may not give or otherwise transfer its membership, except to a successor that becomes a Member, and provided that the successor continues to meet its predecessor's obligations.

ARTICLE IV

PURPOSES

4.1 **General Purposes.** The purpose of the Corporation is to promote effective and efficient administration of Bulk-Power System reliability in the areas serviced by its Member Systems. In pursuant of this goal, the Corporation will:

- (a) enter into a Delegation Agreement to serve as a Regional Entity pursuant to 16 U.S.C. § 824n;
- (b) promote the development of reliability and adequacy arrangements among the systems within the Region;
- (c) participate in the establishment of Reliability Standards;
- (d) participate in the measurement of performance relative to these Reliability Standards;
- (e) promote conformance to and compliance with these Reliability Standards;
- (f) develop and exchange information with respect to planning and operating matters relating to the reliability and adequacy of the Bulk-Power System;
- (g) review as necessary activities within the Region on reliability and adequacy in order to meet Reliability Standards;
- (h) provide a mechanism to resolve disputes on reliability issues in a manner that meets the needs of the parties and the Region;
- (i) provide information with respect to matters considered by the Corporation, where appropriate, to the Federal Energy Regulatory Commission ("FERC") and to other federal and state agencies concerned with reliability and adequacy; and

4.2 **Geographic Area.** The Corporation accomplishes its purposes in a geographic area of approximately 560,000 square miles in a sixteen state area in the southeastern and central United States (the "Region"). The Region is currently geographically divided into five subregions that are identified as Southeastern, Central, VACAR, Delta, and Gateway. The number of subregions and the geographic area are subject to change upon approval of the Board of Directors.

4.3 **Other Statutory Activities.** The Corporation may also perform statutory functions outside of the Region, on behalf of NERC or other Regional Entities, such activities to be undertaken pursuant to a contract that is approved by the Board Executive Committee.

ARTICLE V

BOARD OF DIRECTORS

5.1 **General Powers.** The affairs of the Corporation shall be managed by its Board of Directors. Directors need not be residents of the State of Alabama.

5.2 **Number.** The Board of Directors shall consist of the principal officer or other authorized representative from each Member and shall also include two (2) Board of Director

positions for Customer Representatives. The Board shall consist of no fewer than three (3) directors and no more than one hundred (100) directors. The current number of directors shall be fifty-four (54). Each Director shall serve until otherwise replaced by the applicable Member.

5.3 **Regular Meetings of the Board.** Unless otherwise determined by the Chairman, a regular meeting of the Board of Directors shall be held without other notice than this bylaw on the fourth Wednesday in the months of April and October in each year, beginning with the year 2005. Notwithstanding the foregoing, the Chairman may elect to hold a regular semi-annual meeting of the Board of Directors on another date provided that the Board receives at least the (10) days' advance notice. If the day fixed for the meeting shall be a legal holiday in the State of Alabama, the meeting shall be held on the next succeeding business day. The Board of Directors may designate any place, either within or outside of the State of Alabama, as the place of meeting for any meeting. The Board of Directors may provide by resolution the time and place, either within or outside of the State of Alabama, for the holding of additional regular meetings of the Board without other notice than the resolution. Members of the Board of Directors or any committee designated thereby may participate in a meeting of such Board or committee by means of a telephone conference, webcast or any other communication by means of which all persons participating in the meeting can hear each other at the same time, and participation by such means shall constitute presence in person at such meeting.

5.4 **Special Meetings of the Board.** Special meetings of the Board of Directors may be called by or at the request of the Chairman, or by directors holding (20%) or more of the Individual Votes. The Chairman may fix any place, either within or outside of the State of Alabama, as the place for holding any special meeting of the Board.

5.5 **Notice of Special Meetings.** Notice of any special meeting of the Board of Directors shall be given at least two days previously by written notice delivered personally or sent by mail to each director at the address as shown by the records of the Corporation. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage prepaid. Any director may waive notice of any meeting. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any special meeting of the board need be specified in the notice or waiver of notice of such meeting, unless specifically required by law or by these Bylaws.

5.6 **Election of Officers and Executive Committee.** Biennially, at the April meeting, the Board of Directors shall elect one of their directors to serve as Chairman, one as Vice Chairman, and one as Secretary-Treasurer, each for a term of two years. The Chairman shall conduct all meetings and shall be responsible for the preparation of the agenda. In the Chairman's absence, the Vice Chairman shall serve as Chairman. In the event that an officer cannot complete a term, a special election may be held. At the same time, the Board shall also approve members to the Executive Committee elected by the Sectors to serve for a period of two years. Each Sector may also elect alternate members to the Executive Committee, and, if a Sector has more than one member on the Executive Committee, such Sector shall designate the priority of succession by such alternates.

5.7 **Agenda.** As far in advance of each regular and special meeting as practical, an

agenda shall be distributed to each Board member and representative.

5.8 **Certain Definitions.**

(a) "Adjusted Weighted Vote" shall mean the number of votes of each director determined in the manner set forth in Section 5.9 hereof.

(b) "Bicameral Simple Majority" shall require the presence of a quorum and the (i) concurrence of directors whose combined Individual Votes are greater than fifty (50) percent of the total Individual Votes of all directors present at the meeting and entitled to vote on the issue (the "Individual Vote Test"), (ii) concurrence of directors whose combined Adjusted Weighted Votes are greater than fifty (50) percent of the total Adjusted Weighted Vote of all directors at the meeting and entitled to vote on the issue (the "Adjusted Weighted Vote Test"), and (iii) for at least one of the Individual Vote Test or the Adjusted Weighted Vote Test, on a individual Sector basis, the positive vote must outweigh the negative vote for at least three Sectors.

(c) "Bicameral Supermajority" shall require the presence of a quorum and the concurrence of (i) directors whose combined Individual Votes equal or exceed two-thirds of the total Individual Votes of all directors present at the meeting and entitled to vote on the issue, provided that a quorum is present, and (ii) directors whose combined Adjusted Weighted Votes are greater than two-thirds of the total Adjusted Weighted Vote of all directors present at the meeting and entitled to vote on the issue.

(d) "Individual Vote" shall mean a single vote accorded to each director.

(e) "Given Year" shall mean the applicable fiscal year for which the Adjusted Weighted Votes are calculated.

(f) "Reporting Year" shall mean the fiscal year immediately preceding the Given Year.

(g) "Previous Year" shall mean the fiscal year immediately preceding the Reporting Year.

5.9 **Determination of Adjusted Weighted Vote.** The directors' Adjusted Weighted Votes for a Given Year shall be determined by the following formula:

$$V = 10(1/N) + 30(B/C) + 30(D/E) + 30(F/G)$$

V = % of Adjusted Weighted Vote

N = total number of Members

B = Member's Previous Year internal peak demand

C = total of factor B for all Members

D = Member's owned generating capacity as of January 1 of the

Reporting Year

E = total of factor D for all Members

F = Member's sum of circuit miles of transmission times the respective operating voltage for facilities of 69 kV and above as of December 31 of the Previous Year

G = total of factor F for all Members

5.10 **Voting; Manner of Acting; Voting Rights; Quorum; Proxies.**

(a) Except for amendments to these Bylaws, which require approval by a Bicameral Supermajority, all other actions require approval by a Bicameral Simple Majority.

(b) Notwithstanding anything else in these Bylaws, a motion is still deemed to have passed if either (but not both) the Individual Vote Test or the Adjusted Weighted Vote Test is satisfied (such test that is not satisfied is referred to as the "Failed Test"), and, for purposes of the Failed Test, on an individual Sector basis, the positive votes outweigh the negative votes in every Sector but one.

(c) Members holding two-thirds of the Individual Votes shall constitute a quorum for action by the Board; but if directors holding less than two-thirds of the Individual Votes are present at the meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

(d) Any director may designate an alternate from that Member to represent the director at any meeting by written notification to the Corporation's office; however, directors may not otherwise use proxy votes.

(e) The intent of Section 5.8(b)(iii) and Section 5.10(b) is to ensure that no two Sectors should be able to control any decision and that a single Sector should not be able to veto any matter, respectively (other than amendments to these Bylaws). In the event that either of the foregoing shall nevertheless occur, the Members will promptly revise the provisions of these Bylaws so that no two Sectors will be able to control any decision and no single Sector will be able to veto any matter.

5.11 **Customer Representative Vacancies.** Should the Board of Directors, at any time, not include two Customer Representatives, the Board of Directors shall elect (or designate the Executive Committee to elect) additional representatives to fill such vacancies. The term of these Customer Representatives shall be for a two-year period.

5.12 **Compensation.** Directors as such shall not receive any stated salaries for their services.

5.13 **Informal Action by Directors.** Any action required by law to be taken at a meeting of directors, or any action which may be taken at a meeting of directors, may be taken without a meeting if a consent in writing, setting out the action so taken, shall be signed by all of the directors.

5.14 **Duties.** The duties of the Board of Directors shall include:

- (a) Periodically review the Reliability Standards with respect to matters affecting the reliability and adequacy of the Bulk-Power System power supply within the Region;
- (b) Manage the business and affairs of the Corporation;
- (c) Adopt rules, regulations and policies to implement and accomplish the purposes and provisions of these Bylaws, as necessary;
- (d) Recommend and approve any amendments to these Bylaws;
- (e) Exercise general supervision over such committees as may be established in accordance with Article VII and Article VIII of these Bylaws;
- (f) Consider any matters relating to the general administration of the Corporation proposed by any Member;
- (g) Form or dissolve committees, subcommittees, or task forces as it deems necessary to carry out the business of the Corporation;
- (h) Delegate appropriate duties or responsibilities to any committee established pursuant to these Bylaws;
- (i) Periodically establish and approve an annual budget and any revisions thereto;
- (j) Require that adequate bond be provided covering all officers, agents, employees charged by the Corporation with responsibility for the custody of any of its funds and property;
- (k) Have power to select one or more banks or other financial institutions to act as depositories of the funds of the Corporation;
- (l) Provide for the coordination of planning activities within the Corporation;
- (m) Provide for the coordination of interconnected system operations within the Corporation;
- (n) Provide for the coordination of critical infrastructure protection activities within the Corporation;
- (o) Provide for the Corporation's membership certification;
- (p) If the membership authorizes the use of the Corporation's employees, other than contract personnel, to conduct the administrative affairs of the Corporation, the Board shall set policies for selecting, compensating and

reviewing the performance of the employees; and

- (q) Resolve any disputes regarding the Members and the Corporation, if those issues cannot be resolved by the standing committees/subcommittees of the Corporation and are not otherwise subject to NERC's dispute provisions for non-compliance with Reliability Standards.

5.15 **Vacancies.** Any vacancy occurring in the Board of Directors shall be filled by the applicable Member, except for Customer Representative vacancies which shall be filled in accordance with Section 5.11.

ARTICLE VI

EXECUTIVE COMMITTEE / CORPORATE OFFICERS

6.1 **Executive Committee Voting Members.** The Executive Committee shall consist of the following twelve (12) voting members:

- (a) The Investor-Owned Utility Sector shall have three (3) representatives;
- (b) The Federal/State Sector shall have two (2) representatives;
- (c) The Cooperative Sector shall have two (2) representatives;
- (d) The Municipal Sector shall have two (2) representatives;
- (e) The Marketer Sector shall have one (1) representative;
- (f) The Merchant Electricity Generator Sector shall have one (1) representative; and
- (g) The ISO-RTO/Customer Sector shall have one (1) representative.

It is the desire of the Board of Directors that the Cooperative and Municipal sectors have representation from both transmission dependent and transmission owning Members. Each Sector will be responsible for nominating their representative(s) and alternates from among Board Members. The Chairman, Vice Chairman, and Secretary-Treasurer shall also be ex officio members of the Executive Committee, but shall not have voting rights (unless such Board officer is also elected by a Sector to the Executive Committee pursuant to Section 6.1(a)-6.1(g)). The Chairman will serve as chairman of the Executive Committee and shall conduct all meetings and shall be responsible for the preparation of the agenda. In the event that a member of the Executive Committee is unable to complete a term, the Sector's alternate representative will replace such member.

6.2 **Authority of Executive Committee.** Except as limited by Section 10-3A-38 of the Alabama Nonprofit Corporation Act, the Executive Committee is empowered to make such

decisions and take such actions as are deemed to be required between meetings of the Board of Directors to include reviewing and acting upon applications for membership in and resignations from the Corporation.

6.3 **Action.** Each voting member of the Executive Committee shall have one vote. The presence of three quarters of the members of the Executive Committee shall constitute a quorum. The positive vote of two-thirds of Executive Committee voting members present and voting is necessary to pass a particular action.

6.4 **Nominating Committee.** Biennially, the Executive Committee will appoint a Nominating Committee for the purpose of recommending individuals to serve as Officers of the Corporation. The Nominating Committee will report to the Board at the Board's April meeting.

6.5 **Corporate Officers.** The Executive Committee shall arrange for the services of a President/Chief Executive Officer, Vice President, Secretary and Treasurer of the Corporation. Two or more of such offices may be held by the same person, except for the offices of President/Chief Executive Officer and Secretary.

6.6 **President/Chief Executive Officer.** Under general direction, the President shall be the Chief Executive Officer of the Corporation and shall manage the operations of the Corporation to the end that its purposes will be accomplished. The Board Officers shall determine the compensation and benefits for the President and Chief Executive Officer. The President shall:

- (a) Attend all Board of Directors and standing committee meetings of the Corporation and NERC Stakeholder, Board of Trustees, and Standing Committee meetings, as these committees may change from time to time and as appropriate;
- (b) Assist and coordinate the preparation of testimony and reports;
- (c) Coordinate subregional activities and interregional affairs, to include data collection;
- (d) Install and maintain an adequate system of accounts and records;
- (e) Arrange for meetings as directed;
- (f) Assist the Corporation Committee Chairmen as appropriate;
- (g) Manage the business affairs of the Corporation, including the Corporation staff;
- (h) Maintain minutes of all the Corporation-related meetings; and
- (i) Provide other assistance to the Corporation and NERC, as appropriate.

6.7 **Vice President.** The Vice President shall perform such duties and exercise such powers as may be assigned to him from time to time by the Board of Directors, the Executive

Committee or the President. In the absence of the President, or in the case of the President's inability to act, the Vice President shall perform the duties and exercise the powers of the President, but subject to the control of the Board of Directors and the Executive Committee. The Board Officers shall determine the compensation and benefits of the Vice President.

6.8 **Secretary.** The Secretary shall be custodian of the records and of the seal of the Corporation and in general shall perform all duties incident to the office of Secretary and such other duties as may, from time to time, be assigned to him by the Board of Directors, the Executive Committee or the President.

6.9 **Treasurer.** The Treasurer shall have charge and custody of, and be responsible for, all funds and securities of the Corporation and deposit all such funds in the name of the Corporation in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of these Bylaws; and in general, perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the Board of Directors, the Executive Committee or the President.

ARTICLE VII

COMPLIANCE COMMITTEE

7.1 **Authority of Committee.** The Corporation's Compliance Committee will be vested with the authority for the Corporation Compliance Program and granted the ability to impose penalties and sanctions on behalf of NERC. The Compliance Committee shall review violations known to the Corporation's Compliance Staff discovered from audits, compliance documentation, or any other source whether self-reported, alleged, or confirmed, for the most recent period. The Compliance Committee shall review and advise the Board on the progress of the Corporation and its members in mitigating confirmed violations, and the progress of the Corporation in dealing with all unconfirmed violations. The Compliance Committee shall review the progress of the Corporation and its Members in implementing recommendations, as appropriate. The Compliance Committee shall report to the Board at each regularly scheduled meeting of the Board, and shall recommend to the Board such actions (i) as may further the purposes of the Delegation Agreement; or (ii) that extend beyond the scope of authority delegated to a Hearing Body in Section 7.3. Additionally, the Compliance Committee shall perform such other functions as may be delegated from time to time by the Board.

7.2 **Composition of Committee.** The Compliance Committee shall be composed of not more than twelve (12) members of the Corporation's Board of Directors. The members of the Compliance Committee shall be appointed by the Board of Directors at its April biennial meeting. The Compliance Committee shall consist of the following members:

- (a) The Investor-Owned Utility Sector shall have three (3) representatives;
- (b) The Federal/State Sector shall have two (2) representatives;
- (c) The Cooperative Sector shall have two (2) representatives;

- (d) The Municipal Sector shall have two (2) representatives;
- (e) The Marketer Sector shall have on (1) representative;
- (f) The Merchant Electricity Generator Sector shall have one (1) representative;
- (g) The ISO-RTO/Customer Sector shall have one (1) representative.

The Chairman of the Board of Directors shall appoint a chair from among the Compliance Committee members. The Chairman shall conduct all meetings of the Compliance Committee and shall be responsible for the preparation of the agenda. The Corporation Compliance Manager shall serve as the non-voting secretary. Each Sector will be responsible for nominating their representative(s) and alternates from among Board Members. In the event that a member of the Compliance Committee is unable to complete a term, the Sector's alternate representative will replace such member.

The Compliance Committee shall meet as determined by the members of the Compliance Committee and, except when acting as a Hearing Body as described in Article 7.3, shall use the same meeting and voting procedures as established for the Executive Committee. Each member of the Compliance Committee shall have one (1) vote. The presence of three quarters of the members of the Compliance Committee shall constitute a quorum. The positive vote of two-thirds of voting members of the Compliance Committee present and voting is necessary to pass a particular action.

7.3 Hearings. The Compliance Committee shall conduct hearings in accordance with Hearing Procedures approved by the Federal Energy Regulatory Commission (Hearing Procedures). In compliance hearings in which an entity may contest a finding of alleged violation, proposed penalty or sanction, a proposed mitigation plan, a remedial directive, or other such matters as allowed by the Hearing Procedures, the Compliance Committee shall establish and maintain a hearing body with authority to conduct and render decisions on the matter.

In accordance with the NERC Compliance Monitoring and Enforcement Program Hearing Procedures ("Hearing Procedures"), a quorum for the purpose of constituting a hearing body shall be (after any recusals or disqualifications and including any alternates) fifty (50) percent of the Compliance Committee. In addition to a quorum, the chair of the Compliance Committee shall declare the Hearing Body duly constituted only if no two sectors can control and no one sector can veto the actions of the Hearing Body (the "Sector Control Requirements"). Approval of all actions before a duly constituted Hearing Body shall require a simple majority of the votes cast, which number of members voting shall not be less than a quorum, with each member of the Hearing Body having one vote.

To ensure that the Sector Control Requirements are met in the formation of a Hearing Body, the Chair shall adhere to the following in declaring the Hearing Body duly constituted:

- If the Hearing Body is made up of six (6) members of the Compliance Committee, then each sector shall have no more than one (1) representative on the Hearing Body.

- If the Hearing Body is made up of seven (7) or eight (8) members of the Compliance Committee, then only one sector can have two (2) representatives on the Hearing Body, and each other sector can have only one (1) representative on the Hearing Body.
- If the Hearing Body is made up of nine (9) or ten (10) members of the Compliance Committee, then no sector can have more than two (2) representatives on the Hearing Body.
- If the Hearing Body is made up of eleven (11) or twelve (12) members of the Compliance Committee, then the Sector Control Requirements are met, as no two sectors would have enough votes to control, and no one sector would have the ability to veto.

The chair, in his or her sole discretion, shall have the authority to determine whether the Hearing Body meets the quorum requirements and Sector Control requirements and is therefore duly constituted.

The decision of any duly constituted Hearing Body pursuant to these requirements shall be final and binding on the Corporation, without requiring either the Compliance Committee or the Corporation to ratify the Hearing Body's actions.

7.4 **Conflicts of Interest.** Compliance Committee members shall comply with the Corporation's Standards of Conduct policy that prohibits conflicts of interest associated with the compliance program, as such conflicts could cast doubt on the ability of the Compliance Committee members to act with total objectivity with regard to the overall interests of the compliance program.

7.5 **Ad-Hoc Support Committees.** The Compliance Committee may, from time to time, appoint ad-hoc committees of technical experts to research and/or advise it on compliance or technical issues or matters, among other things. Such ad-hoc committees of technical experts may be formed on an as-needed basis and may vary in makeup depending on the needs of the Compliance Committee. Each member (or another entity) that requests that the Compliance Committee review a compliance finding against it may request that an ad-hoc committee be formed to assist the Compliance Committee in its review.

ARTICLE VIII

OTHER COMMITTEES

8.1 **Designation by Board.** The Board of Directors, by resolution adopted by a Bicameral Simple Majority, may designate standing and special (ad hoc) committees, as shall be necessary to address the purposes of the Corporation. Such committees shall include, but are not limited to the following:

- (a) Engineering Committee -- The purpose of this committee shall be to promote the reliability and adequacy of the Bulk-Power System, as related to the planning and engineering of electric systems. The committee shall provide a mechanism for the coordination of activities in the areas of planning and engineering.

- (b) Operating Committee -- The purpose of this committee shall be to promote the reliability and adequacy of the Bulk-Power System, as related to the operation of electric systems. The committee shall provide a mechanism for the coordination of activities in the area of operations.
- (c) Critical Infrastructure Protection Committee -- The purpose of this committee shall be to promote the advancement of the physical and cyber security of the Bulk-Power System. It serves as an expert advisory panel in the areas of physical and cyber security, establishes and maintains an information reporting procedure, provides a liaison with state government agencies, and conducts forums and workshops related to Critical Infrastructure Protection.

Each Member is entitled, but not required, to name both a representative and alternate to the committees designated in this Section 8.1.

8.2 **Voting Rights for Committees.** Except as otherwise provided for in these Bylaws, voting rights for the Committees established pursuant to Section 8.1 shall be based on the same method as adopted by the Board of Directors of the Corporation. Operating procedures, definitions for quorum, and votes for approval are contained in the Organization and Procedures Manual for the Corporation's Standing Committees.

8.3 **Dispute Resolution Process.** The Standing Committees shall have a Dispute Resolution process in place to accommodate disputes (other than disputes regarding Reliability Standards that are handled between the applicable Member and NERC, as more fully described in Article XII). The Members are encouraged to utilize these dispute processes prior to seeking legal action. More specific details of these Committees are outlined in their respective Handbooks.

8.4 **Rules.** Each committee will adopt rules for its own governance not inconsistent with these Bylaws or with rules adopted by the Board of Directors.

8.5 **Reliability Standards Development.** While the development of Reliability Standards shall be administered by the Corporation's Standing Committees, a registered ballot body of interested stakeholders will vote to approve Reliability Standards, in accordance with the Corporation's Regional Reliability Standards Development Procedure.

ARTICLE IX

MISCELLANEOUS

9.1 **Contracts.** The Board of Directors may authorize any officer or officers, agent or agents of the Corporation, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

9.2 **Checks, Drafts, etc.** All checks, drafts, or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation, shall be signed by such officer or officers, agent or agents of the Corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors. In the absence of such determination by the Board of Directors, such instruments shall be signed by the Secretary-Treasurer, President, or Finance Director, as stipulated by the Executive Committee. The Secretary-Treasurer shall arrange audits of financial records, sign appropriate documents, and perform such duties normally performed by Secretary-Treasurer, except duties assigned to the President or Finance Director.

9.3 **Deposits.** All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Directors may select.

9.4 **Gifts.** The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest or devise for the general purpose or for any special purpose of the Corporation.

ARTICLE X

BOOKS AND RECORDS

10.1 **Books and Records.** The Corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of the Board of Directors and committees having any of the authority of the Board of Directors, and shall keep at its registered or principal office a record giving the names and addresses of the directors. All books and records of the Corporation may be inspected by any director, or agent or attorney representing any director, for any proper purpose at any reasonable time.

ARTICLE XI

FISCAL YEAR

11.1 **Fiscal Year.** The fiscal year of the Corporation shall begin on the first day of January and end on the last day of December in each year.

ARTICLE XII

EXPENSES

12.1 **Allocation of Specific Expenses.** The expenses of directors and officers of the Board shall be borne by that person's regular employer.

12.2 **Statutory Functions.** The Corporation anticipates that as a general rule all of its expenses will be incurred in the furtherance of statutory activities pursuant to FPA Section 215, and that all such expenses will be funded by NERC, subject to FERC approval.

12.3 **Non-Statutory Functions.** Notwithstanding Section 12.2, the Board of Directors may from time to time authorize the Corporation to participate in non-statutory activities (i.e., activities not described in FPA Section 215). In the event that the Corporation proposes to engage in non-statutory activities, such activities will be identified in the Corporation's annual business plan that is submitted to NERC and, if approved by NERC, will be submitted to FERC for approval in advance of engaging in such non-statutory activities. The expenses incurred by the Corporation for any such approved non-statutory activities will be allocated by the Board of Directors among the Members of the Corporation who have participated in such non-statutory activities on a basis proposed in the business plan submitted for NERC and FERC approval. All participation in non-statutory activities by Members of the Corporation shall be voluntary.

ARTICLE XIII

DISPUTE RESOLUTION PROCESS

13.1 **General.** All disputes regarding non-compliance with Reliability Standards shall be handled between the applicable Member and NERC. The organizational units of the Corporation will deal with all other disputes within the framework of their respective organizations. For such other disputes, Members of the Corporation are encouraged to utilize the appropriate Dispute Resolution Process within the Corporation prior to seeking resolution at NERC, FERC, or with legal counsel.

13.2 **Terms of Process.** Details of the Corporation Dispute Resolution Process are provided to each Member and are available at the Corporation's offices.

ARTICLE XIV

DISSOLUTION

14.1 **Dissolution**. The Corporation may be voluntarily dissolved upon unanimous consent of Members, and in accordance with Section 10-3A-140 of the Alabama Nonprofit Corporation Act, as amended from time to time.

14.2 **Distribution of Assets**. Upon dissolution of the Corporation as provided in Section 14.1, the residual assets, after payment of all just obligations, shall be distributed exclusively for the common business interest of its Members or to organizations which are exempt from federal income tax under the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax laws.

ARTICLE XV

REGULATORY COMMISSION PARTICIPATION

15.1 **Terms of Participation** To implement the purpose of this organization, the Chairman of FERC and the Chairman or President of any State Utility Commission in a state in which electric service is provided by a Member of the Corporation shall be invited to designate a representative to attend meetings of the Board as observers.

ARTICLE XVI

WAIVER OF NOTICE

16.1 **Waiver**. Whenever any notice is required to be given under the provisions of the Alabama Nonprofit Corporation Act or under the provisions of the articles of incorporation or the Bylaws of the Corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE XVII

INDEMNIFICATION

17.1 **Indemnification of Directors, Officers, Employees and Agents**. Every person who is, or has been, a director, officer, employee or agent of the Corporation shall be

indemnified by the Corporation in the manner and to the extent authorized by the Alabama Nonprofit Corporation Act. The foregoing rights of indemnification shall be without prejudice to any other rights to which any such director, officer, employee or agent may be entitled as a matter of law.

SERC Regional Standards Development Procedure

Exhibit C to the Amended and Restated Regional Entity Delegation Agreement between

**North American Electric Reliability Corporation
and
SERC Reliability Corporation**



SERC Regional Reliability Standard Development Procedure

Exhibit C – Regional Standard Development Procedure

Exhibit C sets forth SERC Reliability Corporation's standards development procedure, which NERC agrees meets the following common attributes:

COMMON ATTRIBUTE 1

Proposed regional reliability standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA [add reference to any applicable authorities in Canada and Mexico]. No regional reliability standard shall be effective within the [Regional Entity Name] area unless filed by NERC with FERC [and applicable authorities in Canada and Mexico] and approved by FERC [and applicable authorities in Canada and Mexico].

COMMON ATTRIBUTE 2

[Regional Entity Name] regional reliability standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. A [Regional Entity Name] reliability standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. A regional reliability standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

COMMON ATTRIBUTE 3

[Regional Entity Name] regional reliability standards, when approved by FERC [add applicable authorities in Canada], shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the [Regional Entity Name] area, regardless of membership in the region.

COMMON ATTRIBUTE 4

Requester — The requester is the sponsor of the regional reliability standard request may assist in the development of the standard. Any member of [Regional Entity Name], or group within [Regional Entity Name] shall be allowed to request that a regional reliability standard be developed, modified, or withdrawn. Additionally, any entity (person, organization, company, government agency, individual, etc.) that is directly and materially affected by the reliability of

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the bulk power system in the [Regional Entity Name] area shall be allowed to request a regional reliability standard be developed, modified, or withdrawn.

COMMON ATTRIBUTE 5

[Standards or other named] committee — The [Regional Entity Name] [standards] committee manages the standards development process. The [standards] committee will consider which requests for new or revised standards shall be assigned for development (or existing standards considered for deletion). The [standards] committee will advise the [Regional Entity Name] board on standards presented for adoption.

COMMON ATTRIBUTE 6A [REGISTERED BALLOT BODY APPROACH]

The registered ballot body comprises all entities or individuals that qualify for one of the stakeholder segments; are registered with [Regional Entity Name] as potential ballot participants in the voting on standards; and are current with any designated fees. Each member of the registered ballot body is eligible to vote on standards. [Each standard action has its own ballot pool formed of interested members of the registered ballot body. Each ballot pool comprises those members of the registered ballot body that respond to a pre-ballot survey for that particular standard action indicating their desire to participate in such a ballot pool.] The representation model of the registered ballot body is provided in Appendix A.]

COMMON ATTRIBUTE 7

[Regional Entity Name] will coordinate with NERC such that the acknowledgement of receipt of a standard request identified in step 1, notice of comment posting period identified in step 4, and notice for vote identified in step 5 below are concurrently posted on both the [Regional Entity Name] and NERC websites.

COMMON ATTRIBUTE 8

An acceptable standard request shall contain a description of the proposed regional reliability standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed standard.

COMMON ATTRIBUTE 9

Within [no greater than 60] days of receipt of a completed standard request, the [standards] committee shall determine the disposition of the standard request.

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COMMON ATTRIBUTE 10

The [standards] committee may take one of the following actions:

- Accept the standard request as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The [standards] committee may, at its discretion, expand or narrow the scope of the standard request under consideration. The [standards] committee shall prioritize the development of standard in relation to other proposed standards, as may be required based on the volume of requests and resources.
- Reject the standard request. If the [standards] committee rejects a standard request, a written explanation for rejection will be delivered to the requester within [no greater than 30] days of the decision.
- Remand the standard request back to the requester for additional work. The standards process manager will make reasonable efforts to assist the requester in addressing the deficiencies identified by the [standards] committee. The requester may then resubmit the modified standard request using the process above. The requester may choose to withdraw the standard request from further consideration prior to acceptance by the [standards] committee.

COMMON ATTRIBUTE 11

Any standard request that is accepted by the [standards] committee for development of a standard (or modification or deletion of an existing standard) shall be posted for public viewing on the [Regional Entity Name] website within [no greater than 30] days of acceptance by the committee.

COMMON ATTRIBUTE 12

The standards process manager shall submit the proposed members of the drafting team to the [standards] committee. The [standards] committee shall approve the drafting team membership within 60 days of accepting a standard request for development, modifying the recommendations of the standards process manager as the committee deems appropriate, and assign development of the proposed standard to the drafting team.

COMMON ATTRIBUTE 13

At the direction from the [standards] committee, the standards process manager shall facilitate the posting of the draft standard on the [Regional Entity Name] website, along with a draft implementation plan and supporting documents, for a no less than a [30]-day comment period. The standards process manager shall provide notice to [Regional Entity Name] stakeholders and other potentially interested entities, both within and outside of the [Regional Entity Name] area, of

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the posting using communication procedures then currently in effect or by other means as deemed appropriate.

COMMON ATTRIBUTE 14

The drafting team shall prepare a summary of the comments received and the changes made to the proposed standard as a result of these comments. The drafting team shall summarize comments that were rejected by the drafting team and the reason(s) that these comments were rejected, in part or whole. The summary, along with a response to each comment received will be posted on the [Regional Entity Name] website no later than the next posting of the proposed standard.

COMMON ATTRIBUTE 15

Upon recommendation of the drafting team, and if the [standards] committee concurs that all of the requirements for development of the standard have been met, the standards process manager shall post the proposed standard and implementation plan for ballot and shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

COMMON ATTRIBUTE 16

The standards process manager shall schedule a vote by the [Regional Entity Name] [registered ballot body/[standards] committee]. The vote shall commence no sooner than [15] days and no later than [30] days following the issuance of the notice for the vote.

COMMON ATTRIBUTE 17

The [standards] committee shall give due consideration to the work of the drafting team, as well as the comments of stakeholders and minority objections, in approving a proposed regional reliability standard for submittal to the [Regional Entity Name] board. The [standards] committee may vote to approve or not approve the standard. Alternatively, the [standards] committee may remand the standard to the drafting team for further work or form a new drafting team for that purpose.

COMMON ATTRIBUTE 18

The [standards] committee may not itself modify the standard without issuing a new notice to stakeholders regarding a vote of the modified standard.

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COMMON ATTRIBUTE 19

Actions by the committee shall be recorded in the regular minutes of the committee.

COMMON ATTRIBUTE 20

Under no circumstances may the board substantively modify the proposed regional reliability standard.

COMMON ATTRIBUTE 21

Once a regional reliability standard is approved by the board, the standard will be submitted to NERC for approval and filing with FERC [and applicable authorities in Canada and Mexico.]

COMMON ATTRIBUTE 22

Open - Participation in the development of a regional reliability standard shall be open to all organizations that are directly and materially affected by the [Regional Entity Name] bulk power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in [Regional Entity Name], and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to the [Regional Entity Name] members and others.

COMMON ATTRIBUTE 23

Balanced - The [Regional Entity Name] standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.

COMMON ATTRIBUTE 24

Inclusive — Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the [Regional Entity Name] area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.

COMMON ATTRIBUTE 25

Fair due process — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a

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standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.

COMMON ATTRIBUTE 26

Transparent — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.

COMMON ATTRIBUTE 27

Does not unnecessarily delay development of the proposed reliability standard.

COMMON ATTRIBUTE 28

Each standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

COMMON ATTRIBUTE 29

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all regional reliability standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

COMMON ATTRIBUTE 30

To ensure uniformity of regional reliability standards, a regional reliability standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

COMMON ATTRIBUTE 31

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

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COMMON ATTRIBUTE 32

Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions.

If not applicable to the entire [Regional Entity Name] area, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.

COMMON ATTRIBUTE 33

Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.

COMMON ATTRIBUTE 34

Defines for each measure:

- The specific data or information that is required to measure performance or outcomes.
- The entity that is responsible for providing the data or information for measuring performance or outcomes.
- The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes.
- The entity that is responsible for evaluating data or information to assess performance or outcomes.
- The time period in which performance or outcomes is measured, evaluated, and then reset.
- Measurement data retention requirements and assignment of responsibility for data archiving.

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Revision History

Revision	Date	Comments
0	October 25, 2006	Document Origination
1	October 10, 2007	Document revised to change to a registered ballot body approach to approve standards, changed "Manager of Reliability Services" to Manager of Reliability Standards," changed the RSS meeting notice period to 21 days, changed the review period for this procedure from five to three years, and moved from the Standing Committee Executive Committees to the Standards Committee the ability to remand a SAR back to the Requester for additional work.

Responsible SERC Group(s)

SERC Standards Committee (SC)

Review and Re-Approval Requirements

This document will be reviewed every three years or as appropriate by the SERC Standards Committee for possible revision. The existing or revised document will be re-certified and distributed to all members of SERC.

List of Appendices

- Appendix A: Stakeholder Representation
- Appendix B: Principles, Characteristics, and Special Procedures
- Appendix C: SERC Regional Reliability Standard Authorization Request Form
- Appendix D: Elements of a SERC Regional Reliability Standard
- Appendix E: Comment Form for Draft SERC Regional Reliability Standard
- Appendix F: SERC Consideration of Comments Form
- Appendix G: SERC Process Flow Diagram

Introduction

This procedure defines the process for development, revision, reaffirmation, and withdrawal of a regional reliability standard by the SERC Reliability Corporation (SERC). SERC is a regional entity authorized through an approved delegation agreement with the North American Electric Reliability Corporation (NERC) to propose regional reliability standards in accordance with Section 215 of the Federal Power Act (FPA), the U.S. Federal Energy Regulatory Commission (FERC) Order No. 672, and Title 18 § 39 of the U.S. Code of Federal Regulations (C.F.R. 18 § 39).

SERC Regional Reliability Standards apply to the planning, operation, and critical infrastructure protection of the Bulk Power System in the SERC Region. Proposed SERC Regional Reliability Standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA. No SERC Regional Reliability Standard shall be effective within the SERC area unless filed by NERC with FERC and approved by FERC.

SERC Regional Reliability Standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. A SERC Regional Reliability Standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or regional difference necessitated by a physical difference in the bulk power system. A SERC Regional Reliability Standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

SERC Regional Reliability Standards, when approved by FERC, shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the SERC area, regardless of membership in the region.

Process Roles

Requester: The requester is the sponsor of the SERC Regional Reliability Standard request and may assist in the development of the standard. Any member of SERC, or any group (or member of a group) within SERC (i.e., committee, subcommittee, working group, study group, task force, or SERC staff), shall be allowed to request that a SERC Regional Reliability Standard be developed, modified, or withdrawn. Additionally, any entity that is directly and materially affected by the reliability of the SERC Bulk Power System shall be allowed to request that a SERC Regional Reliability Standard be developed, modified, or withdrawn.

SERC Board of Directors: The SERC Board of Directors shall consider for adoption as SERC Regional Reliability Standards, those Standards that have been developed and approved by this procedure. Once the Board adopts a SERC Regional Reliability Standard, such Standard shall be submitted to NERC for approval. When approved by NERC, it shall be submitted to FERC for approval.

SERC Staff: The SERC Manager of Reliability Standards is responsible for forwarding a request for the development, modification or withdrawal of SERC Regional Reliability Standards to the SERC Standards Committee. The SERC Staff shall facilitate all steps in this process.

SERC Standards Committee: The SERC Regional Reliability Standard Development Procedure shall be administered by the SERC Standards Committee (SC). The SERC SC is responsible for ensuring that the development, modification or withdrawal of SERC Regional Reliability Standards is in accordance with the steps in this procedure. The SERC SC will ensure the integrity of the process and the consistency of quality and completeness of the SERC Regional Reliability Standards.

SERC Standing Committees: The SERC Standing Committees will perform a high level technical review of the SAR to determine which requests for new or revised standards shall be assigned for development (or existing standards considered for deletion). The Standing Committees will appoint the standard drafting team (Responsible SERC Subgroup).

The current SERC Standing Committees are the Engineering Committee (EC), Operating Committee (OC), and Critical Infrastructure Protection Committee (CIPC). The Standing Committees are balanced stakeholder committees, inclusive of all stakeholder interests that provide for or are materially impacted by the reliability of the bulk power system. See Appendix A for the representation model of the Standing Committees.

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Compliance Advisory Groups: The SERC Compliance Advisory Groups provide inputs and comments during the standards development process to ensure the measures will be effective and other aspects of the compliance program can be practically implemented.

Responsible SERC Subgroup (RSS): Responsible SERC Subgroups are teams, responsible for drafting the standard. The RSS may include technical experts and be based around a permanent SERC Standing Committee subgroup. An RSS is established expressly to draft the standard. Membership on an RSS will be assigned by the SERC EC, OC, and/or CIPC. The requester may act as the RSS, serve on the RSS, or otherwise assist the RSS. SERC membership is not a prerequisite for serving on an RSS. The RSS will:

- Develop the details of the SERC Regional Reliability Standard,
- Consider and respond to industry comments,
- Participate in forums to help build consensus on draft SERC Regional Reliability Standards,
- Assist in the implementation of approved SERC Regional Reliability Standards,
- Provide technical oversight in response to changing industry conditions, and
- Assist in the identification of the need for new SERC Regional Reliability Standards.

Registered Ballot Body (RBB): The registered ballot body votes to approve standards. The RBB comprises all entities or individuals that qualify for one of the SERC industry Sectors, and are registered with SERC as potential ballot participants in the voting on standards. SERC membership is not a prerequisite for registering with SERC as a potential ballot participant. Any entity that is directly and materially affected by the reliability of the SERC Bulk Power System shall be allowed to register as a potential ballot participant.

Each member of the registered ballot body is eligible to vote on standards. Each standard action has its own ballot pool formed of interested members of the registered ballot body.

Ballot Pool: Each standard action has its own ballot pool formed of interested members of the Registered Ballot Body. The ballot pool comprises those members of the Registered Ballot Body that respond to a pre-ballot survey for that particular standard action. The ballot pool will ensure, through its vote, the need for and technical merits of a proposed standard action and the appropriate consideration of views and objections received during the development process. The ballot pool votes to approve each standards action.

Process Steps

Note: The term “days” below refers to calendar days.

SERC will coordinate with NERC such that the acknowledgement of receipt of an accepted standard request identified in step 4, notice of comment posting period identified in step 7, and notice for vote identified in step 9 below are concurrently posted on both the SERC and NERC websites.

Step 1: Request for a new SERC Regional Reliability Standard or modification to, or withdrawal of an existing SERC Regional Reliability Standard

A request to develop, modify or withdraw a SERC Regional Reliability Standard shall be submitted, using the SERC Regional Reliability Standard Authorization Request (SAR) Form (see Appendix C), to the SERC Manager of Reliability Standards (via e-mail to regstd@serc1.org) by any member of SERC, or any group (or member of a group) within SERC (i.e., committee, subcommittee, working group, study group, task force, or SERC staff), or any entity that is directly and materially affected by reliability of the SERC Bulk Power System. The SERC SAR Form can be downloaded from the SERC website (www.serc1.org).

An acceptable SAR shall contain a description of the proposed regional reliability standard subject matter with sufficient descriptive detail of the proposed standard to clearly define the purpose, scope, impacted parties, and other relevant information. SERC Staff shall verify that the SAR Form has been adequately completed. Within 15 days of receiving the SAR, the SERC Manager of Reliability Standards or his designee will electronically acknowledge receipt of the SAR, and will forward the SAR to the SERC Standards Committee. The SERC Manager of Reliability Standards may offer the Requester suggestions regarding changes or improvements to enhance the clarity of the proposed standards work and to assist the SERC Standards Committee in understanding the requester’s intent and objectives. The requester is free to accept or reject these suggestions.

Step 2: Assignment of SERC Regional Reliability Standard Request

The Standards Committee will review the SAR to ensure it is not in conflict with or duplication of a current standard or a standards drafting effort already proposed or in progress. Within 15 days after receiving the SAR from the SERC Manager of Reliability Standards, the Standards Committee will take one of the two following actions:

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- Assign the SAR to the appropriate SERC Standing Committee(s). SERC Staff will forward the SAR to the appropriate SERC Standing Committee Chair(s) and Standing Committee(s) Executive Committee.
- Remand the SAR back to the Requester for additional work. The SERC Manager of Reliability Standards will make reasonable efforts to assist the Requester in addressing the deficiencies identified by the Standards Committee. The Requester may then resubmit the modified SAR using the process above. The requester may choose to withdraw the SAR from further consideration.

Step 3: Acceptance of a SERC Regional Reliability Standard Request

Within 60 days of receipt of a completed SAR, the assigned SERC Standing Committee(s) Executive Committee(s) shall determine the disposition of the SAR. The committee may take one of the two following actions:

- Accept the SAR as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The committee(s) may, at its discretion, expand or narrow the scope of the SAR under consideration. The committee(s) shall prioritize the development of standard in relation to other proposed standards, as may be required based on the volume of requests and resources.
- Reject the SAR. If the committee(s) rejects a SAR, a written explanation for rejection will be delivered to the Requester within 30 days of the decision.

Deliberations and decisions of the assigned SERC Standing Committee(s) Executive Committee(s) concerning requests shall be made and documented in accordance with the SERC Standing Committee rules and procedures then in effect.

Step 4: Posting of SERC Regional Reliability Standard Request

Any SAR that is accepted by the assigned SERC Standing Committee(s) Executive Committee(s) for development of a standard (or modification or deletion of an existing standard) shall be posted for public viewing on the SERC website within 30 days of acceptance by the committee. A notice of the posting for a 30-day comment period will be sent to all SERC Standing Committees representatives and alternates. In addition, the notice will be sent (via e-mail) to NERC, the Region Managers of the Regional Entities adjoining SERC (RFC, MRO, SPP, and FRCC), individuals listed as entity contacts in the SERC Compliance Registry, and the SERC Registered Ballot Body representatives to seek input on the proposed SAR. SERC Staff will perform this

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posting on the SERC website and coordinate or send correspondences described in this and other steps of the process.

Step 5: Formation of a Responsible SERC Subgroup

Within 60 days of accepting a SAR for development, the assigned SERC Standing Committee(s) Executive Committee(s) shall assign and direct the proposal to the appropriate Responsible SERC Subgroup (RSS) to develop the draft Regional Reliability Standard. The RSS may be a permanent Standing Committee subgroup (augmented by other persons as may be appropriate to address the subject matter of the proposed standard), or a task force established expressly by the Executive Committee(s) for drafting the standard. SERC membership is not a prerequisite for serving on an RSS.

After consulting with the assigned SERC Standing Committee(s) Executive Committee(s) as necessary, the SERC Standards Committee (SC) will assign a preliminary date on which the RSS is expected to have ready a completed draft Standard and associated supporting documentation available for consideration.

Step 6: Drafting of a SERC Regional Reliability Standard

The RSS shall develop a work plan for completing the regional reliability standard, including the establishment of a milestone schedule for completing critical elements of the work in sufficient detail to ensure that the RSS will meet the objectives established by the SC. The RSS shall submit its work plan to the SC for its concurrence.

The RSS shall convene periodically, either in person or by electronic means as necessary, establish work teams (made up of members of the RSS) as necessary, and perform other activities to complete the proposed standard within the milestone date(s) agreed upon by the SC. All RSS meetings or portions of meetings associated with development of the draft standard shall be open and publicly noticed on the SERC website for a minimum of twenty-one (21) calendar days prior to the meeting. All RSS meeting attendees are required to register via the SERC website.

The RSS shall consider all comments received on the posting of the SAR and shall develop a draft SERC Regional Reliability Standard that will address the accepted SAR. The RSS shall use the SERC Regional Reliability Standards Format Template as the format for the draft standard (see Appendix D). The SERC Regional Reliability Standards Format Template can be downloaded from the SERC website (www.serc1.org).

The work product of the RSS will consist of the following:

- A draft Standard consistent with the SAR on which it was based.

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- An assessment of the impact of the standard on neighboring regions, and appropriate input from the neighboring regions if the standard is determined to impact any neighboring region.
- An implementation plan, including the nature, extent and duration of field-testing, if any.
- Identification of any existing Standard that will be deleted, in part or whole, or otherwise impacted by the implementation of the draft Standard
- Technical reports, white papers and/or work papers that provide technical support for the draft Standard under consideration.
- Documentation of the perceived reliability impact should the Standard be approved.

The RSS shall regularly inform the SC, at a frequency determined by the SC, of its progress in meeting a timely completion of the draft standard. The RSS may, with justification, request of the SC scope changes from the SAR at any point in the standard development process.

The RSS shall submit the draft SERC Regional Reliability Standard and supporting documentation to the SC for review. The RSS will send any revised SERC Regional Reliability Standard to the SC in both “Clean” and “Tracking” formats. The RSS shall also send the SC an accompanying Comments Form which may include specific questions addressing the major issues associated with the new or revised standard. In any event, the Comments Form must also allow for general comments on the standard (see Appendix E for sample form). The SC will verify that the proposed standard is consistent with the SAR on which it was based. The SERC Regional Reliability Draft Standards Comments Form can be downloaded from the SERC website (www.serc1.org).

Step 7: Posting of a Draft SERC Regional Reliability Standard

The SERC Standards Committee shall send to the SERC Manager of Reliability Standards the draft SERC Regional Reliability Standard, along with a draft implementation plan and supporting documents, for comments. SERC Staff will post these documents on the SERC website for thirty (30) calendar days. A notice of the posting for comment will be sent to all SERC Standing Committees representatives and alternates. In addition, the request will be sent (via e-mail) to NERC, the Region Managers of the Regional Entities adjoining SERC (RFC, MRO, SPP, and FRCC), individuals listed as entity contacts in the SERC Compliance Registry, and the SERC Registered Ballot Body representatives to seek input on the draft SERC Regional Reliability Standard. Comments shall be submitted electronically (via e-mail) to regstd@serc1.org. All comments are due by the close of business on the 30th calendar day of posting. If the comment due date falls on a weekend or nationally recognized holiday, the comments shall be due by the close of business on the next regularly scheduled business day.

Step 8: Standard Drafting Team Review of Comments

SERC Staff shall forward all comments received to the RSS and SC. The SC may review comments and make recommendations concerning them. Any SC recommendation will be forwarded to the RSS. The RSS shall review the comments received and revise the draft SERC Regional Reliability Standard as needed. The RSS shall develop a written response to each comment received using the Consideration of Comments Form Template (see Appendix F). The SERC Consideration of Comments Form Template can be downloaded from the SERC website (www.serc1.org). The completed Consideration of Comments Form will be posted on the SERC website.

The RSS shall summarize comments that were rejected by the RSS and the reason(s) that these comments were rejected, in part or whole. The RSS shall submit to the SC the summary of comments rejected, the completed Consideration of Comments form, and any resulting revisions to the draft SERC Regional Reliability Standard.

If needed, a second draft of the SERC Regional Reliability Standard (along with the summary of comments rejected and the Consideration of Comments from the previous posting) will be posted for another comment period. Such comment period shall be for thirty (30) calendar days. A notice of the posting for comment will be sent to all SERC Standing Committees representatives and alternates. In addition, the notice will be sent (via e-mail) to NERC, the Region Managers of the Regional Reliability Organizations adjoining SERC (RFC, MRO, SPP, and FRCC), individuals listed as entity contacts in the SERC Compliance Registry, and the SERC Registered Ballot Body representatives to seek input on the revised draft SERC Regional Reliability Standard.

Based on comments received to the posting, Step 7 will be repeated as necessary until the RSS and the SC believe the draft SERC Regional Reliability Standard is ready to submit to the SERC Ballot Body for approval.

Step 9: Notice of Vote to Approve a SERC Regional Reliability Standard

The Responsible SERC Subgroup shall submit the summary of comments rejected and the Consideration of Comments document along with the final draft of the proposed SERC Regional Reliability Standard (both "Tracking" and "Clean" versions for standard revisions) to the SERC Manager of Reliability Standards for posting on the SERC website at least 15 days prior to requesting approval of the standard.

The SERC Manager of Reliability Standards shall post the proposed standard and implementation plan for ballot and shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

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Ballot Pool: The SERC Manager of Reliability Standards shall establish a ballot pool for a standard action at least 15 days prior to the start of a ballot. The SERC Manager of Reliability Standards shall send a notice to every entity in the Registered Ballot Body. The purpose of this notice is to establish a ballot pool to participate in the ballot of the proposed standards action.

Any member of the Registered Ballot Body may join or drop out of a ballot pool until the ballot period begins (Step 10). No Registered Ballot Body member may join or leave the ballot pool once the first ballot starts. The SERC Manager of Reliability Standards shall coordinate changes to the membership of the ballot pool and publicly post the standard ballot pool for each standard action.

The SERC Manager of Reliability Standards shall schedule a vote by the ballot pool for approval. The vote shall commence no sooner than 15 days and no later than 30 days following the issuance of the notice for the vote.

Step 10: SERC Ballot Pool of Registered Ballot Body Approval

The Ballot Pool shall have a minimum of ten (10) days to vote on a standards action. The Ballot Pool should give due consideration to the work of the RSS, as well as the comments of stakeholders and minority objections, in approving a proposed regional reliability standard. The Ballot Pool may vote to approve or not approve the standard.

Once approved, the SERC Regional Reliability Standard along with the proposed implementation plan and supporting documentation will be submitted by the SERC President, or the President's designee, to the SERC Board of Directors for adoption.

If approval by the RBB is not obtained, the Standing Committee(s) will determine if the draft SERC Regional Reliability Standard is to be sent back to the RSS to repeat Step 8 to incorporate any RBB or SERC Standing Committee(s) comments, form a new RSS for that purpose, or to take no further action on the proposed SERC Regional Reliability Standard.

If no further action is taken, the reason for such will be posted on the SERC website. A notice of the posting will be sent to all SERC Standing Committee representatives and alternates. In addition, the notice will be sent (via e-mail) to NERC, the Region Managers of the Regional Entities adjoining SERC (RFC, MRO, SPP, and FRCC), individuals listed as entity contacts in the SERC Compliance Registry, and the SERC Registered Ballot Body representatives.

Step 11: Adoption of SERC Regional Reliability Standards by the SERC Board of Directors

The SERC Board of Directors shall consider adoption of any SERC Regional Reliability Standard that has been approved by the SERC RBB. A SERC Regional Reliability Standard submitted for adoption by the SERC Board of Directors must be posted for notification on the SERC website at least 15 days prior to action by the SERC Board of Directors. A notice of the posting will be sent to all SERC Board of Directors representatives and alternates, and to all SERC Standing Committee representatives and alternates. In addition, the notice will be sent (via e-mail) to NERC, the Region Managers of the Regional Entities adjoining SERC (RFC, MRO, SPP, and FRCC) and to any entity that is directly and materially affected by the reliability of the SERC Bulk Electric System.

The SERC Board of Directors shall consider the comments received, the responses provided, and any dissenting opinions. The SERC Board of Directors shall adopt or reject a SERC Regional Reliability Standard as submitted, but may not substantively modify the proposed SERC Regional Reliability Standard.

If the SERC Board of Directors chooses to reject a SERC Regional Reliability Standard as submitted, it shall provide its reasons for doing so. The reasons for such decision will be posted on the SERC website. A notice of the posting will be sent to all SERC Standing Committees representatives and alternates. In addition, the notice will be sent (via e-mail) to NERC, the Region Managers of the Regional Entities adjoining SERC (RFC, MRO, SPP, and FRCC), individuals listed as entity contacts in the SERC Compliance Registry, and the SERC Registered Ballot Body representatives. The assigned Standing Committee(s) will determine if the draft standard should be resubmitted with modifications. If so, the draft standard will be remanded back to the RSS in Step 8 above.

Step 12: Submission of SERC Regional Reliability Standards to NERC and FERC

Once the SERC Regional Reliability Standard is adopted by the SERC Board of Directors, the SERC President, or the President's designee shall submit the SERC Regional Reliability Standard to NERC for approval and filing with FERC. NERC will post the SERC Regional Reliability Standard for comments. The Responsible SERC Subgroup will develop a response to any comments and submit it to the Standards Committee for approval. When the Responsible SERC Subgroup response is approved by the Standards Committee, the SERC President, or the President's designee will forward the comments to NERC for consideration by the NERC Board. If the NERC Board rejects the SERC Regional Reliability Standard the SERC Board will determine if the SERC Regional Reliability Standard is to be sent back to the assigned SERC

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Standing Committee(s) to incorporate the NERC Board comments or to take no further action on the standard.

When approved by the NERC Board, NERC will submit the SERC Regional Reliability Standard to FERC for approval. If FERC rejects the SERC Regional Reliability Standard, the SERC Board will determine if the SERC Regional Reliability Standard is to be sent back to the assigned SERC Standing Committee(s) to incorporate the FERC comments or to take no further action on the standard.

Step 13: Implementation of SERC Regional Reliability Standards

A SERC Regional Reliability Standard that is adopted by the SERC Board of Directors, NERC, and FERC, shall become effective on a date designated by FERC. In developing the standard, the RSS should consider the time needed for NERC and FERC approval in the proposed implementation date.

Appendix A: Stakeholder Representation

A.1 SERC Standing Committees and Member Representation

Membership in SERC is open to any entity that is a user, owner or operator of the Bulk-Power System and subject to the jurisdiction of the Federal Energy Regulatory Commission for the purpose of complying with Reliability Standards established under Section 215 of the Federal Power Act and all amendments thereto. SERC's membership policy permits full and fair participation of all members through their representatives, including in the development of and voting on Regional Reliability Standards. The SERC standing committees have a role in developing standards, a ballot pool of the SERC Registered Ballot Body vote to approve Regional Reliability Standards, and the SERC Board of Directors adopts all standards. Since each member is entitled to representation on both the Board and the Standing Committees, SERC's membership policy permits full and fair participation of its members.

The following are excerpts from the SERC Reliability Corporation Bylaws. Section 8.1 establishes the Standing Committees and SERC Member representation on those committees. Section 8.2 specifies committee voting rights will be based on the same method as adopted by the SERC Board of Directors, and refers to the Organization and Procedures Manual for SERC Standing Committees for more specific details.

8.1 Designation by Board. The Board of Directors, by resolution adopted by a Bicameral Simple Majority, may designate standing and special (ad hoc) committees, as shall be necessary to address the purposes of the Corporation. Such committees shall include, but are not limited to the following:

(a) Engineering Committee -- The purpose of this committee shall be to promote the reliability and adequacy of the Bulk-Power System, as related to the planning and engineering of electric systems. The committee shall provide a mechanism for the coordination of activities in the areas of planning and engineering.

b) Operating Committee -- The purpose of this committee shall be to promote the reliability and adequacy of the Bulk-Power System, as related to the operation of electric systems. The committee shall provide a mechanism for the coordination of activities in the area of operations.

(c) Critical Infrastructure Protection Committee -- The purpose of this committee shall be to promote the advancement of the physical and cyber security of the Bulk-Power System. It serves as an expert advisory panel in the areas of physical and cyber security, establishes and maintains an information reporting procedure, provides a liaison with state government agencies, and conducts forums and workshops related to Critical Infrastructure Protection.

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Each Member is entitled, but not required, to name both a representative and alternate to the committees designated in this Section 8.1.

8.2 Voting Rights for Committees. Except as otherwise provided for in these Bylaws, voting rights for the Committees established pursuant to Section 8.1 shall be based on the same method as adopted by the Board of Directors of the Corporation. Operating procedures, definitions for quorum, and votes for approval are contained in the Organization and Procedures Manual for the Corporation's Standing Committees.

A.2 SERC Regional Reliability Standards Voting Procedures

The following are the voting procedures for the SERC Registered Ballot Body:

1. Registration Procedures

The Registered Ballot Body (RBB) comprises all organizations and entities that:

- Qualify for one of the SERC Sectors, and
- Are registered with SERC as potential ballot participants in the voting on standards.

All registrations will be done electronically. Each participant, when initially registering to join the RBB will self-select to belong to one of the Sectors and will also name their RBB representative. The Executive Committee of the Board of Directors will review all applications for joining the Registered Ballot Body, and make a determination of whether the self-selection satisfies the criteria to belong to that sector. The Sectors shall be identical to those in Section 3.4 of the SERC's Bylaws.

All registered organizations and entities that qualify for a Sector with SERC may vote on a standard. Voting is in writing with each registered stakeholder (a "stakeholder") having one vote. The stakeholder's RBB representative will have the right to register to participate in ballot pools and cast the stakeholder's vote.

2. Sector Qualification Guidelines

The sector qualification guidelines are inclusive; i.e., any entity with a legitimate interest in the reliability of the SERC bulk power system that can meet the criteria for a sector as defined in Section 3.4 of the SERC's Bylaws is entitled to belong to and vote in that sector. The general guidelines are:

- Corporations or organizations with affiliates that qualify to belong to more than one sector (e.g., Investor-Owned Utility and Merchant Electricity Generator) may belong to each of the sectors in which they qualify, provided that each sector constitutes a separate membership and is represented by a

different representative.

- At any given time, affiliated entities may collectively be registered only once within a sector.
- Any individual currently employed by an organization that is eligible to join one of the other seven sectors, shall not be qualified to join as a “customer” in the ISO-RTO/Customer sector.

3. Definitions

Individual Vote – shall mean a single vote accorded to each stakeholder.

4. Quorum

Two-thirds of the Individual Votes of the Ballot Pool shall constitute a quorum.

5. SERC Registered Ballot Body Voting Requirements

A ballot pool will be established to participate in the ballot of any proposed standards action. Approval of a reliability standard or revision to a reliability standard requires the affirmative vote of a two thirds majority of the weighted Sector votes cast. The number of votes cast in each Sector is the sum of affirmative and negative votes, excluding abstentions and non-response.

The following process is used to determine if there are sufficient affirmative votes.

- The number of affirmative votes cast in each Sector will be divided by the sum of affirmative and negative votes cast to determine the fractional affirmative vote for each Sector. Abstentions and non-responses will not be counted for the purposes of determining the fractional affirmative vote for a Sector.
- The fractional affirmative vote for a Sector is then multiplied by the Sector weight factor, to determine the weighted fractional affirmative vote for a Sector. The weight factors for the Sectors are:
 - Investor-Owned Utility Sector: weight factor is 3.
 - Federal/State Sector: weight factor is 2.
 - Cooperative Sector: weight factor is 2.
 - Municipal Sector: weight factor is 2.
 - Marketer Sector: weight factor is 1.
 - Merchant Electricity Generator Sector: weight factor is 1.
 - ISO-RTO/Customer Sector: weight factor is 1.
- The sum of the weighted fractional affirmative votes from all Sectors divided by the sum of the weights of the Sectors voting will be used to determine if a two-thirds majority has been achieved. (A Sector will be considered as “voting” if any member of the Sector in the ballot pool casts either an

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- affirmative or a negative vote.)
- A standard will be approved if the sum of weighted fractional affirmative votes from all Sectors divided by the sum of the weights of the voting Sectors is two-thirds or greater.

Appendix B: Principles, Characteristics, and Special Procedures

Principles

SERC develops regional standards with due consideration of the following principles, in accordance with the steps outlined in this procedure. This procedure has been designed to ensure that any SERC Regional Reliability Standard is technically sound and the technical specifications proposed will achieve a valuable reliability objective.

The SERC Regional Reliability Standards Development Procedure has the following characteristics:

- **Open:** Participation in the development of a SERC Regional Reliability Standard shall be open to all organizations that are directly and materially affected by the SERC bulk power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in SERC, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of the Responsible SERC Subgroup assigned to draft a standard shall be open to the SERC members and others.
- **Balanced:** The SERC Regional Reliability Standards Development Procedure strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.
- **Inclusive:** Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the SERC area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, c) registering as a potential ballot participant and voting on a proposed standard; and d) having the right to appeal.
- **Fair due process:** The SERC Regional Reliability Standards Development Procedure provides for reasonable notice and opportunity for public comment. This procedure includes public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.
- **Transparent:** All actions material to the development of SERC Regional Reliability Standards shall be transparent. All standards development meetings shall be open and publicly noticed on the SERC Web site.
- **Due Course:** Does not unnecessarily delay development of the proposed SERC Regional Reliability Standard.

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NERC has adopted reliability principles and market interface principles to define the purpose, scope, and nature of reliability standards. These principles are to be used to guide the development of reliability standards, including regional reliability standards. The NERC Board of Trustees may modify these principles from time to time, as necessary, to adapt its vision for reliability standards.

- Each SERC Regional Reliability Standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.
- While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all SERC Regional Reliability Standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

Regional Reliability Standard Characteristics and Elements

Characteristics of a SERC Regional Reliability Standard

The following characteristics describe objectives to be considered in the development of SERC Regional Reliability Standards:

1. **Applicability:** Each SERC Regional Reliability Standard clearly identifies the functional classes of entities responsible for complying with the standard, with any specific additions or exceptions noted. Such functional classes include: reliability coordinators, balancing authorities, transmission operators, transmission owners, generator operators, generator owners, interchange authorities, transmission service providers, market operators, planning authorities, transmission planners, resource planners, load-serving entities, purchasing-selling entities, and distribution providers. Each SERC Regional Reliability Standard identifies the geographic applicability of the standard. A standard may also identify any limitations on the applicability of the standard based on electric facility characteristics.
2. **Reliability Objectives:** Each SERC Regional Reliability Standard has a clear statement of purpose that describes how the standard contributes to the reliability of

SERC Regional Reliability Standard Development Procedure

the bulk power system.

3. **Requirement or Outcome:** Each SERC Regional Reliability Standard states one or more requirements, which if achieved by the applicable entities, will provide for a reliable bulk power system, consistent with good utility practices and the public interest.
4. **Measurability:** Each performance requirement is stated so as to be objectively measurable by a third party with knowledge or expertise in the area addressed by that requirement. Each performance requirement has one or more associated measures used to objectively evaluate compliance with the requirement. If performance can be practically measured quantitatively, metrics are provided to determine satisfactory performance.
5. **Technical Basis in Engineering and Operations:** Each regional reliability standard is based upon sound engineering and operating judgment, analysis, or experience, as determined by expert practitioners in that particular field.
6. **Completeness:** Each SERC Regional Reliability Standard is complete and self-contained. Supporting references may be provided with standards, but they are not part of the standard and do not impose mandatory requirements.
7. **Clear Language:** Each SERC Regional Reliability Standard is stated using clear and unambiguous language. Responsible entities, using reasonable judgment and in keeping with good utility practice, are able to arrive at a consistent understanding of the required performance.
8. **Practicality:** Each SERC Regional Reliability Standard establishes requirements that can be practically implemented by the assigned responsible entities within the specified effective date and thereafter.
9. **Consistent Terminology:** To the extent possible, SERC Regional Reliability Standards use a set of standard terms and definitions that are approved through the SERC Regional Reliability Standard Development Procedure.

Although regional reliability standards have a common format and process, several types of standards may exist, each with a different approach to measurement:

- Technical standards are related to the provision, maintenance, operation, or state of electric systems, and will likely contain measures of physical parameters that are technical in nature.
- Performance standards are related to the actions of entities providing for or impacting the reliability of the bulk power system, and will likely contain measures of

SERC Regional Reliability Standard Development Procedure

the results of such actions or qualities of performance of such actions.

- Preparedness standards are related to the actions of entities to be prepared for conditions that are unlikely to occur, but are nonetheless critical to reliability, and will likely contain measures of such preparations or the state of preparedness.

Elements of a SERC Regional Reliability Standard

To ensure uniformity of SERC Regional Reliability Standards, a SERC Regional Reliability Standard shall consist of the elements identified in Appendix D of this procedure. However, the most current version of the approved NERC Reliability Standard template and its associated elements posted on the NERC website will be used at the time of the development of the SERC Regional Reliability Standard if different from the elements listed in Appendix D. This is to ensure all essential elements are contained in the SERC standard to achieve consistency and uniformity and meet all statutory requirements. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

All mandatory requirements of a SERC Regional Reliability Standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

Maintenance of the SERC Regional Reliability Standards Development Procedure

Any member of SERC, or group (or member of a group) within SERC (i.e., committee, subcommittee, working group, study group, task force, or SERC staff), or any entity that is directly and materially affected by the reliability of the SERC Bulk Power System may submit a written request to modify the SERC Regional Reliability Standard Development Procedure. The Manager of Reliability Standards shall oversee the handling of the request.

Significant changes to this procedure shall be addressed using the same procedure as a request to develop, modify, or withdraw a SERC Regional Reliability Standard.

For any minor changes to this procedure, the SERC Standards Committee shall review the request and submit recommendations to the SERC Board of Directors for consideration. The SERC Board of Directors, on its own motion, may amend the SERC Regional Reliability Standard Procedure.

Maintenance of SERC Regional Reliability Standards

Each SERC Regional Reliability Standard shall be reviewed at least once every five (5) years. The review date will be determined from the effective date or the latest revision

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date, whichever is later. The review process shall be conducted in accordance with Steps 1 through 13 of the SERC Regional Reliability Standard Development Procedure. As a result of this review, a SERC Regional Reliability Standard shall be reaffirmed, revised, or withdrawn.

Interpretations of Standards

Any member of SERC, or group within SERC, or an entity that is directly and materially affected by reliability of the SERC Bulk Electric System shall be permitted to request an interpretation of a SERC Regional Reliability Standard or regional criteria documented in a SERC Standing Committee Document. Any such entity shall also be permitted to request implementation guidance regarding how the SERC compliance program will be measuring and enforcing a NERC Reliability Standard¹. The entity requesting an interpretation or implementation guidance shall send a request to regstd@serc1.org explaining the specific circumstances surrounding the request and what clarifications are required as applied to those circumstances. The request should indicate the material impact to the requesting party, or others, caused by the lack of clarity or a possible incorrect interpretation. SERC Staff will forward requests for interpretations to the appropriate SERC Standing Committee Chair(s), who will assign a Responsible SERC Subgroup with the relevant expertise to address the clarification.

As soon as practical [but not more than forty-five (45) calendar days following the receipt of the request], the assigned subgroup will draft a written interpretation of the SERC Regional Reliability Standard or regional criteria addressing the issues raised. The interpretation will be submitted to the appropriate SERC Standing Committee(s) Executive Committee for review.

As soon as practical [but not more than twenty (20) calendar days following the receipt of the written interpretation from the RSS], the SERC Standing Committee Executive Committee will develop a written recommendation to the SERC Executive Committee concerning approval of the interpretation. The SERC Standing Committee Executive Committee must recommend either that 1) the RSS written interpretation; or 2) a revision of that interpretation be approved. The recommendation, the RSS written interpretation, and any revised interpretation will be forwarded to the SERC Executive Committee.

If approved by the SERC Executive Committee, the interpretation is appended to the SERC Regional Reliability Standard or SERC regional criteria and is effective immediately. The interpretation will stand until such time as the SERC Regional Reliability Standard or SERC Standing Committee Document is revised through the normal process, at which time the SERC Regional Reliability Standard or SERC

¹ This is different than requesting an interpretation of the meaning of a NERC Reliability Standard itself, which must be addressed through the NERC process by submitting a request for interpretation to NERC.

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Standing Committee Document will be modified to incorporate the clarifications provided by the interpretation.

Requests for implementation guidance regarding how the SERC compliance program will be measuring and enforcing a NERC Reliability Standard will be forwarded to the SERC Compliance staff. The SERC Compliance staff will assign the request to the applicable compliance advisory group to develop appropriate implementation guidance. As soon as practical [but not more than forty-five (45) calendar days following the receipt of the request], the assigned compliance advisory group will draft written implementation guidance for review by the SERC Compliance staff. The SERC Compliance staff will notify the requestor of the approved implementation guidance.

Appeals

Any member of SERC or any entity that is directly and materially affected by the reliability of the SERC Bulk Electric System that believes it has been or will be adversely affected by any substantive or procedural action or inaction related to the development, approval, revision, or withdrawal of a SERC Regional Reliability Standard shall have the right to appeal. This appeals process applies only to the SERC Regional Reliability Standards Process as defined in this manual. The burden of proof to show adverse effect shall be on the appellant. Appeals shall be made within thirty (30) calendar days of the date of the action purported to cause the adverse effect. The final decisions of any appeal shall be documented in writing and posted on the SERC Member website. A notice of the posting will be sent to all SERC Board of Directors representatives and alternates, and to all SERC Standing Committees representatives and alternates. In addition, the notice will be sent (via e-mail) to the Region Managers of the Regional Entities adjoining SERC (RFC, MRO, SPP, and FRCC) and to any entity that is directly and materially affected by the reliability of the SERC Bulk Electric System.

The appeals process provides two levels, with the goal of expeditiously resolving the issue to the satisfaction of the participants:

Level 1 Appeal

Level 1 is the required first step in this appeals process. The appellant submits to the SERC President a complaint in writing that describes the substantive or procedural action associated with a SERC Regional Reliability Standard or the SERC Regional Reliability Standards Process. The appellant must describe in the complaint the actual or potential adverse impact to the appellant.

Assisted by any necessary staff and the Standards Committee, the SERC President, or the President's designee shall prepare a written response addressed to the appellant as soon as practical but not more than forty-five (45) calendar days after receipt of the complaint. If the appellant accepts the response as a satisfactory resolution of the

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issue, both the complaint and response will be made a part of the record associated with the SERC Regional Reliability Standard.

Level 2 Appeal

If after the Level 1 Appeal, the appellant remains unsatisfied with the resolution, notification shall be made in writing to the SERC President within fifteen (15) calendar days of the affected entity's Level 2 Appeal to the SERC Executive Committee. In all cases, no SERC Executive Committee members that have any direct affiliation with the participants in the appeal will participate in the Level 2 Appeal.

SERC Staff shall post on the SERC website the notice of the Level 2 appeal and other relevant materials at least fifteen (15) calendar days prior to consideration of the Level 2 appeal by the SERC Executive Committee.

In addition to the appellant, any entity that is directly and materially affected by the reliability of the SERC Bulk Electric System, and who is directly and materially affected by the substantive or procedural action referenced in the complaint shall be heard by the SERC Executive Committee. The SERC Executive Committee shall not consider any expansion of the scope of the appeal that was not presented in the Level 1 Appeal.

The Executive Committee may direct the Standards Committee to research and/or advise it on technical issues or matters related to the appeal. Each appellant, any entity that is directly and materially affected by the reliability of the SERC Bulk Electric System, and who is directly and materially affected by the substantive or procedural action referenced in the complaint may request that an ad-hoc committee be formed to assist the Executive Committee in its review.

The SERC Executive Committee may in its decision find for the appellant and remand the issue to the SERC Standards Committee for resolution with a statement of the issues and facts in regard to which fair and equitable action was not taken.

The SERC Executive Committee may find against the appellant with a specific statement of the facts that demonstrate fair and equitable treatment of the appellant and the appellant's objections.

The actions of the SERC Executive Committee shall be posted on the SERC website. A notice of the posting will be sent to the appellant, all SERC Board of Directors representatives and alternates, and all SERC Standing Committees representatives and alternates. In addition, the notice will be sent (via e-mail) to the Region Managers of the Regional Entities adjoining SERC (RFC, MRO, SPP, and FRCC) and to any entity that is directly and materially affected by the reliability of the SERC Bulk Electric System.

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Appendix C: SERC Regional Reliability Standard Authorization Request Form (Latest approved version of form is posted on the SERC website: www.serc1.org)

SERC to complete

ID
Authorized for Posting
Authorized for Development

Title of Proposed Standard:
Request Date:

SAR Originator Information

Name	SAR Type (Check box for one of these selections.)	
Company	<input type="checkbox"/>	New Standard
Telephone	<input type="checkbox"/>	Revision to Existing Standard
Fax	<input type="checkbox"/>	Withdrawal of Existing Standard
E-mail	---	-----

Purpose (Describe the purpose of the proposed Standard — what the Standard will achieve in support of reliability.)
--

Industry Need (Provide a detailed statement justifying the need for the proposed Standard, along with any supporting documentation.)

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Brief Description (Describe the proposed standard in sufficient detail to clearly define the scope in a manner that can be easily understood by others.)

Justification for Regional Variation (Provide a detailed statement justifying the need for the proposed Standard specifically identifying the need for a regional variation.)

Reliability Functions

The Standard will Apply to the Following Functions (Check box for each one that applies.)

	Reliability Authority	The entity that is the highest level of authority who is responsible for the reliable operation of the Bulk Electric System, has the Wide Area view of the Bulk Electric System, and has the operating tools, processes and procedures, including the authority to prevent or mitigate emergency operating situations in both next-day analysis and real-time operations. The Reliability Coordinator has the purview that is broad enough to enable the calculation of Interconnection Reliability Operating Limits, which may be based on the operating parameters of transmission systems beyond any Transmission Operator's vision.
	Balancing Authority	The responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area, and supports Interconnection frequency in real time.
	Interchange Authority	Authorizes valid and balanced Interchange Schedules
	Planning Authority	The responsible entity that coordinates and integrates transmission facility and service plans, resource plans, and protection systems.
	Transmission Service Provider	The entity that administers the transmission tariff and provides Transmission Service to Transmission Customers under applicable transmission service agreements.
	Transmission Owner	The entity that owns and maintains transmission facilities.

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	Transmission Operator	The entity responsible for the reliability of its "local" transmission system, and that operates or directs the operations of the transmission facilities.
	Transmission Planner	The entity that develops a long-term (generally one year and beyond) plan for the reliability (adequacy) of the interconnected bulk electric transmission systems within its portion of the Planning Authority Area.
	Resource Planner	The entity that develops a long-term (generally one year and beyond) plan for the resource adequacy of specific loads (customer demand and energy requirements) within a Planning Authority Area.
	Generator Operator	The entity that operates generating unit(s) and performs the functions of supplying energy and Interconnected Operations Services.
	Generator Owner	Entity that owns and maintains generating units.
	Purchasing-Selling Entity	The entity that purchases or sells, and takes title to, energy, capacity, and Interconnected Operations Services. Purchasing-Selling Entities may be affiliated or unaffiliated merchants and may or may not own generating facilities.
	Distribution Provider	Provides and operates the "wires" between the transmission system and the customer.
	Load-Serving Entity	Secures energy and transmission service (and related Interconnected Operations Services) to serve the electrical demand and energy requirements of its end-use customers.

NOTE: The RSS may find it necessary to modify the initial reliability function responsibility assignment as a result of the standards development and comments received.

Applicable Reliability Principles <i>(Check all boxes that apply.)</i>	
<input type="checkbox"/>	1. Interconnected bulk power systems shall be planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions as defined in the NERC Standards.
<input type="checkbox"/>	2. The frequency and voltage of interconnected bulk power systems shall be controlled within defined limits through the balancing of real and reactive power supply and demand.
<input type="checkbox"/>	3. Information necessary for the planning and operation of interconnected bulk power systems shall be made available to those entities responsible for planning and operating the systems reliably.

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<input type="checkbox"/>	4. Plans for emergency operation and system restoration of interconnected bulk power systems shall be developed, coordinated, maintained, and implemented.
<input type="checkbox"/>	5. Facilities for communication, monitoring, and control shall be provided, used, and maintained for the reliability of interconnected bulk power systems.
<input type="checkbox"/>	6. Personnel responsible for planning and operating interconnected bulk power systems shall be trained, qualified, and have the responsibility and authority to implement actions.
<input type="checkbox"/>	7. The security of the interconnected bulk power systems shall be assessed, monitored, and maintained on a wide-area basis.
Does the proposed Standard comply with all of the following Market Interface Principles? (Select 'yes' or 'no' from the drop-down box.)	
Recognizing that reliability is an Common Attribute of a robust North American economy:	
1. A reliability standard shall not give any market participant an unfair competitive advantage. Yes	
2. A reliability standard shall neither mandate nor prohibit any specific market structure. Yes	
3. A reliability standard shall not preclude market solutions to achieving compliance with that standard. Yes	
4. A reliability standard shall not require the public disclosure of commercially sensitive information. All market participants shall have equal opportunity to access commercially non-sensitive information that is required for compliance with reliability standards. Yes	

<p>Detailed Description (Provide enough detail so that an independent entity familiar with the industry could draft a Standard based on this description.)</p>

Related Reliability Standards (NERC and SERC Regional)

Standard No.	Explanation

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Related SARs

<u>SAR ID</u>	<u>Explanation</u>

Implementation Plan

<p>Description <i>(Provide plans for the implementation of the proposed standard, including any known systems or training requirements. Include the reliability risk(s) associated with the violation that the standard will mitigate, and the costs associated with implementation.)</i></p>	
<p>Proposed Implementation</p> <p>on (date):</p>	<p>days after Board of Directors adoption or</p>

Appendix D: Elements of a SERC Regional Reliability Standard

Title	A brief, descriptive phrase identifying the topic of the standard.
Identification Number	A unique identification number assigned to facilitate tracking and reference to SERC Regional Reliability Standards. The identification number will be consistent with the Numbering Convention for NERC Regional Reliability Standards. The latest approved version of the convention will be posted on the SERC website (www.serc1.org).
Effective Date and Status	The effective date of the standard or, prior to adoption of the standard by the Board of Directors, the proposed effective date.
Purpose	The purpose of the standard. The purpose shall explicitly state what outcome is expected by this standard.
Applicability	Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions. If not applicable to the entire SERC area, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.
Requirement(s)	Explicitly stated technical, performance, and preparedness requirements. Each requirement identifies what entity is responsible and what action is to be performed or what outcome is to be achieved. Each statement in the requirements section shall be a statement for which compliance is mandatory.
Violation Severity Levels	Defines the degree to which compliance with a requirement was not achieved. The violation severity levels, are part of the standard and are balloted with the standard, and developed by the NERC and SERC compliance programs in coordination with the Responsible SERC Subgroup.

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Risk Factor(s)	<p>The potential reliability significance of each requirement, designated as a High, Medium, or Lower Risk Factor in accordance with the criteria listed below:</p> <p>A High Risk Factor requirement (a) is one that, if violated, could directly cause or contribute to bulk power system instability, separation, or a cascading sequence of failures, or could place the bulk power system at an unacceptable risk of instability, separation, or cascading failures; or (b) is a requirement in a planning timeframe that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly cause or contribute to bulk power system instability, separation, or a cascading sequence of failures, or could place the bulk power system at an unacceptable risk of instability, separation, or cascading failures, or could hinder restoration to abnormal condition.</p> <p>A Medium Risk Factor requirement (a) is a requirement that, if violated, could directly affect the electrical state or the capability of the bulk power system, or the ability to effectively monitor and control the bulk power system, but is unlikely to lead to bulk power system instability, separation, or cascading failures; or (b) is a requirement in a planning timeframe that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly affect the electrical state or capability of the bulk power system, or the ability to effectively monitor, control, or restore the bulk power system, but is unlikely, under emergency, abnormal, or restoration conditions anticipated by the preparations, to lead to bulk power system instability, separation, or cascading failures, nor to hinder restoration to a normal condition.</p> <p>A Lower Risk Factor requirement is administrative in nature and (a) is a requirement that, if violated, would not be expected to affect the electrical state or capability of the bulk power system, or the ability to effectively monitor and control the bulk power system; or (b) is a requirement in a planning time frame that, if violated, would not, under the emergency, abnormal, or restorative conditions anticipated by the preparations, be expected to affect the electrical state or capability of the bulk power system, or the ability to effectively monitor, control, or restore the bulk power system.</p>
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Measure(s)	Each requirement shall be addressed by one or more measurements. Measurements that will be used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measurement identifies to whom the measurement applies and the expected level of performance or outcomes required demonstrating compliance. Each measurement shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the full compliance level of each measurement should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.
Compliance Monitoring Process	Defines for each measure: <ul style="list-style-type: none">• The specific data or information that is required to measure performance or outcomes.• The entity that is responsible for providing the data or information for measuring performance or outcomes.• The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes.• The entity that is responsible for evaluating data or information to assess performance or outcomes.• The time period in which performance or outcomes is measured, evaluated, and then reset.• Measurement data retention requirements and assignment of responsibility for data archiving.• Violation severity levels.

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Attached Supporting Information Elements

Interpretations	Any interpretations of the SERC Regional Reliability Standards that were developed, and approved by the SERC Executive Committee, to expound on the application of the standard for unusual or unique situations.
Implementation Plan	Each SERC Regional Reliability Standard shall have an associated implementation plan describing the effective date of the standard or effective dates if there is a phased implementation. The implementation plan may also describe the implementation of the standard in the compliance program and other considerations in the initial use of the standard, such as necessary tools, training, etc. The implementation plan must be posted for at least one public comment period and is approved as part of the ballot of the standard.
Supporting References	This section references related documents that support reasons for, or otherwise provide additional information related to the standard. Examples include, but are not limited to: <ul style="list-style-type: none">• Glossary of Terms• Developmental history of the standard and prior versions• Responsible SERC Subgroup• Notes pertaining to implementation or compliance• Standard references• Procedures/Practices• Training and/or Technical Reference• Frequently Asked Questions Document

Appendix E: Comment Form for Draft SERC Regional Reliability Standard (Latest approved version of form is posted on the SERC website: www.serc1.org)

COMMENT FORM FOR [INSERT APPROPRIATE TITLE OF SERC REGIONAL RELIABILITY STANDARD]

Please use this form to submit comments on **[insert description]**. Comments must be submitted by **[date]**. You must submit the completed form by emailing it to **[insert appropriate contact names & e-mail addresses]** with the words **[insert appropriate subject]** in the subject line. If you have questions please contact **[insert appropriate contact names, e-mail addresses & phone numbers]**.

DO: **Do** use punctuation and capitalization as needed.
Do use more than one form if responses do not fit in the spaces provided.
Do submit any formatted text or markups in a separate WORD file.

DO NOT: **Do not** submit a response in an unprotected copy of this form.

Commenter Information

Group Name (if applicable):

Contact Name:

Organization:

Telephone:

Email:

Background:

In this section, provide background information including the reasons for the development of new SERC Regional Reliability Standard or revisions to an existing SERC Regional Reliability Standard.

Major Changes to this Revision of the SERC Regional Reliability Standard

Provide additional information that may help the reviewers better understand the need and motivation for the changes.

Include any other sections as necessary to facilitate the review process.

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Please Enter All Comments in Simple Text Format.

Insert a "check" mark in the appropriate boxes by double-clicking the gray areas.

[The following are sample questions. Revise the questions as appropriate.]

1. Do you agree with the inclusion of the following in section [xxx] of the standard?
Describe revision details.
 Yes
 No
 Comments:

2. Do you agree with the proposed definitions that were added or revised?
 Yes
 No
 Comments:

3. Do you agree with the deletion of the following section from part [xxx]?
 Yes
 No
 Comments:

4. Do you agree with the proposed changes in section [xxx] of the document?
 Yes
 No
 Comments:

5. Please identify anything you believe needs to be modified before this revision of the standard can be approved by SERC?
 Comments:

6. Please provide any other comments on this revision of the standard?
 Comments:

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Appendix F: SERC Consideration of Comments Form (Latest approved version of form is posted on the SERC website: www.serc1.org)

**SERC [INSERT RSS NAME] Consideration of Comments on
[INSERT APPROPRIATE SERC REGIONAL RELIABILITY STANDARD TITLE & REV. #]**

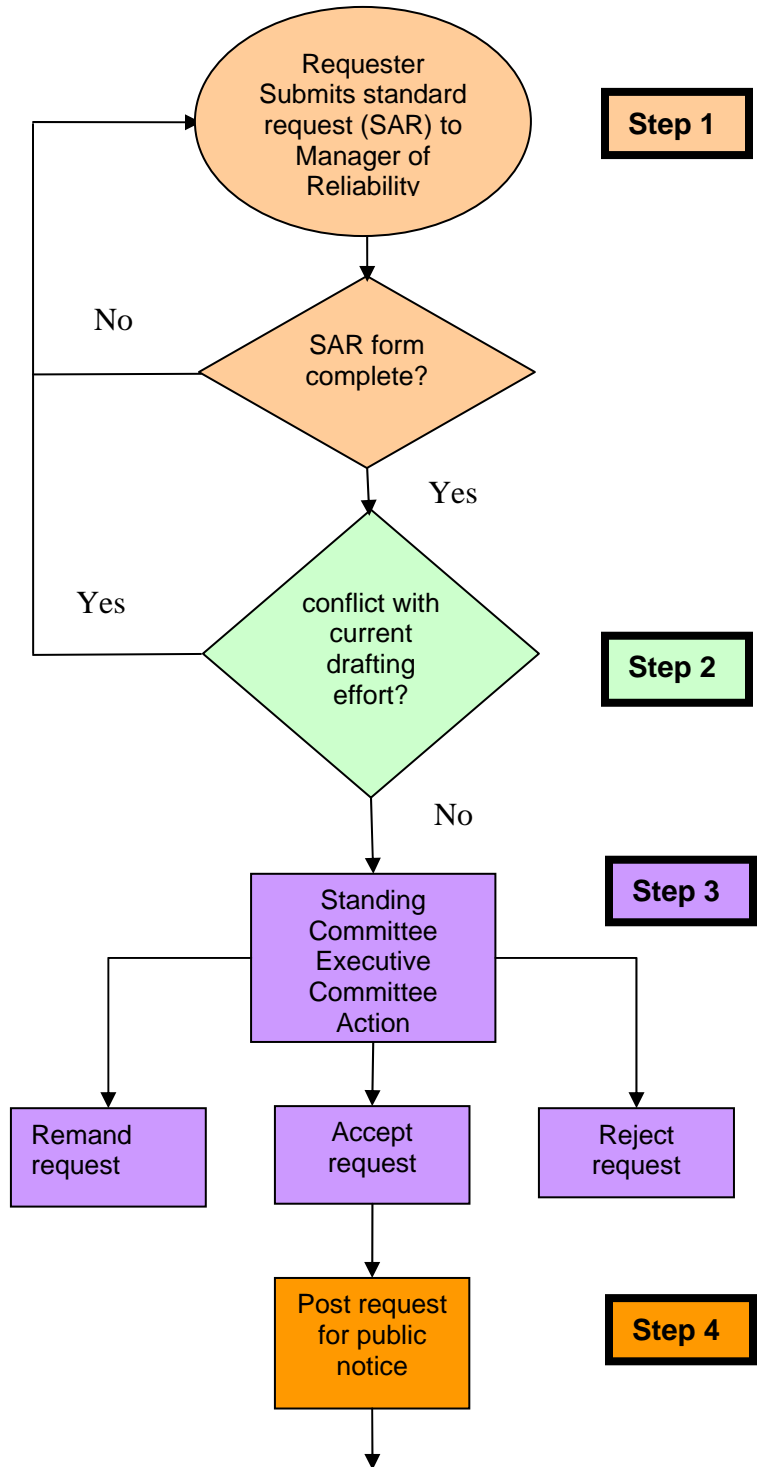
[SAMPLE LANGUAGE]

This document contains comments submitted on Revision [] of the [Standard], which was distributed for review on [Date] in accordance with the SERC Regional Reliability Standards Process Manual. Comments were received from the following.

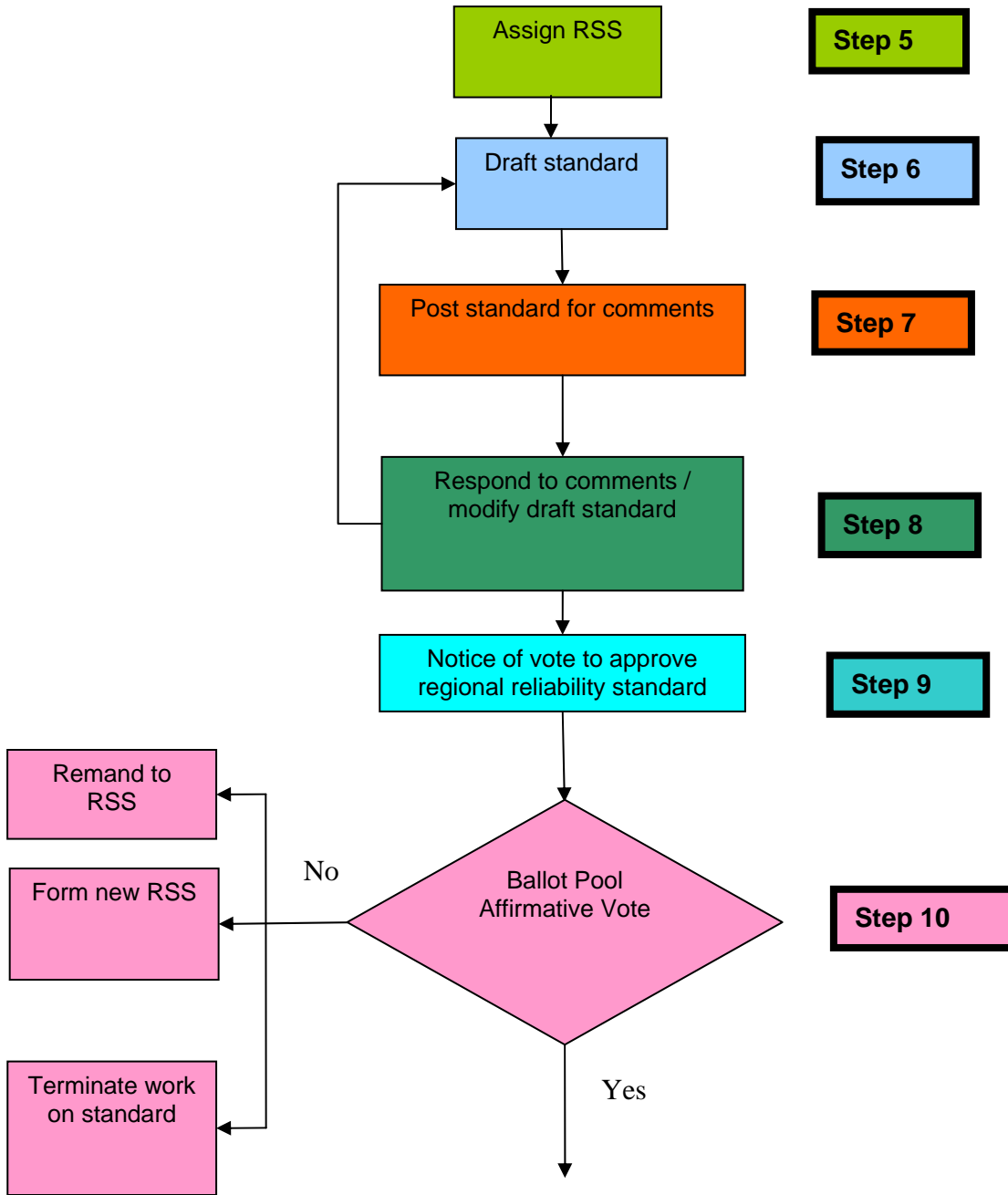
[INSERT INTRODUCTORY LANGUAGE AS APPROPRIATE]

Commenter	Comment	Response

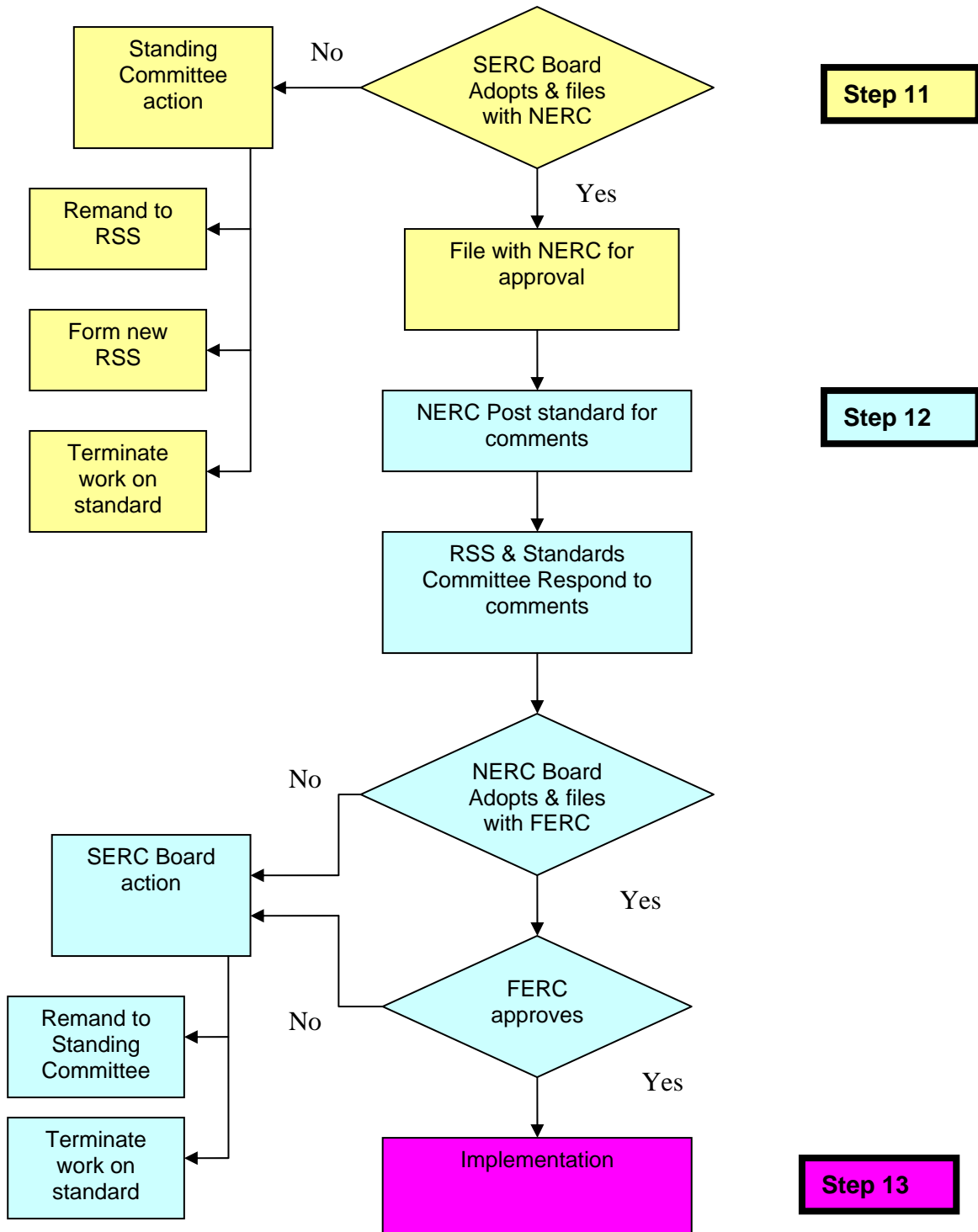
Appendix G: SERC Process Flow Diagram



SERC Regional Reliability Standard Development Procedure



SERC Regional Reliability Standard Development Procedure



SERC Compliance Monitoring and Enforcement Program

Exhibit D to the Amended and Restated Regional Entity Delegation Agreement between

**North American Electric Reliability Corporation
and
SERC Reliability Corporation**



EXHIBIT D – COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

SERC Reliability Corporation will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within SERC Reliability Corporation's geographic or electrical boundaries, and such other scope, set forth on **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

SERC Reliability Corporation shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be a balanced compliance panel reporting directly to SERC Reliability Corporation's board.

SERC Reliability Corporation's Hearing Body is the Board Compliance Committee, or a subset of the Board Compliance Committee. The Board Compliance Committee is comprised of SERC board members appointed by the Board of Directors. The Board Compliance Committee representation is as follows:

- The Investor-Owned Utility Sector shall have three (3) representatives;
- The Federal/State Sector shall have two (2) representatives;
- The Cooperative Sector shall have two (2) representatives;
- The Municipal Sector shall have two (2) representatives;
- The Marketer Sector shall have one (1) representative;
- The Merchant Electricity Sector shall have one (1) representative;
- The ISO-RTO/Customer Sector shall have one (1) representative

Consistent with the Hearing Procedures, a quorum for the purpose of constituting a Hearing Body shall be half of SERC's Board Compliance Committee, or six members including alternates. In addition to the quorum requirement, the chair of the Board Compliance Committee shall declare the Hearing Body duly constituted only if no two sectors can control and no one sector can veto the actions of the Hearing Body (the "Sector Control Requirements"). To ensure that the Sector Control Requirements are met in the formation of a Hearing Body, the Chair shall adhere to the following in declaring the Hearing Body duly constituted:

- If the Hearing Body is made up of six (6) members of the BCC, then each sector shall have no more than one (1) representative on the Hearing Body.

- If the Hearing Body is made up of seven (7) or eight (8) members of the BCC, then only one sector can have two (2) representatives on the Hearing Body, and each other sector can have only one (1) representative on the Hearing Body.
- If the Hearing Body is made up of nine (9) or ten (10) members of the BCC, then no sector can have more than two (2) representatives on the Hearing Body.
- If the Hearing Body is made up of eleven (11) or twelve (12) members of the BCC, then the Sector Control Requirements are met, as no two sectors would have enough votes to control, and no one sector would have the ability to veto.

Approval of all actions before a duly constituted Hearing Body shall require a simple majority of the votes cast, with each member of the Hearing Body having one vote. The decision of any duly constituted Hearing Body pursuant to these requirements shall be final and binding on the Corporation, without requiring either the full Compliance Committee or the Corporation to ratify the Hearing Body's actions.

3.0 OTHER DECISIONMAKING BODIES

SERC Reliability Corporation does not use decision making bodies within its compliance program other than the Board Compliance Committee described in Section 2.0.

SERC Funding

Exhibit E to the Amended and Restated Regional Entity Delegation Agreement between

**North American Electric Reliability Corporation
and
SERC Reliability Corporation**



Exhibit E — Funding

1. Scope of activities funded through the ERO funding mechanism

SERC shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and SERC, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of SERC's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require SERC (i) to submit to NERC draft(s) of SERC's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by SERC Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of SERC's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The SERC business plan and budget submission shall include supporting materials, including SERC's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. SERC's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve SERC's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct SERC to make such revisions as NERC deems appropriate prior to approval. NERC shall submit SERC's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of SERC's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in

accordance with Section 9(b) of the Agreement. SERC shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying SERC's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of SERC's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

(a) NERC shall submit invoices to the load-serving entities or designees identified by SERC covering the NERC and SERC assessments approved for collection.

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from ERO Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, SERC shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, SERC is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within SERC's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within SERC's region.

(c) Upon approval by ERO Governmental Authorities of SERC's annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay SERC's annual assessment to Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by SERC, other than penalty monies received from an operational function or division or affiliated entity of SERC, shall be applied as a general offset to SERC's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of SERC shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for SERC's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), SERC performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): None.

SERC shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-

statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions:
Not applicable.

SERC shall provide its budget for such non-statutory activities to NERC at the same time that SERC submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. SERC's budget for non-statutory activities that is provided to NERC shall contain a detailed list of SERC's non-statutory activities and a description of the funding sources for the non-statutory activities. SERC agrees that no costs (which shall include a reasonable allocation of SERC's general and administrative costs) of non-statutory activities are to be included in the calculation of SERC's assessments, dues, fees, and other charges for its statutory activities.

Costs associated with Cross-Regional Compliance Monitoring. The costs associated with any Cross-Regional Compliance Monitoring performed by SERC pursuant to section 6(j) of this Agreement with respect to registered functions of another Regional Entity are to be funded by payments from the NERC or the Regional Entity contracting with SERC for such services, in accordance with the contract between SERC and NERC or the other Regional Entity. Where such a contract has been entered into SERC will include a description of the resources it has budgeted to perform such services, and its estimated costs (including an appropriate allocation of SERC's General and Administrative costs) to perform such services, in each budget year, in SERC's annual business plan and budget that is submitted to NERC and to the Commission for approval.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if SERC determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, SERC shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in SERC's approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct SERC to make such revisions as NERC deems appropriate prior to approval. NERC shall submit SERC's approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Statements

NERC shall conduct reviews of the quarterly and annual financial statements submitted by SERC pursuant to Section 9(h) and (i) of the Agreement. SERC shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC based on its reviews.

ATTACHMENT 6B

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED DELEGATION AGREEMENT

WITH

SERC RELIABILITY CORPORATION

REDLINED AGAINST

REVISED PRO FORMA DELEGATION AGREEMENT

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND [REGIONAL ENTITY] AND SERC RELIABILITY CORPORATION**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”) made as of [January 1, 2011], between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and [REGIONAL ENTITY], SERC Reliability Corporation (“SERC”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified on **Exhibit A** to this Agreement, and for other purposes. NERC and [REGIONAL ENTITY], SERC may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824n) (hereafter “the Act”), which, among other things, provides for the establishment of an electric reliability organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as [REGIONAL ENTITY], SERC provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, ~~[REGIONAL ENTITY]~~ [is/SERC] is not organized on an Interconnection-wide basis and therefore ~~[is/is not]~~ entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through ~~[REGIONAL ENTITY]~~ [SERC] to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that ~~[REGIONAL ENTITY]~~ [SERC] meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and ~~[REGIONAL ENTITY]~~ [SERC], having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated

Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and ~~[REGIONAL ENTITY]~~SERC agree as follows:

1. **Definitions.** The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to ~~[REGIONAL ENTITY]~~SERC to propose and enforce Reliability Standards pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. **Representations.**

(a) For purposes of its Delegated Authority, ~~[REGIONAL ENTITY]~~SERC hereby represents and warrants to NERC that:

(i) ~~[REGIONAL ENTITY]~~SERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. ~~[REGIONAL ENTITY]~~SERC is governed in accordance with its bylaws by ~~[select appropriate: an independent board/a balanced stakeholder board/a combination independent and balanced stakeholder board]~~. Pursuant to these bylaws, no two industry sectors can control any ~~[REGIONAL ENTITY]~~SERC decision and no single industry sector can veto any ~~[REGIONAL ENTITY]~~SERC

[\[ENTITY\]SERC](#) decision. The relevant portions of such bylaws are attached hereto in **Exhibit B**¹, and as so attached are in full force and effect. No other such corporate governance documents are binding upon [\[REGIONAL ENTITY\]SERC](#).

(ii) As set forth in **Exhibit C** hereto², [\[REGIONAL ENTITY\]SERC](#) has developed a standards development procedure, which provides the process that [\[REGIONAL ENTITY\]SERC](#) may use to develop Regional Reliability Standards [and Regional Variances, if the regional entity is organized on an Interconnection-wide basis] that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, [\[REGIONAL ENTITY\]SERC](#) has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within [\[REGIONAL ENTITY\]SERC](#)'s geographic boundaries as shown on **Exhibit A**.

(b) NERC hereby represents and warrants to [\[REGIONAL ENTITY\]SERC](#) that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

3. Covenants.

(a) During the term of this Agreement, [\[REGIONAL ENTITY\]SERC](#) shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC's approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

¹ The **Exhibit B** from [\[REGIONAL ENTITY\]SERC](#) shall meet the requirements contained in **Exhibit B** to this Agreement.

² The **Exhibit C** from [\[REGIONAL ENTITY\]SERC](#) shall meet the requirements contained in **Exhibit C** to this Agreement.

(b) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of [\[REGIONAL ENTITY\]SERC](#) under this Agreement without first obtaining the consent of [\[REGIONAL ENTITY\]SERC](#), which consent shall not be unreasonably withheld or delayed.

(c) During the term of this Agreement, NERC and [\[REGIONAL ENTITY\]SERC](#) shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

4. **Delegation of Authority.**

(a) Based upon the representations, warranties and covenants of [\[REGIONAL ENTITY\]SERC](#) in Sections 2 and 3 above, the corporate governance documents set forth in **Exhibit B**, the standards development process set forth in **Exhibit C**, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to [\[REGIONAL ENTITY\]SERC](#) for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth on **Exhibit A**, *provided*, that [\[REGIONAL ENTITY\]SERC](#) shall not monitor and enforce compliance with Reliability Standards for [\[REGIONAL ENTITY\]SERC](#) or an affiliated entity with respect to reliability functions for which [\[REGIONAL ENTITY\]SERC](#) or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to [\[REGIONAL ENTITY\]SERC](#) within, or additions to this delegation of authority to [\[REGIONAL ENTITY\]SERC](#) beyond, the geographic boundaries set forth on **Exhibit A** are stated on **Exhibit A**.

(b) In circumstances where [\[REGIONAL ENTITY\]SERC](#) or an affiliated entity is a Registered Entity, [\[REGIONAL ENTITY\]SERC](#) shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce [\[REGIONAL ENTITY\]SERC](#)'s or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit [\[REGIONAL ENTITY\]SERC](#) from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC

and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified on **Exhibit A** that is within the United States. Any delegation of authority by ERO Governmental Authorities in Canada or Mexico shall be governed by a separate agreement and is outside the scope of this Agreement; provided, however, that both [\[REGIONAL ENTITY\]SERC](#) and NERC shall endeavor to ensure that this Agreement and such separate agreements are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, [\[REGIONAL ENTITY\]SERC](#) shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, [\[REGIONAL ENTITY\]SERC](#) shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords [\[REGIONAL ENTITY\]SERC](#) reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards [and Regional Variances, if Regional Entity is organized on an Interconnection-wide basis] through [\[REGIONAL ENTITY\]SERC](#)'s process as set forth in **Exhibit C**. Proposals approved through [\[REGIONAL ENTITY\]SERC](#)'s process shall be reviewed by the NERC Board after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. [\[REGIONAL ENTITY\]SERC](#)

may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. **Enforcement of Compliance with Reliability Standards.**

(a) In connection with its delegated authority pursuant to this Agreement, ~~[REGIONAL ENTITY]~~SERC shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the geographic boundaries set forth, or as otherwise specified, in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and ~~[REGIONAL ENTITY]~~SERC agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, *inter alia*, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. ~~[REGIONAL ENTITY]~~SERC may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, ~~[REGIONAL ENTITY]~~SERC agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) ~~[REGIONAL ENTITY]~~SERC shall report promptly to NERC any -Possible Violation, Alleged Violation, or Confirmed Violation of a Reliability Standard, and its eventual disposition by ~~[REGIONAL ENTITY]~~SERC. Such report shall include the owner's,

operator's, or user's name, which Reliability Standard or Reliability Standards were the subject of the Possible Violation, Alleged Violation, or Confirmed Violation, when the Possible Violation, Alleged Violation, or Confirmed Violation occurred, other pertinent facts including circumstances surrounding the Possible Violation, Alleged Violation, or Confirmed Violation with any known risk to the Bulk-Power System, when the Possible Violation, Alleged Violation, or Confirmed Violation was or will be mitigated, the name of a person knowledgeable about the Possible Violation, Alleged Violation, or Confirmed Violation to serve as a point of contact with the Commission, and any other information required by NERC compliance program procedures. NERC shall promptly forward such report to the Commission. NERC and ~~[REGIONAL ENTITY]~~SERC shall cooperate in filing such periodic summary reports as the Commission shall from time to time direct on Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards and summary analyses of such Possible Violations, Alleged Violations, and Confirmed Violations.

(c) Each Possible Violation, Alleged Violation, or Confirmed Violation shall be treated as nonpublic unless the matter is filed with the Commission as a Notice of Penalty, or, if disclosure is required, dismissed. The disposition of each Possible Violation, Alleged Violation, or Confirmed Violation that relates to a Cybersecurity Incident or that would jeopardize the security of the Bulk-Power System if publicly disclosed shall remain nonpublic unless the Commission directs otherwise.

(d) All dispositions by ~~[REGIONAL ENTITY]~~SERC of Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards shall be reported to NERC for review and, in the case of Confirmed Violations, penalties or sanctions, and settlements, for approval. Following approval of a disposition by NERC, NERC shall file the disposition with the Commission, if required by, and in accordance with, Section 215(e) of the Act and Section 39.7 of the ERO Regulations. NERC shall review ~~[REGIONAL ENTITY]~~SERC's dispositions based on the following criteria:

(i) whether the disposition is supported by a sufficient record compiled by ~~[REGIONAL ENTITY]~~SERC in accordance with the NERC Rules of Procedure, NERC directives and Commission requirements, taking into account the nature of the Possible Violation, Alleged Violation, or Confirmed Violation,

(ii) whether the disposition is consistent with any applicable directives issued pursuant to Section 8(c) of this Agreement, any applicable directions or guidance issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, or other applicable NERC guidance, concerning the Reliability

Standards to which the Possible Violation, Alleged Violation, or Confirmed Violation relates,

(iii) if the disposition is a Confirmed Violation or settlement, whether it provides for a penalty or sanction, or a determination of no penalty or sanction, determined in accordance with the NERC Sanction Guidelines, Appendix 4B to the NERC Rules of Procedure, and

(iv) whether the disposition is reasonably consistent with other dispositions by [\[REGIONAL ENTITY\]SERC](#) and by other Regional Entities of Possible Violations, Alleged Violations, and Confirmed Violations involving the same or similar facts and circumstances.

NERC may reject any disposition, with an explanation of why NERC believes the disposition does not meet the above criteria. [\[REGIONAL ENTITY\]SERC](#) may submit a disposition requiring NERC approval that has been rejected by NERC, or a revised disposition following a rejection, directly to the NERC Board Compliance Committee for approval without revising the disposition to address all the grounds on which NERC originally rejected the disposition. The final approval of [\[REGIONAL ENTITY\]SERC](#)'s disposition of a Possible Violation, Alleged Violation, or Confirmed Violation shall be made by the NERC Board Compliance Committee, provided, that the NERC Board or NERC Board Compliance Committee may, by appropriate resolution, delegate authority for final approval of dispositions of specified categories of Possible Violations, Alleged Violations, or Confirmed Violations to the NERC President.

(e) All appeals of penalties imposed by [\[REGIONAL ENTITY\]SERC](#) as a result of a decision by [\[REGIONAL ENTITY\]SERC](#)'s Hearing Body shall be filed with, heard by and disposed of by, NERC in accordance with the NERC Rules of Procedure.

(f) [\[REGIONAL ENTITY\]SERC](#) shall maintain the capability to conduct investigations of Possible Violations and Alleged Violations of Reliability Standards and to conduct such investigations in a confidential manner.

(g) [\[REGIONAL ENTITY\]SERC](#) shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan.

(h) As part of its compliance monitoring and enforcement program, [\[REGIONAL ENTITY\]SERC](#) shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or

decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(i) As often as NERC deems necessary, but no less than every five years, NERC shall review ~~[REGIONAL ENTITY]~~SERC's compliance monitoring and enforcement program to determine that: (i) the program meets all applicable legal requirements; (ii) actual practices reflect the requirements; and (iii) the program administered pursuant to the Delegated Authority promotes consistent interpretations across North America of Reliability Standards and comparable levels of sanctions and penalties for violations of Reliability Standards constituting comparable levels of threat to reliability of the Bulk-Power System.

(j) SERC may also perform compliance monitoring and enforcement activities outside of the Region shown on Exhibit A, on behalf of NERC and/or other Regional Entities, such activities to be undertaken pursuant to a contract between SERC and each such other Regional Entity that is approved by NERC and by the Commission.

7. Delegation-Related Activities.

NERC will engage ~~[REGIONAL ENTITY]~~SERC on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed on **Exhibit E**. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (f), each of which shall be considered a statutory activity:

(a) Certification of Bulk-Power System Entities. The NERC Board shall set criteria for certification in accordance with the NERC Rules of Procedure. ~~[REGIONAL ENTITY]~~SERC shall issue certifications in accordance with the NERC Rules of Procedure.

(b) Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.

(i) The NERC Board shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by [\[REGIONAL ENTITY\]SERC](#) and other Regional Entities. [\[REGIONAL ENTITY\]SERC](#) shall provide timely and accurate information relating to registrations to NERC, on at least a monthly basis, to enable NERC to maintain a registration database that is accurate and up-to-date.

(iii) The NERC Board Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) Reliability Assessment and Performance Analysis. [\[REGIONAL ENTITY\]SERC](#) shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. [\[REGIONAL ENTITY\]SERC](#) shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives. NERC shall develop data-gathering quality control procedures, forms and reporting mechanisms, which shall be used by [\[REGIONAL ENTITY\]SERC](#) and other Regional Entities in carrying out their responsibilities under this subsection (c).

(d) Event Analysis and Reliability Improvement. [\[REGIONAL ENTITY\]SERC](#) shall conduct event analysis pursuant to the NERC Rules of Procedure and applicable governmental regulations. NERC and [\[REGIONAL ENTITY\]SERC](#) shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, [\[REGIONAL ENTITY\]SERC](#) shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) Training and Education. [\[REGIONAL ENTITY\]SERC](#) may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) Situation Awareness and Infrastructure Security.

(i) [REGIONAL ENTITY]SERC shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure and applicable governmental regulations, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System

(ii) [REGIONAL ENTITY]SERC shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of [REGIONAL ENTITY]SERC's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and [REGIONAL ENTITY]SERC that matters relating to NERC's oversight of [REGIONAL ENTITY]SERC's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and [REGIONAL ENTITY]SERC and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with [REGIONAL ENTITY]SERC and other Regional Entities, performance goals, measures and other parameters (including, without limiting the scope of such goals, measures and parameters, financial performance goals, measures and parameters), and performance reports, which shall be used to measure NERC's and [REGIONAL ENTITY]SERC's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. [REGIONAL ENTITY]SERC shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate [REGIONAL ENTITY]SERC's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters and performance reports to evaluate [REGIONAL ENTITY]SERC's performance of its delegated functions and related activities and to provide advice and direction to [REGIONAL ENTITY]SERC on performance improvements. The performance goals, measures and other parameters and the values of such goals, measures and parameters, shall be reviewed by NERC, [REGIONAL ENTITY]SERC and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, [REGIONAL ENTITY]SERC shall be required to develop, submit for NERC approval, and implement action plans to address areas of its performance that are reasonably determined by NERC, based on analysis of [REGIONAL ENTITY]SERC's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring [REGIONAL ENTITY]SERC to adopt and implement an action plan or other remedial action, NERC shall issue a notice to [REGIONAL ENTITY]SERC of the need and basis for an action plan or other remedial action and provide an opportunity for [REGIONAL ENTITY]SERC to submit a written response contesting NERC's evaluation of [REGIONAL ENTITY]SERC's performance and the need for an action plan. [REGIONAL ENTITY]SERC may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board review and reconsider the request. NERC and [REGIONAL ENTITY]SERC shall work collaboratively as needed in the development and implementation of [REGIONAL ENTITY]SERC's action plan. A final action plan submitted by [REGIONAL ENTITY]SERC to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to [REGIONAL ENTITY]SERC standardized training and education programs, which shall be designed taking into account input from [REGIONAL ENTITY]SERC and other Regional Entities, for [REGIONAL ENTITY]SERC personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to [REGIONAL ENTITY]SERC concerning the manner in which [REGIONAL ENTITY]SERC shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO

Rule requiring approval of the Commission, shall not be considered “directives.” NERC shall initiate the development of a directive through a collaborative process with [REGIONAL ENTITY]SERC and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and [REGIONAL ENTITY]SERC and, if applicable, other Regional Entities are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President; *provided*, that before the NERC President issues a directive pursuant to this paragraph (ii), [REGIONAL ENTITY]SERC and, if applicable, other Regional Entities, shall be given a reasonable opportunity to present their positions on, and a suggested alternative version or versions of, the proposed directive to the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, [REGIONAL ENTITY]SERC, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by [REGIONAL ENTITY]SERC, the NERC Board (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without [REGIONAL ENTITY]SERC's agreement, *provided*, that [REGIONAL ENTITY]SERC shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and [REGIONAL ENTITY]SERC and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which [REGIONAL ENTITY]SERC, and, if applicable, other

Regional Entities, shall perform delegated functions and related activities. The Board or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the Board or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. [\[REGIONAL ENTITY\]SERC](#), either individually or in conjunction with other Regional Entities, may request that the NERC Board or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with [\[REGIONAL ENTITY\]SERC](#), either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) Any audits of [\[REGIONAL ENTITY\]SERC](#) performed by NERC shall be limited to an examination of [\[REGIONAL ENTITY\]SERC](#)'s compliance with this Agreement, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c)

9. Funding. [\[REGIONAL ENTITY\]](#)

[SERC](#) and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed on **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) [\[REGIONAL ENTITY\]SERC](#) shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. [\[REGIONAL ENTITY\]SERC](#)'s proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, [\[REGIONAL ENTITY\]SERC](#) to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E**. [\[REGIONAL ENTITY\]SERC](#)'s business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) [REGIONAL ENTITY]SERC and NERC agree that the portion of [REGIONAL ENTITY]SERC's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by [REGIONAL ENTITY]SERC and approved by NERC and the Commission. If [REGIONAL ENTITY]SERC proposes to use a formula other than Net Energy for Load beginning in the following year, [REGIONAL ENTITY]SERC shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and [REGIONAL ENTITY]SERC to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equity requirement.

(d) NERC shall provide [REGIONAL ENTITY]SERC with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) [REGIONAL ENTITY]SERC shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed on Exhibit E, as well as for all other activities of [REGIONAL ENTITY]SERC, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund [REGIONAL ENTITY]SERC's performance of its Delegated Authority and related activities in accordance with [REGIONAL ENTITY]SERC's Commission-approved business plan and budget, in the amount of [REGIONAL

ENTITYSERC's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting REGIONAL ENTITYSERC's approved assessments from end users and other entities and payment of the approved assessment amount to REGIONAL ENTITYSERC, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon REGIONAL ENTITYSERC that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without REGIONAL ENTITYSERC's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and REGIONAL ENTITYSERC fiscal year budget with the actual results at the NERC and Regional Entity levels. REGIONAL ENTITYSERC shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) REGIONAL ENTITYSERC shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) REGIONAL ENTITYSERC shall submit audited financial statements annually, including supporting materials, in a form provided by NERC no later than May 1 of the following year.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which REGIONAL ENTITYSERC shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of REGIONAL ENTITYSERC) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which REGIONAL ENTITYSERC shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of REGIONAL ENTITYSERC. *Provided*, that, subject to approval by NERC and the Commission, REGIONAL ENTITYSERC may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment.

This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. ~~[REGIONAL ENTITY]~~SERC may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit ~~[REGIONAL ENTITY]~~SERC from contracting with other entities to assist it in carrying out its Delegated Authority, provided ~~[REGIONAL ENTITY]~~SERC retains control and responsibility for such Delegated Authority.

11. Default and Cure.

Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on [January 1, 2011] (the "Effective Date").

(b) The term of the Agreement shall be five (5) years from the Effective Date, prior to which time NERC shall conduct an audit pursuant to subsection 6(i) to ensure that

[REGIONAL ENTITY]SERC continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. If [REGIONAL ENTITY]SERC meets such requirements, this Agreement may be renewed for another five (5) year term. This Agreement may be renewed for successive additional five (5) year renewal terms provided that prior to the end of each renewal term, NERC shall conduct an audit pursuant to subsection 6(i) to ensure that [REGIONAL ENTITY]SERC continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. Provided, that either Party may terminate this Agreement as of the end of a term by giving written notice to terminate at least one (1) year prior to the end of the term. If this Agreement is not renewed or becomes subject to termination for any reason, the Parties shall work to provide for a transition of [REGIONAL ENTITY]SERC's Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement. The termination of this Agreement shall not take effect until such transition has been effected, unless the transition period exceeds one year, at which time [REGIONAL ENTITY]SERC may unilaterally terminate.

(c) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by [REGIONAL ENTITY]SERC and NERC.

(d) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. **Limitation of Liability.** [REGIONAL ENTITY]SERC and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and [REGIONAL ENTITY]SERC shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of the [REGIONAL ENTITY]SERC's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that the [REGIONAL ENTITY]SERC or NERC is found liable for gross negligence or intentional misconduct, in which case [REGIONAL ENTITY]SERC or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. **No Third Party Beneficiaries.** Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party.

15. **Confidentiality.** During the course of the Parties' performance under this Agreement, a Party may receive Confidential Information, as defined in Section 1500 of NERC's Rules of Procedure. Except as set forth herein, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that

confidential treatment will be accorded to such Confidential Information. In addition, each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein. This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of [\[REGIONAL ENTITY\]SERC](#) under this Agreement without first obtaining the consent of [\[REGIONAL ENTITY\]SERC](#), which consent shall not be unreasonably withheld or delayed. To the extent [\[REGIONAL ENTITY\]SERC](#) does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of [\[REGIONAL ENTITY\]SERC](#) under this Agreement, [\[REGIONAL ENTITY\]SERC](#) shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by [\[REGIONAL ENTITY\]SERC](#) to NERC and the Commission, or at such other time as may be mutually agreed by [\[REGIONAL ENTITY\]SERC](#) and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and [\[REGIONAL ENTITY\]SERC](#) (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to [\[REGIONAL ENTITY\]SERC](#)'s performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. [\[REGIONAL ENTITY\]SERC](#) shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to

comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, *provided*, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), *provided*, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution

mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. *Provided, however,* that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice.

Whether expressly so stated or not, all notices, demands, requests, and other communications required or permitted by or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand or reputable overnight courier:

<p>If to NERC:</p> <p>North American Electric <u>Reliability Corporation</u> 116-390 Village Blvd. Princeton, NJ 08540-5721 Attn: General Counsel Facsimile: (609) 452-9550</p>	<p>If to [REGIONAL ENTITY]<u>SERC</u>:</p> <p><u>SERC Reliability Corporation</u> <u>2815 Coliseum Centre Drive</u> <u>Suite 500</u> <u>Charlotte, NC 28217</u> Attn: <u>President and CEO</u> Facsimile: <u>— (704) 357-7914</u></p>
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20. Governing Law.

When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of New Jersey without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in New Jersey. All Parties hereby consent to the

jurisdiction of any state or federal court of competent jurisdiction in New Jersey for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings.

The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause.

Nothing in this Agreement shall be construed to preempt or limit any authority that ~~[REGIONAL ENTITY]~~SERC may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. Entire Agreement.

This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts.

This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN
ELECTRIC _____ SERC RELIABILITY CORPORATION _____
_____~~[REGIONAL ENTITY]~~_____
RELIABILITY CORPORATION _____

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

SERC Regional Boundaries

Exhibit A to the Amended and Restated Regional Entity Delegation Agreement between

**North American Electric Reliability Corporation
and
SERC Reliability Corporation**



1.0 Regional Boundaries

The geographic boundaries of SERC Reliability Corporation (SERC) are determined by the service areas of its membership, comprised of investor-owned utilities, municipal, cooperative, state and federal systems, merchant electricity generators and power marketers.

SERC covers an area of approximately 560,000 square miles in sixteen states: all of Alabama, Georgia, Mississippi, North Carolina and South Carolina, and portions of Arkansas, Florida, Illinois, Iowa, Kentucky, Louisiana, Missouri, Oklahoma, Tennessee, Texas and Virginia.

Service provided by SERC members in areas which overlap with neighboring regions:

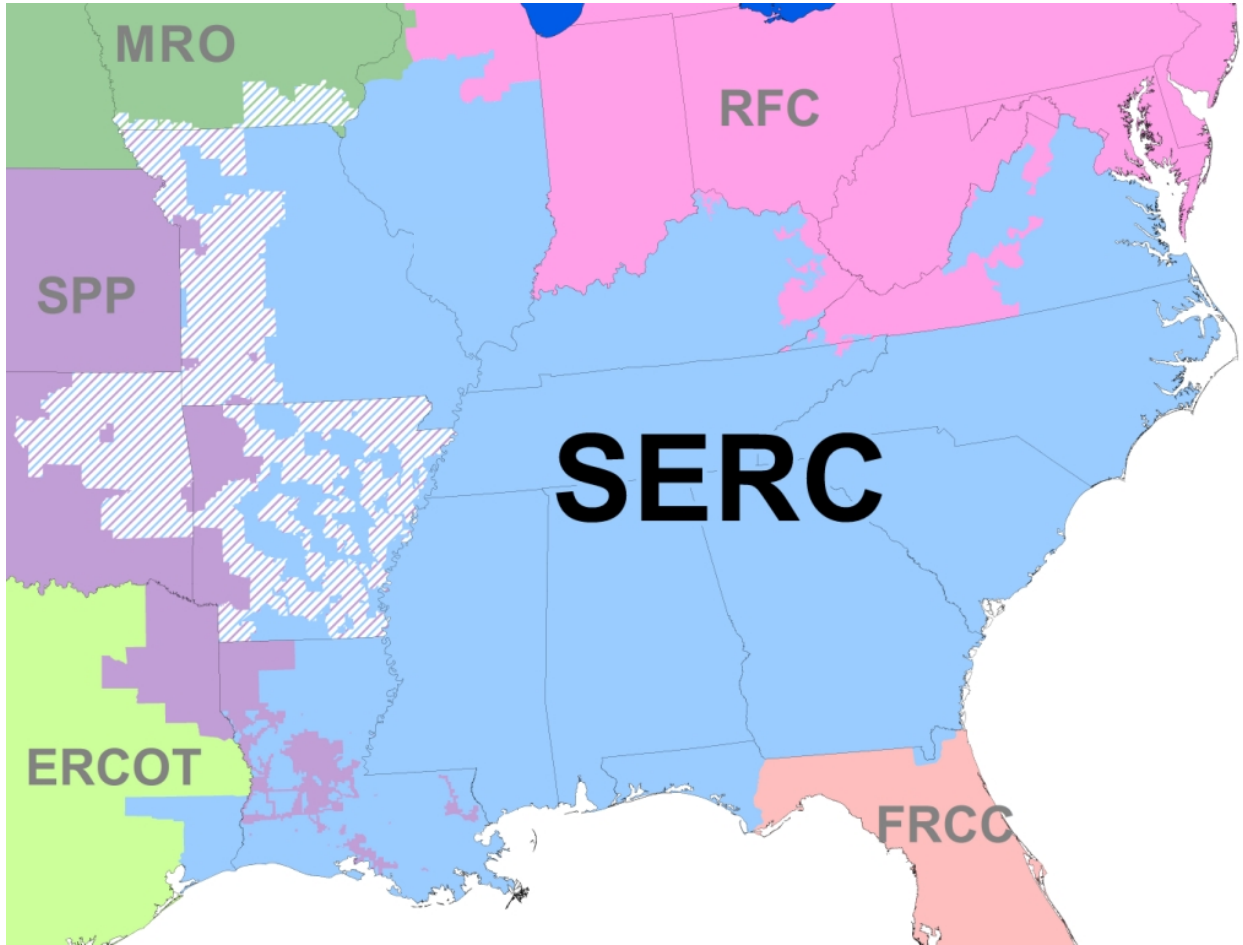
- The area in southern Iowa is served by N.E. Missouri Electric Power Cooperative, a member of Associated Electric Cooperative, Inc., and N.W. Electric Power Cooperative, a member of Associated Electric Cooperative, Inc.
- The area in eastern Oklahoma is served by KAMO Electric Cooperative, Inc., a member of Associated Electric Cooperative, Inc.
- The area in Arkansas is served by Entergy Arkansas.
- The area in western Missouri is served by N.W. Electric Power Cooperative, a member of Associated Electric Cooperative, Inc., and KAMO Electric Cooperative, Inc., a member of Associated Electric Cooperative, Inc.
- The area in N.E. Florida (part of Baker and Nassau counties) ~~is~~ served by Okefenoke Rural Electric Membership Corporation (OREMC), a member of Georgia System Operations Corporation, and facilities physically located in Baker County, Florida owned by Georgia Transmission Corporation (GTC) are ~~and is therefore~~ part of the SERC Region and not the FRCC Region.

A regional map is shown in Section 1.1.

SERC may also perform compliance and enforcement activities outside of the Region, on behalf of NERC and/or other Regional Entities, such activities to be undertaken pursuant to a contract between the Regional Entities that is approved by the Board Executive Committee, NERC and the Federal Energy Regulatory Commission.

Regional Boundaries

1.1 SERC Regional Map



SERC Governance

Exhibit B
to the
Amended and Restated
Regional Entity Delegation Agreement
between

North American Electric Reliability Corporation
and
SERC Reliability Corporation



Exhibit B – Governance

Exhibit B ~~shall set~~sets forth ~~the Regional Entity's~~[SERC Reliability Corporation's](#) bylaws, which NERC agrees demonstrate that ~~the Regional Entity~~[SERC](#) meets the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence of the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

AMENDED AND RESTATED

BYLAWS

OF

SERC RELIABILITY CORPORATION

An Alabama Nonprofit Corporation

Effective ~~January 3, 2009~~[DATE]

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AMENDED AND RESTATED
BYLAWS
OF
SERC RELIABILITY CORPORATION
[Hereinafter referred to as the "Corporation"]
An Alabama Nonprofit Corporation

ARTICLE I
OFFICES

1.1 **Principal Office**. The principal office of the Corporation shall be located in the City of Charlotte, Mecklenburg County, North Carolina. The Board of Directors may by resolution change the location of this office from time to time.

1.2 **Other Offices**. The Corporation may have other offices, either within or outside of the State of Alabama, at such place or places as the Board of Directors may from time to time appoint or the business of the Corporation may require.

ARTICLE II
SEAL

2.1 **Seal**. The corporate seal shall be in circular form and shall have inscribed thereon the name of the Corporation, the words "Corporate Seal", and such other word or words, if any, as may be determined by the Board of Directors to be inscribed thereon.

ARTICLE III

MEMBERSHIP

3.1 **General.** The Corporation shall be a membership corporation. Members shall hereinafter be referred to collectively as "Members" or "Member Systems."

3.2 **Eligibility.** Membership in the Corporation is open to any entity that is a user, owner or operator of the Bulk-Power System and subject to the jurisdiction of the Federal Energy Regulatory Commission for the purpose of complying with Reliability Standards established under Section 215 of the Federal Power Act and all amendments thereto. Membership in the Corporation is voluntary; however, membership is predicated on mandatory acceptance of the responsibility to promote, support, and comply with Reliability Standards of the Corporation and the North American Electric Reliability Corporation ("NERC"), and to assist the Corporation in its compliance with the terms and provisions of a Delegation Agreement (a "Delegation Agreement") with NERC, by which NERC delegates authority to propose and enforce Reliability Standards, pursuant to 16 U.S.C. § 824n. For purposes of these Bylaws, the terms "Bulk-Power System," "Reliability Standards" and "Regional Entity" shall be as defined in 16 U.S.C. § 824n.

3.3 **Termination.** Members may cease to be a member of the Corporation by giving the Board of Directors at least 30 days written notice of their intention to cease such membership (such members shall hereinafter be referred to as "Terminated Members"). Terminated Members shall nevertheless continue to be liable for any and all obligations they may have had to pay of a share of the expenses of the Corporation incurred prior to the end of the calendar year in which such notice is given. In addition to termination of membership by the Member, the Board of Directors, following notice to the Member, may terminate the membership of a Member if in the judgment of the Board of Directors that Member has violated its obligations and responsibilities to the Corporation. This termination shall require a Bicameral Supermajority vote.

3.4 **Sectors.** Each Member and the Customer Representatives shall be classified by the Executive Committee in one of the following seven Sectors (each a "Sector", and collectively, the "Sectors"):

- (a) Investor-Owned Utility Sector – This Sector includes any investor-owned entity with substantial business interest in ownership and/or operation in any of the asset categories of generation, transmission or distribution.
- (b) Federal/State Sector – This Sector includes any U.S. federal entity that owns and/or operates electric facilities and/or provides balancing authority services, in any of the asset categories of generation, transmission, or distribution; or any entity that is owned by or subject to the governmental authority of a state and that is engaged in the generation, delivery, and/or sale of electric power to end use customers primarily with the political boundaries of the state.
- (c) Cooperative Sector – This Sector includes any non-governmental entity

that is incorporated under the laws of the state in which it operates, is owned by and provides electric service to end-use customers at cost, and is governed by a board of directors that is elected by the membership of the entity; and any non-governmental entity owned by and which provides generation and/or transmission service to such entities.

- (d) Municipal Sector – This Sector includes any entity owned by or subject to the governmental authority of a municipality, that is engaged in the generation, delivery, and/or sale of electric power to end-use customers primarily within the political boundaries of the municipality; and any entity, whose members are municipalities, formed under state law for the purpose of generating or purchasing electricity for sale at wholesale to their members.
- (e) Marketer Sector– This Sector includes any entity that is engaged in the activity of buying and selling of wholesale electric power in the Region on a physical or financial basis.
- (f) Merchant Electricity Generator Sector – This Sector includes any entity that owns or operates an electricity generating facility or provides balancing authority services for such entities. This includes, but is not limited to, small power producers and all other non-utility producers such as exempt wholesale generators who sell electricity at wholesale.
- (g) ISO-RTO/Customer Sector– This Sector includes (i) any entity that operates a FERC approved ISO or RTO and (ii) the Customer Representatives.

The Executive Committee's classification of a Member in a particular Sector may only be changed by the Executive Committee. For purposes of these bylaws, the term "Customer Representative" shall mean a person who represents an entity that receives service at retail and does not otherwise sell, purchase, or transmit power over the Bulk-Power System or own, operate or maintain, control or operate facilities or systems that are part of the Bulk-Power System.

3.5 **Transfer of Membership.** A Member may not give or otherwise transfer its membership, except to a successor that becomes a Member, and provided that the successor continues to meet its predecessor's obligations.

ARTICLE IV

PURPOSES

4.1 **General Purposes.** The purpose of the Corporation is to promote effective and efficient administration of Bulk-Power System reliability in the areas serviced by its Member Systems. In pursuant of this goal, the Corporation will:

- (a) enter into a Delegation Agreement to serve as a Regional Entity pursuant to 16 U.S.C. § 824n;
- (b) promote the development of reliability and adequacy arrangements among the systems within the Region;
- (c) participate in the establishment of Reliability Standards;
- (d) participate in the measurement of performance relative to these Reliability Standards;
- (e) promote conformance to and compliance with these Reliability Standards;
- (f) develop and exchange information with respect to planning and operating matters relating to the reliability and adequacy of the Bulk-Power System;
- (g) review as necessary activities within the Region on reliability and adequacy in order to meet Reliability Standards;
- (h) provide a mechanism to resolve disputes on reliability issues in a manner that meets the needs of the parties and the Region;
- (i) provide information with respect to matters considered by the Corporation, where appropriate, to the Federal Energy Regulatory Commission ("FERC") and to other federal and state agencies concerned with reliability and adequacy; and

4.2 **Geographic Area.** The Corporation accomplishes its purposes in a geographic area of approximately 560,000 square miles in a sixteen state area in the southeastern and central United States (the "Region"). The Region is currently geographically divided into five subregions that are identified as Southeastern, Central, VACAR, Delta, and Gateway. The number of subregions and the geographic area are subject to change upon approval of the Board of Directors.

4.3 **Other Statutory Activities.** The Corporation may also perform statutory functions outside of the Region, on behalf of NERC or other Regional Entities, such activities to be undertaken pursuant to a contract that is approved by the Board Executive Committee.

ARTICLE V

BOARD OF DIRECTORS

5.1 **General Powers.** The affairs of the Corporation shall be managed by its Board of Directors. Directors need not be residents of the State of Alabama.

5.2 **Number.** The Board of Directors shall consist of the principal officer or other authorized representative from each Member and shall also include two (2) Board of Director

positions for Customer Representatives. The Board shall consist of no fewer than three (3) directors and no more than one hundred (100) directors. The current number of directors shall be fifty-four (54). Each Director shall serve until otherwise replaced by the applicable Member.

5.3 **Regular Meetings of the Board.** Unless otherwise determined by the Chairman, a regular meeting of the Board of Directors shall be held without other notice than this bylaw on the fourth Wednesday in the months of April and October in each year, beginning with the year 2005. Notwithstanding the foregoing, the Chairman may elect to hold a regular semi-annual meeting of the Board of Directors on another date provided that the Board receives at least the (10) days' advance notice. If the day fixed for the meeting shall be a legal holiday in the State of Alabama, the meeting shall be held on the next succeeding business day. The Board of Directors may designate any place, either within or outside of the State of Alabama, as the place of meeting for any meeting. The Board of Directors may provide by resolution the time and place, either within or outside of the State of Alabama, for the holding of additional regular meetings of the Board without other notice than the resolution. Members of the Board of Directors or any committee designated thereby may participate in a meeting of such Board or committee by means of a telephone conference, webcast or any other communication by means of which all persons participating in the meeting can hear each other at the same time, and participation by such means shall constitute presence in person at such meeting.

5.4 **Special Meetings of the Board.** Special meetings of the Board of Directors may be called by or at the request of the Chairman, or by directors holding (20%) or more of the Individual Votes. The Chairman may fix any place, either within or outside of the State of Alabama, as the place for holding any special meeting of the Board.

5.5 **Notice of Special Meetings.** Notice of any special meeting of the Board of Directors shall be given at least two days previously by written notice delivered personally or sent by mail to each director at the address as shown by the records of the Corporation. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage prepaid. Any director may waive notice of any meeting. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any special meeting of the board need be specified in the notice or waiver of notice of such meeting, unless specifically required by law or by these Bylaws.

5.6 **Election of Officers and Executive Committee.** Biennially, at the April meeting, the Board of Directors shall elect one of their directors to serve as Chairman, one as Vice Chairman, and one as Secretary-Treasurer, each for a term of two years. The Chairman shall conduct all meetings and shall be responsible for the preparation of the agenda. In the Chairman's absence, the Vice Chairman shall serve as Chairman. In the event that an officer cannot complete a term, a special election may be held. At the same time, the Board shall also approve members to the Executive Committee elected by the Sectors to serve for a period of two years. Each Sector may also elect alternate members to the Executive Committee, and, if a Sector has more than one member on the Executive Committee, such Sector shall designate the priority of succession by such alternates.

5.7 **Agenda.** As far in advance of each regular and special meeting as practical, an

agenda shall be distributed to each Board member and representative.

5.8 **Certain Definitions.**

(a) "Adjusted Weighted Vote" shall mean the number of votes of each director determined in the manner set forth in Section 5.9 hereof.

(b) "Bicameral Simple Majority" shall require the presence of a quorum and the (i) concurrence of directors whose combined Individual Votes are greater than fifty (50) percent of the total Individual Votes of all directors present at the meeting and entitled to vote on the issue (the "Individual Vote Test"), (ii) concurrence of directors whose combined Adjusted Weighted Votes are greater than fifty (50) percent of the total Adjusted Weighted Vote of all directors at the meeting and entitled to vote on the issue (the "Adjusted Weighted Vote Test"), and (iii) for at least one of the Individual Vote Test or the Adjusted Weighted Vote Test, on a individual Sector basis, the positive vote must outweigh the negative vote for at least three Sectors.

(c) "Bicameral Supermajority" shall require the presence of a quorum and the concurrence of (i) directors whose combined Individual Votes equal or exceed two-thirds of the total Individual Votes of all directors present at the meeting and entitled to vote on the issue, provided that a quorum is present, and (ii) directors whose combined Adjusted Weighted Votes are greater than two-thirds of the total Adjusted Weighted Vote of all directors present at the meeting and entitled to vote on the issue.

(d) "Individual Vote" shall mean a single vote accorded to each director.

(e) "Given Year" shall mean the applicable fiscal year for which the Adjusted Weighted Votes are calculated.

(f) "Reporting Year" shall mean the fiscal year immediately preceding the Given Year.

(g) "Previous Year" shall mean the fiscal year immediately preceding the Reporting Year.

5.9 **Determination of Adjusted Weighted Vote.** The directors' Adjusted Weighted Votes for a Given Year shall be determined by the following formula:

$$V = 10(1/N) + 30(B/C) + 30(D/E) + 30(F/G)$$

V = % of Adjusted Weighted Vote

N = total number of Members

B = Member's Previous Year internal peak demand

C = total of factor B for all Members

D = Member's owned generating capacity as of January 1 of the

Reporting Year

E = total of factor D for all Members

F = Member's sum of circuit miles of transmission times the respective operating voltage for facilities of 69 kV and above as of December 31 of the Previous Year

G = total of factor F for all Members

5.10 **Voting; Manner of Acting; Voting Rights; Quorum; Proxies.**

(a) Except for amendments to these Bylaws, which require approval by a Bicameral Supermajority, all other actions require approval by a Bicameral Simple Majority.

(b) Notwithstanding anything else in these Bylaws, a motion is still deemed to have passed if either (but not both) the Individual Vote Test or the Adjusted Weighted Vote Test is satisfied (such test that is not satisfied is referred to as the "Failed Test"), and, for purposes of the Failed Test, on an individual Sector basis, the positive votes outweigh the negative votes in every Sector but one.

(c) Members holding two-thirds of the Individual Votes shall constitute a quorum for action by the Board; but if directors holding less than two-thirds of the Individual Votes are present at the meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

(d) Any director may designate an alternate from that Member to represent the director at any meeting by written notification to the Corporation's office; however, directors may not otherwise use proxy votes.

(e) The intent of Section 5.8(b)(iii) and Section 5.10(b) is to ensure that no two Sectors should be able to control any decision and that a single Sector should not be able to veto any matter, respectively (other than amendments to these Bylaws). In the event that either of the foregoing shall nevertheless occur, the Members will promptly revise the provisions of these Bylaws so that no two Sectors will be able to control any decision and no single Sector will be able to veto any matter.

5.11 **Customer Representative Vacancies.** Should the Board of Directors, at any time, not include two Customer Representatives, the Board of Directors shall elect (or designate the Executive Committee to elect) additional representatives to fill such vacancies. The term of these Customer Representatives shall be for a two-year period.

5.12 **Compensation.** Directors as such shall not receive any stated salaries for their services.

5.13 **Informal Action by Directors.** Any action required by law to be taken at a meeting of directors, or any action which may be taken at a meeting of directors, may be taken without a meeting if a consent in writing, setting out the action so taken, shall be signed by all of the directors.

5.14 **Duties.** The duties of the Board of Directors shall include:

- (a) Periodically review the Reliability Standards with respect to matters affecting the reliability and adequacy of the Bulk-Power System power supply within the Region;
- (b) Manage the business and affairs of the Corporation;
- (c) Adopt rules, regulations and policies to implement and accomplish the purposes and provisions of these Bylaws, as necessary;
- (d) Recommend and approve any amendments to these Bylaws;
- (e) Exercise general supervision over such committees as may be established in accordance with Article VII and Article VIII of these Bylaws;
- (f) Consider any matters relating to the general administration of the Corporation proposed by any Member;
- (g) Form or dissolve committees, subcommittees, or task forces as it deems necessary to carry out the business of the Corporation;
- (h) Delegate appropriate duties or responsibilities to any committee established pursuant to these Bylaws;
- (i) Periodically establish and approve an annual budget and any revisions thereto;
- (j) Require that adequate bond be provided covering all officers, agents, employees charged by the Corporation with responsibility for the custody of any of its funds and property;
- (k) Have power to select one or more banks or other financial institutions to act as depositories of the funds of the Corporation;
- (l) Provide for the coordination of planning activities within the Corporation;
- (m) Provide for the coordination of interconnected system operations within the Corporation;
- (n) Provide for the coordination of critical infrastructure protection activities within the Corporation;
- (o) Provide for the Corporation's membership certification;
- (p) If the membership authorizes the use of the Corporation's employees, other than contract personnel, to conduct the administrative affairs of the Corporation, the Board shall set policies for selecting, compensating and

reviewing the performance of the employees; and

- (q) Resolve any disputes regarding the Members and the Corporation, if those issues cannot be resolved by the standing committees/subcommittees of the Corporation and are not otherwise subject to NERC's dispute provisions for non-compliance with Reliability Standards.

5.15 **Vacancies.** Any vacancy occurring in the Board of Directors shall be filled by the applicable Member, except for Customer Representative vacancies which shall be filled in accordance with Section 5.11.

ARTICLE VI

EXECUTIVE COMMITTEE / CORPORATE OFFICERS

6.1 **Executive Committee Voting Members.** The Executive Committee shall consist of the following twelve (12) voting members:

- (a) The Investor-Owned Utility Sector shall have three (3) representatives;
- (b) The Federal/State Sector shall have two (2) representatives;
- (c) The Cooperative Sector shall have two (2) representatives;
- (d) The Municipal Sector shall have two (2) representatives;
- (e) The Marketer Sector shall have one (1) representative;
- (f) The Merchant Electricity Generator Sector shall have one (1) representative; and
- (g) The ISO-RTO/Customer Sector shall have one (1) representative.

It is the desire of the Board of Directors that the Cooperative and Municipal sectors have representation from both transmission dependent and transmission owning Members. Each Sector will be responsible for nominating their representative(s) and alternates from among Board Members. The Chairman, Vice Chairman, and Secretary-Treasurer shall also be ex officio members of the Executive Committee, but shall not have voting rights (unless such Board officer is also elected by a Sector to the Executive Committee pursuant to Section 6.1(a)-6.1(g)). The Chairman will serve as chairman of the Executive Committee and shall conduct all meetings and shall be responsible for the preparation of the agenda. In the event that a member of the Executive Committee is unable to complete a term, the Sector's alternate representative will replace such member.

6.2 **Authority of Executive Committee.** Except as limited by Section 10-3A-38 of the Alabama Nonprofit Corporation Act, the Executive Committee is empowered to make such

decisions and take such actions as are deemed to be required between meetings of the Board of Directors to include reviewing and acting upon applications for membership in and resignations from the Corporation.

6.3 **Action.** Each voting member of the Executive Committee shall have one vote. The presence of three quarters of the members of the Executive Committee shall constitute a quorum. The positive vote of two-thirds of Executive Committee voting members present and voting is necessary to pass a particular action.

6.4 **Nominating Committee.** Biennially, the Executive Committee will appoint a Nominating Committee for the purpose of recommending individuals to serve as Officers of the Corporation. The Nominating Committee will report to the Board at the Board's April meeting.

6.5 **Corporate Officers.** The Executive Committee shall arrange for the services of a President/Chief Executive Officer, Vice President, Secretary and Treasurer of the Corporation. Two or more of such offices may be held by the same person, except for the offices of President/Chief Executive Officer and Secretary.

6.6 **President/Chief Executive Officer.** Under general direction, the President shall be the Chief Executive Officer of the Corporation and shall manage the operations of the Corporation to the end that its purposes will be accomplished. The Board Officers shall determine the compensation and benefits for the President and Chief Executive Officer. The President shall:

- (a) Attend all Board of Directors and standing committee meetings of the Corporation and NERC Stakeholder, Board of Trustees, and Standing Committee meetings, as these committees may change from time to time and as appropriate;
- (b) Assist and coordinate the preparation of testimony and reports;
- (c) Coordinate subregional activities and interregional affairs, to include data collection;
- (d) Install and maintain an adequate system of accounts and records;
- (e) Arrange for meetings as directed;
- (f) Assist the Corporation Committee Chairmen as appropriate;
- (g) Manage the business affairs of the Corporation, including the Corporation staff;
- (h) Maintain minutes of all the Corporation-related meetings; and
- (i) Provide other assistance to the Corporation and NERC, as appropriate.

6.7 **Vice President.** The Vice President shall perform such duties and exercise such powers as may be assigned to him from time to time by the Board of Directors, the Executive

Committee or the President. In the absence of the President, or in the case of the President's inability to act, the Vice President shall perform the duties and exercise the powers of the President, but subject to the control of the Board of Directors and the Executive Committee. The Board Officers shall determine the compensation and benefits of the Vice President.

6.8 **Secretary.** The Secretary shall be custodian of the records and of the seal of the Corporation and in general shall perform all duties incident to the office of Secretary and such other duties as may, from time to time, be assigned to him by the Board of Directors, the Executive Committee or the President.

6.9 **Treasurer.** The Treasurer shall have charge and custody of, and be responsible for, all funds and securities of the Corporation and deposit all such funds in the name of the Corporation in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of these Bylaws; and in general, perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the Board of Directors, the Executive Committee or the President.

ARTICLE VII

COMPLIANCE COMMITTEE

7.1 **Authority of Committee.** The Corporation's Compliance Committee will be vested with the authority for the Corporation Compliance Program and granted the ability to impose penalties and sanctions on behalf of NERC. The Compliance Committee shall review violations known to the Corporation's Compliance Staff discovered from audits, compliance documentation, or any other source whether self-reported, alleged, or confirmed, for the most recent period. The Compliance Committee shall review and advise the Board on the progress of the Corporation and its members in mitigating confirmed violations, and the progress of the Corporation in dealing with all unconfirmed violations. The Compliance Committee shall review the progress of the Corporation and its Members in implementing recommendations, as appropriate. The Compliance Committee shall report to the Board at each regularly scheduled meeting of the Board, and shall recommend to the Board such actions (i) as may further the purposes of the Delegation Agreement; or (ii) that extend beyond the scope of authority delegated to a Hearing Body in Section 7.3. Additionally, the Compliance Committee shall perform such other functions as may be delegated from time to time by the Board.

7.2 **Composition of Committee.** The Compliance Committee shall be composed of not more than twelve (12) members of the Corporation's Board of Directors. The members of the Compliance Committee shall be appointed by the Board of Directors at its April biennial meeting. The Compliance Committee shall consist of the following members:

- (a) The Investor-Owned Utility Sector shall have three (3) representatives;
- (b) The Federal/State Sector shall have two (2) representatives;
- (c) The Cooperative Sector shall have two (2) representatives;

- (d) The Municipal Sector shall have two (2) representatives;
- (e) The Marketer Sector shall have on (1) representative;
- (f) The Merchant Electricity Generator Sector shall have one (1) representative;
- (g) The ISO-RTO/Customer Sector shall have one (1) representative.

The Chairman of the Board of Directors shall appoint a chair from among the Compliance Committee members. The Chairman shall conduct all meetings of the Compliance Committee and shall be responsible for the preparation of the agenda. The Corporation Compliance Manager shall serve as the non-voting secretary. Each Sector will be responsible for nominating their representative(s) and alternates from among Board Members. In the event that a member of the Compliance Committee is unable to complete a term, the Sector's alternate representative will replace such member.

The Compliance Committee shall meet as determined by the members of the Compliance Committee and, except when acting as a Hearing Body as described in Article 7.3, shall use the same meeting and voting procedures as established for the Executive Committee. Each member of the Compliance Committee shall have one (1) vote. The presence of three quarters of the members of the Compliance Committee shall constitute a quorum. The positive vote of two-thirds of voting members of the Compliance Committee present and voting is necessary to pass a particular action.

7.3 Hearings. The Compliance Committee shall conduct hearings in accordance with Hearing Procedures approved by the Federal Energy Regulatory Commission (Hearing Procedures). In compliance hearings in which an entity may contest a finding of alleged violation, proposed penalty or sanction, a proposed mitigation plan, a remedial directive, or other such matters as allowed by the Hearing Procedures, the Compliance Committee shall establish and maintain a hearing body with authority to conduct and render decisions on the matter.

In accordance with the NERC Compliance Monitoring and Enforcement Program Hearing Procedures ("Hearing Procedures"), a quorum for the purpose of constituting a hearing body shall be (after any recusals or disqualifications and including any alternates) fifty (50) percent of the Compliance Committee. In addition to a quorum, the chair of the Compliance Committee shall declare the Hearing Body duly constituted only if no two sectors can control and no one sector can veto the actions of the Hearing Body (the "Sector Control Requirements"). Approval of all actions before a duly constituted Hearing Body shall require a simple majority of the votes cast, which number of members voting shall not be less than a quorum, with each member of the Hearing Body having one vote.

To ensure that the Sector Control Requirements are met in the formation of a Hearing Body, the Chair shall adhere to the following in declaring the Hearing Body duly constituted:

- If the Hearing Body is made up of six (6) members of the Compliance Committee, then each sector shall have no more than one (1) representative on the Hearing Body.

- If the Hearing Body is made up of seven (7) or eight (8) members of the Compliance Committee, then only one sector can have two (2) representatives on the Hearing Body, and each other sector can have only one (1) representative on the Hearing Body.
- If the Hearing Body is made up of nine (9) or ten (10) members of the Compliance Committee, then no sector can have more than two (2) representatives on the Hearing Body.
- If the Hearing Body is made up of eleven (11) or twelve (12) members of the Compliance Committee, then the Sector Control Requirements are met, as no two sectors would have enough votes to control, and no one sector would have the ability to veto.

The chair, in his or her sole discretion, shall have the authority to determine whether the Hearing Body meets the quorum requirements and Sector Control requirements and is therefore duly constituted.

The decision of any duly constituted Hearing Body pursuant to these requirements shall be final and binding on the Corporation, without requiring either the Compliance Committee or the Corporation to ratify the Hearing Body's actions.

7.4 **Conflicts of Interest.** Compliance Committee members shall comply with the Corporation's Standards of Conduct policy that prohibits conflicts of interest associated with the compliance program, as such conflicts could cast doubt on the ability of the Compliance Committee members to act with total objectivity with regard to the overall interests of the compliance program.

7.5 **Ad-Hoc Support Committees.** The Compliance Committee may, from time to time, appoint ad-hoc committees of technical experts to research and/or advise it on compliance or technical issues or matters, among other things. Such ad-hoc committees of technical experts may be formed on an as-needed basis and may vary in makeup depending on the needs of the Compliance Committee. Each member (or another entity) that requests that the Compliance Committee review a compliance finding against it may request that an ad-hoc committee be formed to assist the Compliance Committee in its review.

ARTICLE VIII

OTHER COMMITTEES

8.1 **Designation by Board.** The Board of Directors, by resolution adopted by a Bicameral Simple Majority, may designate standing and special (ad hoc) committees, as shall be necessary to address the purposes of the Corporation. Such committees shall include, but are not limited to the following:

- (a) Engineering Committee -- The purpose of this committee shall be to promote the reliability and adequacy of the Bulk-Power System, as related to the planning and engineering of electric systems. The committee shall provide a mechanism for the coordination of activities in the areas of planning and engineering.

- (b) Operating Committee -- The purpose of this committee shall be to promote the reliability and adequacy of the Bulk-Power System, as related to the operation of electric systems. The committee shall provide a mechanism for the coordination of activities in the area of operations.
- (c) Critical Infrastructure Protection Committee -- The purpose of this committee shall be to promote the advancement of the physical and cyber security of the Bulk-Power System. It serves as an expert advisory panel in the areas of physical and cyber security, establishes and maintains an information reporting procedure, provides a liaison with state government agencies, and conducts forums and workshops related to Critical Infrastructure Protection.

Each Member is entitled, but not required, to name both a representative and alternate to the committees designated in this Section 8.1.

8.2 **Voting Rights for Committees.** Except as otherwise provided for in these Bylaws, voting rights for the Committees established pursuant to Section 8.1 shall be based on the same method as adopted by the Board of Directors of the Corporation. Operating procedures, definitions for quorum, and votes for approval are contained in the Organization and Procedures Manual for the Corporation's Standing Committees.

8.3 **Dispute Resolution Process.** The Standing Committees shall have a Dispute Resolution process in place to accommodate disputes (other than disputes regarding Reliability Standards that are handled between the applicable Member and NERC, as more fully described in Article XII). The Members are encouraged to utilize these dispute processes prior to seeking legal action. More specific details of these Committees are outlined in their respective Handbooks.

8.4 **Rules.** Each committee will adopt rules for its own governance not inconsistent with these Bylaws or with rules adopted by the Board of Directors.

8.5 **Reliability Standards Development.** While the development of Reliability Standards shall be administered by the Corporation's Standing Committees, a registered ballot body of interested stakeholders will vote to approve Reliability Standards, in accordance with the Corporation's Regional Reliability Standards Development Procedure.

ARTICLE IX

MISCELLANEOUS

9.1 **Contracts.** The Board of Directors may authorize any officer or officers, agent or agents of the Corporation, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

9.2 **Checks, Drafts, etc.** All checks, drafts, or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation, shall be signed by such officer or officers, agent or agents of the Corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors. In the absence of such determination by the Board of Directors, such instruments shall be signed by the Secretary-Treasurer, President, or Finance Director, as stipulated by the Executive Committee. The Secretary-Treasurer shall arrange audits of financial records, sign appropriate documents, and perform such duties normally performed by Secretary-Treasurer, except duties assigned to the President or Finance Director.

9.3 **Deposits.** All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Directors may select.

9.4 **Gifts.** The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest or devise for the general purpose or for any special purpose of the Corporation.

ARTICLE X

BOOKS AND RECORDS

10.1 **Books and Records.** The Corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of the Board of Directors and committees having any of the authority of the Board of Directors, and shall keep at its registered or principal office a record giving the names and addresses of the directors. All books and records of the Corporation may be inspected by any director, or agent or attorney representing any director, for any proper purpose at any reasonable time.

ARTICLE XI

FISCAL YEAR

11.1 **Fiscal Year.** The fiscal year of the Corporation shall begin on the first day of January and end on the last day of December in each year.

ARTICLE XII

EXPENSES

12.1 **Allocation of Specific Expenses.** The expenses of directors and officers of the Board shall be borne by that person's regular employer.

12.2 **Statutory Functions.** The Corporation anticipates that as a general rule all of its expenses will be incurred in the furtherance of statutory activities pursuant to FPA Section 215, and that all such expenses will be funded by NERC, subject to FERC approval.

12.3 **Non-Statutory Functions.** Notwithstanding Section 12.2, the Board of Directors may from time to time authorize the Corporation to participate in non-statutory activities (i.e., activities not described in FPA Section 215). In the event that the Corporation proposes to engage in non-statutory activities, such activities will be identified in the Corporation's annual business plan that is submitted to NERC and, if approved by NERC, will be submitted to FERC for approval in advance of engaging in such non-statutory activities. The expenses incurred by the Corporation for any such approved non-statutory activities will be allocated by the Board of Directors among the Members of the Corporation who have participated in such non-statutory activities on a basis proposed in the business plan submitted for NERC and FERC approval. All participation in non-statutory activities by Members of the Corporation shall be voluntary.

ARTICLE XIII

DISPUTE RESOLUTION PROCESS

13.1 **General.** All disputes regarding non-compliance with Reliability Standards shall be handled between the applicable Member and NERC. The organizational units of the Corporation will deal with all other disputes within the framework of their respective organizations. For such other disputes, Members of the Corporation are encouraged to utilize the appropriate Dispute Resolution Process within the Corporation prior to seeking resolution at NERC, FERC, or with legal counsel.

13.2 **Terms of Process.** Details of the Corporation Dispute Resolution Process are provided to each Member and are available at the Corporation's offices.

ARTICLE XIV

DISSOLUTION

14.1 **Dissolution**. The Corporation may be voluntarily dissolved upon unanimous consent of Members, and in accordance with Section 10-3A-140 of the Alabama Nonprofit Corporation Act, as amended from time to time.

14.2 **Distribution of Assets**. Upon dissolution of the Corporation as provided in Section 14.1, the residual assets, after payment of all just obligations, shall be distributed exclusively for the common business interest of its Members or to organizations which are exempt from federal income tax under the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax laws.

ARTICLE XV

REGULATORY COMMISSION PARTICIPATION

15.1 **Terms of Participation** To implement the purpose of this organization, the Chairman of FERC and the Chairman or President of any State Utility Commission in a state in which electric service is provided by a Member of the Corporation shall be invited to designate a representative to attend meetings of the Board as observers.

ARTICLE XVI

WAIVER OF NOTICE

16.1 **Waiver**. Whenever any notice is required to be given under the provisions of the Alabama Nonprofit Corporation Act or under the provisions of the articles of incorporation or the Bylaws of the Corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE XVII

INDEMNIFICATION

17.1 **Indemnification of Directors, Officers, Employees and Agents**. Every person who is, or has been, a director, officer, employee or agent of the Corporation shall be

indemnified by the Corporation in the manner and to the extent authorized by the Alabama Nonprofit Corporation Act. The foregoing rights of indemnification shall be without prejudice to any other rights to which any such director, officer, employee or agent may be entitled as a matter of law.

**SERC Regional Standards Development
Procedure**

**Exhibit C
to the
Amended and Restated
Regional Entity Delegation Agreement
between**

North American Electric Reliability Corporation
and
SERC Reliability Corporation



Exhibit C – Regional Standard Development Procedure

Exhibit C ~~shall set~~sets forth ~~the Regional Entity's~~SERC Reliability Corporation's standards development procedure, which NERC agrees meets the following common attributes:

COMMON ATTRIBUTE 1

Proposed regional reliability standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA [add reference to any applicable authorities in Canada and Mexico]. No regional reliability standard shall be effective within the [Regional Entity Name] area unless filed by NERC with FERC [and applicable authorities in Canada and Mexico] and approved by FERC [and applicable authorities in Canada and Mexico].

COMMON ATTRIBUTE 2

[Regional Entity Name] regional reliability standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. A [Regional Entity Name] reliability standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. A regional reliability standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

COMMON ATTRIBUTE 3

[Regional Entity Name] regional reliability standards, when approved by FERC [add applicable authorities in Canada], shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the [Regional Entity Name] area, regardless of membership in the region.

COMMON ATTRIBUTE 4

SERC Regional Reliability Standard Development Procedure

Requester — The requester is the sponsor of the regional reliability standard request ~~and~~ may assist in the development of the standard. Any member of [Regional Entity Name], or group within [Regional Entity Name] shall be allowed to request that a regional reliability standard be developed, modified, or withdrawn. Additionally, any entity (person, organization, company, government agency, individual, etc.) that is directly and materially affected by the reliability of the bulk power system in the [Regional Entity Name] area shall be allowed to request a regional reliability standard be developed, modified, or withdrawn.

COMMON ATTRIBUTE 5

[Standards or other named] committee — The [Regional Entity Name] [standards] committee manages the standards development process. The [standards] committee will consider which requests for new or revised standards shall be assigned for development (or existing standards considered for deletion). The [standards] committee will advise the [Regional Entity Name] board on standards presented for adoption.

COMMON ATTRIBUTE 6

~~[Alternative 6A: For a Regional Entity that chooses to vote using a balanced stakeholder committee.]~~ [REGISTERED BALLOT BODY APPROACH]

~~The [standards] committee is a balanced stakeholder committee, inclusive of all stakeholder interests that provide for or are materially impacted by the reliability of the bulk power system. [The [standards] committee votes to approve standards.] See Appendix A for the representation model of the [standards] committee.~~

~~[Alternative 6B: For a Regional Entity that chooses to vote using a balanced ballot body of stakeholders.]~~

[Registered ballot body]—The registered ballot body comprises all entities or individuals that qualify for one of the stakeholder segments; are registered with [Regional Entity Name] as potential ballot participants in the voting on standards; and are current with any designated fees. Each member of the registered ballot body is eligible to vote on standards. [Each standard action has its own ballot pool formed of interested members of the registered ballot body. Each ballot pool comprises those members of the registered ballot body that respond to a pre-ballot survey for that particular standard action indicating their desire to participate in such a ballot pool.] The representation model of the registered ballot body is provided in Appendix A.]

COMMON ATTRIBUTE 7

[Regional Entity Name] will coordinate with NERC such that the acknowledgement of receipt of a standard request identified in step 1, notice of comment posting period identified in step 4, and notice for vote identified in step 5 below are concurrently posted on both the [Regional Entity Name] and NERC websites.

COMMON ATTRIBUTE 8

An acceptable standard request shall contain a description of the proposed regional reliability standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed standard.

COMMON ATTRIBUTE 9

Within [no greater than 60] days of receipt of a completed standard request, the [standards] committee shall determine the disposition of the standard request.

COMMON ATTRIBUTE 10

The [standards] committee may take one of the following actions:

- Accept the standard request as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The [standards] committee may, at its discretion, expand or narrow the scope of the standard request under consideration. The [standards] committee shall prioritize the development of standard in relation to other proposed standards, as may be required based on the volume of requests and resources.
- Reject the standard request. If the [standards] committee rejects a standard request, a written explanation for rejection will be delivered to the requester within [no greater than 30] days of the decision.
- Remand the standard request back to the requester for additional work. The standards process manager will make reasonable efforts to assist the requester in addressing the deficiencies identified by the [standards] committee. The requester may then resubmit the modified standard request using the process above. The requester may choose to withdraw the standard request from further consideration prior to acceptance by the [standards] committee.

COMMON ATTRIBUTE 11

Any standard request that is accepted by the [standards] committee for development of a standard (or modification or deletion of an existing standard) shall be posted for public viewing on the [Regional Entity Name] website within [no greater than 30] days of acceptance by the committee.

COMMON ATTRIBUTE 12

The standards process manager shall submit the proposed members of the drafting team to the [standards] committee. The [standards] committee shall approve the drafting team membership within 60 days of accepting a standard request for development, modifying the recommendations of the standards process manager as the committee deems appropriate, and assign development of the proposed standard to the drafting team.

COMMON ATTRIBUTE 13

At the direction from the [standards] committee, the standards process manager shall facilitate the posting of the draft standard on the [Regional Entity Name]

website, along with a draft implementation plan and supporting documents, for a no less than a [30]-day] comment period. The standards process manager shall provide notice to [Regional Entity Name] stakeholders and other potentially interested entities, both within and outside of the [Regional Entity Name] area, of the posting using communication procedures then currently in effect or by other means as deemed appropriate.

COMMON ATTRIBUTE 14

The drafting team shall prepare a summary of the comments received and the changes made to the proposed standard as a result of these comments. The drafting team shall summarize comments that were rejected by the drafting team and the reason(s) that these comments were rejected, in part or whole. The summary, along with a response to each comment received will be posted on the [Regional Entity Name] website no later than the next posting of the proposed standard.

COMMON ATTRIBUTE 15

Upon recommendation of the drafting team, and if the [standards] committee concurs that all of the requirements for development of the standard have been met, the standards process manager shall post the proposed standard and implementation plan for ballot and shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

COMMON ATTRIBUTE 16

The standards process manager shall schedule a vote by the [Regional Entity Name] [registered ballot body/[standards] committee]. The vote shall commence no sooner than [15] days and no later than [30] days following the issuance of the notice for the vote.

COMMON ATTRIBUTE 17

~~[Alternative 17A: For an RE that chooses to vote using a balanced stakeholder committee.]~~

SERC Regional Reliability Standard Development Procedure

The [standards] committee shall give due consideration to the work of the drafting team, as well as the comments of stakeholders and minority objections, in approving a proposed regional reliability standard for submittal to the [Regional Entity Name] board. The [standards] committee may vote to approve or not approve the standard. Alternatively, the [standards] committee may remand the standard to the drafting team for further work or form a new drafting team for that purpose.

~~*[Alternative 17B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]*~~

~~The [Regional Entity Name] registered ballot body shall be able to vote on the proposed standard during a period of [not less than 10] days.~~

COMMON ATTRIBUTE 18

~~*[Alternative 18A: For an RE that chooses to vote using a balanced stakeholder committee.]*~~

The [standards] committee may not itself modify the standard without issuing a new notice to stakeholders regarding a vote of the modified standard.

~~*[Alternative 18B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]*~~

~~All members of [Regional Entity Name] are eligible to participate in voting on proposed new standards, standard revisions or standard deletions. [Alternatively: Each standard action requires formation of a ballot pool of interested members of the registered ballot body.]~~

COMMON ATTRIBUTE 19

~~*[Alternative 19A: For an RE that chooses to vote using a balanced stakeholder committee.]*~~

Actions by the committee shall be recorded in the regular minutes of the committee.

~~*[Alternative 19B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]*~~

SERC Regional Reliability Standard Development Procedure

~~Approval of the proposed regional reliability standard shall require a [two thirds] majority in the affirmative (affirmative votes divided by the sum of affirmative and negative votes). Abstentions and non responses shall not count toward the results, except that abstentions may be used in the determination of a quorum. A quorum shall mean [XX%] of the members of the [registered ballot body/ballot pool] submitted a ballot.~~

COMMON ATTRIBUTE 20

Under no circumstances may the board substantively modify the proposed regional reliability standard.

COMMON ATTRIBUTE 21

Once a regional reliability standard is approved by the board, the standard will be submitted to NERC for approval and filing with FERC [and applicable authorities in Canada and Mexico.]

COMMON ATTRIBUTE 22

Open - Participation in the development of a regional reliability standard shall be open to all organizations that are directly and materially affected by the [Regional Entity Name] bulk power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in [Regional Entity Name], and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to the [Regional Entity Name] members and others.

COMMON ATTRIBUTE 23

Balanced - The [Regional Entity Name] standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.

COMMON ATTRIBUTE 24

Inclusive — Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the [Regional Entity Name] area shall have a right to participate by: a) expressing a

position and its basis, b) having that position considered, and c) having the right to appeal.

COMMON ATTRIBUTE 25

Fair due process — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.

COMMON ATTRIBUTE 26

Transparent — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.

COMMON ATTRIBUTE 27

Does not unnecessarily delay development of the proposed reliability standard.

COMMON ATTRIBUTE 28

Each standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

COMMON ATTRIBUTE 29

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets

SERC Regional Reliability Standard Development Procedure

are inseparable and mutually interdependent, all regional reliability standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

COMMON ATTRIBUTE 30

To ensure uniformity of regional reliability standards, a regional reliability standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

COMMON ATTRIBUTE 31

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

COMMON ATTRIBUTE 32

Applicability	Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions. If not applicable to the entire [Regional Entity Name] area, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.
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Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions.

If not applicable to the entire [Regional Entity Name] area, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.

COMMON ATTRIBUTE 33

SERC Regional Reliability Standard Development Procedure

Measure(s)	<p>Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.</p>
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Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.

COMMON ATTRIBUTE 34

Compliance Monitoring Process	<p>Defines for each measure:</p> <ul style="list-style-type: none"> • The specific data or information that is required to measure performance or outcomes. • The entity that is responsible for providing the data or information for measuring performance or outcomes. • The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes. • The entity that is responsible for evaluating data or information to assess performance or outcomes. • The time period in which performance or outcomes is measured, evaluated, and then reset. • Measurement data retention requirements and
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SERC Regional Reliability Standard Development Procedure

	assignment of responsibility for data archiving.
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Defines for each measure:

- The specific data or information that is required to measure performance or outcomes.
- The entity that is responsible for providing the data or information for measuring performance or outcomes.
- The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes.
- The entity that is responsible for evaluating data or information to assess performance or outcomes.
- The time period in which performance or outcomes is measured, evaluated, and then reset.
- Measurement data retention requirements and assignment of responsibility for data archiving.

SERC Regional Reliability Standard Development Procedure

Revision History

Revision	Date	Comments
0	October 25, 2006	Document Origination
1	October 10, 2007	Document revised to change to a registered ballot body approach to approve standards, changed "Manager of Reliability Services" to Manager of Reliability Standards," changed the RSS meeting notice period to 21 days, changed the review period for this procedure from five to three years, and moved from the Standing Committee Executive Committees to the Standards Committee the ability to remand a SAR back to the Requester for additional work.

Responsible SERC Group(s)

SERC Standards Committee (SC)

Review and Re-Approval Requirements

This document will be reviewed every three years or as appropriate by the SERC Standards Committee for possible revision. The existing or revised document will be re-certified and distributed to all members of SERC.

List of Appendices

- Appendix A: Stakeholder Representation
- Appendix B: Principles, Characteristics, and Special Procedures
- Appendix C: SERC Regional Reliability Standard Authorization Request Form
- Appendix D: Elements of a SERC Regional Reliability Standard
- Appendix E: Comment Form for Draft SERC Regional Reliability Standard
- Appendix F: SERC Consideration of Comments Form
- Appendix G: SERC Process Flow Diagram

Introduction

This procedure defines the process for development, revision, reaffirmation, and withdrawal of a regional reliability standard by the SERC Reliability Corporation (SERC). SERC is a regional entity authorized through an approved delegation agreement with the North American Electric Reliability Corporation (NERC) to propose regional reliability standards in accordance with Section 215 of the Federal Power Act (FPA), the U.S. Federal Energy Regulatory Commission (FERC) Order No. 672, and Title 18 § 39 of the U.S. Code of Federal Regulations (C.F.R. 18 § 39).

SERC Regional Reliability Standards apply to the planning, operation, and critical infrastructure protection of the Bulk Power System in the SERC Region. Proposed SERC Regional Reliability Standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA. No SERC Regional Reliability Standard shall be effective within the SERC area unless filed by NERC with FERC and approved by FERC.

SERC Regional Reliability Standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. A SERC Regional Reliability Standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or regional difference necessitated by a physical difference in the bulk power system. A SERC Regional Reliability Standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

SERC Regional Reliability Standards, when approved by FERC, shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the SERC area, regardless of membership in the region.

Process Roles

Requester: The requester is the sponsor of the SERC Regional Reliability Standard request and may assist in the development of the standard. Any member of SERC, or any group (or member of a group) within SERC (i.e., committee, subcommittee, working group, study group, task force, or SERC staff), shall be allowed to request that a SERC Regional Reliability Standard be developed, modified, or withdrawn. Additionally, any entity that is directly and materially affected by the reliability of the SERC Bulk Power System shall be allowed to request that a SERC Regional Reliability Standard be developed, modified, or withdrawn.

SERC Board of Directors: The SERC Board of Directors shall consider for adoption as SERC Regional Reliability Standards, those Standards that have been developed and approved by this procedure. Once the Board adopts a SERC Regional Reliability Standard, such Standard shall be submitted to NERC for approval. When approved by NERC, it shall be submitted to FERC for approval.

SERC Staff: The SERC Manager of Reliability Standards is responsible for forwarding a request for the development, modification or withdrawal of SERC Regional Reliability Standards to the SERC Standards Committee. The SERC Staff shall facilitate all steps in this process.

SERC Standards Committee: The SERC Regional Reliability Standard Development Procedure shall be administered by the SERC Standards Committee (SC). The SERC SC is responsible for ensuring that the development, modification or withdrawal of SERC Regional Reliability Standards is in accordance with the steps in this procedure. The SERC SC will ensure the integrity of the process and the consistency of quality and completeness of the SERC Regional Reliability Standards.

SERC Standing Committees: The SERC Standing Committees will perform a high level technical review of the SAR to determine which requests for new or revised standards shall be assigned for development (or existing standards considered for deletion). The Standing Committees will appoint the standard drafting team (Responsible SERC Subgroup).

The current SERC Standing Committees are the Engineering Committee (EC), Operating Committee (OC), and Critical Infrastructure Protection Committee (CIPC). The Standing Committees are balanced stakeholder committees, inclusive of all stakeholder interests that provide for or are materially impacted by the reliability of the bulk power system. See Appendix A for the representation model of the Standing Committees.

SERC Regional Reliability Standard Development Procedure

Compliance Advisory Groups: The SERC Compliance Advisory Groups provide inputs and comments during the standards development process to ensure the measures will be effective and other aspects of the compliance program can be practically implemented.

Responsible SERC Subgroup (RSS): Responsible SERC Subgroups are teams, responsible for drafting the standard. The RSS may include technical experts and be based around a permanent SERC Standing Committee subgroup. An RSS is established expressly to draft the standard. Membership on an RSS will be assigned by the SERC EC, OC, and/or CIPC. The requester may act as the RSS, serve on the RSS, or otherwise assist the RSS. SERC membership is not a prerequisite for serving on an RSS. The RSS will:

- Develop the details of the SERC Regional Reliability Standard,
- Consider and respond to industry comments,
- Participate in forums to help build consensus on draft SERC Regional Reliability Standards,
- Assist in the implementation of approved SERC Regional Reliability Standards,
- Provide technical oversight in response to changing industry conditions, and
- Assist in the identification of the need for new SERC Regional Reliability Standards.

Registered Ballot Body (RBB): The registered ballot body votes to approve standards. The RBB comprises all entities or individuals that qualify for one of the SERC industry Sectors, and are registered with SERC as potential ballot participants in the voting on standards. SERC membership is not a prerequisite for registering with SERC as a potential ballot participant. Any entity that is directly and materially affected by the reliability of the SERC Bulk Power System shall be allowed to register as a potential ballot participant.

Each member of the registered ballot body is eligible to vote on standards. Each standard action has its own ballot pool formed of interested members of the registered ballot body.

Ballot Pool: Each standard action has its own ballot pool formed of interested members of the Registered Ballot Body. The ballot pool comprises those members of the Registered Ballot Body that respond to a pre-ballot survey for that particular standard action. The ballot pool will ensure, through its vote, the need for and technical merits of a proposed standard action and the appropriate consideration of views and objections received during the development process. The ballot pool votes to approve each standards action.

Process Steps

Note: The term “days” below refers to calendar days.

SERC will coordinate with NERC such that the acknowledgement of receipt of an accepted standard request identified in step 4, notice of comment posting period identified in step 7, and notice for vote identified in step 9 below are concurrently posted on both the SERC and NERC websites.

Step 1: Request for a new SERC Regional Reliability Standard or modification to, or withdrawal of an existing SERC Regional Reliability Standard

A request to develop, modify or withdraw a SERC Regional Reliability Standard shall be submitted, using the SERC Regional Reliability Standard Authorization Request (SAR) Form (see Appendix C), to the SERC Manager of Reliability Standards (via e-mail to regstd@serc1.org) by any member of SERC, or any group (or member of a group) within SERC (i.e., committee, subcommittee, working group, study group, task force, or SERC staff), or any entity that is directly and materially affected by reliability of the SERC Bulk Power System. The SERC SAR Form can be downloaded from the SERC website (www.serc1.org).

An acceptable SAR shall contain a description of the proposed regional reliability standard subject matter with sufficient descriptive detail of the proposed standard to clearly define the purpose, scope, impacted parties, and other relevant information. SERC Staff shall verify that the SAR Form has been adequately completed. Within 15 days of receiving the SAR, the SERC Manager of Reliability Standards or his designee will electronically acknowledge receipt of the SAR, and will forward the SAR to the SERC Standards Committee. The SERC Manager of Reliability Standards may offer the Requester suggestions regarding changes or improvements to enhance the clarity of the proposed standards work and to assist the SERC Standards Committee in understanding the requester’s intent and objectives. The requester is free to accept or reject these suggestions.

Step 2: Assignment of SERC Regional Reliability Standard Request

The Standards Committee will review the SAR to ensure it is not in conflict with or duplication of a current standard or a standards drafting effort already proposed or in progress. Within 15 days after receiving the SAR from the SERC Manager of Reliability Standards, the Standards Committee will take one of the two following actions:

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- Assign the SAR to the appropriate SERC Standing Committee(s). SERC Staff will forward the SAR to the appropriate SERC Standing Committee Chair(s) and Standing Committee(s) Executive Committee.
- Remand the SAR back to the Requester for additional work. The SERC Manager of Reliability Standards will make reasonable efforts to assist the Requester in addressing the deficiencies identified by the Standards Committee. The Requester may then resubmit the modified SAR using the process above. The requester may choose to withdraw the SAR from further consideration.

Step 3: Acceptance of a SERC Regional Reliability Standard Request

Within 60 days of receipt of a completed SAR, the assigned SERC Standing Committee(s) Executive Committee(s) shall determine the disposition of the SAR. The committee may take one of the two following actions:

- Accept the SAR as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The committee(s) may, at its discretion, expand or narrow the scope of the SAR under consideration. The committee(s) shall prioritize the development of standard in relation to other proposed standards, as may be required based on the volume of requests and resources.
- Reject the SAR. If the committee(s) rejects a SAR, a written explanation for rejection will be delivered to the Requester within 30 days of the decision.

Deliberations and decisions of the assigned SERC Standing Committee(s) Executive Committee(s) concerning requests shall be made and documented in accordance with the SERC Standing Committee rules and procedures then in effect.

Step 4: Posting of SERC Regional Reliability Standard Request

Any SAR that is accepted by the assigned SERC Standing Committee(s) Executive Committee(s) for development of a standard (or modification or deletion of an existing standard) shall be posted for public viewing on the SERC website within 30 days of acceptance by the committee. A notice of the posting for a 30-day comment period will be sent to all SERC Standing Committees representatives and alternates. In addition, the notice will be sent (via e-mail) to NERC, the Region Managers of the Regional Entities adjoining SERC (RFC, MRO, SPP, and FRCC), individuals listed as entity contacts in the SERC Compliance Registry, and the SERC Registered Ballot Body representatives to seek input on the proposed SAR. SERC Staff will perform this

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posting on the SERC website and coordinate or send correspondences described in this and other steps of the process.

Step 5: Formation of a Responsible SERC Subgroup

Within 60 days of accepting a SAR for development, the assigned SERC Standing Committee(s) Executive Committee(s) shall assign and direct the proposal to the appropriate Responsible SERC Subgroup (RSS) to develop the draft Regional Reliability Standard. The RSS may be a permanent Standing Committee subgroup (augmented by other persons as may be appropriate to address the subject matter of the proposed standard), or a task force established expressly by the Executive Committee(s) for drafting the standard. SERC membership is not a prerequisite for serving on an RSS.

After consulting with the assigned SERC Standing Committee(s) Executive Committee(s) as necessary, the SERC Standards Committee (SC) will assign a preliminary date on which the RSS is expected to have ready a completed draft Standard and associated supporting documentation available for consideration.

Step 6: Drafting of a SERC Regional Reliability Standard

The RSS shall develop a work plan for completing the regional reliability standard, including the establishment of a milestone schedule for completing critical elements of the work in sufficient detail to ensure that the RSS will meet the objectives established by the SC. The RSS shall submit its work plan to the SC for its concurrence.

The RSS shall convene periodically, either in person or by electronic means as necessary, establish work teams (made up of members of the RSS) as necessary, and perform other activities to complete the proposed standard within the milestone date(s) agreed upon by the SC. All RSS meetings or portions of meetings associated with development of the draft standard shall be open and publicly noticed on the SERC website for a minimum of twenty-one (21) calendar days prior to the meeting. All RSS meeting attendees are required to register via the SERC website.

The RSS shall consider all comments received on the posting of the SAR and shall develop a draft SERC Regional Reliability Standard that will address the accepted SAR. The RSS shall use the SERC Regional Reliability Standards Format Template as the format for the draft standard (see Appendix D). The SERC Regional Reliability Standards Format Template can be downloaded from the SERC website (www.serc1.org).

The work product of the RSS will consist of the following:

- A draft Standard consistent with the SAR on which it was based.

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- An assessment of the impact of the standard on neighboring regions, and appropriate input from the neighboring regions if the standard is determined to impact any neighboring region.
- An implementation plan, including the nature, extent and duration of field-testing, if any.
- Identification of any existing Standard that will be deleted, in part or whole, or otherwise impacted by the implementation of the draft Standard
- Technical reports, white papers and/or work papers that provide technical support for the draft Standard under consideration.
- Documentation of the perceived reliability impact should the Standard be approved.

The RSS shall regularly inform the SC, at a frequency determined by the SC, of its progress in meeting a timely completion of the draft standard. The RSS may, with justification, request of the SC scope changes from the SAR at any point in the standard development process.

The RSS shall submit the draft SERC Regional Reliability Standard and supporting documentation to the SC for review. The RSS will send any revised SERC Regional Reliability Standard to the SC in both “Clean” and “Tracking” formats. The RSS shall also send the SC an accompanying Comments Form which may include specific questions addressing the major issues associated with the new or revised standard. In any event, the Comments Form must also allow for general comments on the standard (see Appendix E for sample form). The SC will verify that the proposed standard is consistent with the SAR on which it was based. The SERC Regional Reliability Draft Standards Comments Form can be downloaded from the SERC website (www.serc1.org).

Step 7: Posting of a Draft SERC Regional Reliability Standard

The SERC Standards Committee shall send to the SERC Manager of Reliability Standards the draft SERC Regional Reliability Standard, along with a draft implementation plan and supporting documents, for comments. SERC Staff will post these documents on the SERC website for thirty (30) calendar days. A notice of the posting for comment will be sent to all SERC Standing Committees representatives and alternates. In addition, the request will be sent (via e-mail) to NERC, the Region Managers of the Regional Entities adjoining SERC (RFC, MRO, SPP, and FRCC), individuals listed as entity contacts in the SERC Compliance Registry, and the SERC Registered Ballot Body representatives to seek input on the draft SERC Regional Reliability Standard. Comments shall be submitted electronically (via e-mail) to regstd@serc1.org. All comments are due by the close of business on the 30th calendar day of posting. If the comment due date falls on a weekend or nationally recognized holiday, the comments shall be due by the close of business on the next regularly scheduled business day.

Step 8: Standard Drafting Team Review of Comments

SERC Staff shall forward all comments received to the RSS and SC. The SC may review comments and make recommendations concerning them. Any SC recommendation will be forwarded to the RSS. The RSS shall review the comments received and revise the draft SERC Regional Reliability Standard as needed. The RSS shall develop a written response to each comment received using the Consideration of Comments Form Template (see Appendix F). The SERC Consideration of Comments Form Template can be downloaded from the SERC website (www.serc1.org). The completed Consideration of Comments Form will be posted on the SERC website.

The RSS shall summarize comments that were rejected by the RSS and the reason(s) that these comments were rejected, in part or whole. The RSS shall submit to the SC the summary of comments rejected, the completed Consideration of Comments form, and any resulting revisions to the draft SERC Regional Reliability Standard.

If needed, a second draft of the SERC Regional Reliability Standard (along with the summary of comments rejected and the Consideration of Comments from the previous posting) will be posted for another comment period. Such comment period shall be for thirty (30) calendar days. A notice of the posting for comment will be sent to all SERC Standing Committees representatives and alternates. In addition, the notice will be sent (via e-mail) to NERC, the Region Managers of the Regional Reliability Organizations adjoining SERC (RFC, MRO, SPP, and FRCC), individuals listed as entity contacts in the SERC Compliance Registry, and the SERC Registered Ballot Body representatives to seek input on the revised draft SERC Regional Reliability Standard.

Based on comments received to the posting, Step 7 will be repeated as necessary until the RSS and the SC believe the draft SERC Regional Reliability Standard is ready to submit to the SERC Ballot Body for approval.

Step 9: Notice of Vote to Approve a SERC Regional Reliability Standard

The Responsible SERC Subgroup shall submit the summary of comments rejected and the Consideration of Comments document along with the final draft of the proposed SERC Regional Reliability Standard (both “Tracking” and “Clean” versions for standard revisions) to the SERC Manager of Reliability Standards for posting on the SERC website at least 15 days prior to requesting approval of the standard.

The SERC Manager of Reliability Standards shall post the proposed standard and implementation plan for ballot and shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

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Ballot Pool: The SERC Manager of Reliability Standards shall establish a ballot pool for a standard action at least 15 days prior to the start of a ballot. The SERC Manager of Reliability Standards shall send a notice to every entity in the Registered Ballot Body. The purpose of this notice is to establish a ballot pool to participate in the ballot of the proposed standards action.

Any member of the Registered Ballot Body may join or drop out of a ballot pool until the ballot period begins (Step 10). No Registered Ballot Body member may join or leave the ballot pool once the first ballot starts. The SERC Manager of Reliability Standards shall coordinate changes to the membership of the ballot pool and publicly post the standard ballot pool for each standard action.

The SERC Manager of Reliability Standards shall schedule a vote by the ballot pool for approval. The vote shall commence no sooner than 15 days and no later than 30 days following the issuance of the notice for the vote.

Step 10: SERC Ballot Pool of Registered Ballot Body Approval

The Ballot Pool shall have a minimum of ten (10) days to vote on a standards action. The Ballot Pool should give due consideration to the work of the RSS, as well as the comments of stakeholders and minority objections, in approving a proposed regional reliability standard. The Ballot Pool may vote to approve or not approve the standard.

Once approved, the SERC Regional Reliability Standard along with the proposed implementation plan and supporting documentation will be submitted by the SERC President, or the President's designee, to the SERC Board of Directors for adoption.

If approval by the RBB is not obtained, the Standing Committee(s) will determine if the draft SERC Regional Reliability Standard is to be sent back to the RSS to repeat Step 8 to incorporate any RBB or SERC Standing Committee(s) comments, form a new RSS for that purpose, or to take no further action on the proposed SERC Regional Reliability Standard.

If no further action is taken, the reason for such will be posted on the SERC website. A notice of the posting will be sent to all SERC Standing Committee representatives and alternates. In addition, the notice will be sent (via e-mail) to NERC, the Region Managers of the Regional Entities adjoining SERC (RFC, MRO, SPP, and FRCC), individuals listed as entity contacts in the SERC Compliance Registry, and the SERC Registered Ballot Body representatives.

Step 11: Adoption of SERC Regional Reliability Standards by the SERC Board of Directors

The SERC Board of Directors shall consider adoption of any SERC Regional Reliability Standard that has been approved by the SERC RBB. A SERC Regional Reliability Standard submitted for adoption by the SERC Board of Directors must be posted for notification on the SERC website at least 15 days prior to action by the SERC Board of Directors. A notice of the posting will be sent to all SERC Board of Directors representatives and alternates, and to all SERC Standing Committee representatives and alternates. In addition, the notice will be sent (via e-mail) to NERC, the Region Managers of the Regional Entities adjoining SERC (RFC, MRO, SPP, and FRCC) and to any entity that is directly and materially affected by the reliability of the SERC Bulk Electric System.

The SERC Board of Directors shall consider the comments received, the responses provided, and any dissenting opinions. The SERC Board of Directors shall adopt or reject a SERC Regional Reliability Standard as submitted, but may not substantively modify the proposed SERC Regional Reliability Standard.

If the SERC Board of Directors chooses to reject a SERC Regional Reliability Standard as submitted, it shall provide its reasons for doing so. The reasons for such decision will be posted on the SERC website. A notice of the posting will be sent to all SERC Standing Committees representatives and alternates. In addition, the notice will be sent (via e-mail) to NERC, the Region Managers of the Regional Entities adjoining SERC (RFC, MRO, SPP, and FRCC), individuals listed as entity contacts in the SERC Compliance Registry, and the SERC Registered Ballot Body representatives. The assigned Standing Committee(s) will determine if the draft standard should be resubmitted with modifications. If so, the draft standard will be remanded back to the RSS in Step 8 above.

Step 12: Submission of SERC Regional Reliability Standards to NERC and FERC

Once the SERC Regional Reliability Standard is adopted by the SERC Board of Directors, the SERC President, or the President's designee shall submit the SERC Regional Reliability Standard to NERC for approval and filing with FERC. NERC will post the SERC Regional Reliability Standard for comments. The Responsible SERC Subgroup will develop a response to any comments and submit it to the Standards Committee for approval. When the Responsible SERC Subgroup response is approved by the Standards Committee, the SERC President, or the President's designee will forward the comments to NERC for consideration by the NERC Board. If the NERC Board rejects the SERC Regional Reliability Standard the SERC Board will determine if the SERC Regional Reliability Standard is to be sent back to the assigned SERC

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Standing Committee(s) to incorporate the NERC Board comments or to take no further action on the standard.

When approved by the NERC Board, NERC will submit the SERC Regional Reliability Standard to FERC for approval. If FERC rejects the SERC Regional Reliability Standard, the SERC Board will determine if the SERC Regional Reliability Standard is to be sent back to the assigned SERC Standing Committee(s) to incorporate the FERC comments or to take no further action on the standard.

Step 13: Implementation of SERC Regional Reliability Standards

A SERC Regional Reliability Standard that is adopted by the SERC Board of Directors, NERC, and FERC, shall become effective on a date designated by FERC. In developing the standard, the RSS should consider the time needed for NERC and FERC approval in the proposed implementation date.

Appendix A: Stakeholder Representation

A.1 SERC Standing Committees and Member Representation

Membership in SERC is open to any entity that is a user, owner or operator of the Bulk-Power System and subject to the jurisdiction of the Federal Energy Regulatory Commission for the purpose of complying with Reliability Standards established under Section 215 of the Federal Power Act and all amendments thereto. SERC's membership policy permits full and fair participation of all members through their representatives, including in the development of and voting on Regional Reliability Standards. The SERC standing committees have a role in developing standards, a ballot pool of the SERC Registered Ballot Body vote to approve Regional Reliability Standards, and the SERC Board of Directors adopts all standards. Since each member is entitled to representation on both the Board and the Standing Committees, SERC's membership policy permits full and fair participation of its members.

The following are excerpts from the SERC Reliability Corporation Bylaws. Section 8.1 establishes the Standing Committees and SERC Member representation on those committees. Section 8.2 specifies committee voting rights will be based on the same method as adopted by the SERC Board of Directors, and refers to the Organization and Procedures Manual for SERC Standing Committees for more specific details.

8.1 Designation by Board. The Board of Directors, by resolution adopted by a Bicameral Simple Majority, may designate standing and special (ad hoc) committees, as shall be necessary to address the purposes of the Corporation. Such committees shall include, but are not limited to the following:

(a) Engineering Committee -- The purpose of this committee shall be to promote the reliability and adequacy of the Bulk-Power System, as related to the planning and engineering of electric systems. The committee shall provide a mechanism for the coordination of activities in the areas of planning and engineering.

b) Operating Committee -- The purpose of this committee shall be to promote the reliability and adequacy of the Bulk-Power System, as related to the operation of electric systems. The committee shall provide a mechanism for the coordination of activities in the area of operations.

(c) Critical Infrastructure Protection Committee -- The purpose of this committee shall be to promote the advancement of the physical and cyber security of the Bulk-Power System. It serves as an expert advisory panel in the areas of physical and cyber security, establishes and maintains an information reporting procedure, provides a liaison with state government agencies, and conducts forums and workshops related to Critical Infrastructure Protection.

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Each Member is entitled, but not required, to name both a representative and alternate to the committees designated in this Section 8.1.

8.2 Voting Rights for Committees. Except as otherwise provided for in these Bylaws, voting rights for the Committees established pursuant to Section 8.1 shall be based on the same method as adopted by the Board of Directors of the Corporation. Operating procedures, definitions for quorum, and votes for approval are contained in the Organization and Procedures Manual for the Corporation's Standing Committees.

A.2 SERC Regional Reliability Standards Voting Procedures

The following are the voting procedures for the SERC Registered Ballot Body:

1. Registration Procedures

The Registered Ballot Body (RBB) comprises all organizations and entities that:

- Qualify for one of the SERC Sectors, and
- Are registered with SERC as potential ballot participants in the voting on standards.

All registrations will be done electronically. Each participant, when initially registering to join the RBB will self-select to belong to one of the Sectors and will also name their RBB representative. The Executive Committee of the Board of Directors will review all applications for joining the Registered Ballot Body, and make a determination of whether the self-selection satisfies the criteria to belong to that sector. The Sectors shall be identical to those in Section 3.4 of the SERC's Bylaws.

All registered organizations and entities that qualify for a Sector with SERC may vote on a standard. Voting is in writing with each registered stakeholder (a "stakeholder") having one vote. The stakeholder's RBB representative will have the right to register to participate in ballot pools and cast the stakeholder's vote.

2. Sector Qualification Guidelines

The sector qualification guidelines are inclusive; i.e., any entity with a legitimate interest in the reliability of the SERC bulk power system that can meet the criteria for a sector as defined in Section 3.4 of the SERC's Bylaws is entitled to belong to and vote in that sector. The general guidelines are:

- Corporations or organizations with affiliates that qualify to belong to more than one sector (e.g., Investor-Owned Utility and Merchant Electricity Generator) may belong to each of the sectors in which they qualify, provided that each sector constitutes a separate membership and is represented by a

different representative.

- At any given time, affiliated entities may collectively be registered only once within a sector.
- Any individual currently employed by an organization that is eligible to join one of the other seven sectors, shall not be qualified to join as a “customer” in the ISO-RTO/Customer sector.

3. Definitions

Individual Vote – shall mean a single vote accorded to each stakeholder.

4. Quorum

Two-thirds of the Individual Votes of the Ballot Pool shall constitute a quorum.

5. SERC Registered Ballot Body Voting Requirements

A ballot pool will be established to participate in the ballot of any proposed standards action. Approval of a reliability standard or revision to a reliability standard requires the affirmative vote of a two thirds majority of the weighted Sector votes cast. The number of votes cast in each Sector is the sum of affirmative and negative votes, excluding abstentions and non-response.

The following process is used to determine if there are sufficient affirmative votes.

- The number of affirmative votes cast in each Sector will be divided by the sum of affirmative and negative votes cast to determine the fractional affirmative vote for each Sector. Abstentions and non-responses will not be counted for the purposes of determining the fractional affirmative vote for a Sector.
- The fractional affirmative vote for a Sector is then multiplied by the Sector weight factor, to determine the weighted fractional affirmative vote for a Sector. The weight factors for the Sectors are:
 - Investor-Owned Utility Sector: weight factor is 3.
 - Federal/State Sector: weight factor is 2.
 - Cooperative Sector: weight factor is 2.
 - Municipal Sector: weight factor is 2.
 - Marketer Sector: weight factor is 1.
 - Merchant Electricity Generator Sector: weight factor is 1.
 - ISO-RTO/Customer Sector: weight factor is 1.
- The sum of the weighted fractional affirmative votes from all Sectors divided by the sum of the weights of the Sectors voting will be used to determine if a two-thirds majority has been achieved. (A Sector will be considered as “voting” if any member of the Sector in the ballot pool casts either an

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- affirmative or a negative vote.)
- A standard will be approved if the sum of weighted fractional affirmative votes from all Sectors divided by the sum of the weights of the voting Sectors is two-thirds or greater.

Appendix B: Principles, Characteristics, and Special Procedures

Principles

SERC develops regional standards with due consideration of the following principles, in accordance with the steps outlined in this procedure. This procedure has been designed to ensure that any SERC Regional Reliability Standard is technically sound and the technical specifications proposed will achieve a valuable reliability objective.

The SERC Regional Reliability Standards Development Procedure has the following characteristics:

- **Open:** Participation in the development of a SERC Regional Reliability Standard shall be open to all organizations that are directly and materially affected by the SERC bulk power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in SERC, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of the Responsible SERC Subgroup assigned to draft a standard shall be open to the SERC members and others.
- **Balanced:** The SERC Regional Reliability Standards Development Procedure strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.
- **Inclusive:** Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the SERC area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, c) registering as a potential ballot participant and voting on a proposed standard; and d) having the right to appeal.
- **Fair due process:** The SERC Regional Reliability Standards Development Procedure provides for reasonable notice and opportunity for public comment. This procedure includes public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.
- **Transparent:** All actions material to the development of SERC Regional Reliability Standards shall be transparent. All standards development meetings shall be open and publicly noticed on the SERC Web site.
- **Due Course:** Does not unnecessarily delay development of the proposed SERC Regional Reliability Standard.

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NERC has adopted reliability principles and market interface principles to define the purpose, scope, and nature of reliability standards. These principles are to be used to guide the development of reliability standards, including regional reliability standards. The NERC Board of Trustees may modify these principles from time to time, as necessary, to adapt its vision for reliability standards.

- Each SERC Regional Reliability Standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.
- While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all SERC Regional Reliability Standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

Regional Reliability Standard Characteristics and Elements

Characteristics of a SERC Regional Reliability Standard

The following characteristics describe objectives to be considered in the development of SERC Regional Reliability Standards:

1. **Applicability:** Each SERC Regional Reliability Standard clearly identifies the functional classes of entities responsible for complying with the standard, with any specific additions or exceptions noted. Such functional classes include: reliability coordinators, balancing authorities, transmission operators, transmission owners, generator operators, generator owners, interchange authorities, transmission service providers, market operators, planning authorities, transmission planners, resource planners, load-serving entities, purchasing-selling entities, and distribution providers. Each SERC Regional Reliability Standard identifies the geographic applicability of the standard. A standard may also identify any limitations on the applicability of the standard based on electric facility characteristics.
2. **Reliability Objectives:** Each SERC Regional Reliability Standard has a clear statement of purpose that describes how the standard contributes to the reliability of

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the bulk power system.

3. **Requirement or Outcome:** Each SERC Regional Reliability Standard states one or more requirements, which if achieved by the applicable entities, will provide for a reliable bulk power system, consistent with good utility practices and the public interest.
4. **Measurability:** Each performance requirement is stated so as to be objectively measurable by a third party with knowledge or expertise in the area addressed by that requirement. Each performance requirement has one or more associated measures used to objectively evaluate compliance with the requirement. If performance can be practically measured quantitatively, metrics are provided to determine satisfactory performance.
5. **Technical Basis in Engineering and Operations:** Each regional reliability standard is based upon sound engineering and operating judgment, analysis, or experience, as determined by expert practitioners in that particular field.
6. **Completeness:** Each SERC Regional Reliability Standard is complete and self-contained. Supporting references may be provided with standards, but they are not part of the standard and do not impose mandatory requirements.
7. **Clear Language:** Each SERC Regional Reliability Standard is stated using clear and unambiguous language. Responsible entities, using reasonable judgment and in keeping with good utility practice, are able to arrive at a consistent understanding of the required performance.
8. **Practicality:** Each SERC Regional Reliability Standard establishes requirements that can be practically implemented by the assigned responsible entities within the specified effective date and thereafter.
9. **Consistent Terminology:** To the extent possible, SERC Regional Reliability Standards use a set of standard terms and definitions that are approved through the SERC Regional Reliability Standard Development Procedure.

Although regional reliability standards have a common format and process, several types of standards may exist, each with a different approach to measurement:

- Technical standards are related to the provision, maintenance, operation, or state of electric systems, and will likely contain measures of physical parameters that are technical in nature.
- Performance standards are related to the actions of entities providing for or impacting the reliability of the bulk power system, and will likely contain measures of

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the results of such actions or qualities of performance of such actions.

- Preparedness standards are related to the actions of entities to be prepared for conditions that are unlikely to occur, but are nonetheless critical to reliability, and will likely contain measures of such preparations or the state of preparedness.

Elements of a SERC Regional Reliability Standard

To ensure uniformity of SERC Regional Reliability Standards, a SERC Regional Reliability Standard shall consist of the elements identified in Appendix D of this procedure. However, the most current version of the approved NERC Reliability Standard template and its associated elements posted on the NERC website will be used at the time of the development of the SERC Regional Reliability Standard if different from the elements listed in Appendix D. This is to ensure all essential elements are contained in the SERC standard to achieve consistency and uniformity and meet all statutory requirements. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

All mandatory requirements of a SERC Regional Reliability Standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

Maintenance of the SERC Regional Reliability Standards Development Procedure

Any member of SERC, or group (or member of a group) within SERC (i.e., committee, subcommittee, working group, study group, task force, or SERC staff), or any entity that is directly and materially affected by the reliability of the SERC Bulk Power System may submit a written request to modify the SERC Regional Reliability Standard Development Procedure. The Manager of Reliability Standards shall oversee the handling of the request.

Significant changes to this procedure shall be addressed using the same procedure as a request to develop, modify, or withdraw a SERC Regional Reliability Standard.

For any minor changes to this procedure, the SERC Standards Committee shall review the request and submit recommendations to the SERC Board of Directors for consideration. The SERC Board of Directors, on its own motion, may amend the SERC Regional Reliability Standard Procedure.

Maintenance of SERC Regional Reliability Standards

Each SERC Regional Reliability Standard shall be reviewed at least once every five (5) years. The review date will be determined from the effective date or the latest revision

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date, whichever is later. The review process shall be conducted in accordance with Steps 1 through 13 of the SERC Regional Reliability Standard Development Procedure. As a result of this review, a SERC Regional Reliability Standard shall be reaffirmed, revised, or withdrawn.

Interpretations of Standards

Any member of SERC, or group within SERC, or an entity that is directly and materially affected by reliability of the SERC Bulk Electric System shall be permitted to request an interpretation of a SERC Regional Reliability Standard or regional criteria documented in a SERC Standing Committee Document. Any such entity shall also be permitted to request implementation guidance regarding how the SERC compliance program will be measuring and enforcing a NERC Reliability Standard¹. The entity requesting an interpretation or implementation guidance shall send a request to regstd@serc1.org explaining the specific circumstances surrounding the request and what clarifications are required as applied to those circumstances. The request should indicate the material impact to the requesting party, or others, caused by the lack of clarity or a possible incorrect interpretation. SERC Staff will forward requests for interpretations to the appropriate SERC Standing Committee Chair(s), who will assign a Responsible SERC Subgroup with the relevant expertise to address the clarification.

As soon as practical [but not more than forty-five (45) calendar days following the receipt of the request], the assigned subgroup will draft a written interpretation of the SERC Regional Reliability Standard or regional criteria addressing the issues raised. The interpretation will be submitted to the appropriate SERC Standing Committee(s) Executive Committee for review.

As soon as practical [but not more than twenty (20) calendar days following the receipt of the written interpretation from the RSS], the SERC Standing Committee Executive Committee will develop a written recommendation to the SERC Executive Committee concerning approval of the interpretation. The SERC Standing Committee Executive Committee must recommend either that 1) the RSS written interpretation; or 2) a revision of that interpretation be approved. The recommendation, the RSS written interpretation, and any revised interpretation will be forwarded to the SERC Executive Committee.

If approved by the SERC Executive Committee, the interpretation is appended to the SERC Regional Reliability Standard or SERC regional criteria and is effective immediately. The interpretation will stand until such time as the SERC Regional Reliability Standard or SERC Standing Committee Document is revised through the normal process, at which time the SERC Regional Reliability Standard or SERC

¹ This is different than requesting an interpretation of the meaning of a NERC Reliability Standard itself, which must be addressed through the NERC process by submitting a request for interpretation to NERC.

SERC Regional Reliability Standard Development Procedure

Standing Committee Document will be modified to incorporate the clarifications provided by the interpretation.

Requests for implementation guidance regarding how the SERC compliance program will be measuring and enforcing a NERC Reliability Standard will be forwarded to the SERC Compliance staff. The SERC Compliance staff will assign the request to the applicable compliance advisory group to develop appropriate implementation guidance. As soon as practical [but not more than forty-five (45) calendar days following the receipt of the request], the assigned compliance advisory group will draft written implementation guidance for review by the SERC Compliance staff. The SERC Compliance staff will notify the requestor of the approved implementation guidance.

Appeals

Any member of SERC or any entity that is directly and materially affected by the reliability of the SERC Bulk Electric System that believes it has been or will be adversely affected by any substantive or procedural action or inaction related to the development, approval, revision, or withdrawal of a SERC Regional Reliability Standard shall have the right to appeal. This appeals process applies only to the SERC Regional Reliability Standards Process as defined in this manual. The burden of proof to show adverse effect shall be on the appellant. Appeals shall be made within thirty (30) calendar days of the date of the action purported to cause the adverse effect. The final decisions of any appeal shall be documented in writing and posted on the SERC Member website. A notice of the posting will be sent to all SERC Board of Directors representatives and alternates, and to all SERC Standing Committees representatives and alternates. In addition, the notice will be sent (via e-mail) to the Region Managers of the Regional Entities adjoining SERC (RFC, MRO, SPP, and FRCC) and to any entity that is directly and materially affected by the reliability of the SERC Bulk Electric System.

The appeals process provides two levels, with the goal of expeditiously resolving the issue to the satisfaction of the participants:

Level 1 Appeal

Level 1 is the required first step in this appeals process. The appellant submits to the SERC President a complaint in writing that describes the substantive or procedural action associated with a SERC Regional Reliability Standard or the SERC Regional Reliability Standards Process. The appellant must describe in the complaint the actual or potential adverse impact to the appellant.

Assisted by any necessary staff and the Standards Committee, the SERC President, or the President's designee shall prepare a written response addressed to the appellant as soon as practical but not more than forty-five (45) calendar days after receipt of the complaint. If the appellant accepts the response as a satisfactory resolution of the

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issue, both the complaint and response will be made a part of the record associated with the SERC Regional Reliability Standard.

Level 2 Appeal

If after the Level 1 Appeal, the appellant remains unsatisfied with the resolution, notification shall be made in writing to the SERC President within fifteen (15) calendar days of the affected entity's Level 2 Appeal to the SERC Executive Committee. In all cases, no SERC Executive Committee members that have any direct affiliation with the participants in the appeal will participate in the Level 2 Appeal.

SERC Staff shall post on the SERC website the notice of the Level 2 appeal and other relevant materials at least fifteen (15) calendar days prior to consideration of the Level 2 appeal by the SERC Executive Committee.

In addition to the appellant, any entity that is directly and materially affected by the reliability of the SERC Bulk Electric System, and who is directly and materially affected by the substantive or procedural action referenced in the complaint shall be heard by the SERC Executive Committee. The SERC Executive Committee shall not consider any expansion of the scope of the appeal that was not presented in the Level 1 Appeal.

The Executive Committee may direct the Standards Committee to research and/or advise it on technical issues or matters related to the appeal. Each appellant, any entity that is directly and materially affected by the reliability of the SERC Bulk Electric System, and who is directly and materially affected by the substantive or procedural action referenced in the complaint may request that an ad-hoc committee be formed to assist the Executive Committee in its review.

The SERC Executive Committee may in its decision find for the appellant and remand the issue to the SERC Standards Committee for resolution with a statement of the issues and facts in regard to which fair and equitable action was not taken.

The SERC Executive Committee may find against the appellant with a specific statement of the facts that demonstrate fair and equitable treatment of the appellant and the appellant's objections.

The actions of the SERC Executive Committee shall be posted on the SERC website. A notice of the posting will be sent to the appellant, all SERC Board of Directors representatives and alternates, and all SERC Standing Committees representatives and alternates. In addition, the notice will be sent (via e-mail) to the Region Managers of the Regional Entities adjoining SERC (RFC, MRO, SPP, and FRCC) and to any entity that is directly and materially affected by the reliability of the SERC Bulk Electric System.

SERC Regional Reliability Standard Development Procedure

Appendix C: SERC Regional Reliability Standard Authorization Request Form (Latest approved version of form is posted on the SERC website: www.serc1.org)

SERC to complete

ID
Authorized for Posting
Authorized for Development

Title of Proposed Standard:
Request Date:

SAR Originator Information

Name	SAR Type (Check box for one of these selections.)	
Company	<input type="checkbox"/>	New Standard
Telephone	<input type="checkbox"/>	Revision to Existing Standard
Fax	<input type="checkbox"/>	Withdrawal of Existing Standard
E-mail	---	-----

Purpose (Describe the purpose of the proposed Standard — what the Standard will achieve in support of reliability.)
--

Industry Need (Provide a detailed statement justifying the need for the proposed Standard, along with any supporting documentation.)

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Brief Description (Describe the proposed standard in sufficient detail to clearly define the scope in a manner that can be easily understood by others.)

Justification for Regional Variation (Provide a detailed statement justifying the need for the proposed Standard specifically identifying the need for a regional variation.)

Reliability Functions

The Standard will Apply to the Following Functions (Check box for each one that applies.)

	Reliability Authority	The entity that is the highest level of authority who is responsible for the reliable operation of the Bulk Electric System, has the Wide Area view of the Bulk Electric System, and has the operating tools, processes and procedures, including the authority to prevent or mitigate emergency operating situations in both next-day analysis and real-time operations. The Reliability Coordinator has the purview that is broad enough to enable the calculation of Interconnection Reliability Operating Limits, which may be based on the operating parameters of transmission systems beyond any Transmission Operator's vision.
	Balancing Authority	The responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area, and supports Interconnection frequency in real time.
	Interchange Authority	Authorizes valid and balanced Interchange Schedules
	Planning Authority	The responsible entity that coordinates and integrates transmission facility and service plans, resource plans, and protection systems.
	Transmission Service Provider	The entity that administers the transmission tariff and provides Transmission Service to Transmission Customers under applicable transmission service agreements.
	Transmission Owner	The entity that owns and maintains transmission facilities.

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	Transmission Operator	The entity responsible for the reliability of its "local" transmission system, and that operates or directs the operations of the transmission facilities.
	Transmission Planner	The entity that develops a long-term (generally one year and beyond) plan for the reliability (adequacy) of the interconnected bulk electric transmission systems within its portion of the Planning Authority Area.
	Resource Planner	The entity that develops a long-term (generally one year and beyond) plan for the resource adequacy of specific loads (customer demand and energy requirements) within a Planning Authority Area.
	Generator Operator	The entity that operates generating unit(s) and performs the functions of supplying energy and Interconnected Operations Services.
	Generator Owner	Entity that owns and maintains generating units.
	Purchasing-Selling Entity	The entity that purchases or sells, and takes title to, energy, capacity, and Interconnected Operations Services. Purchasing-Selling Entities may be affiliated or unaffiliated merchants and may or may not own generating facilities.
	Distribution Provider	Provides and operates the "wires" between the transmission system and the customer.
	Load-Serving Entity	Secures energy and transmission service (and related Interconnected Operations Services) to serve the electrical demand and energy requirements of its end-use customers.

NOTE: The RSS may find it necessary to modify the initial reliability function responsibility assignment as a result of the standards development and comments received.

Applicable Reliability Principles <i>(Check all boxes that apply.)</i>	
<input type="checkbox"/>	1. Interconnected bulk power systems shall be planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions as defined in the NERC Standards.
<input type="checkbox"/>	2. The frequency and voltage of interconnected bulk power systems shall be controlled within defined limits through the balancing of real and reactive power supply and demand.
<input type="checkbox"/>	3. Information necessary for the planning and operation of interconnected bulk power systems shall be made available to those entities responsible for planning and operating the systems reliably.

SERC Regional Reliability Standard Development Procedure

<input type="checkbox"/>	4. Plans for emergency operation and system restoration of interconnected bulk power systems shall be developed, coordinated, maintained, and implemented.
<input type="checkbox"/>	5. Facilities for communication, monitoring, and control shall be provided, used, and maintained for the reliability of interconnected bulk power systems.
<input type="checkbox"/>	6. Personnel responsible for planning and operating interconnected bulk power systems shall be trained, qualified, and have the responsibility and authority to implement actions.
<input type="checkbox"/>	7. The security of the interconnected bulk power systems shall be assessed, monitored, and maintained on a wide-area basis.
Does the proposed Standard comply with all of the following Market Interface Principles? (Select 'yes' or 'no' from the drop-down box.)	
Recognizing that reliability is an Common Attribute of a robust North American economy:	
1. A reliability standard shall not give any market participant an unfair competitive advantage. Yes	
2. A reliability standard shall neither mandate nor prohibit any specific market structure. Yes	
3. A reliability standard shall not preclude market solutions to achieving compliance with that standard. Yes	
4. A reliability standard shall not require the public disclosure of commercially sensitive information. All market participants shall have equal opportunity to access commercially non-sensitive information that is required for compliance with reliability standards. Yes	

<p>Detailed Description (Provide enough detail so that an independent entity familiar with the industry could draft a Standard based on this description.)</p>

Related Reliability Standards (NERC and SERC Regional)

Standard No.	Explanation

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Related SARs

<u>SAR ID</u>	<u>Explanation</u>

Implementation Plan

<p>Description <i>(Provide plans for the implementation of the proposed standard, including any known systems or training requirements. Include the reliability risk(s) associated with the violation that the standard will mitigate, and the costs associated with implementation.)</i></p>	
<p>Proposed Implementation</p> <p>on (date):</p>	<p>days after Board of Directors adoption or</p>

Appendix D: Elements of a SERC Regional Reliability Standard

Title	A brief, descriptive phrase identifying the topic of the standard.
Identification Number	A unique identification number assigned to facilitate tracking and reference to SERC Regional Reliability Standards. The identification number will be consistent with the Numbering Convention for NERC Regional Reliability Standards. The latest approved version of the convention will be posted on the SERC website (www.serc1.org).
Effective Date and Status	The effective date of the standard or, prior to adoption of the standard by the Board of Directors, the proposed effective date.
Purpose	The purpose of the standard. The purpose shall explicitly state what outcome is expected by this standard.
Applicability	Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions. If not applicable to the entire SERC area, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.
Requirement(s)	Explicitly stated technical, performance, and preparedness requirements. Each requirement identifies what entity is responsible and what action is to be performed or what outcome is to be achieved. Each statement in the requirements section shall be a statement for which compliance is mandatory.
Violation Severity Levels	Defines the degree to which compliance with a requirement was not achieved. The violation severity levels, are part of the standard and are balloted with the standard, and developed by the NERC and SERC compliance programs in coordination with the Responsible SERC Subgroup.

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Risk Factor(s)	<p>The potential reliability significance of each requirement, designated as a High, Medium, or Lower Risk Factor in accordance with the criteria listed below:</p> <p>A High Risk Factor requirement (a) is one that, if violated, could directly cause or contribute to bulk power system instability, separation, or a cascading sequence of failures, or could place the bulk power system at an unacceptable risk of instability, separation, or cascading failures; or (b) is a requirement in a planning timeframe that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly cause or contribute to bulk power system instability, separation, or a cascading sequence of failures, or could place the bulk power system at an unacceptable risk of instability, separation, or cascading failures, or could hinder restoration to abnormal condition.</p> <p>A Medium Risk Factor requirement (a) is a requirement that, if violated, could directly affect the electrical state or the capability of the bulk power system, or the ability to effectively monitor and control the bulk power system, but is unlikely to lead to bulk power system instability, separation, or cascading failures; or (b) is a requirement in a planning timeframe that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly affect the electrical state or capability of the bulk power system, or the ability to effectively monitor, control, or restore the bulk power system, but is unlikely, under emergency, abnormal, or restoration conditions anticipated by the preparations, to lead to bulk power system instability, separation, or cascading failures, nor to hinder restoration to a normal condition.</p> <p>A Lower Risk Factor requirement is administrative in nature and (a) is a requirement that, if violated, would not be expected to affect the electrical state or capability of the bulk power system, or the ability to effectively monitor and control the bulk power system; or (b) is a requirement in a planning time frame that, if violated, would not, under the emergency, abnormal, or restorative conditions anticipated by the preparations, be expected to affect the electrical state or capability of the bulk power system, or the ability to effectively monitor, control, or restore the bulk power system.</p>
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Measure(s)	Each requirement shall be addressed by one or more measurements. Measurements that will be used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measurement identifies to whom the measurement applies and the expected level of performance or outcomes required demonstrating compliance. Each measurement shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the full compliance level of each measurement should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.
Compliance Monitoring Process	Defines for each measure: <ul style="list-style-type: none">• The specific data or information that is required to measure performance or outcomes.• The entity that is responsible for providing the data or information for measuring performance or outcomes.• The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes.• The entity that is responsible for evaluating data or information to assess performance or outcomes.• The time period in which performance or outcomes is measured, evaluated, and then reset.• Measurement data retention requirements and assignment of responsibility for data archiving.• Violation severity levels.

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Attached Supporting Information Elements

Interpretations	Any interpretations of the SERC Regional Reliability Standards that were developed, and approved by the SERC Executive Committee, to expound on the application of the standard for unusual or unique situations.
Implementation Plan	Each SERC Regional Reliability Standard shall have an associated implementation plan describing the effective date of the standard or effective dates if there is a phased implementation. The implementation plan may also describe the implementation of the standard in the compliance program and other considerations in the initial use of the standard, such as necessary tools, training, etc. The implementation plan must be posted for at least one public comment period and is approved as part of the ballot of the standard.
Supporting References	This section references related documents that support reasons for, or otherwise provide additional information related to the standard. Examples include, but are not limited to: <ul style="list-style-type: none">• Glossary of Terms• Developmental history of the standard and prior versions• Responsible SERC Subgroup• Notes pertaining to implementation or compliance• Standard references• Procedures/Practices• Training and/or Technical Reference• Frequently Asked Questions Document

Appendix E: Comment Form for Draft SERC Regional Reliability Standard (Latest approved version of form is posted on the SERC website: www.serc1.org)

COMMENT FORM FOR [INSERT APPROPRIATE TITLE OF SERC REGIONAL RELIABILITY STANDARD]

Please use this form to submit comments on **[insert description]**. Comments must be submitted by **[date]**. You must submit the completed form by emailing it to **[insert appropriate contact names & e-mail addresses]** with the words **[insert appropriate subject]** in the subject line. If you have questions please contact **[insert appropriate contact names, e-mail addresses & phone numbers]**.

DO: **Do** use punctuation and capitalization as needed.
Do use more than one form if responses do not fit in the spaces provided.
Do submit any formatted text or markups in a separate WORD file.

DO NOT: **Do not** submit a response in an unprotected copy of this form.

Commenter Information

Group Name (if applicable):
Contact Name:
Organization:
Telephone:
Email:

Background:

In this section, provide background information including the reasons for the development of new SERC Regional Reliability Standard or revisions to an existing SERC Regional Reliability Standard.

Major Changes to this Revision of the SERC Regional Reliability Standard

Provide additional information that may help the reviewers better understand the need and motivation for the changes.

Include any other sections as necessary to facilitate the review process.

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Please Enter All Comments in Simple Text Format.

Insert a "check" mark in the appropriate boxes by double-clicking the gray areas.

[The following are sample questions. Revise the questions as appropriate.]

1. Do you agree with the inclusion of the following in section [xxx] of the standard?

Describe revision details.

- Yes
 No
 Comments:

2. Do you agree with the proposed definitions that were added or revised?

- Yes
 No
 Comments:

3. Do you agree with the deletion of the following section from part [xxx]?

- Yes
 No
 Comments:

4. Do you agree with the proposed changes in section [xxx] of the document?

- Yes
 No
 Comments:

5. Please identify anything you believe needs to be modified before this revision of the standard can be approved by SERC?

- Comments:

6. Please provide any other comments on this revision of the standard?

- Comments:

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Appendix F: SERC Consideration of Comments Form (Latest approved version of form is posted on the SERC website: www.serc1.org)

**SERC [INSERT RSS NAME] Consideration of Comments on
[INSERT APPROPRIATE SERC REGIONAL RELIABILITY STANDARD TITLE & REV. #]**

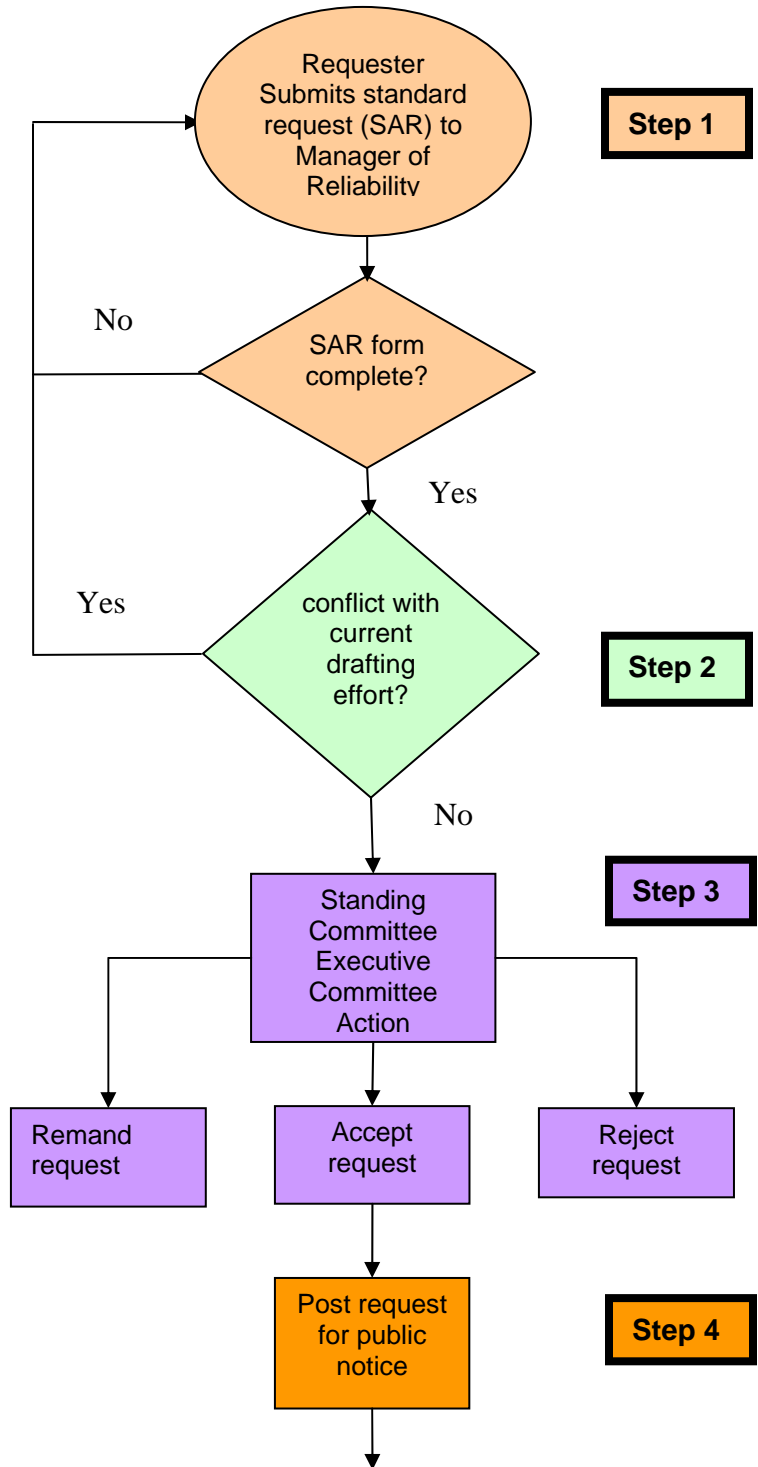
[SAMPLE LANGUAGE]

This document contains comments submitted on Revision [] of the [Standard], which was distributed for review on [Date] in accordance with the SERC Regional Reliability Standards Process Manual. Comments were received from the following.

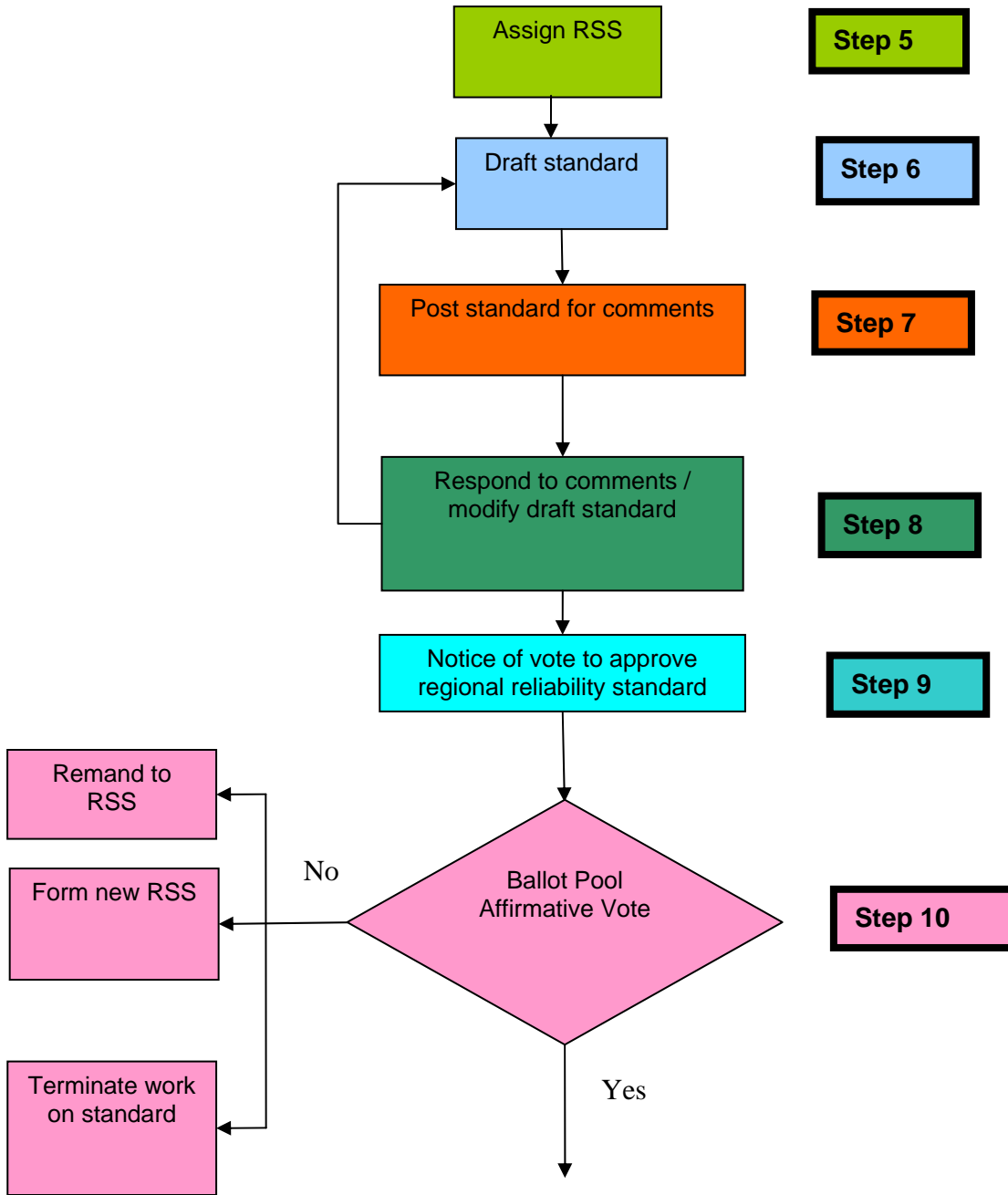
[INSERT INTRODUCTORY LANGUAGE AS APPROPRIATE]

Commenter	Comment	Response

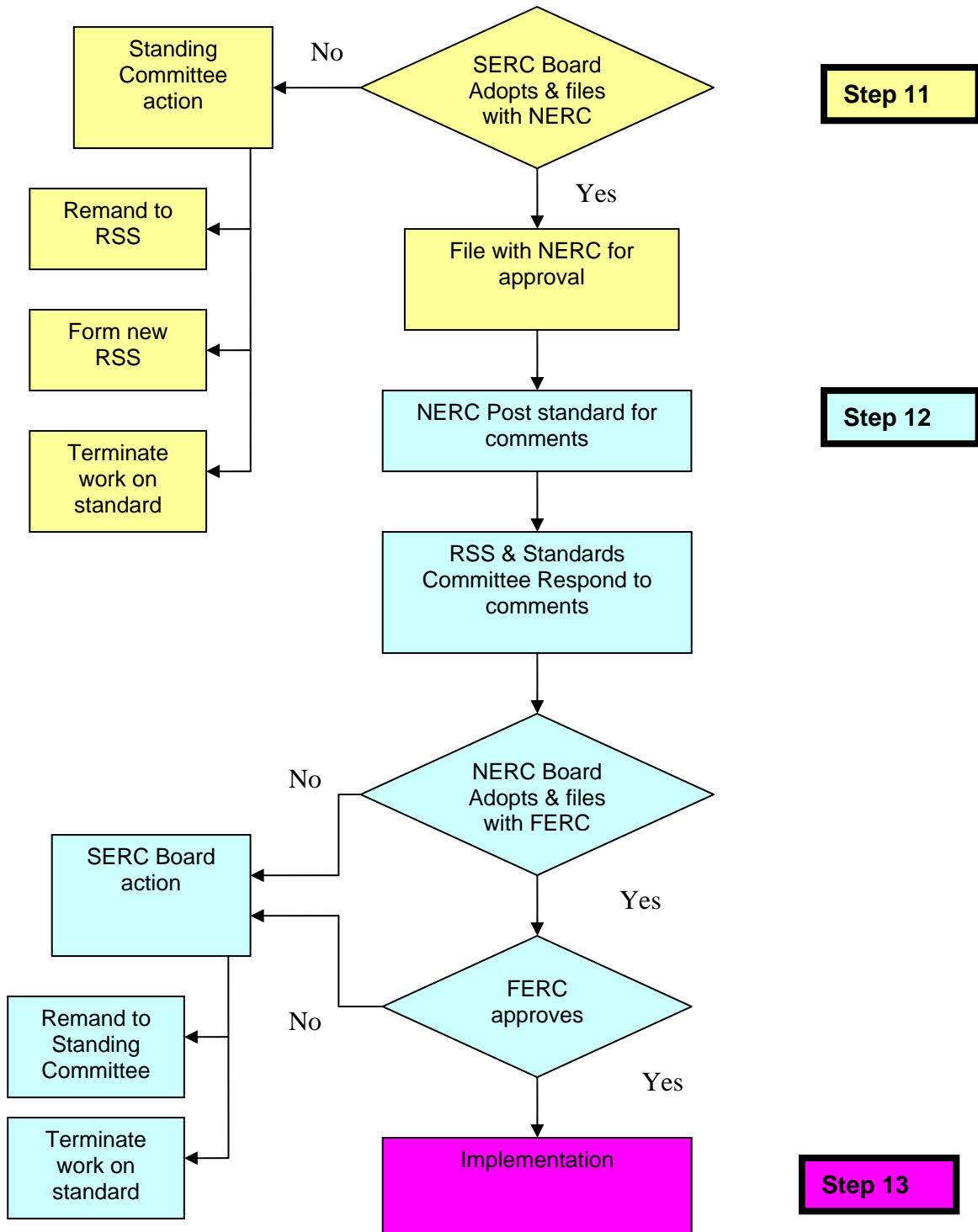
Appendix G: SERC Process Flow Diagram



SERC Regional Reliability Standard Development Procedure



SERC Regional Reliability Standard Development Procedure



**SERC Compliance Monitoring and
Enforcement Program**

**Exhibit D
to the
Amended and Restated
Regional Entity Delegation Agreement
between**

North American Electric Reliability Corporation
and
SERC Reliability Corporation



EXHIBIT D – COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

SERC Reliability Corporation will implement the NERC Compliance Monitoring and Enforcement Program, ~~Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures),~~ to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within ~~SERC's~~ SERC Reliability Corporation's geographic or electrical boundaries, and such other scope, set forth on **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

SERC Reliability Corporation shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be ~~either SERC's board or a balanced compliance panel reporting directly to SERC's board. SERC's hearing body is [its board] [if not the board, insert the name of the committee or group serving as the hearing body].~~

~~[If the hearing body is a compliance panel other than the board, provide here a description of how the members of the compliance panel are selected and the qualifications to be selected for the compliance panel.]~~

~~SERC shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: [Describe any deviations, or state "None". If there are deviations from the NERC pro forma Hearing Procedures, SERC's Hearing Procedures shall be included as a separate attachment to this Exhibit D.]~~ Reliability Corporation's board.

3.0 ~~OTHER DECISION-MAKING BODIES~~

~~If SERC uses other decision-making bodies within its compliance program, provide here a description of the function of that body to the extent not described elsewhere in the Agreement or exhibits, how the members of that body are selected, and the qualifications to be selected for that body.]~~

SERC Reliability Corporation's Hearing Body is the Board Compliance Committee, or a subset of the Board Compliance Committee. The Board Compliance Committee is comprised of SERC board members appointed by the Board of Directors. The Board Compliance Committee representation is as follows:

- The Investor-Owned Utility Sector shall have three (3) representatives;
- The Federal/State Sector shall have two (2) representatives;
- The Cooperative Sector shall have two (2) representatives;
- The Municipal Sector shall have two (2) representatives;
- The Marketer Sector shall have one (1) representative;
- The Merchant Electricity Sector shall have one (1) representative;
- The ISO-RTO/Customer Sector shall have one (1) representative

Consistent with the Hearing Procedures, a quorum for the purpose of constituting a Hearing Body shall be half of SERC's Board Compliance Committee, or six members including alternates. In addition to the quorum requirement, the chair of the Board Compliance Committee shall declare the Hearing Body duly constituted only if no two sectors can control and no one sector can veto the actions of the Hearing Body (the "Sector Control Requirements"). To ensure that the Sector Control Requirements are met in the formation of a Hearing Body, the Chair shall adhere to the following in declaring the Hearing Body duly constituted:

- If the Hearing Body is made up of six (6) members of the BCC, then each sector shall have no more than one (1) representative on the Hearing Body.
- If the Hearing Body is made up of seven (7) or eight (8) members of the BCC, then only one sector can have two (2) representatives on the Hearing Body, and each other sector can have only one (1) representative on the Hearing Body.
- If the Hearing Body is made up of nine (9) or ten (10) members of the BCC, then no sector can have more than two (2) representatives on the Hearing Body.
- If the Hearing Body is made up of eleven (11) or twelve (12) members of the BCC, then the Sector Control Requirements are met, as no two sectors would have enough votes to control, and no one sector would have the ability to veto.

Approval of all actions before a duly constituted Hearing Body shall require a simple majority of the votes cast, with each member of the Hearing Body having one vote. The decision of any duly constituted Hearing Body pursuant to these requirements shall be final and binding on the Corporation, without requiring either the full Compliance Committee or the Corporation to ratify the Hearing Body's actions.

3.0 OTHER DECISIONMAKING BODIES

SERC Reliability Corporation does not use decision making bodies within its compliance program other than the Board Compliance Committee described in Section 2.0.

SERC Funding

Exhibit E to the Amended and Restated Regional Entity Delegation Agreement between

North American Electric Reliability Corporation
and
SERC Reliability Corporation



Exhibit E — Funding

1. Scope of activities funded through the ERO funding mechanism

[Regional Entity]SERC shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and [Regional Entity]SERC, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of [Regional Entity]sSERC's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require [Regional Entity]SERC (i) to submit to NERC draft(s) of [Regional Entity]sSERC's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by [Regional Entity]SERC Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of [Regional Entity]sSERC's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The [Regional Entity]SERC business plan and budget submission shall include supporting materials, including [Regional Entity]sSERC's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. ~~[Regional Entity]sSERC's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.~~

(b) NERC shall review and approve [Regional Entity]sSERC's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct [Regional Entity]SERC to make such revisions as NERC deems appropriate prior to approval. NERC shall submit [Regional Entity]sSERC's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of ~~[REGIONAL ENTITY]'s~~SERC's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. ~~[Regional Entity]~~SERC shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying ~~[Regional Entity's]~~SERC's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of ~~[Regional Entity's]~~SERC's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

~~IF NERC WILL BILL AND COLLECT ASSESSMENTS DIRECTLY FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):~~

~~(a) (a)~~ NERC shall submit invoices to the load-serving entities or designees identified by ~~[Regional Entity]~~SERC covering the NERC and ~~[Regional Entity]~~SERC assessments approved for collection.

~~IF THE REGIONAL ENTITY WILL ACT AS THE BILLING AND COLLECTION AGENT ON BEHALF OF NERC TO BILL AND COLLECT ASSESSMENTS FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):~~

~~(a) NERC and [Regional Entity] agree that [Regional Entity] shall act as the billing and collection agent on behalf of NERC to bill and collect [Regional Entity]'s assessments from load-serving entities and designees (or such other entities as agreed by NERC and [Regional Entity]). [Regional Entity] agrees that it shall (i) issue all invoices to load-serving entities and other entities in a prompt and timely manner after receipt from NERC of the information needed to issue the invoices; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC in a timely manner, as follows: Prior to the start of each calendar quarter, and once per week thereafter until all billings for the quarter are collected, [Regional Entity] will electronically transfer to NERC, in immediately available funds, all payments received by [Regional Entity] from load-serving entities or other entities for payment of invoices. On the same day that [Regional Entity] makes each electronic transfer of funds to NERC, [Regional Entity] shall send an e-mail to the Chief Financial Officer or Controller of NERC detailing the collections being transmitted, including a listing of the load-serving entities or other entities from which payments were collected and the amount collected from each entity. [Note: If NERC and Regional Entity have a different collection and payment arrangement, the preceding two sentences will be modified accordingly to describe it.]~~

~~[Regional Entity] agrees that it shall not in any way use its position as billing and collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of Reliability Standards (including Regional Reliability Standards and Regional Variances), administration of the compliance monitoring and enforcement program and~~

~~other compliance and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of [Regional Entity's] budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this Agreement.~~

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from ERO Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, ~~[Regional Entity]SERC~~ shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, ~~[Regional Entity]SERC~~ is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within ~~[REGIONAL ENTITY]'sSERC's~~ region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within ~~[Regional Entity]'sSERC's~~ region.

(c) Upon approval by ERO Governmental Authorities of ~~[Regional Entity]'sSERC's~~ annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay ~~[Regional Entity]'sSERC's~~ annual assessment to Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by ~~[Regional Entity]SERC~~, other than penalty monies received from an operational function or division or affiliated entity of ~~[Regional Entity]SERC~~, shall be applied as a general offset to ~~[Regional Entity]'sSERC's~~ budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of ~~[Regional Entity]SERC~~ shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for ~~[Regional Entity]'sSERC's~~ Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), ~~[Regional Entity]SERC~~ performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): ~~[List and describe all non-statutory activities performed by Regional Entity, or state "None".]None.~~

~~[Regional Entity]SERC~~ shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: ~~[List and describe the methods and procedures Regional Entity employs to keep costs and funding of statutory activities separate from costs and funding of non-statutory~~

~~activities, including at a minimum a description of how Regional Entity's bank accounts and receivables/payables procedures are set up for both statutory and non-statutory functions, a description of how Regional Entity ensures each employee involved in both statutory and non-statutory functions keeps accurate time records reflecting his/her activities, and a description of how Regional Entity's general and administrative costs are allocated between statutory activities and non-statutory activities. If the necessary descriptions are lengthy they may be provided in a separate attachment labeled "Attachment E-1", and state here "See Attachment E-1." If Regional Entity has listed no non-statutory functions in the preceding paragraph, state here "Not applicable."~~Not applicable.

~~[Regional Entity]SERC~~ shall provide its budget for such non-statutory activities to NERC at the same time that ~~[Regional Entity]SERC~~ submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. ~~[Regional Entity's]SERC's~~ budget for non-statutory activities that is provided to NERC shall contain a detailed list of ~~[Regional Entity's]SERC's~~ non-statutory activities and a description of the funding sources for the non-statutory activities. ~~[Regional Entity]SERC~~ agrees that no costs (which shall include a reasonable allocation of ~~[Regional Entity]'sSERC's~~ general and administrative costs) of non-statutory activities are to be included in the calculation of ~~[Regional Entity's]SERC's~~ assessments, dues, fees, and other charges for its statutory activities.

Costs associated with Cross-Regional Compliance Monitoring. The costs associated with any Cross-Regional Compliance Monitoring performed by SERC pursuant to section 6(j) of this Agreement with respect to registered functions of another Regional Entity are to be funded by payments from the NERC or the Regional Entity contracting with SERC for such services, in accordance with the contract between SERC and NERC or the other Regional Entity. Where such a contract has been entered into SERC will include a description of the resources it has budgeted to perform such services, and its estimated costs (including an appropriate allocation of SERC's General and Administrative costs) to perform such services, in each budget year, in SERC's annual business plan and budget that is submitted to NERC and to the Commission for approval.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if ~~[Regional Entity]SERC~~ determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, ~~[Regional Entity]SERC~~ shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in ~~[Regional Entity]'sSERC's~~ approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct ~~[Regional Entity]SERC~~ to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~[Regional Entity]'sSERC's~~ approved amended or supplemental business plan and budget and proposed supplemental- assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Statements

NERC shall conduct reviews of the quarterly and annual financial statements submitted by ~~[Regional Entity]SERC~~ pursuant to Section 9(h) and (i) of the Agreement. ~~[Regional~~

Entity SERC shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC based on its reviews.

ATTACHMENT 7A

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED DELEGATION AGREEMENT

WITH

SOUTHWEST POWER POOL REGIONAL ENTITY

CLEAN VERSION

April 29, 2010

David Cook
Vice President & General Counsel
NERC
1120 G St. NW, Suite 990
Washington, DC 20005

Re: REVISED SPP REGIONAL DELEGATION AGREEMENT

Dear David,

The Southwest Power Pool Regional Entity (SPP RE) Trustees passed the motion below regarding the Revised Regional Delegation Agreement at the SPP RE Trustee April 26, 2010 meeting:

Motion to approve the draft of the SPP Regional Delegation Agreement, in substantially the form presented; and authorize the SPP RE General Manager, Stacy Dochoda, to make all non-substantive changes and amendments necessary to finalize the document for filing with NERC.

Pursuant to your request, I plan to provide the final SPP Regional Delegation Agreement to you on or before April 30, 2010 for presentation to the NERC Board.

Please do not hesitate to contact me with questions.

Regards,



Stacy Dochoda
Regional Entity General Manager

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND SOUTHWEST POWER POOL, INC**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”) made as of January 1, 2011, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and Southwest Power Pool, Inc., on behalf of Southwest Power Pool Regional Entity (SPP), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified on **Exhibit A** to this Agreement, and for other purposes. NERC and SPP may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824n) (hereafter “the Act”), which, among other things, provides for the establishment of an electric reliability organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as SPP provided that:

- (a) The Regional Entity is governed by —
 - (i) an independent board;
 - (ii) a balanced stakeholder board; or
 - (iii) a combination independent and balanced stakeholder board.
- (b) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and
- (c) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, SPP is not organized on an Interconnection-wide basis and therefore is not entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through SPP to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that SPP meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and SPP having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and SPP, agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to SPP to propose and enforce Reliability Standards pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, SPP hereby represents and warrants to NERC that:

(i) SPP is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. SPP is governed in accordance with its bylaws by an independent board. Pursuant to these bylaws, no two industry sectors can control any SPP decision and no single industry sector can veto any SPP decision. The relevant portions of such bylaws are attached hereto in **Exhibit B**¹, and as so attached are in full force and effect. No other such corporate governance documents are binding upon SPP

(ii) As set forth in **Exhibit C** hereto², SPP has developed a standards development procedure, which provides the process that SPP may use to develop Regional Reliability Standards that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, SPP has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within SPP's geographic boundaries as shown on **Exhibit A**.

(b) NERC hereby represents and warrants to SPP that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

¹ The **Exhibit B** from SPP shall meet the requirements contained in **Exhibit B** to this Agreement.

² The **Exhibit C** from SPP shall meet the requirements contained in **Exhibit C** to this Agreement.

3. Covenants.

(a) During the term of this Agreement, SPP shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC's approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of SPP under this Agreement without first obtaining the consent of SPP, which consent shall not be unreasonably withheld or delayed.

(c) During the term of this Agreement, NERC and SPP shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of SPP in Sections 2 and 3 above, the corporate governance documents set forth in **Exhibit B**, the standards development process set forth in **Exhibit C**, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to SPP for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth on **Exhibit A**, *provided*, that SPP shall not monitor and enforce compliance with Reliability Standards for SPP or an affiliated entity with respect to reliability functions for which SPP or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to SPP within, or additions to this delegation of authority to SPP beyond, the geographic boundaries set forth on **Exhibit A** are stated on **Exhibit A**.

(b) In circumstances where SPP or an affiliated entity is a Registered Entity, SPP shall enter into an agreement with another Regional Entity or NERC for the other Regional

Entity or NERC to monitor and enforce SPP's or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit SPP from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified on **Exhibit A** that is within the United States. Any delegation of authority by ERO Governmental Authorities in Canada or Mexico shall be governed by a separate agreement and is outside the scope of this Agreement; provided, however, that both SPP and NERC shall endeavor to ensure that this Agreement and such separate agreements are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, SPP shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, SPP shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords SPP reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards through SPP's process as set forth in **Exhibit C**. Proposals approved through SPP's process shall be reviewed by the NERC Board after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in

subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. SPP may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, SPP shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the geographic boundaries set forth, or as otherwise specified, in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and SPP agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, *inter alia*, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. SPP may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, SPP agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c)

of this Agreement, and with any guidance and directions issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) SPP shall report promptly to NERC any Possible Violation, Alleged Violation, or Confirmed Violation of a Reliability Standard, and its eventual disposition by SPP. Such report shall include the owner's, operator's, or user's name, which Reliability Standard or Reliability Standards were the subject of the Possible Violation, Alleged Violation, or Confirmed Violation, when the Possible Violation, Alleged Violation, or Confirmed Violation occurred, other pertinent facts including circumstances surrounding the Possible Violation, Alleged Violation, or Confirmed Violation with any known risk to the Bulk-Power System, when the Possible Violation, Alleged Violation, or Confirmed Violation was or will be mitigated, the name of a person knowledgeable about the Possible Violation, Alleged Violation, or Confirmed Violation to serve as a point of contact with the Commission, and any other information required by NERC compliance program procedures. NERC shall promptly forward such report to the Commission. NERC and SPP shall cooperate in filing such periodic summary reports as the Commission shall from time to time direct on Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards and summary analyses of such Possible Violations, Alleged Violations, and Confirmed Violations.

(c) Each Possible Violation, Alleged Violation, or Confirmed Violation shall be treated as nonpublic unless the matter is filed with the Commission as a Notice of Penalty, or, if disclosure is required, dismissed. The disposition of each Possible Violation, Alleged Violation, or Confirmed Violation that relates to a Cybersecurity Incident or that would jeopardize the security of the Bulk-Power System if publicly disclosed shall remain nonpublic unless the Commission directs otherwise.

(d) All dispositions by SPP of Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards shall be reported to NERC for review and, in the case of Confirmed Violations, penalties or sanctions, and settlements, for approval. Following approval of a disposition by NERC, NERC shall file the disposition with the Commission, if required by, and in accordance with, Section 215(e) of the Act and Section 39.7 of the ERO Regulations. NERC shall review SPP's dispositions based on the following criteria:

(i) whether the disposition is supported by a sufficient record compiled by SPP in accordance with the NERC Rules of Procedure, NERC directives and Commission

requirements, taking into account the nature of the Possible Violation, Alleged Violation, or Confirmed Violation,

(ii) whether the disposition is consistent with any applicable directives issued pursuant to Section 8(c) of this Agreement, any applicable directions or guidance issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, or other applicable NERC guidance, concerning the Reliability Standards to which the Possible Violation, Alleged Violation, or Confirmed Violation relates,

(iii) if the disposition is a Confirmed Violation or settlement, whether it provides for a penalty or sanction, or a determination of no penalty or sanction, determined in accordance with the NERC Sanction Guidelines, Appendix 4B to the NERC Rules of Procedure, and

(iv) whether the disposition is reasonably consistent with other dispositions by SPP and by other Regional Entities of Possible Violations, Alleged Violations, and Confirmed Violations involving the same or similar facts and circumstances.

NERC may reject any disposition, with an explanation of why NERC believes the disposition does not meet the above criteria. SPP may submit a disposition requiring NERC approval that has been rejected by NERC, or a revised disposition following a rejection, directly to the NERC Board Compliance Committee for approval without revising the disposition to address all the grounds on which NERC originally rejected the disposition. The final approval of SPP's disposition of a Possible Violation, Alleged Violation, or Confirmed Violation shall be made by the NERC Board Compliance Committee, provided, that the NERC Board or NERC Board Compliance Committee may, by appropriate resolution, delegate authority for final approval of dispositions of specified categories of Possible Violations, Alleged Violations, or Confirmed Violations to the NERC President.

(e) All appeals of penalties imposed by SPP as a result of a decision by SPP's Hearing Body shall be filed with, heard by and disposed of by, NERC, in accordance with the NERC Rules of Procedure.

(f) SPP shall maintain the capability to conduct investigations of Possible Violations and Alleged Violations of Reliability Standards and to conduct such investigations in a confidential manner.

(g) SPP shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan.

(h) As part of its compliance monitoring and enforcement program, SPP shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(i) As often as NERC deems necessary, but no less than every five years, NERC shall review SPP's compliance monitoring and enforcement program to determine that: (i) the program meets all applicable legal requirements; (ii) actual practices reflect the requirements; and (iii) the program administered pursuant to the Delegated Authority promotes consistent interpretations across North America of Reliability Standards and comparable levels of sanctions and penalties for violations of Reliability Standards constituting comparable levels of threat to reliability of the Bulk-Power System.

7. Delegation-Related Activities. NERC will engage SPP on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed on **Exhibit E**. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (f), each of which shall be considered a statutory activity:

(a) **Certification of Bulk-Power System Entities.** The NERC Board shall set criteria for certification in accordance with the NERC Rules of Procedure. SPP shall issue certifications in accordance with the NERC Rules of Procedure.

(b) **Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.**

(i) The NERC Board shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by SPP and other Regional Entities. SPP shall provide timely and accurate information relating to registrations to NERC, on at least a monthly basis, to enable NERC to maintain a registration database that is accurate and up-to-date.

(iii) The NERC Board Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) Reliability Assessment and Performance Analysis. SPP shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. SPP shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives. NERC shall develop data-gathering quality control procedures, forms and reporting mechanisms, which shall be used by SPP and other Regional Entities in carrying out their responsibilities under this subsection (c).

(d) Event Analysis and Reliability Improvement. SPP shall conduct event analysis pursuant to the NERC Rules of Procedure and applicable governmental regulations. NERC and SPP shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, SPP shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) Training and Education. SPP may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions

and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) Situation Awareness and Infrastructure Security.

(i) SPP shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure and applicable governmental regulations, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System

(ii) SPP shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of SPP's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and SPP that matters relating to NERC's oversight of SPP's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and SPP and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with SPP and other Regional Entities, performance goals, measures and other parameters (including, without limiting the scope of such goals, measures and parameters, financial performance goals, measures and parameters), and performance reports, which shall be used to measure NERC's and SPP's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. SPP shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate SPP's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters and performance reports to evaluate SPP's performance of its delegated functions and related

activities and to provide advice and direction to SPP on performance improvements. The performance goals, measures and other parameters and the values of such goals, measures and parameters, shall be reviewed by NERC, SPP and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, SPP shall be required to develop, submit for NERC approval, and implement action plans to address areas of its performance that are reasonably determined by NERC, based on analysis of SPP's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring SPP to adopt and implement an action plan or other remedial action, NERC shall issue a notice to SPP of the need and basis for an action plan or other remedial action and provide an opportunity for SPP to submit a written response contesting NERC's evaluation of SPP's performance and the need for an action plan. SPP may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board review and reconsider the request. NERC and SPP shall work collaboratively as needed in the development and implementation of SPP's action plan. A final action plan submitted by SPP to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to SPP standardized training and education programs, which shall be designed taking into account input from SPP and other Regional Entities, for SPP personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to SPP concerning the manner in which SPP shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with SPP and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and SPP and, if applicable, other Regional Entities are unable to reach agreement on the

contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President; *provided*, that before the NERC President issues a directive pursuant to this paragraph (ii), SPP and, if applicable, other Regional Entities, shall be given a reasonable opportunity to present their positions on, and a suggested alternative version or versions of, the proposed directive to the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, SPP, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by SPP, the NERC Board (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without SPP's agreement, *provided*, that SPP shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and SPP and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which SPP, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The Board or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the Board or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. SPP, either

individually or in conjunction with other Regional Entities, may request that the NERC Board or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with SPP, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) Any audits of SPP performed by NERC shall be limited to an examination of SPP's compliance with this Agreement, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c)

9. Funding. SPP and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed on **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) SPP shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. SPP's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, SPP to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E**. SPP's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) SPP and NERC agree that the portion of SPP's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by SPP and approved by NERC and the Commission. If SPP proposes to use a formula other than Net Energy for Load beginning in the following year, SPP shall submit the proposed formula to NERC in sufficient time that NERC may review

and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide SPP with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) SPP shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed on Exhibit E, as well as for all other activities of SPP, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund SPP's performance of its Delegated Authority and related activities in accordance with SPP's Commission-approved business plan and budget, in the amount of SPP's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting SPP's approved assessments from end users and other entities and payment of the approved assessment amount to SPP, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon SPP that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without SPP's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to

compare each Commission-approved NERC and SPP fiscal year budget with the actual results at the NERC and Regional Entity levels. SPP shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) SPP shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) SPP shall submit audited financial statements annually, including supporting materials, in a form provided by NERC no later than May 1 of the following year.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which SPP shall offset penalty monies it receives against its next year's annual budget for carrying out functions under this Agreement, *provided*, that, subject to approval by NERC and the Commission, SPP may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. SPP may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit SPP from contracting with other entities to assist it in carrying out its Delegated Authority, provided SPP retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and

diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this, Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on January 1, 2011 (the “Effective Date”).

(b) The term of the Agreement shall be five (5) years from the Effective Date, prior to which time NERC shall conduct an audit pursuant to subsection 6(i) to ensure that SPP continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. If SPP meets such requirements, this Agreement may be renewed for another five (5) year term. This Agreement may be renewed for successive additional five (5) year renewal terms provided that prior to the end of each renewal term, NERC shall conduct an audit pursuant to subsection 6(i) to ensure that SPP continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. Provided, that either Party may terminate this Agreement as of the end of a term by giving written notice to terminate at least one (1) year prior to the end of the term. If this Agreement is not renewed or becomes subject to termination for any reason, the Parties shall work to provide for a transition of SPP’s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement. The termination of this Agreement shall not take effect until such transition has been effected, unless the transition period exceeds one year, at which time SPP may unilaterally terminate.

(c) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be

invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by SPP and NERC.

(d) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. SPP and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and SPP shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of the SPP's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that the SPP or NERC is found liable for gross negligence or intentional misconduct, in which case SPP or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party.

15. Confidentiality. During the course of the Parties' performance under this Agreement, a Party may receive Confidential Information, as defined in Section 1500 of NERC's Rules of Procedure. Except as set forth herein, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information. In addition, each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein. This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of SPP under this Agreement without first obtaining the consent of SPP, which consent shall not be unreasonably withheld or delayed. To the extent SPP does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of

Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of SPP under this Agreement, SPP shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by SPP to NERC and the Commission, or at such other time as may be mutually agreed by SPP and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and SPP, (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to SPP's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. SPP shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, *provided*, that the designated

representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), *provided*, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. *Provided, however*, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. Whether expressly so stated or not, all notices, demands, requests, and other communications required or permitted by or provided for in this Agreement shall be given in

writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand or reputable overnight courier:

If to NERC:

North American Electric
Reliability Corporation
116-390 Village Blvd.
Princeton, NJ 08540-5721
Attn: General Counsel
Facsimile: (609) 452-9550

If to SPP:

Southwest Power Pool, Inc.
415 N. McKinley
Suite 140
Little Rock, AR 72211
Attn: Alison Hayes
Facsimile: (501) 821-8726

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of New Jersey without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in New Jersey. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in New Jersey for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that SPP may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN
ELECTRIC RELIABILITY CORPORATION

SOUTHWEST POWER POOL, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A Regional Boundaries

The geographic boundaries of Southwest Power Pool (SPP) are determined by the service areas of its membership, comprised of investor-owned utilities, municipal, cooperative, state and federal systems, merchant electricity generators and power marketers.

The SPP Regional Entity covers an area of approximately 255,000 square miles of service territory (purple region depicted below) in all or part of eight states: Arkansas, Kansas, Louisiana, New Mexico, Mississippi, Missouri, Oklahoma, and Texas.

Service provided by SPP members in areas which overlap with neighboring regions:

- ◆ The area in northeastern Oklahoma is served by Western Farmers Electric Cooperative, Oklahoma Gas & Electric Company, Oklahoma Municipal Power Authority, Grand River Dam Authority, and AEP West.
- ◆ The area in Arkansas is served by Arkansas Electric Cooperative Corporation, Oklahoma Gas & Electric Company, and AEP West.
- ◆ The area in western Missouri is served by Aquila, Empire District Electric Company, City Power & Light (Independence, MO), City Utilities (Springfield, MO), Grand River Dam Authority, Kansas City Power & Light Company, City Power & Light (Independence, MO), and Southwestern Power Administration.

Within the SPP region, compliance monitoring and enforcement functions with respect to reliability functions for which SPP is the registered entity are performed by SERC Reliability Corporation (SERC) pursuant to a contract between SPP and SERC dated as of (DATE).

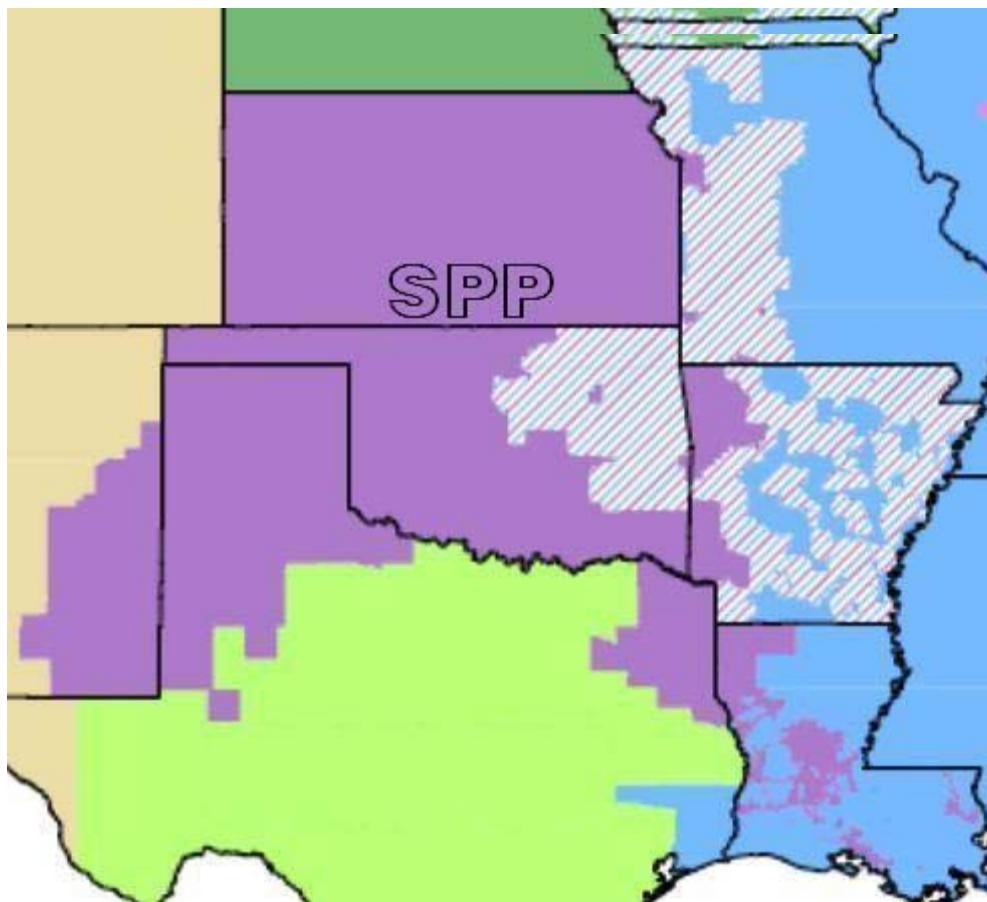


Exhibit B – Governance

Exhibit B shall set forth the Regional Entity’s bylaws, which NERC agrees demonstrate that the Regional Entity meets the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence of the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Southwest Power Pool, Inc.
Bylaws
Original Volume No. 4

Southwest Power Pool, Inc.

B Y L A W S

Issued by: L. Patrick Bourne, Manager
Transmission and Regulatory Policy

Effective: May 1, 2004

Issued on: August 2, 2004

Filed to comply with order of the Federal Energy Regulatory Commission, Docket Nos. RT04-1-002 and ER04-48-002, issued July 2, 2004, 108 FERC ¶ 61,003.

Southwest Power Pool Bylaws
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Issued on: November 3, 2008

Effective: May 18, 2007

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Letter Order, Issued October 6, 2008.

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B Y L A W S
of
Southwest Power Pool, Inc.

PREAMBLE

The values and principles upon which SPP is incorporated and formed include: a relationship-based organization; member-driven processes; independence through diversity of Organizational Group membership; recognition that reliability and economic/equity issues are inseparable; and, deliberate evolutionary, as opposed to revolutionary, implementation of new concepts. These values and principles should guide those serving this organization. The Board of Directors will endeavor to ensure equity to all Members while also assuring the continuous adaptation to controlling conditions within these stated values and principles.

1.0 DEFINITIONS

1.1 Affiliate Relationships

Affiliate Relationships are relationships between SPP Members that have one or more of the following attributes in common:

- (a) are subsidiaries of the same company;
- (b) one Member is a subsidiary of another Member;
- (c) have, through an agency agreement, turned over control of a majority of their generation facilities to another Member;
- (d) have, through an agency agreement, turned over control of a majority of their transmission system to another Member, except to the extent that the facilities are turned over to an independent transmission company recognized by FERC;
- (e) have an exclusive marketing alliance between Members; or
- (f) ownership by one Member of ten percent or greater of another Member.

1.2 Articles of Incorporation

SPP's articles of incorporation as filed with the state of Arkansas.

1.3 Board of Directors

The Board of Directors of SPP, which shall manage the general business of SPP pursuant to these Bylaws.

1.4 Bylaws

These bylaws.

1.5 Criteria

Planning and operating standards and procedures as approved by the Board of Directors.

1.5a Existing Obligations

Certain financial obligations as defined in Section 8.7.1 of these Bylaws.

1.5b ERO

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

1.6 Member

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

1.7 Membership

The collective Members of SPP.

1.8 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.

1.9 NERC

The North American Electric Reliability Corporation or successor organizations.

1.10 Net Energy for Load

The electrical energy requirements of an electric system are defined as system net generation plus energy received from others, less energy delivered to others through interchange. It includes system losses but excludes energy required for the storage at energy storage facilities.

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Issued on: November 3, 2008
Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. ER08-1380-000,
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Effective: May 18, 2007

1.11 Officers

The officers of SPP as elected by the Board of Directors. The Officers consist of the President and the Corporate Secretary, at a minimum. Any Officer must be independent of any Member organization.

1.12 Organizational Group

A group, other than the Board of Directors, comprising a committee or working group that is charged with specific responsibilities toward accomplishing SPP's mission.

1.13 Regional Criteria

SPP planning and operating standards and procedures as approved by the Board of Directors.

1.14 Regional Entity Trustees

A governing body of SPP, independent of the Board of Directors, which specifically oversees SPP's function as an ERO Regional Entity pursuant to the Delegation Agreement between SPP and the ERO.

1.15 Regional Reliability Standards

Electric reliability requirements submitted to the ERO by the Regional Entity Trustees; and once approved, implemented and enforced by SPP under authority as the Regional Entity.

1.16 Registered Entity(ies)

A bulk electric system owner, operator or user that is required to comply with ERO reliability standards pursuant to the Energy Policy Act of 2005.

1.17 SPP

Southwest Power Pool, Inc.

1.18 SPPgional Entity

That part of SPPsponsible for the delegated functions pursuant to the Delegation Agreement between SPP and the ERO.

1.19 SPP Compliance Monitoring and Enforcement Program

The program used by the North American Electric Reliability Corporation ("NERC") and the Regional Entities to monitor, assess, and enforce compliance with Reliability Standards within the United States.

1.20 Staff

The technical and administrative staff of SPP as hired by the Officers to accomplish SPP's mission.

1.21 Standards Development Team

An SPP Organizational Group assigned or choosing to develop an SPPgional Reliability Standard for submission to the ERO for approval for enforcement.

1.22 Transmission Owning Member

A Member that has placed more than 500 miles of non-radial facilities operated at or above 60 kV under the independent administration of SPP for the provision of regional transmission service as set forth in the Membership Agreement.

1.23 Transmission Using Member

A Member that does not meet the definition of a Transmission Owning Member.

2.0 MEMBERSHIP

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.

2.2 Applications

Membership by an entity shall be obtained upon meeting the following requirements:

- (a) Meeting membership qualifications;
- (b) Providing an application for membership to the SPP President; and
- (c) Executing the Membership Agreement and delivering a signed copy to the President.

The President shall review applications, approve those meeting membership qualifications and promptly give written notice of the new Member to all other Members. The Board of Directors will review any disputes arising as to the qualifications of the new Member. Membership will commence at the beginning of the next calendar month following completion of these requirements or some other date as may be mutually agreed upon.

2.3 Member Responsibilities and Obligations

Members recognize that SPP exists and operates for the benefit of the bulk electric transmission system and to ensure the reliability of the nation's power supply. As such, Members are required to act to further these goals by participating in projects, and complying with regulatory requirements. Failure to comply with these provisions will be considered a violation of these Bylaws and the Member may be removed in accordance with the provisions for *Removal of Members* in the Membership Agreement.

2.4 Termination, Removal and Reinstatement

The Board of Directors may terminate the membership of any Member in accordance with the Membership Agreement. The President shall promptly give written notice of the removal to all other Members. Any former Member seeking to rejoin SPP shall apply to the Board of Directors for reinstatement. In its application for reinstatement, the former Member shall:

- (a) provide evidence that it has fully paid any accrued financial obligation to SPP;
- (b) demonstrate it has corrected the reason for its removal;
- (c) establish that it will be in compliance with SPP membership requirements; and
- (d) deliver an executed Membership Agreement to the President.

2.5 Participation in Regional Entity Activities

Participation in SPPgional Entity activities is open to the public and does not require membership in SPP, Inc. nor any of the obligations of membership, including SPP, Inc.'s annual fee.

3.0 ORGANIZATIONAL ADMINISTRATION

3.1 Structure

Member input on decision-making shall be accomplished primarily through Membership participation in Organizational Groups. Members are expected to provide representation to Organizational Groups as requested. Unless otherwise provided in these Bylaws, Organizational Group representation will be appointed by the Board of Directors, who shall consider the various types and expertise of Members and their geographic locations, to achieve a widespread and effective representation of the Membership. The Chair of any Organizational Group may appoint any ad hoc task forces as necessary to fulfill its mission. Task force appointments shall be made with due consideration of the various types and expertise of Members and their geographic locations. Criteria for serving on an Organizational Group will be determined in the group's scope. Except for any full representation group, an appointment to an Organizational Group is for an individual, not a corporate entity. Participation in certain sessions of Organizational Group meetings where market sensitive issues are discussed may be restricted to persons representing entities that have executed ERO's Confidentiality Agreement. Representatives on all Organizational Groups will be documented in the SPP directory maintained by the Staff. Organizational Group vacancies will be filled on an interim basis by appointment of the President unless otherwise provided for in these Bylaws.

3.2 Attendance and Proxy

Except for the Market and Operations Policy Committee (MOPC), if a representative does not attend three consecutive Organizational Group meetings, he/she will be considered to have resigned from the group, absent express waiver of this requirement by the chair of the group. Any appeal of removal from the roster of an Organizational Group should be directed to the Corporate Secretary. Any resulting vacancy will be filled in accordance with Section 3.1 *Structure* of these Bylaws.

If a representative is unable to attend an Organizational Group meeting, he/she may in writing appoint a substitute representative who shall have such rights to participate and vote as the representative specifies. The substitute representative may be another member of the Organizational Group or another person who has the authority to act on behalf of the representative. A representative may not grant a proxy for more than three consecutive meetings without the express consent of the chair of the Organizational Group. If a representative exceeds the proxy limit, he/she will be considered to have resigned from the Organizational Group and the vacancy will be filled in accordance with these Bylaws; except, in the case of any full representation Organizational Group, in which case a new representative will be solicited from the member company.

A proxy provided to another representative of the Organizational Group will not be recorded as attendance at the meeting and will not serve to meet or maintain the quorum requirements. A proxy provided to another person with the authority to act on behalf of the representative will be recorded as attendance at a meeting for the purpose of meeting or maintaining the quorum requirements.

3.3 Leadership

3.3.1 Appointment

The Chair of all Organizational Groups shall be nominated by the Corporate Governance Committee for consideration and appointment by the Board of Directors. A Vice Chair shall be elected by the members of an Organizational Group, unless provided otherwise in these Bylaws. A Vice Chair shall act for a Chair:

- (a) at the request of the Chair;
- (b) if the Chair becomes incapacitated and unable to discharge the functions of the position; or
- (c) if the position of the Chair becomes vacant, until a new Chair takes office.

3.3.2 Terms

The terms of the Chair and Vice Chair of all Organizational Groups shall coincide with the two-year term of the Chair of the Board of Directors. Organizational Group representation will be reviewed annually for compliance with the Bylaws by the Corporate Governance Committee.

3.3.3 Vacancies

Should any individual having been appointed as a Chair of any Organizational Group be unable to serve for the term specified, or be unable to serve on a NERC Organizational Group under provisions of these Bylaws, a replacement shall be appointed by the Chair of the Board of Directors for the unexpired term of office.

3.4 Executive Authority

The Officers shall carry out the rights, duties, and obligations of SPP pursuant to the authority granted by the Board of Directors. Officers will execute the SPP Standards of Conduct upon employment. The Standards of Conduct outline the independence requirements for all employees of SPP. The Officers shall be empowered to:

- (a) employ qualified technical and administrative employees;
- (b) engage office space;
- (c) employ outside technical and special service organizations;
- (d) execute contracts;
- (e) provide for independent regional reliability coordination, transmission service administration, and other services as may be directed by the Board of Directors;
- (f) serve as SPP's representative before regulatory bodies, NERC, and in other public forums;
- (g) incur reasonable expenses; and
- (h) make Staff resources available to individual Members or groups of Members on a non-firm, non-priority, first-come-first-serve basis so as not to interfere with current or future needs and priorities established by SPP.

3.5 Meetings

Organizational Groups shall meet as necessary. SPP meetings shall be open, however, any Organizational Group may limit attendance at a meeting by an affirmative vote of the Organizational Group as necessary to safeguard confidentiality of sensitive information, including but not limited to Order 889 Code of Conduct requirements, personnel, financial, or legal matters. Representatives shall be given at least fifteen days written notice of the date, time, place and purpose of each regular or special meeting. Telephone conference meetings may be called as appropriate by the Chair of any Organizational Group with at least one-day prior notice.

3.6 Order of Business

The latest edition of Robert's Rules of Order will generally govern all SPP meetings on any point not specifically covered in these Bylaws.

3.7 Expenses

The expenses of a representative participating in the activities of SPP Organizational Groups and task forces shall be borne by that representative.

3.8 Quorum

The quorum for a meeting of the Markets and Operations Policy Committee or the Membership shall be those Members present. The quorum for any other Organizational Group or task force shall be one-half of the representatives thereof, but not less than three representatives; provided, that a lesser number may adjourn the meeting to a later time. The quorum for a meeting must be established and maintained throughout the meeting in order for the Organizational Group to take any binding action(s). Notwithstanding the above, any actions taken before a quorum is lost are considered valid and binding. A proxy will serve to meet the quorum requirements as described in Section 3.2 *Proxy* of these Bylaws.

3.9 Voting

3.9.1 Markets and Operations Policy Committee and Membership

Upon joining, Members shall be assigned to one of two Membership sectors for the sole purpose of voting on matters before the Markets and Operations Policy Committee or the Membership: Transmission Owning Members, or Transmission Using Members. Each sector votes separately with the result for that sector being a percent of approving votes to the total number of Members voting. An action is approved if the average of these two percentages is at least sixty-six percent. If no Members are present within a sector, the single present sector-voting ratio will determine approval. Unless otherwise stated in these Bylaws, the Markets and Operations Policy Committee or the Membership may determine to vote on an issue by email. The outcome of any email vote must be recorded in the minutes for the group.

3.9.2 Organizational Groups and Task Forces

Each representative of an Organizational Group or Task Force shall have one vote. A simple majority of participants present or represented by proxy and voting shall be required for approval of an action for all other Organizational Group and Task Force action(s). Unless otherwise stated in these Bylaws, an Organizational Group or Task Force may determine to vote on an issue by email. The outcome of any email vote must be recorded in the minutes for the group.

If an Organizational Group is acting as a Standards Development Team as defined in Section 9.5 *Regional Reliability Standards Development Process* of these Bylaws, it will vote in accordance with the SPP Standards Development Process as approved by FERC.

3.10 Appeal

Should any Member or group of Members disagree on an action taken or recommended by any Organizational Group, such Member(s) may, in writing, appeal and submit an alternate recommendation to the Board of Directors prior to the meeting at which consideration of the action by the Board of Directors is scheduled.

3.11 Staff Independence and Support

SPP Staff members will be required to execute the SPP Standards of Conduct upon employment and annually thereafter. The Standards of Conduct outline the independence requirements for employees of SPP. The President shall assign to each Organizational Group an SPP Staff member, who shall attend all meetings and act as secretary to the Organizational Group and any ad hoc task forces of that group. Staff secretaries of all Organizational Groups and task forces shall be non-voting. Minutes shall be kept of pertinent discussion, business transacted, decisions reached, and actions taken at each meeting of SPP Organizational Groups or task forces by the secretary. Minutes shall be published within seven calendar days following a meeting but in any event in advance of the next meeting, and considered final documents upon their approval by the Organizational Group or task force.

3.12 Publications and Data Bases

SPP shall publish and distribute reports as necessary to fulfill the SPP mission. SPP shall also develop and maintain electronic databases of relevant technical information. The release of member-specific proprietary information will be governed by the appropriate SPP governing document (the OATT, the Membership Agreement, the Bylaws, the SPP Criteria) and/or a properly executed confidentiality agreement. Standard publications and standard forms of non-proprietary information will be made available at no charge

3.13 Dispute Resolution

These procedures are established for the equitable, efficient and expeditious resolution of disputes. These procedures are intended to cover disputes between any two or more Members, between Members and consenting non-members, or between SPP and any Member(s) or consenting non-member(s). SPP and Members are strongly encouraged to take part in the complete process herein described prior to litigation or the utilization of other dispute resolution processes. SPP administrative involvement in the proceeding is to coordinate with an appropriate firm or panel to facilitate the resolution of the dispute and to provide meeting coordination and facilities. These procedures do not apply to disputes that are covered by the dispute resolution procedures of the SPP OATT or the SPP Compliance Monitoring and Enforcement Program.

3.13.1 Instigation

Any Member may begin these dispute resolution procedures by making a request in writing to the President. The President will inform the Board of Directors of the initiation of any dispute resolution proceedings. This written request must contain the authorized signatures of all parties to the dispute. The request must contain:

- (a) a statement of the issues in dispute;
- (b) the positions of each of the parties relating to each of the issues;
- (c) the specific dispute resolution procedure desired; and
- (d) any agreed-upon modifications or specific additions to the proceedings described in these Bylaws by which the dispute may be resolved.

3.13.2 Dispute Resolution Process

In the event SPP is a party to the dispute, the parties shall engage a firm specializing in alternative dispute resolution to administer the dispute resolution process. The firm will be mutually determined by the parties and the process will be administered in accordance with these Bylaws and such other SPP governing documents as may be relevant to the proceeding. In the event the parties cannot mutually agree to the engagement of a firm, the dispute resolution process will be abandoned and other available means for resolution will be pursued.

In the event SPP is not a party to the dispute, the parties to the dispute may engage a firm specializing in alternative dispute resolution to administer the dispute resolution process. The firm will be mutually determined by the parties and the process will be administered in accordance with these Bylaws and such other SPP governing documents as may be relevant to the proceeding. In the event the parties cannot mutually agree to the engagement of a firm, and do not determine some other mutually acceptable procedure, the President of SPP shall provide to each party to the dispute a list of candidates to be used in forming a three-person dispute resolution panel. The candidates shall be persons meeting the requirements for directors. The President shall then call a telephone conference meeting during which each party shall alternate striking names from the list

until those remaining constitute the dispute resolution panel. This panel shall select a chair from its membership. Should any candidate decline to serve or resign from a current appointment for any reason, the candidate whose name was last struck from the list shall be contacted to serve. The President shall assign a Staff representative to assist the panel as secretary. The President shall manage the panel selection process to ensure its timely completion.

3.13.3 Resolution Procedures

The types of proceedings available for the resolution of disputes are:

- (a) An Advisory Proceeding to assist each party through discussion and advice, on a separate and individual basis without active participation in the joint discussions and negotiations, to resolve the dispute informally by mutual agreement;
- (b) A Mediation Proceeding to assist the parties through active participation in the joint discussions and negotiations (including specific recommendations of the issues in dispute) through which the parties indirectly attempt to resolve the dispute informally by mutual agreement;
- (c) A non-binding Dispute Resolution Proceeding to hear formal evidence on factual matters related to the issues submitted, make written findings and conclusions of fact, and issue specific written recommendations for resolution of each issue in dispute.
- (d) A binding Dispute Resolution Proceeding to hear formal evidence on factual matters related to the issues submitted, make written findings and conclusions of fact, and issue directives and awards for resolution of each issue in dispute.

The panel chair shall determine meeting arrangements and format necessary to efficiently expedite the resolution of the dispute, and the Staff secretary shall notify the parties of these details. Each party to the dispute must have at least one representative present at all related meetings with full authority to resolve the dispute. Upon conclusion of this process, the panel chair shall notify the President of its outcome. After consultation with the parties to the dispute and the panel chair to determine the completion of the process as described herein, and/or as modified by the parties, the President shall discharge the panel, and notify the Board of Directors of the results. The parties to the dispute agree to complete the process within 90 days from selection of the panel. Final determinations may be subject to corporate or regulatory approvals, which the parties should disclose at the outset of the process. The Staff secretary shall maintain minutes of the panel meetings, which shall become part of SPP's historical records.

3.13.4 Expenses

The parties to the dispute shall share equally all reasonable charges for the meeting location, administrative costs, and related travel expenses of panel members. The parties to the dispute shall also share equally all reasonable compensation for time and service of panel members and related incremental expenses of the SPP Staff. The President shall determine reasonableness of time and service costs for panel members prior to process implementation. The SPP Staff secretary shall account for these expenses. Each party to the dispute shall be responsible for their respective associated expenses.

3.13.5 Liability

The parties to any dispute which is the subject of these dispute resolution procedures shall hold harmless SPP, its Members, Organizational Groups and each of their directors, officers, agents, employees or other representatives, and the panel members from any liabilities, claims, or damages resulting from any agreement or lack of agreement as a result of the dispute resolution proceedings. The foregoing hold harmless right shall not be extended to the parties to any given dispute or to their directors, officers, agents, employees or other representatives.

3.14 Meeting of Members

The Chair of the Board of Directors shall convene and preside over meetings of Members for the purpose of electing Directors, Members Committee representatives, and Regional Entity Trustees to positions becoming vacant in the ensuing year, and any other necessary business. The Membership shall meet at least once per calendar year.

3.15 Liability, Insurance and Indemnification

For purposes of this section “SPP” refers to SPP and its officers, directors, Regional Entity Trustees, employees or agents, and “Member” refers to the Members of SPP as defined in these Bylaws. None of the provisions of this section, including the waiver of liability in Section 3.15.1 below, absolving SPP or its Members, directors, Regional Entity Trustees, officer, agents, employees or other representatives of liability or any provisions for insurance or indemnification apply to actions which are unlawful, undertaken in bad faith, or are the result of gross negligence or willful misconduct.

3.15.1 Waiver of Liability

- (a) SPP shall not be liable to any Member for damages arising out of or related to any directive, order, procedure, action, or requirement of SPP, under the then effective Bylaws and Criteria.
- (b) No Member shall be liable to any other Member or to SPP for damages arising out of or related to any action by the Member pursuant to any directive, order, procedure, action or requirement of SPP, under the then effective Bylaws and Criteria.
- (c) Each Member waives any future claim it might have against SPP or other Members arising out of or resulting from any directive, order, procedure, action or requirement of SPP, under the then effective Bylaws and Criteria.
- (d) SPP waives any future claim it might have against any Member arising out of or resulting from any actions taken by a Member pursuant to any directive, order, procedure, action or requirement of SPP, under the then effective Bylaws and Criteria.

3.15.2 Insurance

The President is authorized to procure insurance to protect SPP, its directors, Regional Entity Trustees, officers, agents, employees, or other representatives against damages arising out of or related to any directive, order, procedure, action or requirement of SPP, under the then effective Bylaws and Criteria or pursuant to the OATT.

3.15.3 Indemnification of Directors, Officers, Agents and Employees

Except for actions which are unlawful, undertaken in bad faith, or are the result of gross negligence or willful misconduct, SPP shall indemnify its directors, officers, agents, employees, or other representatives to the maximum extent allowed by law consistent with these Bylaws. Each director, Regional Entity Trustee, officer, agent, employee, or other representative of SPP shall be indemnified by SPP against all judgments, penalties, fines, settlements, and reasonable expenses, including legal fees, incurred as a result of, or in connection with, any threatened, pending or completed civil, criminal, administrative, or investigative proceedings to which the incumbent may be made a party by reason of acting or having acted in official capacity as a director, Regional Entity Trustee, officer, agent, employee, or representative of SPP, or in any other capacity which the incumbent may hold at the request of SPP, as its representative in any other organization, subject to the following conditions:

- (a) Such director, Regional Entity Trustee, officer, agent, employee, or other representative must have acted in good faith and, in the case of criminal proceedings, must have had no reasonable cause to believe that conduct was unlawful; provided, that SPP shall not provide indemnification of any conduct judged unlawful in criminal proceedings. When acting in official capacity, the incumbent must have reasonably believed that conduct was in the best interests of SPP, and, when acting in any other capacity, must have reasonably believed that conduct was at least not opposed to the best interests of SPP.
- (b) If the proceeding was brought by or on behalf of SPP, however, indemnification shall be made only with respect to reasonable expenses referenced above. No indemnification of any kind shall be made in any such proceeding in which the director, Regional Entity Trustee, officer, agent, employee, or other representative shall have been adjudged liable to SPP.

- (c) In no event, however, will indemnification be made with respect to any described proceeding which charges or alleges improper personal benefit to a director, Regional Entity Trustee, officer, agent, employee, or other representative and where liability is imposed on the basis of the receipt of such improper personal benefit.
- (d) In order for any director, Regional Entity Trustee, agent, employee, or other representative to receive indemnification under this provision, the person shall vigorously assert and pursue any and all defenses to those claims, charges, or proceedings covered herein which are reasonable and legally available and shall fully cooperate with SPP or any attorneys involved in the defense of any such claim, charges, or proceedings on behalf of SPP.
- (e) No indemnification shall be made in any specific instance until it has been determined by SPP that indemnification is permissible in that specific case, under the standards set forth herein and that any expenses claimed or to be incurred are reasonable. These two (2) determinations shall be made by a majority vote of at least a quorum of the Board of Directors consisting solely of directors who were not parties to the proceeding for which indemnification or reimbursement of expenses is claimed. If such a quorum cannot be obtained, a majority of at least a quorum of the full Board of Directors, including directors who are parties to said proceeding, shall designate a special legal counsel who shall make said determinations on behalf of SPP.
- (f) Any reasonable expenses, as shall be determined above, that have been incurred by a director, Regional Entity Trustee, officer, agent, employee, or other representative who has been made a party to a proceeding as defined herein, may be paid or reimbursed in advance upon a majority vote of a quorum of the full Board of Directors, including those who may be a party to the same 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.

3.16 Compliance with Membership Requirements

Compliance monitoring of Members and Staff shall be performed to ensure compliance with all requirements of Membership. Certain SPP compliance monitoring and enforcement functions, as detailed in Section 9.0, shall be performed in concert with related ERO programs, and will be overseen by the Regional Entity Trustees. Other monitoring functions shall be provided by appropriate SPP staff under the oversight of the Oversight Committee and the Board of Directors. Compliance monitoring shall be an after-the-fact investigative and assessment function.

Monitoring functions shall include but are not limited to:

- (a) Investigation of all reports or discoveries of non-compliance with approved Bylaws, Regional Criteria, OATT, and agreements between SPP and its Members;
- (b) Obtaining all information needed to investigate all facets of possible non-compliance with Membership requirements;
- (c) Performance of in-depth reviews of operations in order to investigate non-compliance with Membership requirements upon approval from the Oversight Committee;
- (d) Comprehensive audits when recurring issues covering a broad spectrum of violations of Membership requirements are determined and documented;
- (e) Imposition of financial penalties and/or sanctions for non-compliance associated with the results of investigations or audits pursuant to approved standards, policies and/or Criteria;
- (f) Confirmation that SPP is conforming to its own Regional Criteria, OATT, business practices, and reliability operations in a manner that does not stifle the efficiency of the energy markets;
- (g) Utilization of dispute resolution procedures as necessary to resolve conflicts or appeals; and
- (h) Coordination of policy modifications to clearly define requirements and penalties in order to objectively monitor compliance with Membership requirements.

Issued by: L. Patrick Bourne, Director – Regulatory Policy

Issued on: November 3, 2008

Effective: April 5, 2008

Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. ER08-1380-000,
Letter Order, Issued October 6, 2008.

3.17 Market Monitoring

SPP shall establish and provide appropriate support to a market monitoring function in accordance with its OATT. Market monitoring functions shall be carried out in a manner consistent with the safe and reliable operation of the SPP transmission system, the operation of a robust, competitive and non-discriminatory electric power market, and the principle that a Market Participant as defined in the SPP OATT, or group of Market Participants, shall not have undue influence or impact.

The market monitoring unit shall report to the Board of Directors. Any public reports submitted shall be provided to the Board of Directors and concurrently to the appropriate regulatory body or bodies. The President shall ensure that the market monitoring entity has adequate resources, access to information, and the full cooperation of Staff and Organizational Groups for the effective execution of its duties.

Market monitoring functions shall include but are not limited to:

- (a) Monitoring and reporting on compliance and market power issues relating to transmission services, including compliance and market power issues involving congestion management and ancillary services and the potential of any market participant(s) to exercise market power within the region by affecting available transmission capacity;
- (b) Evaluation and recommendation of any required modifications to the OATT, standards or Criteria;

- (c) Ensuring that the monitoring program is conducted in an independent and objective manner;
- (d) Development of reporting procedures to inform governmental agencies and others concerning market monitoring activities;
- (e) Monitoring the behavior of market participants to determine whether there is any behavior that hinders the reliable, efficient and non-discriminatory provision of transmission service by SPP;
- (f) Ensuring that SPP's involvement in markets does not discriminate in favor of any market participant or its own interests; and
- (g) Recommend plans for mitigating market power, subject to appropriate regulatory approval.

4.0 BOARD OF DIRECTORS

4.1 Duties

The Board of Directors shall at all times act in the best interest of SPP in its management, control and direction of the general business of SPP. The Board of Directors shall solicit and consider a straw vote from the Members Committee as an indication of the level of consensus among Members in advance of taking any actions other than those occurring in executive session. Its duties shall include, but are not limited to the following:

- (a) Direct activities of all SPP Organizational Groups;
- (b) Serve on SPP Organizational Groups;
- (c) Remove Members, and approve the re-entry of Members that have been removed;
- (d) Authorize all substantive contracts and debt instruments;
- (e) Select and review the performance of SPP Officers, who shall serve at the pleasure of the Board of Directors;
- (f) Approve policies by which positions, duties, qualifications, salaries, benefits and other necessary matters pertaining to the SPP Officers are determined;
- (g) Review, approve, disapprove or recommend revision to the actions of any Organizational Group;
- (h) Act on appeals pursuant to Section 3.10;

- (i) Approve and implement Regional Criteria for enforcement under the terms and conditions of the SPP Membership Agreement;
- (j) Provide input with the Members Committee to the Regional Entity Trustees, on SPPgional 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;
- (k) Approve or revise the operating and capital budgets and any additional expenditures;
 - (l) Convene a meeting of Members at least annually;
 - (m) Approve amendments to these Bylaws as permitted by these Bylaws;
 - (n) Approve amendments to the Membership Agreement as permitted by the Membership Agreement;
 - (o) Approve Regional Criteria pertaining to planning and operating standards and policies and penalties for non-compliance with such Criteria; and
 - (p) Authorize filings with regulatory bodies.

4.2 Composition and Qualifications

4.2.1 Composition

The Board of Directors shall consist of seven persons. The seven directors shall be independent of any Member; one director shall be the President of SPP. A Director shall not be limited in the number of terms he/she may serve. The President shall be excluded from voting on business related to the office of President or the incumbent of that office. No other Staff member shall be permitted to serve as a director

4.2.2 Qualifications

Directors shall have recent and relevant senior management expertise and experience in one or more of the following disciplines: finance, accounting, electric transmission or generation planning or operation, law and regulation, commercial markets, and trading and associated risk management.

4.2.3 Conflicts of Interest

Directors shall not be a director, officer, or employee of, and shall have no direct business relationship, financial interest in, or other affiliation with, a Member or customer of services provided by SPP. Directors may invest in accordance with SPP's Standards of Conduct. Participation in a pension plan of a Member or customer shall not be deemed to be a direct financial benefit if the Member's or customer's financial performance has no material effect on such pension plan.

4.3 Term and Election

Except for the President, a director shall be elected at the meeting of Members to a three-year term commencing upon election and continuing until his/her duly elected successor takes office. The election process shall be as follows:

- (a) At least 90 calendar days prior to the meeting of Members when election of new directors is required, the Corporate Governance Committee shall commence the process to nominate persons equal in number to the directors to be elected;
- (b) At least 45 calendar days prior to the meeting of Members, the Corporate Governance Committee shall determine the persons it nominates for election as directors, specifying the nominee for any vacancy to be filled. The Corporate Secretary shall prepare the ballot accordingly and shall deliver same to Members at least 30 calendar days prior to the meeting of Members;
- (c) For purposes of electing or removing directors only, each group of Members with Affiliate Relationships shall be considered a single Member;
- (d) Any additional nominee(s) may be added to the ballot if a petition is received by the Corporate Secretary at least 15 calendar days prior to the meeting of Members and evidencing support of at least 20 percent of the existing Membership; and

- (e)
- 1) If only one candidate is nominated for a seat, each Member shall be entitled to cast a vote for or against the nominee. The votes will be calculated in accordance with Section 3.9 *Voting* of these Bylaws, which requires a super majority. In the event a director position is not filled, the Corporate Governance Committee will determine a new nominee for recommendation for election by the Membership at a special meeting of Members to be held no later than the next regular Board of Directors/Members Committee meeting;
 - 2) If multiple candidates are nominated for a seat, each Member shall be entitled to cast a vote for only one nominee, but may vote against each candidate. The votes will be calculated in accordance with Section 3.9 *Voting* of these Bylaws, with the exception that a simple majority of votes cast will determine which nominee is elected. In the event a director position is not filled, the Corporate Governance Committee will determine a new nominee for recommendation for election by the Membership at a special meeting of Members to be held no later than the next regular Board of Directors/Members Committee meeting.

4.4 Resignation and Removal of Directors

Any director may resign by written notice to the President noting the effective date of the resignation. The Membership may remove a director with cause by vote in accordance with Section 3.9 *Voting* of these Bylaws. Removal proceedings may only be initiated by a petition signed by not less than twenty percent of the Members. The petition shall state the specific grounds for removal and shall specify whether the removal vote is to be taken at a special meeting of Members or at the next regular meeting of Members. A director who is the subject of removal proceedings shall be given fifteen days to respond to the Member petition in writing to the President.

4.5 Vacancies

If a vacancy occurs, the Corporate Governance Committee will present a nominee to the Membership for consideration and election to fill the vacancy for the unexpired term at a special meeting of Members following 30 calendar days notice from the Corporate Secretary. The election will be held in accordance with Section 4.3 *Term and Election* of these Bylaws. The replacement director shall take office immediately upon election.

4.6 Functioning of the Board of Directors

In reaching any decision and in considering the recommendations of any Organizational Group or task force, the Board of Directors shall abide by the principles in these Bylaws.

4.6.1 Meetings and Notice of Meetings

The Board of Directors shall meet at least three times per calendar year and additionally upon the call of the Chair or upon concurrence of at least four directors. At least fifteen days' written notice shall be given by the President to each director, the Members Committee, and the Regional State Committee of the date, time, place and purpose of a meeting of the Board of Directors, unless such notice is waived by the Board of Directors. Telephone conference meetings may be called as appropriate by the Chair with at least one-day prior notice. Board of Directors' meetings shall include the Members Committee, a representative from the Regional Entity Trustees, and a representative from the Regional State Committee (as defined in Section 7.2) for all meetings except when in executive

session; provided however, the failure of representatives of the Members Committee and/or of the Regional Entity Trustees and/or of the Regional State Committee to attend, in whole or in part, shall not prevent the Board of Directors from convening and conducting business, and taking binding votes. The Chair shall grant any Member's request to address the Board of Directors.

4.6.2 Chair and Vice Chair; Election and Terms

The Board of Directors shall elect from its membership a Chair and Vice Chair for two-year terms commencing upon election and continuing until their duly elected successors take office or until their term as a director expires without re-election. The President of SPP may not serve as the Chairman of the Board of Directors. The Vice Chair shall act for the Chair:

- (a) at the request of the Chair;
- (b) in the event the Chair should become incapacitated and unable to discharge the functions of the office; or
- (c) if the office of Chair becomes vacant, until the next regularly scheduled meeting of the Board of Directors, at which meeting a new Chair shall be elected by the Board of Directors to fill the vacancy. The Chair shall appoint a director to fill a vacant Vice Chair position until the next meeting of the Board of Directors, at which meeting a new Vice Chair shall be elected by the Board of Directors to fill the vacancy.

4.6.3 Quorum and Voting

Five of the directors shall constitute a quorum of the Board of Directors; provided, that a lesser number may adjourn the meeting to a later time. Decisions of the Board of Directors shall be by simple majority vote of the directors present and voting. Directors must be present at a meeting to vote; no votes by proxy are permitted. Voting will be by secret ballot. The Corporate Secretary will collect and tally the ballots, and announce the results of a vote. Only voting results will be announced and recorded in the minutes; individual votes will not be announced or recorded.

4.6.4 Compensation of Directors

Directors shall receive compensation as recommended by the Corporate Governance Committee, and approved by the Membership, and shall be reimbursed for actual expenses reasonably incurred or accrued in the performance of their duties.

4.6.5 Executive Session

Executive sessions (open only to directors and to parties invited by the Chair) shall be held as necessary upon agreement of the Board of Directors to safeguard confidentiality of sensitive information regarding employee, financial, or legal matters.

5.0 COMMITTEES ADVISING THE BOARD OF DIRECTORS

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.
- (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 19 persons. Four representatives shall be investor owned utilities Members; four 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; two representatives shall be alternative power/public interest Members; 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 with individual or aggregated loads of less than 1-MW. Representatives will be elected in accordance with Section 5.1.2 of these Bylaws.

5.1.1.2 Qualifications

A representative shall be an officer or employee of a Member with decision-making responsibility over SPPlated activities, and must be the Member's representative to the Membership.

5.1.2 Term and Election

Representatives shall be nominated by the Corporate Governance Committee and elected each year at the meeting of Members to staggered three-year terms commencing upon election and continuing until their duly elected successors take office. The election process shall be as follows:

- (a) At least 90 calendar days prior to the meeting of Members at which election of new representatives is required, the Corporate Governance Committee shall nominate persons equal in number to the representatives to be elected;
- (c) At least 30 calendar days prior to the meeting of Members, the Corporate Governance Committee shall determine the persons it nominates for election as representatives, specifying the nominee for any vacancy to be filled. The Corporate Secretary shall prepare the ballot accordingly, leaving space for additional names, and shall deliver same to Members at least two weeks prior to the meeting of Members;
- (c) For purposes of electing and removing representatives only, each group of Members with Affiliate Relationships shall be considered a single vote;
- (d) At the meeting of Members, any additional nominee or nominees may be added to the ballot if a motion is made and seconded to add such nominee or nominees; and
- (e) The required number of representatives shall be elected by written ballot. A Member shall be entitled to cast a number of votes equal to the number of representatives to be elected. A Member may not cumulate votes. The candidates in each sector receiving the greatest number of votes will fill vacancies.

5.1.3 Resignation and Removal of Members Committee Representatives

Any representative may resign by written notice to the President noting the effective date of the resignation. A representative may be removed, with cause, by the affirmative vote of a majority of the Members at a meeting of Members. Removal proceedings may only be initiated by a petition signed by not less than twenty percent of the Members. The petition shall state the specific grounds for removal and shall specify whether the removal vote is to be taken at a special meeting of Members or at the next regular meeting of Members. A representative who is the subject of removal proceedings shall be given fifteen days to respond to the Member petition in writing to the President.

5.1.4 Vacancies

If a vacancy occurs the Corporate Governance Committee may elect an interim representative from the same sector to serve until a replacement representative from the same sector is elected and takes office. A special election shall be held at the next meeting of Members to fill the vacancy for the unexpired term. The replacement representative shall take office immediately following the election.

5.1.5 Meetings

The Members Committee shall meet only with the Board of Directors.

6.0 COMMITTEES REPORTING TO THE BOARD OF DIRECTORS

This section describes the general scopes and responsibilities of the Organizational Groups reporting directly to the Board of Directors. Nothing in this section is meant to limit these responsibilities or activities in the effort to fulfill SPP's mission.

6.1 Markets and Operations Policy Committee

Each SPP Member shall appoint a representative to the Markets and Operations Policy Committee (MOPC). Each representative designated shall be an officer or employee of

the Member. The Board of Directors will appoint the Chair and Vice Chair of the MOPC. Each member of the MOPC may continue to be a member thereof until the appropriate Member appoints a successor.

The MOPC shall meet at least three times per calendar year, and additionally as needed. The MOPC shall report to the Board of Directors following each MOPC meeting with respect to its activities and with such recommendations, as the MOPC deems necessary.

The responsibilities of the Markets and Operations Policy Committee shall include:

- (a) Recommend practices for system design, planning, adequacy, regional transmission service tariff, interconnections, operation, reliability, market designs and efficiency, and market power mitigation that will help to assure efficient and reliable power supply among the systems in SPP and SPP transmission customers;
- (b) Coordinate and review with ERO Policies and Standards and their applicability to SPP, its Members, and Registered Entities in the SPP footprint;
- (c) Present any Regional Reliability Standards for ERO adoption in accordance with SPP's Standards Development Process.
- (d) Coordinate and oversee the work of any Standards Development Team(s).
- (e) Report to the Trustees on all standards recommended by working groups reporting to the MOPC.
- (f) Make appropriate recommendations to the Board of Directors and Regional Entity Trustees regarding SPP's compliance with ERO Policies and Standards;
- (g) Review Member operating plans and problems that are pertinent to SPP planning and operation;
- (h) Maintain an annual series of load flow and short circuit models and associated stability data bases representing the current and planned electric network of the region, and maintain a data base of all transmission, generation, and supporting facilities within SPP;
- (i) Review and assess the current and planned electric system of the region;
- (j) Make use of studies available from other regions;
- (k) Recommend to the Board of Directors criteria for planning, operations, and to assist in the efficiency and vitality of the wholesale electricity market;

- (l) Coordinate inter-regional and intra-regional plans and facilitate planning, information exchange, and operations between inter-regional and intra-regional groups;
- (m) Develop a coordinated plan for intra-regional transmission for greater efficiency and reliability of electric power supply;
- (n) Recommend to the Board of Directors and Members individual or joint action to improve the operation of the systems comprising SPP;
- (o) Respond to activities as requested by the Strategic Planning Committee and the Board of Directors;
- (p) Monitor the current state and evolution of the electric energy supply industry and proactively recommend commercial practices that meet industry needs and promote commerce;
- (q) Work with all SPP Organizational Groups to promote a high standard of operational reliability;
- (r) Continue coordination of its efforts with the efforts of North American Energy Standards Board (NAESB) and the ISO/RTO Council (IRC), including periodic review of NAESB business practices and IRC policies and their applicability to SPP and its Members;
- (s) Complete a self-assessment annually to determine how effectively the MOPC is meeting its responsibilities; and
- (t) Perform such other functions as the Board of Directors may delegate or direct.

6.2 Strategic Planning Committee

The Strategic Planning Committee (SPC) shall be comprised of eleven members. Three representatives shall be from the Board of Directors; four representatives from the Transmission Owning Member sector as nominated by the Corporate Governance Committee; and four representatives from the Transmission Using Member sector as nominated by the Corporate Governance Committee.

The Board of Directors shall appoint the representatives of the SPC. Each representative of the SPC shall continue to be a representative thereof until the Board of

Directors appoints his/her successor. Where a vacancy occurs, the Corporate Governance Committee will fill the vacancy on an interim basis until the next meeting of the Board of Directors.

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

The responsibilities of the Strategic Planning Committee shall include:

- (a) Gather information from SPP Members, customers, Staff, regulatory jurisdictions, market monitors, and legislative bodies on industry trends, forecasts and directions;
- (b) Assess the industry environment in which SPP will be operating;
- (c) Assess SPP's capabilities and competencies against the industry environment, including coordination with neighboring entities;
- (d) Develop and recommend to the Board of Directors a mission and vision statement and accompanying goals and objectives;
- (e) Formulate strategies to ensure achievement of SPP's mission statement, goals, objectives, and responsibilities, and recommend necessary modifications to SPP processes to carry out these strategies;
- (f) Work with other Organizational Groups in developing related action plans, schedules and budgets;
- (g) Complete a self-assessment annually to determine how effectively the SPC is meeting its responsibilities; and
- (h) Perform such other functions as the Board of Directors may delegate or direct.

6.3 Human Resources Committee

The Human Resources Committee (HRC) shall be comprised of six members. Two representatives shall be from the Board of Directors, one of whom shall serve as the Chair; two representatives from the Transmission Owning Member sector as nominated by the Corporate Governance Committee; and two representatives from the Transmission Using Member sector as nominated by the Corporate Governance Committee.

The Board of Directors shall appoint the representatives of the HRC. Each representative of the HRC shall continue to be a representative thereof until the Board of Directors appoints his/her successor. Where a vacancy occurs the Corporate Governance Committee will fill the vacancy on an interim basis until the next meeting of the Board of Directors.

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

The responsibilities of the Human Resources Committee shall include assistance to the Board of Directors in fulfilling its responsibility to the Members, and investment community with respect to the oversight of:

- (a) The development and administration of employee benefit programs;
- (b) The effectiveness of SPP's compensation plan for employees;
- (c) The activities of investment managers charged with managing employee benefit assets, including evaluation of performance;
- (d) Approve and monitor SPP staffing structure to ensure it accomplishes organizational mission;
- (e) Maintain current job description for the President and conduct annual performance evaluation;
- (f) Recommend policies by which positions, duties, qualifications, salaries, benefits and other necessary matters pertaining to the SPP Officers are determined;

- (g) Other duties and responsibilities detailed in the Human Resources Committee charter; and
- (h) Perform such other functions as the Board of Directors may delegate or direct.

6.4 Oversight Committee

The Oversight Committee (OC) shall be comprised of three members from the Board of Directors.

The Board of Directors shall appoint the representatives of the OC. Each representative of the OC shall continue to be a representative thereof until the Board of Directors appoints his/her successor. Where a vacancy occurs, the Board of Directors will fill the vacancy.

The OC shall meet as needed, provided that a quorum, as defined in these Bylaws, is present. The OC shall report to the Board of Directors following each OC meeting with respect to its activities and with such recommendations, as the OC deems necessary.

The responsibilities of the Oversight Committee shall include:

- (a) Oversee the process of monitoring compliance to SPP and NERC policies other than that assigned to the Regional Entity Trustees under these Bylaws;
- (b) Independently review activities of the Staff;
- (c) Hear and rule on appeals from Members regarding penalty assessment or fine distribution prior to dispute resolution proceedings;
- (d) Recommend Regional Criteria changes necessary for enforcement of mandatory compliance and in response to unclear enforcement provisions of Regional Criteria;
- (e) Grant specific additional authority to the Staff responsible for the oversight monitoring function when needed to perform challenging investigations;
- (f) Oversee the Internal Audit function and receive regular reports, except for that work associated with SAS70 Audit requirements and other financial matters;
- (g) Complete a self-assessment annually to determine how effectively the OC is meeting its responsibilities; and
- (h) Perform such other functions as the Board of Directors may delegate or direct.

6.5 Finance Committee

The Finance Committee (FC) shall be comprised of six members. Two representatives shall be from the Board of Directors, one of whom shall serve as the Chair; two representatives from the Transmission Owning Member sector as nominated by the Corporate Governance Committee; and two representatives from the Transmission Using Member sector as nominated by the Corporate Governance Committee.

The Board of Directors shall appoint the representatives of the FC. Each representative of the FC shall continue to be a representative thereof until the Board of Directors appoints his/her successor. Where a vacancy occurs the Corporate Governance Committee will fill the vacancy on an interim basis until the next meeting of the Board of Directors.

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

The responsibilities of the Finance Committee shall include assistance to the Board of Directors in fulfilling its responsibility to the Members, and investment community with respect to its oversight of:

- (a) The quality and integrity of SPP's financial statements;
- (b) SPP's compliance with financially-based legal and regulatory requirements;
- (c) The independent auditor's qualifications, selection, and independence;
- (d) The performance of SPP's internal audit function and independent auditors as relates to SAS70 Audit requirements;
- (e) The development and implementation of annual and long-term operating and capital budgets;
- (f) The management of risk;
- (g) Develop policies for management of debt financing and for long-term contracting;
- (h) Monitoring methodology for cost recovery to ensure continuing equity for Members;

- (i) Other duties and responsibilities detailed in the Finance Committee charter; and
- (j) Perform such other functions as the Board of Directors may delegate or direct.

6.6 Corporate Governance Committee

To the extent that the membership allows, the Corporate Governance Committee (CGC) shall be comprised of nine 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.

Where a vacancy occurs with respect to a representative of a sector, the representatives from the appropriate sector will fill the vacancy.

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.

The responsibilities of the Corporate Governance Committee shall include:

- (a) Seek input from the Board of Directors, the Members Committee, or the Trustees as to the skills needed to fill any vacancy under consideration;
- (b) In the event of a vacancy or the replacement of an existing director, provide candidates identified by an independent executive search firm for consideration to the Members for election to the Board of Directors;
- (c) In the event of a vacancy or the replacement of an existing Trustee, provide candidates for consideration to the Members for election to the Regional Entity Trustees;

- (d) In the event of a vacancy or the replacement of an existing Members Committee representative, provide candidates for consideration to the Membership for election to the Members Committee;
- (e) Fill vacancies for Organizational Groups in accordance with these Bylaws;
- (f) Monitor the composition of the Board of Directors to ensure balance, independence, maintenance of qualifications under any applicable laws, avoidance of conflict of interest, and periodic review of the criteria for independence set out in the Bylaws and appropriate regulatory bodies, recommending changes, as appropriate;
- (g) Recommend to the Board of Directors the appointment of Organizational Group representatives and leadership except for the Corporate Governance Committee, whose representatives are elected by members in each category; the Members Committee, whose representatives are elected by the Membership; and the Market and Operations Policy Committee, whose representatives are appointed by the Members;
- (h) Develop criteria governing the overall composition of the Board of Directors for recommendation to the Membership;
- (i) Develop criteria governing the overall composition of the Regional Entity Trustees for recommendation to the Membership;
- (j) Coordinate an annual review and assessment of the effectiveness of the Board of Directors, its structure, and process;
- (k) Coordinate an annual review and assessment of the effectiveness of the Regional Entity Trustees, its structure, and process;
- (l) Review annually the structure of the Organizational Groups, and together with the Organizational Group Chairs, the charters of each Organizational Group, and recommend changes to the Board of Directors, as appropriate;
- (m) Review the self-assessments of the Organizational Groups to assure that they are being done on a consistent basis;

- (n) Develop recommendations for the Board of Directors regarding a Chair/Vice Chair succession policy;
- (o) Recommend compensation levels for the Board of Directors and Regional Entity Trustees to the Membership;
- (p) Complete a self-assessment annually to determine how effectively the CGC is meeting its responsibilities; and
- (q) Perform such other functions as the Board of Directors may delegate or direct.

7.0 REGULATORY INVOLVEMENT AND REGIONAL STATE COMMITTEE

Any regulatory agency having utility rates or services jurisdiction over a Member may participate fully in all SPP activities, including participation at the SPP Board of Directors meetings. These representatives shall have all the same rights as Members except the right to vote. Participation includes the designation of representatives by each of the regulatory jurisdictions to participate in any type of committee, working group, task force, and Board of Directors meetings.

7.1 Retention of State Regulatory Jurisdiction

Nothing in the formation or operation of SPP as a FERC recognized regional transmission organization is in any way intended to diminish existing state regulatory jurisdiction and authority. Each state regulatory agency is expressly reserved the right to exercise all lawful means available to protect its existing jurisdiction and authority.

7.2 Regional State Committee

An RSC, to be comprised of one designated commissioner from each state regulatory commission having jurisdiction over an SPP Member, shall be established to provide both direction and input on all matters pertinent to the participation of the Members in SPP. This direction and input shall be provided within the context of SPP's organizational group meetings as well as Board of Directors meetings. The SPP Staff will assist the RSC in its collective responsibilities and requests by providing information and analysis. SPP will fund the costs of the RSC pursuant to an annual budget developed by the RSC and submitted to SPP as part of its budgeting process, which budget must ultimately be approved by the Board of Directors.

The RSC has primary responsibility for determining regional proposals and the transition process in the following areas:

- (a) whether and to what extent participant funding will be used for transmission enhancements;
- (b) whether license plate or postage stamp rates will be used for the regional access charge;
- (c) FTR allocation, where a locational price methodology is used; and
- (d) the transition mechanism to be used to assure that existing firm customers receive FTRs equivalent to the customers' existing firm rights.

The RSC will also determine the approach for resource adequacy across the entire region. In addition, with respect to transmission planning, the RSC will determine whether transmission upgrades for remote resources will be included in the regional transmission planning process and the role of transmission owners in proposing transmission upgrades in the regional planning process.

As the RSC reaches decisions on the methodology that will be used to address any of these issues, SPP will file this methodology pursuant to Section 205 of the Federal Power Act. However, nothing in this section prohibits SPP from filing its own related proposal(s) pursuant to Section 205 of the Federal Power Act.

Issued by: L. Patrick Bourne, Manager
Transmission and Regulatory Policy

Effective: May 1, 2004

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7.3 Retention of Other Regulatory Jurisdiction

Nothing in the formation or operation of SPP as a FERC recognized regional transmission organization is in any way intended to diminish the jurisdiction or authority of any other regulatory body. Any regulatory agency having utility rates or services jurisdiction over a Member or the regional transmission organization reserves the right to exercise all lawful means available to protect its existing jurisdiction and authority.

8.0 FISCAL ADMINISTRATION

The fiscal year shall coincide with the calendar year.

8.1 Operating Budget

SPP Staff and the Finance Committee will prepare an annual budget of expenditures for the next fiscal year and an estimate for an additional two years. The proposed budget shall be submitted to the Board of Directors not less than two weeks prior to the meeting at which the budget is to be considered for approval. Except as addressed in Section 9.0 *Regional Entity Function*, once approved by the Board of Directors, the budget shall constitute the authority required by the Officers for expenditures for the ensuing year. Modifications to the budget during the fiscal year must be recommended to the Board of Directors by the Finance Committee. The President shall have the authority to approve expenditures in accordance with SPP policy as approved by the Board of Directors.

8.2 Annual Membership Fee

All SPP Members will be subject to an annual membership fee in the amount of \$6,000, or other amount established by the Board of Directors. Unless otherwise agreed, Membership fees for new Members are due at the execution of the Membership Agreement. Membership fees are not subject to refund. The Board of Directors shall determine the annual membership fee for the upcoming year in advance of the last meeting of Members in a calendar year. Legitimate public interest groups (e.g. consumer advocates, environmental groups, or citizen participation groups) may seek a waiver of the annual membership fee. The request for waiver must be directed to the President in writing 90 days in advance of the start of each fiscal year.

8.3 ERO and Regional Entity Costs

SPP is a Regional Entity of the Electric Reliability Organization and is subject to the terms of the Delegation Agreement executed by SPP and the ERO. SPP will have certain functions as signatory to the Delegation Agreement related to the establishment and submission of annual budgets related to fulfillment of Regional Entity functions as well as participation in the costs incurred by ERO. The Delegation Agreement may specify SPP's responsibility to collect ERO costs from SPP's Regional Entity footprint, and may specify ERO's responsibility to fund SPP's Regional Entity budget.

SPP will clearly set out the costs associated with its operation as a Regional Entity within SPP's annual budget.

8.4 Monthly Assessments

SPP will assess certain Members described herein on a monthly basis all costs not otherwise collected. Costs recovered under the assessment will include but are not limited to all operating costs, financing costs, debt repayment, and capital expenditures associated with the performance of SPP's functions as assigned by the Board of Directors. Significant among these are costs associated with regional reliability coordination and the provision of transmission service. SPP shall determine the assessment rate based on its annual budgeted net expenditures divided by estimated annual Schedule 1 billing units for service sold under SPP's OATT and Member load eligible to take, but not taking, Network Integration Transmission Service under SPP's OATT. The Board of Directors may review the assumptions used in determining the assessment rate at any time and may adjust the assessment rate appropriately should conditions warrant. Each load-serving Member shall then be assessed the monthly assessment rate applied to its load eligible to take Network Integration Transmission Service under the SPP OATT. Further, each load-serving Member shall receive a credit against the monthly assessment for that month's Schedule 1 fees paid for Network Integration Transmission Service and for Point-to-Point Transmission Service that had a delivery point within the SPP region, under the SPP OATT.

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Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. ER08-1380-000, Letter Order, Issued October 6, 2008.

8.5 Fiscal Agent

The President shall serve as the fiscal agent of SPP. The President shall keep an up-to-date record of receipts and disbursements and furnish reports to the Board of Directors and the Finance Committee.

8.6 Auditors

The Board of Directors shall annually engage an independent certified public accounting firm to perform an annual audit of SPP's financial records and prepare a report on the financial condition of SPP. The Finance Committee shall present the audit report to the Board of Directors upon completion.

8.7 Financial Obligation of Withdrawing Members

8.7.1 Existing Obligations

"Existing Obligations" are the following:

- a. Member's unpaid annual membership fee.
- b. Member's unpaid dues, assessments, and other amounts charged under Section 3.8 or otherwise under the Bylaws, plus the Member's share of costs SPP customarily includes in such dues, assessments or other charges, but which as of the Termination Date SPP had not included in such dues, assessments or other charges.
- c. Member's share (computed in accordance with the Bylaws) of the entire principal amounts of all SPP Financial Obligations outstanding as of the Termination Date. "Financial Obligations" are all long-term (in excess of six (6) months) financial obligations of SPP, including but not limited to the following:
 - i. debts under all loans, loan agreements, borrowings, promissory notes, bonds, and credit lines, under which SPP is obligated, including principal and interest;
 - ii. all payment obligations under equipment leases, financing leases, capital leases, real estate and office space leases, consulting contracts, and contracts for outsourced services;

Issued by: L. Patrick Bourne, Director – Regulatory Policy

Issued on: November 3, 2008

Effective: May 18, 2007

Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. ER08-1380-000, Letter Order, Issued October 6, 2008.

- iii. any unfunded liabilities of any SPP employee pension funds, whether or not liquidated or demanded; and
- iv. the general and administrative overhead of SPP for a period of three (3) months.
- d. Any costs, expenses or liabilities incurred by SPP directly due to the Termination, regardless of when incurred or payable, and including without limitation prepayment premiums or penalties arising under SPP Financial Obligations.
- 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.

Issued by: L. Patrick Bourne, Director
Transmission and Regulatory Policy

Effective: August 10, 2005

Issued on: December 12, 2005

Filed to comply with order of the Federal Energy Regulatory Commission, Docket Nos. RT04-1, ER04-48 and ER05-1352, issued October 7, 2005, 113 FERC ¶ 61,014 (2005).

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 within SPP
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.

9.0 REGIONAL ENTITY FUNCTION

9.1 Regional Entity

SPP operates as a Regional Entity under FERC jurisdiction with oversight powers delegated to it by the ERO. The Regional Entity Trustees shall appoint representatives to ERO organizational groups as necessary to represent the interests of the SPPgional Entity. SPP may pay appropriate associated travel expenses of those appointed representatives upon receipt by the Secretary to the Trustees of an expense report as normally filed within the representative's system.

9.2 Regional Entity Staff

The Regional Entity Trustees will oversee staffing requirements for the SPPgional Entity. All SPPgional Entity staff shall report through the Regional Entity (RE) General Manager to the Trustees.

9.3 RE General Manager

The RE General Manager shall be selected by and report to the SPPgional Entity Trustees, and will provide leadership and vision, oversee the execution of RE strategic direction, and direct the day-to-day operations of the RE. The RE General Manager shall carry out the rights, duties and obligations of the SPP pursuant to the authority granted by these Bylaws, the Regional Entity Trustees, and SPP corporate policies. The RE General Manager's responsibilities shall include but are not limited to:

- (a) Providing guidance and oversight of the execution of the performance of delegated statutory functions from the ERO;
- (b) Developing and managing an appropriate organizational structure and staffing levels to accomplish the RE functions;
- (c) Developing an annual RE business plan and budget for RE Trustee, NERC and FERC approval;
- (d) Providing sound fiscal management;
- (e) Ensuring compliance with SPP's Bylaws and Regional Entity Delegation Agreement, as well as other applicable federal, state, and local laws; and
- (f) Interfacing with SPP members and stakeholders, federal and state regulators, other Regional Entities, and NERC on matters related to the reliability of the bulk power system.

The President shall ensure that the RE General Manager has adequate resources, access to information, and the full cooperation of Staff and Organizational Groups for the effective execution of his/her duties.

9.4 Duties of Regional Entity Staff

Regional Entity functions related to compliance monitoring and enforcement shall include but are not limited to:

- (a) Investigation of all reports or discoveries of non-compliance with approved ERO policies and standards;
- (b) Obtaining all information needed to investigate all facets of possible noncompliance with ERO policies and standards;
- (c) Performance of in-depth reviews of operations in conjunction with the Compliance Monitoring and Enforcement Program (CMEP);
- (d) Comprehensive audits when recurring issues covering a broad spectrum of violations of ERO policies and standards are determined and documented;
- (e) Recommendation of financial penalties and/or sanctions for non-compliance with ERO policies and standards pursuant to ERO guidelines;
- (f) Assist the Regional Entity Trustees with third party audits to confirm that SPP is conforming to ERO policies and standards;
- (g) Utilization of dispute resolution procedures as necessary to resolve conflicts or appeals; and
- (h) Coordination of policy modifications to clearly define ERO requirements, and penalties in order to objectively monitor compliance.

9.5 Regional Reliability Standards Development Process

When an SPP working group or task force is considering an SPPgional Reliability Standard, it will be designated the Standards Development Team (SDT) for that Standard in accordance with the SPPgional Entity Standards Development Process Manual. For purposes of an SDT, participation and voting will be open to any interested party in accordance with the Standards Development Process and without regard to membership status in SPP.

9.6 Compliance Monitoring and Enforcement Program

The Regional Entity Trustees will oversee SPP's Compliance Monitoring and Enforcement Program (CMEP). The CMEP will enforce compliance according to ERO reliability standards

for Registered Entities. Regional Entity staff shall oversee compliance auditing of registered entities, and will report audit results to the Regional Entity Trustees. All audits of SPP's compliance with ERO reliability standards will be performed by external third party auditors as coordinated and managed by the Regional Entity Trustees.

9.7 Regional Entity Trustees

9.7.1 Functions and Duties of the Regional Entity Trustees

The Regional Entity Trustees shall at all times act in the best interests of SPP's role as the SPPgional Entity in its management, control, and direction of the general business of the Regional Entity functions. In reaching any decision and in considering the recommendations of an appropriate entity, the Regional Entity Trustees shall abide by the principles in these Bylaws. Its duties shall include, but are not limited to oversight of the following:

- (a) Select, oversee and review the performance of the SPP General Manager in carrying out the statutory functions and duties as defined in the Delegation Agreement between ERO and SPP;
- (b) Approve the annual RE business plan and budget;
- (c) Perform function assigned by the SPP Compliance Monitoring and Enforcement Program;
- (d) Track and review Regional Standards from MOPC for submission to the ERO and FERC for approval and implementation.
- (e) Complete a self-assessment annually to determine how effectively the Regional Entity Trustees are meeting their responsibilities; and
- (f) Provide an annual report to the Board of Directors regarding the effectiveness of the Regional Entity function and processes.

9.7.2 Composition and Qualifications

9.7.2.1 Composition

The Regional Entity Trustees shall consist of three (3) persons. The trustees shall be independent of the SPP Board of Directors, any Member, industry stakeholder, or SPP organizational group. Regional Entity Trustees do not serve as members of the SPP Board of Directors. A trustee shall not be limited in the number of terms he/she may serve.

9.7.2.2 Qualifications

Regional Entity Trustees shall have relevant senior management expertise and experience in the reliable operation of the bulk electric transmission system in North America.

9.7.2.3 Conflicts of Interest

Regional Entity Trustees shall not be a director, officer, or employee of, and shall have no direct business relationship, financial interest in, or other affiliation with, a Member, a customer of services provided by SPP, or a Registered Entity in the SPP footprint. Trustees may invest in accordance with the SPP Standards of Conduct. Participation in a pension plan of a Member, customer, or Registered Entity in the SPP footprint shall not be deemed to be a direct financial benefit if the Member's, customer's, or Registered Entity's financial performance has no material effect on such pension plan.

9.7.3 Term and Election

Regional Entity Trustees shall be elected at the meeting of Members to a three-year term commencing upon election and continuing until his/her duly elected successor takes office. The election process shall be as follows:

- (a) At least 90 calendar days prior to the meeting of Members when election of a new trustee is required, the Corporate Governance Committee shall commence the process to nominate persons for the position to be elected;

- (b) At least 45 calendar days prior to the meeting of Members, the Corporate Governance Committee shall determine the person it nominates for election as a trustee, specifying the nominee for any vacancy to be filled. The Corporate Secretary shall prepare the ballot accordingly, leaving space for additional names, and shall deliver same to Members at least 30 calendar days prior to the meeting of Members;
- (c) For purposes of electing or removing trustees only, Members with Affiliate Relationships shall be considered a single Member;
- (d) Any additional nominee(s) may be added to the ballot if a petition is received by the Corporate Secretary at least 15 calendar days prior to the meeting of Members and evidencing support of at least 20 percent of the existing Membership; and
- (e) 1) If only one candidate is nominated for a seat, each Member shall be entitled to cast a vote for or against the nominee. The votes will be calculated in accordance with Section 3.9 *Voting* of these Bylaws, which requires a super majority. In the event a trustees position is not filled the Corporate Governance Committee will determine a new nominee for recommendation for election by the Membership at a special meeting of Members to be held but no later than the next regular Board of Directors/Members Committee meeting;

2) If multiple candidates are nominated for a seat, each Member shall be entitled to cast a vote for only one nominee, but may vote against each candidate. The votes will be calculated in accordance with Section 3.9 *Voting* of these Bylaws, with the exception that a simple majority of votes cast will determine which nominee is elected. In the event a trustee position is not filled, the Corporate Governance Committee will determine a new nominee for recommendation for election by the Membership at a special meeting of Members to be held no later than the next regular Board of Directors/Members Committee meeting.

9.7.4 Resignation and Removal of Regional Entity Trustees

Any Regional Entity Trustee may resign by written notice to the President noting the effective date of the resignation. The Membership may remove a trustee with cause in accordance with Section 3.9 *Voting* of these Bylaws. Removal proceedings may only be initiated by a petition signed by not less than twenty percent of the Members. The petition shall state the specific grounds for removal and shall specify whether the removal vote is to be taken at a special meeting of Members or at the next regular meeting of Members. A trustee who is the subject of removal proceedings shall be given fifteen days to respond to the Member petition in writing to the President.

9.7.5 Vacancies

If a vacancy occurs, the Corporate Governance Committee will present a nominee to the Membership for consideration and election to fill the vacancy for the unexpired term at a special meeting of Members following 30 calendar days notice from the corporate Secretary. The election will be held in accordance with Section 9.7.3 *Term and Election* of these Bylaws. The replacement trustee shall take office immediately upon election.

9.7.6 Meetings and Notice of Meetings

Regular Regional Entity Trustees' meetings will be scheduled in conjunction with the regularly scheduled SPP Board of Directors meetings, provided the meeting schedule may be adjusted for good cause and with sufficient notice, and additionally upon the call of the chair or upon concurrence of at least two trustees. Except as otherwise provided in these Bylaws, all meetings will be open to any interested party. At least fifteen days' written notice shall be given by the chair to each trustee, the Board of Directors, and the Members Committee of the date, time, place and purpose of a meeting, unless such notice is waived by the trustees. Telephone conference meetings may be called as appropriate by the chair with at least one-day prior notice. The chair shall grant any party's request to address the Regional Entity Trustees.

9.7.7 Chair

The Regional Entity Trustees shall elect from its membership a chair for a two-year term commencing upon election and continuing until the chair's duly elected successor takes office or until the chair's term as a trustee expires without re-election. The panel may elect to rotate the chair to the senior member of the panel when the initial, or subsequent, chair's term expires.

9.7.8 Quorum and Voting

Two trustees shall constitute a quorum of the Regional Entity Trustees necessary for a binding vote. Decisions of the Regional Entity Trustees require two affirmative votes. Trustees must be present at a meeting to vote; no votes by proxy are permitted. All Regional Entity Trustee decisions regarding the Regional Entity are final except as subject to oversight by the ERO and FERC.

9.7.9 Compensation of Regional Entity Trustees

Regional Entity Trustees shall receive compensation as recommended by the Corporate Governance Committee, and approved by the Membership submitted for approval as part of the ERO budget process. Trustees shall be reimbursed for actual expenses reasonably incurred or accrued in the performance of their duties.

9.7.10 Executive Session

Executive sessions (open only to Trustees and parties invited by the chair of the Regional Entity Trustees) shall be held as necessary upon agreement of the Regional Entity Trustees to safeguard confidentiality of sensitive information regarding employee, financial or legal matters, or confidential information related to compliance matters.

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 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, 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. All amendments are subject to the requisite regulatory approval(s).

11.0 EFFECTIVE DATE AND TRANSITION PROVISIONS

These Bylaws shall become effective the day following acceptance at FERC and remain in force thereafter as may be amended. These Bylaws hereby cancel and supersede SPP Bylaws; provided, that these Bylaws do not relieve any Member from any financial obligation incurred thereunder. Binding obligations entered into by authority of Officers or the Board of Directors, or the Regional Entity Trustees under these Bylaws are hereby assumed and confirmed as obligations of SPP under these Bylaws.

Exhibit C – Regional Standard Development Procedure

Exhibit C shall set forth the Regional Entity’s standards development procedure, which NERC agrees meets the following common attributes:

COMMON ATTRIBUTE 1

Proposed regional reliability standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA [add reference to any applicable authorities in Canada and Mexico]. No regional reliability standard shall be effective within the SPP area unless filed by NERC with FERC [and applicable authorities in Canada and Mexico] and approved by FERC [and applicable authorities in Canada and Mexico].

COMMON ATTRIBUTE 2

SPP regional reliability standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. An SPP reliability standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. A regional reliability standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

COMMON ATTRIBUTE 3

SPP regional reliability standards, when approved by FERC, shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the SPP area, regardless of membership in the region.

COMMON ATTRIBUTE 4

Requester — The requester is the sponsor of the regional reliability standard request and may assist in the development of the standard. Any member of SPP or group within SPP shall be allowed to request that a regional reliability standard be developed, modified, or withdrawn. Additionally, any entity (person, organization, company, government agency, individual, etc.) that is directly and materially affected by the reliability of the bulk power system in the SPP area shall be allowed to request a regional reliability standard be developed, modified, or withdrawn.

COMMON ATTRIBUTE 5

[Standards or other named] committee — The SPP [standards] committee manages the standards development process. The [standards] committee will consider which requests for new or revised standards shall be assigned for development (or existing standards considered for deletion). The [standards] committee will advise the SPP board on standards presented for adoption.

COMMON ATTRIBUTE 6

[Alternative 6B: For a Regional Entity that chooses to vote using a balanced ballot body of stakeholders.]

Registered ballot body — The registered ballot body comprises all entities or individuals that qualify for one of the stakeholder segments; are registered with SPP as potential ballot participants in the voting on standards; and are current with any designated fees. Each member of the registered ballot body is eligible to vote on standards. [Each standard action has its own ballot pool formed of interested members of the registered ballot body. Each ballot pool comprises those members of the registered ballot body that respond to a pre-ballot survey for that particular standard action indicating their desire to participate in such a ballot pool.] The representation model of the registered ballot body is provided in Appendix A.

COMMON ATTRIBUTE 7

SPP will coordinate with NERC such that the acknowledgement of receipt of a standard request identified in step 1, notice of comment posting period identified in step 4, and notice for vote identified in step 5 below are concurrently posted on both the SPP and NERC websites.

COMMON ATTRIBUTE 8

An acceptable standard request shall contain a description of the proposed regional reliability standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed standard.

COMMON ATTRIBUTE 9

Within [no greater than 60] days of receipt of a completed standard request, the [standards] committee shall determine the disposition of the standard request.

COMMON ATTRIBUTE 10

The [standards] committee may take one of the following actions:

- Accept the standard request as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The [standards] committee may, at its discretion, expand or narrow the scope of the standard request under consideration. The [standards] committee shall prioritize the development of standard in relation to other proposed standards, as may be required based on the volume of requests and resources.

- Reject the standard request. If the [standards] committee rejects a standard request, a written explanation for rejection will be delivered to the requester within [no greater than 30] days of the decision.

- Remand the standard request back to the requester for additional work. The standards process manager will make reasonable efforts to assist the requester in addressing the deficiencies identified by the [standards] committee. The requester may then resubmit the modified standard request using the process above. The requester may choose to withdraw the standard request from further consideration prior to acceptance by the [standards] committee.

COMMON ATTRIBUTE 11

Any standard request that is accepted by the [standards] committee for development of a standard (or modification or deletion of an existing standard) shall be posted for public viewing on the SPP website within [no greater than 30] days of acceptance by the committee.

COMMON ATTRIBUTE 12

The standards process manager shall submit the proposed members of the drafting team to the [standards] committee. The [standards] committee shall approve the drafting team membership within 60 days of accepting a standard request for development, modifying the recommendations of the standards process manager as the committee deems appropriate, and assign development of the proposed standard to the drafting team.

COMMON ATTRIBUTE 13

At the direction from the [standards] committee, the standards process manager shall facilitate the posting of the draft standard on the SPP website, along with a draft implementation plan and supporting documents, for a no less than a [30]-day comment period. The standards process manager shall provide notice to SPP stakeholders and other potentially interested entities, both within and outside of the SPP area, of the posting using communication procedures then currently in effect or by other means as deemed appropriate.

COMMON ATTRIBUTE 14

The drafting team shall prepare a summary of the comments received and the changes made to the proposed standard as a result of these comments. The drafting team shall summarize comments that were rejected by the drafting team and the reason(s) that these comments were rejected, in part or whole. The summary, along with a response to each comment received will be posted on the SPP website no later than the next posting of the proposed standard.

COMMON ATTRIBUTE 15

Upon recommendation of the drafting team, and if the [standards] committee concurs that all of the requirements for development of the standard have been met, the standards process manager shall post the proposed standard and implementation plan for ballot and shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

COMMON ATTRIBUTE 16

The standards process manager shall schedule a vote by the SPP [registered ballot body/[standards] committee]. The vote shall commence no sooner than [15] days and no later than [30] days following the issuance of the notice for the vote.

COMMON ATTRIBUTE 17

[Alternative 17B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

The SPP registered ballot body shall be able to vote on the proposed standard during a period of [not less than 10] days.

COMMON ATTRIBUTE 18

[Alternative 18B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

All members of SPP are eligible to participate in voting on proposed new standards, standard revisions or standard deletions. [Alternatively: Each standard action requires formation of a ballot pool of interested members of the registered ballot body.]

COMMON ATTRIBUTE 19

[Alternative 19B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

Approval of the proposed regional reliability standard shall require a [two thirds] majority in the affirmative (affirmative votes divided by the sum of affirmative and negative votes). Abstentions and non-responses shall not count toward the results, except that abstentions may be used in the determination of a quorum. A quorum shall mean [XX%] of the members of the [registered ballot body/ballot pool] submitted a ballot.

COMMON ATTRIBUTE 20

Under no circumstances may the board substantively modify the proposed regional reliability standard.

COMMON ATTRIBUTE 21

Once a regional reliability standard is approved by the board, the standard will be submitted to NERC for approval and filing with FERC [and applicable authorities in Canada and Mexico.]

COMMON ATTRIBUTE 22

- **Open** - Participation in the development of a regional reliability standard shall be open to all organizations that are directly and materially affected by the SPP bulk power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in SPP, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to the SPP members and others.

COMMON ATTRIBUTE 23

- **Balanced** – The SPP standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.

COMMON ATTRIBUTE 24

- **Inclusive** — Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the SPP

area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.

COMMON ATTRIBUTE 25

- **Fair due process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.

COMMON ATTRIBUTE 26

- **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.

COMMON ATTRIBUTE 27

- Does not unnecessarily delay development of the proposed reliability standard.

COMMON ATTRIBUTE 28

Each standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

COMMON ATTRIBUTE 29

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all regional reliability standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

COMMON ATTRIBUTE 30

To ensure uniformity of regional reliability standards, a regional reliability standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

COMMON ATTRIBUTE 31

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

COMMON ATTRIBUTE 32

Applicability	Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions. If not applicable to the entire SPP area, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.
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COMMON ATTRIBUTE 33

Measure(s)	Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.
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COMMON ATTRIBUTE 34

<p>Compliance Monitoring Process</p>	<p>Defines for each measure:</p> <ul style="list-style-type: none">• The specific data or information that is required to measure performance or outcomes.• The entity that is responsible for providing the data or information for measuring performance or outcomes.• The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes.• The entity that is responsible for evaluating data or information to assess performance or outcomes.• The time period in which performance or outcomes is measured, evaluated, and then reset.• Measurement data retention requirements and assignment of responsibility for data archiving.
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Southwest Power Pool
Regional Entity
Standards Development Process
Manual

October 2, 2007

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I. Introduction

This manual defines the fair and open process for adoption, approval, revision, reaffirmation, and deletion of a regional reliability standard (Standard) by Southwest Power Pool, a regional entity (RE). Standards provide for the reliable regional and sub-regional planning and operation of the Bulk Power System (BPS), consistent with Good Utility Practice within an RE's geographical footprint.

Due process is the key to ensuring that Standards are developed in an environment that is equitable, accessible and responsive to the requirements of all interested and affected parties. An open and fair process ensures that all interested and affected parties have an opportunity to participate in a Standard's development.

Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the Bulk Power System has a right to participate by: a) expressing a position and its basis, b) having that position considered, c) voting on a proposed regional reliability standard through a segment weighted balanced process, and d) having the right to appeal.

II. Background

An RE may develop, through its own processes, separate Standards that go beyond, add detail to, or implement NERC reliability standards, or otherwise address issues that are not addressed in NERC reliability standards.

NERC reliability standards and the RE's Standards are all to be included within the RE's Compliance Program.

RE Standards are developed consistent with the following philosophies and according to the process defined in this manual:

- A fair and open process that provides an opportunity for all interested parties to participate;
- Avoid any impact on commerce that is not necessary for reliability;
- Provide a level of BPS reliability that is adequate to protect public health, safety, welfare, and national security and do not have a significant adverse impact on reliability; and
- A justifiable difference between regions or between sub-regions within the Regional geographic area.

The NERC Board of Trustees has adopted reliability principles and market interface principles to define the purpose, scope, and nature of reliability standards. These principles are fundamental to reliability and the market interface, and provide a constant beacon to guide the development of reliability standards. The NERC Board of Trustees may modify these principles from time to time, as necessary, to adapt its vision for reliability standards. Persons and committees that are responsible for the RE Standards process shall consider these NERC principles in the execution of those duties.

NERC reliability standards are based on certain reliability principles that define the foundation of reliability for the North American BPS. Each Standard shall enable or support one or more of the reliability principles, thereby ensuring that it serves a purpose in support of reliability of the North American BPS. Each Standard shall also be consistent with all of the reliability principles, thereby ensuring that no Standard undermines reliability through an unintended consequence.

While NERC reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that BPS reliability and electricity markets are inseparable and mutually interdependent, all Standards shall be consistent with the market interface principles. Consideration of the market interface principles is intended to ensure that Standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

III. Regional Reliability Standard Definition, Characteristics, and Elements

A. Definition of a Regional Reliability Standard

A NERC reliability standard defines certain obligations or requirements of entities that operate, plan, and use the Bulk Power Systems of North America. The obligations or requirements must be material to reliability and measurable. Each obligation and requirement shall support one or more of the stated reliability principles and shall be consistent with all of the stated reliability and market interface principles in the NERC Standards Process Manual.

SPP RE may develop, through the process described in this manual, separate SPP Regional Reliability Standards (Standard) that go beyond, add detail to, or implement NERC reliability standards, or that cover matters not addressed in NERC continent-wide reliability standards. SPP Regional Reliability Standards may be developed and exist separately from NERC continent-wide reliability standards, or may be proposed as NERC reliability standards. Standards that exist separately from NERC reliability standards shall be more stringent than a NERC continent-wide reliability standard, including a regional difference that addresses matters that the NERC continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. These regional reliability standards, if approved by the RE Trustees, are forwarded to NERC for review and submittal to FERC for approval.

B. Definition of SPP Criteria

SPP Criteria are those requirements used by SPP members that are for purposes others than those specified for SPP Regional Reliability Standards (Standards). SPP Criteria are enforceable only under the terms and conditions of the SPP Membership Agreement. SPP Criteria may be developed in accordance with SPP Bylaws outside the process described within this manual since these criteria are not intended to be used by the SPP Regional Entity for compliance and enforcement under the authority delegated under the NERC – SPP Regional Delegation Agreement.

C. Characteristics of a Regional Reliability Standard

Standards define obligations or requirements for the operation and planning of interconnected systems and market interface practices that will be enforceable under the authority of the SPP RE. The format and process defined by this manual applies to all Standards.

A Standard shall have the following characteristics:

- **Material to Reliability** - A Standard shall be material to the reliability of bulk power systems of the RE's region. If the reliability of the bulk power systems could be compromised without a particular standard or by a failure to comply with that standard, then the standard is material to reliability.
- **Measurable** - A Standard shall establish technical or performance requirements that can be practically measured.

- **Relative to NERC Reliability Standards** - A Standard must go beyond, add detail to, or implement NERC reliability standards, or cover matters not addressed in NERC reliability standards.

D. Elements of a Regional Reliability Standard

An RE Standard shall consist of the elements identified in this section of this manual. These elements are intended to apply a systematic discipline in the development and revision of Standards. This discipline is necessary to achieve standards that are measurable, enforceable, and consistent. The format allows a clear statement of the purpose, requirements, measures, and penalties for non-compliance associated with each Standard. Supporting documents to aid in the implementation of a Standard may be referenced by the Standard but are not part of the Standard itself. All mandatory requirements of a Standard shall be within an element of the standard.

Performance Elements of a Regional Reliability Standard

Identification Number	A unique identification number assigned in accordance with an administrative classification system to facilitate tracking and reference RE documentation. Format for Regional Standard Request will be: RSR-000
Title	A brief, descriptive phrase identifying the topic of the Standard.
Effective Date and Status	The effective date of the Standard or, prior to adoption of the Standard by the RE through its own processes, the proposed effective date. The status of the standard will be indicated as active or by reference to one of the numbered steps in the standards process.
Purpose	The purpose of the Standard. The purpose shall explicitly state what outcome will be achieved or is expected by this Standard. The purpose is agreed to early in the process as a step toward obtaining approval to proceed with the development of the standard. The purpose should link the standard to the relevant principle(s).
Requirement(s)	Explicitly stated technical, performance, and preparedness requirements. Each requirement identifies the responsible entity and the action to be performed or outcome to be achieved. Each statement in the requirements section shall be a statement for which compliance is mandatory. Any additional comments or statements for which compliance is not mandatory such as background or explanatory information should be placed in a separate document and referenced. (See Supporting References).

Applicability	<p>Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions.</p> <p>If not applicable to the entire SPP area, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.</p>
Risk Factor(s)	<p>The potential reliability significance of each requirement, designated as a High, Medium, or Lower Risk Factor in accordance with the criteria listed below:</p> <p>A High Risk Factor requirement (a) is one that, if violated, could directly cause or contribute to bulk power system instability, separation, or a cascading sequence of failures, or could place the bulk power system at an unacceptable risk of instability, separation, or cascading failures; or (b) is a requirement in a planning time frame that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly cause or contribute to bulk power system instability, separation, or a cascading sequence of failures, or could place the bulk power system at an unacceptable risk of instability, separation, or cascading failures, or could hinder restoration to a normal condition.</p> <p>A Medium Risk Factor requirement (a) is a requirement that, if violated, could directly affect the electrical state or the capability of the bulk power system, or the ability to effectively monitor and control the bulk power system, but is unlikely to lead to bulk power system instability, separation, or cascading failures; or (b) is a requirement in a planning time frame that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly affect the electrical state or capability of the bulk power system, or the ability to effectively monitor, control, or restore the bulk power system, but is unlikely, under emergency, abnormal, or restoration conditions anticipated by the preparations, to lead to bulk power system instability, separation, or cascading failures, nor to hinder restoration to a normal condition.</p> <p>A Lower Risk Factor requirement is administrative in nature and (a) is a requirement that, if violated, would not be expected to affect the electrical state or capability of the bulk power system, or the ability to effectively monitor and control the bulk power system; or (b) is a requirement in a planning time frame that, if violated, would not, under the emergency, abnormal, or restorative conditions anticipated by the preparations, be expected to affect the electrical state or capability of the bulk power system, or the ability to effectively monitor, control, or restore the bulk power system.</p>

Measure(s)	Each requirement shall be addressed by one or more measurements. Measurements will be used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measurement identifies to whom the measurement applies and the expected level of performance or outcomes required to demonstrate compliance. Each measurement shall be tangible, practical, and as objective as is practical. Measures are proxies to assess required performance or outcomes. Achieving the measures should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirements(s) to which it applies.
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Compliance Elements of a Regional Reliability Standard

Compliance Monitoring Process	<p>The following compliance elements, which are part of the standard and are balloted with the standard are developed for each measure in a standard by the NERC compliance program in coordination with the standard drafting team:</p> <ul style="list-style-type: none"> • The specific data or information required to measure performance or outcomes. • The entity responsible for providing the data or information for measuring performance or outcomes. • The process used to evaluate data or information for the purpose of assessing performance or outcomes. • The entity responsible for evaluating data or information to assess performance or outcomes. • The time period in which performance or outcomes is measured, evaluated, and then reset. • Measurement data retention requirements and assignment of responsibility for data archiving.
Violation Severity Levels	Defines the degree to which compliance with a requirement was not achieved. The violation severity levels, are part of the standard and are balloted with the standard, and developed by the NERC compliance program in coordination with the standard drafting team.

Supporting Information Elements

Interpretations	Formally approved interpretations of the reliability standard. Interpretations are temporary, as the standard should be revised to incorporate the interpretation. Interpretations are developed and approved through a process described in the section Interpretations of Standards.
Implementation Plan	Each standard shall have an associated implementation plan describing the effective date of the standard or effective dates if there is a phased implementation. The implementation plan may also describe the implementation of the standard in the compliance program and other considerations in the initial use of the standard, such as necessary tools, training, etc. The implementation plan must be posted for at least one public comment period and is approved as part of the ballot of the standard.
Supporting References	<p>This section references related documents that support reasons for, or otherwise provide additional information related to, the Standard. Examples include, but are not limited to:</p> <ul style="list-style-type: none"> • Development history of the Standard and prior versions • Notes pertaining to implementation or compliance • Standard references • Standard supplements • Procedures • Practices • Training references • Technical references • White papers • Internet links to related information

IV. Roles in the Regional Reliability Standards Development Process

Any member of NERC, including any member of a regional reliability organization, regional entity, or group within NERC shall be allowed to request that a Standard be developed, modified, or withdrawn. Additionally, any entity (person, organization, company, government agency, individual, etc.) who is directly and materially affected by the reliability of the North American Bulk Power Systems shall be allowed to request a Standard be developed, modified, or withdrawn.

Originator - Any entity (person, organization, company, governmental agency, individual, etc.) that is directly and materially affected by the operation of an RE's BPS, is allowed to request a Standard be developed or an existing Standard be modified, or deleted.

Registered ballot body — The registered ballot body comprises all entities or individuals that qualify for one of the voting segments and are registered with SPP as a ballot participant in the voting of a proposed standard. Membership in SPP is not a requirement for registration. Registration in a ballot body must be done via the SPP website by close of business the day prior to the day voting begins on the standard. [Each standard action has its own registered ballot body.] The representation model of the registered ballot body is provided in Sec V. B. Regional Reliability Standards Development Process Steps, Step 5 – Open Voting.] The outcome of the vote of the registered ballot body is forwarded to the RE Trustees regardless of advisory voting outcomes at the MOPC or SPP Board level.

SPP Regional Entity Trustees (RE Trustees) – The SPP Regional Entity Trustees shall act on any proposed Standard that has gone through the process contained in this manual. Upon approval by the RE Trustees, the Standard will be submitted to NERC for approval under the ERO. RE Trustees are notified of all proposed regional reliability standards requests and receive progress reports from the RE Staff. They also receive notice of the outcome of votes by the ballot body and any recommendations and reports on proposed standards made by the SDT, MOPC and SPP Board.

Regional Entity Staff (RE Staff)- RE Staff shall support the RE Trustees in their oversight authority over the Standards Development Process and any other function or responsibility ascribed to them in the NERC- Southwest Power Pool, Inc. Delegation Agreement.

SPP Markets and Operations Policy Committee (MOPC) - The SPP Markets and Operations Policy Committee will assign Standards to a Standards Development Team for development or revision

SPP Board of Directors and Members Committee (BOD/MC) – The SPP Board of Directors in conjunction with the Members Committee provides advisory votes to the RE Trustees on reliability matters as they pertain to the RE. The BOD/MC votes on proposed regional standards or changes to regional standards for the sole purpose of providing an additional stakeholder forum for review, and valuable input to the RE Trustees decision on a regional standard based on the groups expertise on reliability, operations and market matters as well as its wide diverse representation of the SPP membership.

Compliance Director – The RE office responsible for the administration of the SPP Compliance Program. The duties of this office includes but are not limited to, providing inputs and comments during the standards development process to ensure the measures will be effective and can be practically implemented.

Standard Drafting Team (SDT) – Usually an existing SPP Working Group or Task Force that is comprised of technical experts. Any interested party may attend meetings, provide input and comments, and vote under provisions of the SPP Regional Standards Process Manual.

V. Regional Reliability Standards Development Process

A. Assumptions and Prerequisites

The process for developing and approving Standards is similar to procedures accredited by the American National Standards Institute (ANSI), like that employed by the North American Energy Standards Board (NAESB). The Standards development process has the following characteristics:

- **Inclusive** - Any entity (person, organization, company, governmental agency, individual, etc.) representing an organization with a direct and material interest has a right to participate by:
 - a) Expressing an opinion and its basis,
 - b) Having that position considered,
 - c) Voting on a proposed regional reliability standard through a segment weighted balanced process, and
 - d) Appealing any negative decision

- **Openness** - Participation is open to all organizations that are directly and materially affected by the RE's BPS reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in the RE, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of SDT's are open to all interested parties and are noticed on the SPP website at least 15 days in advance. Since pre-existing SPP committees, working groups, or task forces may be assigned the responsibilities of a SDT, the agenda for meetings will note that an SDT activity is being undertaken to distinguish such activity from other non-SDT related agenda items. The openness provisions of this manual apply only and explicitly to the SDT activities. Meetings of subcommittees and working groups serving as a SDT shall follow the SPP Bylaws Sec 3.5 Meetings.
- **Balance** - The RE Standards development process strives to have an appropriate balance of interests. The process prevents any two voting sectors from dominating voting outcomes and no single voting sectors from defeating a proposed reliability standard.
- **Due Process** – The SPP Regional Reliability Standards Development Process provides reasonable notice and opportunity for public comment. At the minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.

- **Transparent** – All actions material to the development of a SPP regional reliability standard shall be transparent. All standards development meetings shall be open and publicly noticed on the SPP website.

B. Regional Reliability Standards Development Process Steps

Note: The term “days” below refers to calendar days.

Step 1 – Request to Develop, Revise or Delete a Regional Reliability Standard

Any individual representing an organization (Originator) that is directly or materially impacted by the operation of the BPS within the geographical footprint of the RE may submit a request to the Markets and Operations Policy Committee (MOPC) for the development, modification, or deletion of an RE Standard. Any such request shall be submitted to the MOPC Chairman, or his/her designee, or by another process as otherwise posted on the SPP website. The request should be made using the SPP Regional Standard Request Form (RSR) in Appendix B.

The MOPC or a designee will work with the Originator to develop a description of the proposed Standard subject matter containing sufficient detail to clearly define the purpose, scope, impacted parties, and other relevant information related to the proposed Standard.

Step 2 – Notification to Regional Entity Trustees & Public Notice

The Chairman of the MOPC or his/her designee will forward the request to the RE Trustees. SPP staff will also post the request on the SPP website for public notice and may utilize any appropriate SPP email distribution lists within 30 days. The request is not to be judged as appropriate or useful at this stage.

The MOPC will assign the drafting and scoping responsibility to an appropriate SPP Working Group or Task Force. This group will become the Standards Drafting Team (SDT) for this particular Standard request. The assignment will include any necessary deadlines and due dates for the Standard.

Any documentation of the deliberations of the SDT concerning the Standard shall be made available in accordance with the SPP Bylaws requirements for meeting and organizational groups then in effect. Meetings of the SDT are open to any interested party. Meeting dates and actions on the regional reliability standard are publicly noticed on SPP's public Web site.

The SDT shall provide a report to the RE Trustees and the MOPC on a periodic basis (at least at every regularly scheduled meeting) noting the status of the Standard that has been assigned to it for consideration.

Step 3 – Scoping and Drafting

The SDT will draft the language of the Standard per the Standard description provided by the MOPC and the Originator. The SDT may recommend changes to the scope, purpose, need or other relevant aspects of the Standard through consultation with the MOPC.

The SDT develops a work plan for completing the Standard development work, including the establishment of milestones for completing critical elements of the work in sufficient detail to ensure that the SDT will meet the date objective in the assignment, or an alternative date. This plan will be provided to the RE Trustees and the MOPC.

The SDT may meet in person or via electronic means as necessary; may establish sub-work teams (made up of members of the SDT) as necessary; and perform other activities to address the parameters of the Standard and the established milestone date(s).

The SDT should consider:

- The impact of the Standard on neighboring regions, and seek appropriate input from the neighboring regions if the Standard is determined to have such an impact.
- An implementation plan, including the nature, extent and duration of field-testing, if any.
- The need for any existing Standard to be deleted, in part or whole, or otherwise impacted by the implementation of the draft Standard.
- Technical reports, white papers and/or work papers that provide technical support for the draft Standard under consideration.
- Documenting the perceived reliability impact should the Standard be approved.

The SDT will regularly (at least at every regularly scheduled meeting) report to the RE Trustees and the MOPC on its progress in meeting a timely completion of the draft Standard. The SDT may request consideration of scope changes of the Standard at any point in the Standard development process.

The RE Trustees or the MOPC may, at any time direct the SDT move to Step 4 and post for comment the current work product, or to terminate the activity if there is no further need for the Standard. If the activity is terminated RE Staff will notify the Originator and the RE Trustees within 30 days.

If there are competing drafts all will be posted on the SPP website for comment. The MOPC may take this step at any time after a SDT has been commissioned to develop the Standard.

For Standards in progress, the MOPC must take action to move to Step 4. *Public Comments*, or to reject the proposal. If the MOPC votes to terminate the activity, the RE Trustees must be notified with supporting reasons provided to them. The proposed standard would then go directly to Step 11. (See Step 11. *RE Trustees Action*)

Step 4 – Post Draft for 30 Day Public Comments

RE Staff will post the draft Standard on the SPP website, along with any supporting documents, for a 30-day comment period. RE Staff shall also inform registered entities and other potentially interested stakeholders of the posting using available SPP communication resources, or by other means deemed appropriate. Comments may be submitted using the RSR Comment Form in Appendix B available on the SPP internet website.

Within 30 days of the conclusion of 30-day comment posting period the SDT shall convene and consider changes to the draft Standard, the implementation plan and/or supporting technical documents. The SDT may elect to return to Step 3. *Scoping and Drafting* to revise the draft Standard, and/or any supporting documentation. The SDT shall summarize the comments received and any changes made as a result. This summary will be and posted on the SPP website when completed.

Step 5 – Open Voting

The SDT shall direct the RE Staff to post the revised draft Standard and other relevant documents including, implementation plan, supporting technical documentation, and summary of comments.

RE Staff will schedule a vote by interested parties to commence no sooner than 15 days and no later than 30 days following the posting of the revised draft.

Members of the ballot body shall be allowed to vote over a period of 15 days. Voting will be through electronic means or other means provided by SPP.

SPP Segment Weighted Voting

Registration in a ballot body created for a specific proposed regional standard is required to vote. Registration for a proposed Standard is noticed on the SPP website and through a Standards email exploder for a period of 15 days prior to the start of the ballot (subscription to the Standards email exploder is open to any interested party through the SPP website). All interested parties who register with the ballot body may vote on the proposed new Standard, Standard revision or Standard deletion. An interested party may only register in one segment.

The five SPP voting segments for Regional Reliability Standards are:

- 1) Transmission
- 2) Generation
- 3) Marketer/Broker
- 4) Distribution/Load Serving Entity
- 5) End User and Public Interest

RE Staff will accept votes any time during the 15-day ballot period for the Standard. Votes will be counted by voting segment. Each voting segment will receive 20% of the vote. A weighted vote of 2/3 affirmative of those voting will pass a Standard for further consideration (Step 7). If the vote fails to achieve a 2/3 majority of those voting, the Standard will be returned to the SDT for consideration for future action (Step 3). The SDT may: revise the Standard; post the Standard again for comments; reballot the Standard; ask the RE Trustees to terminate the request; or any other action it deems appropriate.

The RE Trustees are notified of the outcome of the vote and any actions taken by the SDT as a result of the vote. The RE Trustees will determine any additional action to be taken. (See Step 11. *RE Trustees Action*)

Step 6 – Prepare Consensus Draft & Minority Report

When a Standard is approved, the SDT will prepare a consensus draft representing the version of the Standard to be presented to the MOPC and the BOD/MC before final action by the RE Trustees.

Minority Report and Appeals

- A minority report will be prepared if there are significant issues that cannot be resolved within the SDT during the drafting phase (Step 3) or from the public comments (Step 4).
- A minority report will include any appeals from interested parties that the SPP Standards Procedure Manual was violated in the development of the Standard.
- The minority report remains a part of the record of the Standard and is available to any interested party during any subsequent steps.
- The consensus draft and any minority reports are presented to the MOPC for its consideration and an advisory vote.

Step 7 – Post Draft Standard for Action on the MOPC Agenda

A recommended Standard is noticed for consideration on the MOPC agenda. The agenda materials are made available per the SPP Bylaws, Section 3.5.

If a Standard requires consideration by the MOPC prior to a regularly scheduled meeting, the RE Staff will notify the MOPC Chairman who will notice a special meeting in accordance with the SPP Bylaws.

Step 8 – MOPC Review

The MOPC will provide an advisory vote on the Standard under the governance provisions of the SPP Bylaws, Section 3.9 Voting.

If the MOPC opposes the Standard, the MOPC may request revision of the Standard or termination of further activity on the Standard. If the Standard is terminated, notice is provided (described in Step 9) to the RE Trustees for further action (Step 11).

If the MOPC concurs with the Standard, the Standard proceeds to the SPP Board of Directors and Members Committee for review (Step 9).

The RE Trustees are notified of the outcome of the MOPC review.

Step 9 – SPP Board of Directors/Members Committee Review

A draft Standard submitted to the SPP Board of Directors/Members Committee (BOD/MC) for review must be publicly posted at least 10 days prior to consideration by the BOD/MC. The BOD/MC may consider the Standard at a regularly scheduled meeting, or as determined by the Chairman of the BOD/MC.

The BOD/MC shall be provided:

- The consensus draft Standard and any modification or deletion of other related existing Standard(s)
- Implementation Plan (including recommended field testing and effective dates)

- Technical Documentation supporting the draft Standard
- A summary of the registered ballot body vote and summary of the comments and responses that accompanied the votes including a Minority Report if applicable.
- The results of the MOPC advisory vote and any comments
- Any other information relevant to the Standard

The BOD/MC will:

- Provide an advisory vote to the RE Trustees on the Standard (Step 10); or
- Return the Standard to the MOPC with comments

In the case of a second return of a Standard, the proposed Standard is forwarded to the RE Trustees for action. (The proposed Standard would go directly to Step 11).

Step 10 –Presentation to RE Trustees

A draft Standard submitted to the RE Trustees for action must be publicly posted at least 10 days prior to consideration by the RE Trustees.

The RE Trustees shall be provided:

- The consensus draft Standard and any modification or deletion of other related existing Standard(s)
- Implementation Plan (including recommended field testing and effective dates)
- Technical Documentation supporting the draft Standard
- A summary of the registered ballot body vote and summary of the comments and responses that accompanied the vote including a Minority Report if applicable
- The results of the MOPC advisory vote and any comments
- The result of the BOD/MC advisory vote and any comments
- Any other information relevant to the Standard

Step 11 - RE Trustees Action

The RE Trustees will:

- Recommend NERC approve the Standard through the NERC process; or
- Remand the Standard to the SDT through the MOPC with comments and instructions; or
- Determine there is no need for the Standard and terminate any future activity.

The RE Trustees may consider the Standard at a regularly scheduled meeting, or as determined by the Chairman of the RE Trustees.

If a Standard is forwarded to the RE Trustees for action as a result of an opposing MOPC vote (Step 8), or if automatically forwarded to them as a result of two or more returns by the MOPC

or SPP Board (Step 9), the RE Trustees will take definitive action, including initiating the process from Step 3, Scoping and Drafting. The RE Trustees may not submit a Standard to NERC for approval without a positive outcome from open and balanced voting in Step 5.

Advisory votes of the MOPC and the BOD/MC do not impact the RE Trustees' authority to submit a Standard to NERC.

Step 12 – Submit to NERC for Approval as Regional Standard

RE Staff will notify interested parties of submission of Standard to NERC by the RE Trustees through the normal and customary communication procedures and processes then in effect.

The RE Staff will publicly notice any further steps necessary to have a Standard reviewed and/or approved through the NERC or any successor organization standards process.

C. Filing of Regional Reliability Standards with Regulatory Agencies

The development of Standards must be administered in coordination with the NERC Standards Development Procedure. At the discretion of the NERC Board of Trustees, adopted Standards may be filed with applicable regulatory agencies in the United States, Canada, and Mexico. Regional Reliability Standards once approved by FERC, are made part of the NERC standards and shall be enforced accordingly.

Appendix A

I. Maintenance of the Regional Reliability Standards Development Process Manual

Any interested party may propose changes to this Manual. Such Process Manual change requests will follow all the steps of the Regional Reliability Standards Process outlined in Section V., Part B of this Manual.

II. Appeals

Persons who have directly and materially affected interests and who have been or will be adversely affected by any substantive or procedural action or inaction related to the development, approval, revision, reaffirmation, or withdrawal of a Standard shall have the right to appeal. This appeals process applies only to the Standards process as defined in this procedure.

The burden of proof to show adverse effect shall be on the appellant. Appeals shall be made within 30 days of the date of the action purported to cause the adverse effect, except appeals for inaction, which may be made at any time. In all cases, the request for appeal must be made prior to the next step in the process.

The appeal will be addressed by the RE Trustees. The appeal is included in a Minority Report of the Standard which remains a part of the record for the Standard throughout the SPP Regional Standards Procedure.

The final decisions of any appeal shall be documented in writing and made public.

A complaint will be noted in a Minority Report including the substantive or procedural action or inaction associated with a reliability standard or the standards process. The complaint should describe the actual or potential adverse impact to the appellant. The RE Trustees will provide a written response to the complaint. The appellants response to the RE Trustees determination will be included in the Minority Report.

The RE Trustees shall provide a response to any remaining open complaints.

Appendix B: SPP Regional Standard Request Form

RSR Number		RSR Title	
SPP Regional Standard Name (include Section No., Title, and existing Standard Version if any)			
Requested Resolution Date (if applicable)			
Description			
Reliability Need or Purpose – Try to identify if known: Technical requirements, reliability risk factor, measurements (refer to SPP Standards Process Manual for descriptions).			
Tariff Implications or Changes (Yes or No; If yes include a summary of impact and/or specific changes)			
Criteria Implications or Changes (Yes or No; If yes include a summary of impact and/or specific changes)			
NERC Standard Implications (Yes or No, and summary of impact)			

Sponsor	
Name	
E-mail Address	
Company	
Company Address	
Phone Number	
Fax Number	

Proposed Regional Standard Language

Appendix C: SPP Regional Standard Request Comment Form

RSR Number		RSR Title	
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Date	
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Submitter's Information	
Name	
E-mail Address	
Company	
Company Address	
Phone Number	
Fax Number	

Comment Form Instructions (please delete before submitting comments):

Comments are to be submitted electronically and are due by close of business of the comment due date. Please follow this file naming convention:
 ###PRR <Company Name> Comments<date>.doc.

Comments

Revised Regional Standard Language

Appendix D: SPP Standards Development Procedure

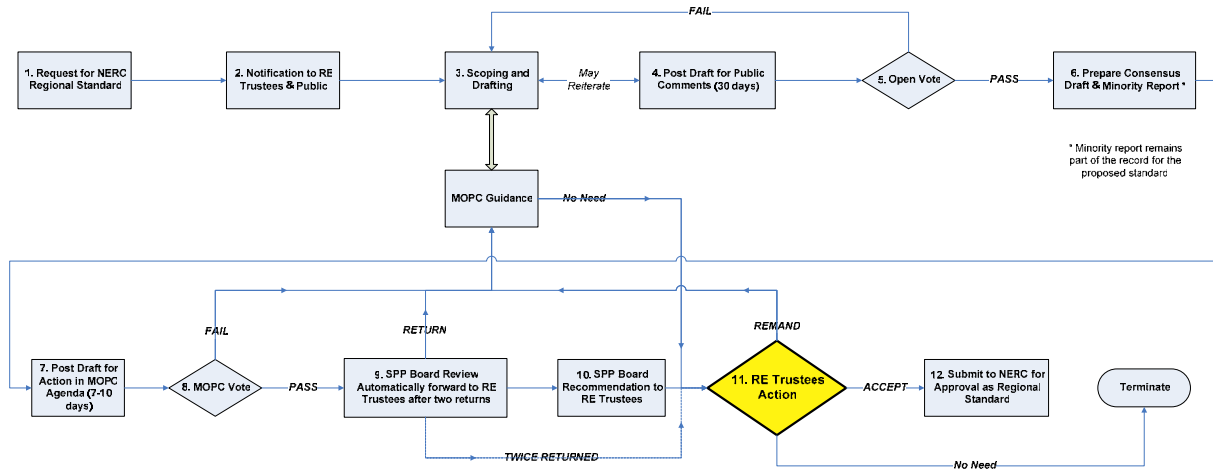


EXHIBIT D – COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

SPP will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within **SPP's** geographic or electrical boundaries, and such other scope, set forth on **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

SPP shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either **SPP's** board or a balanced compliance panel reporting directly to **SPP's** board. **SPP's** hearing body is the SPP Regional Entity Trustees.

SPP shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: None.

3.0 OTHER DECISION-MAKING BODIES

SPP has engaged the SERC Reliability Corporation (SERC) to oversee the compliance monitoring and enforcement responsibility within the SPP Region as related to **SPP's** compliance with Reliability Standards requirements that are applicable to the functions for which **SPP** is a Registered Entity.

Exhibit E — Funding

1. Scope of activities funded through the ERO funding mechanism

SPP shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

- (a) NERC and SPP, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of SPP's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require SPP (i) to submit to NERC draft(s) of SPP's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by SPP Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of SPP's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The SPP business plan and budget submission shall include supporting materials, including SPP's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. SPP's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.
- (b) NERC shall review and approve SPP's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct SPP to make such revisions as NERC deems appropriate prior to approval. NERC shall submit SPP's approved business plan and budget and proposed assessments to the Commission for

approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of SPP's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. SPP shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying SPP's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of SPP's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

- (a) NERC shall submit invoices to the load-serving entities or designees identified by SPP covering the NERC and SPP assessments approved for collection.
- (b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from ERO Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, SPP shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, SPP is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within SPP's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within SPP's region.
- (c) Upon approval by ERO Governmental Authorities of SPP's annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay SPP's annual assessment to Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by SPP, shall be applied as a general offset to SPP's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity.

6. Budget and Funding for SPP's Non-Statutory Activities

In addition to its delegated functions and related activities as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), SPP performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"):

SPP's performs non-statutory activities as a Regional Transmission Organization ("RTO"). As a RTO, SPP is mandated by the Commission to ensure reliable supplies of power, adequate transmission infrastructure, and competitive wholesale prices of electricity. In furtherance of this mandate, SPP's specific non-statutory activities are the following primary services:

1. **Tariff Administration:** Independent administration of the Open Access Transmission Tariff that provides one-stop shopping for regional transmission service with consistent rates and terms.
2. **Reliability Coordination:** SPP monitors power flow throughout our footprint. We anticipate problems and take preemptive action to mitigate operating limit violations. SPP coordinates regional response in emergency situations or blackouts.
3. **Regional Scheduling:** SPP ensures that the amount of power sent is coordinated and matched with power received. SPP's regional scheduling service reduces the number of entities with which SPP members and customers have to coordinate.
4. **Market Operations:** SPP administers an Energy Imbalance Marketplace, monitors resource/load balance and ensures that less expensive power is used to serve load before expensive power, all while ensuring system reliability is met.
5. **Expansion Planning:** SPP's planning process seeks to identify system limitations and develop transmission upgrades for increased capacity.
6. **Contract Services:** SPP provides reliability, tariff administration, and scheduling for non-members on a contract basis.

SPP shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions:

(i) Separation of funding sources for statutory activities and non-statutory activities. As a RTO, SPP is a public utility under the Federal Power Act, and is required to submit its budget to the Commission. The Commission already has approved SPP's RTO activities and has ordered that SPP's budgets be filed with the Commission.

SPP's non-statutory activities are funded separately from its Regional Entity statutory activities through the imposition of a Commission-approved Tariff Administration Fee charged by SPP to all load under the SPP Open Access Tariff, except for Contract Services activities, which are funded by contract fees. Additionally, SPP's members are assessed an annual membership fee.

SPP shall provide its budget for such non-statutory activities to NERC at the same time that SPP submits its annual budget to FERC. SPP agrees that no costs of non-statutory activities are to be included in the calculation of SPP's dues, fees, and other charges for its statutory activities.

As provided in section 4(c) of this Exhibit E, on a quarterly basis, NERC will pay SPP an amount equal to one-fourth of the current year approved annual funding amount for SPP's statutory activities. Upon receipt of payment from NERC, SPP will deposit these funds into an account established solely to receive and hold funding received from NERC pursuant to SPP's performance of statutory activities under the Delegation Agreement. On a monthly basis, all expenses incurred by SPP for statutory activities and for non-statutory activities are recorded and paid from the SPP operating account. Throughout the year, as expenses incurred for SPP statutory activities are paid from the SPP operating account, transfers are made from the account established solely to receive and hold funding received from NERC to the SPP operating account in the amounts of payments made for expenses incurred for SPP statutory activities. The RE General Manager shall have sole authority to approve all withdrawal of funds from the SPP Regional Entity bank account.

(ii) Separation of costs of statutory activities and non-statutory activities. All employees performing functions directly attributed to SPP's delegated responsibilities who also perform functions related to SPP's non-statutory activities will utilize a time tracking system to accurately reflect their time spent on statutory activities. Periodically, but no less frequently than annually, SPP will input the time associated with its direct function staff performing statutory activities into a cost calculation model. Specific, direct costs attributable to the direct function staff performing statutory activities are salary, SPP-paid medical insurance, Medicare and Social Security taxes, and other SPP-paid benefits. These costs are then combined with other directly assignable costs of statutory activities, such as travel, meetings, contractors, professional services, fees and expenses of Regional Entity independent trustees, and other direct administrative expenses, and reported on the NERC Statement of Activities.

In addition, an allocation of SPP overhead costs to statutory activities is calculated and the allocated overhead costs are recorded on the NERC Statement of Activities. These overhead costs are shared throughout the SPP organization and include costs for payroll and accounts payable processing, human resources and benefits management, accounting, information technology, executive leadership, corporate affairs and communications, office costs and other support services and expenditures. This allocation is calculated using a standard hourly rate multiplied by the number of SPP staff hours spent directly performing SPP's statutory activities. The hourly rate for allocated overhead costs is developed using SPP's current year

expenses, by separating SPP's shared services support costs which support all of SPP's functions (*i.e.*, the costs for the activities identified in the second sentence of this paragraph) from SPP's operational resource pool. The total indirect costs are then divided by estimated total annual available work hours for SPP's operational resource pool. The average annual employee utilization rate assumes each employee works an eight-hour work day with adjustments to reflect SPP's employment policies related to vacation allotment, SPP holidays and other non-productive leave. The total expenses for statutory activities in a month as recorded on the NERC Statement of Activities are used to determine the amount of transfer to be made to the SPP operating account to reimburse the SPP operating account for the payment of expenses of SPP's statutory activities. The RE General Manager shall have sole authority to approve all withdrawal of funds from the SPP Regional Entity bank account.

SPP shall provide its budget for such non-statutory activities to NERC at the same time that SPP submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. SPP's budget for non-statutory activities that is provided to NERC shall contain a detailed list of SPP's non-statutory activities and a description of the funding sources for the non-statutory activities. SPP agrees that no costs (which shall include a reasonable allocation of SPP's general and administrative costs) of non-statutory activities are to be included in the calculation of SPP's assessments, dues, fees, and other charges for its statutory activities.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if SPP determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, SPP shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in SPP's approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct SPP to make such revisions as NERC deems appropriate prior to approval. NERC shall submit SPP's approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Statements

NERC shall conduct reviews of the quarterly and annual financial statements submitted by SPP pursuant to Section 9(h) and (i) of the Agreement. SPP shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC based on its reviews.

ATTACHMENT 7B

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED DELEGATION AGREEMENT

WITH

SOUTHWEST POWER POOL REGIONAL ENTITY

REDLINED AGAINST

REVISED PRO FORMA DELEGATION AGREEMENT

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
~~AND REGIONAL ENTITY~~**

AND SOUTHWEST POWER POOL, INC

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”) made as of ~~January 1, 2011~~, 2011, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and ~~REGIONAL ENTITY~~ Southwest Power Pool, Inc., on behalf of Southwest Power Pool Regional Entity (SPP), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified on **Exhibit A** to this Agreement, and for other purposes. NERC and ~~REGIONAL ENTITY~~ SPP may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824n) (hereafter “the Act”), which, among other things, provides for the establishment of an electric reliability organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as ~~[REGIONAL ENTITY]~~SPP provided that:

(Aa) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(Bb) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(Cc) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, ~~[REGIONAL ENTITY]~~ ~~[is/SPP is not]~~ organized on an Interconnection-wide basis and therefore ~~[is/is not]~~ entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through ~~[REGIONAL ENTITY]~~SPP to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that ~~[REGIONAL ENTITY]~~SPP meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and ~~[REGIONAL ENTITY]~~SPP having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and ~~[REGIONAL ENTITY]~~SPP, agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, ~~the~~ ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to ~~[REGIONAL ENTITY]~~SPP to propose and enforce Reliability Standards pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, ~~[REGIONAL ENTITY]~~SPP hereby represents and warrants to NERC that:

(i) ~~[REGIONAL ENTITY]~~SPP is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. ~~[REGIONAL ENTITY]~~SPP is governed in accordance with its bylaws by ~~[select appropriate: an independent board/a balanced stakeholder board/ a combination independent and balanced stakeholder board]~~. Pursuant to these bylaws, no two industry sectors can control any ~~[REGIONAL ENTITY]~~SPP decision and no single industry sector can veto any ~~[REGIONAL ENTITY]~~SPP decision. The relevant portions of such bylaws are attached hereto in **Exhibit B**¹, and as so attached are in full force and effect. No other such corporate governance documents are binding upon ~~[REGIONAL ENTITY]~~SPP

(ii) As set forth in **Exhibit C** hereto², ~~[REGIONAL ENTITY]~~SPP has developed a standards development procedure, which provides the process that ~~[REGIONAL ENTITY]~~SPP may use to develop Regional Reliability Standards ~~[and Regional Variances, if the regional entity is organized on an Interconnection wide basis]~~ that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, ~~[REGIONAL ENTITY]~~SPP has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within ~~[REGIONAL ENTITY]~~SPP's geographic boundaries as shown on **Exhibit A**.

(b) NERC hereby represents and warrants to ~~[REGIONAL ENTITY]~~SPP that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

¹~~The **Exhibit B** from [REGIONAL ENTITY]~~¹The **Exhibit B** from SPP shall meet the requirements contained in **Exhibit B** to this Agreement.

²~~The **Exhibit C** from [REGIONAL ENTITY]~~²The **Exhibit C** from SPP shall meet the requirements contained in **Exhibit C** to this Agreement.

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

3. Covenants.

(a) During the term of this Agreement, ~~[REGIONAL ENTITY]~~SPP shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC's approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of ~~[REGIONAL ENTITY]~~SPP under this Agreement without first obtaining the consent of ~~[REGIONAL ENTITY]~~SPP, which consent shall not be unreasonably withheld or delayed.

(c) During the term of this Agreement, NERC and ~~[REGIONAL ENTITY]~~SPP shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of ~~[REGIONAL ENTITY]~~SPP in Sections 2 and 3 above, the corporate governance documents set forth in **Exhibit B**, the standards development process set forth in **Exhibit C**, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to ~~[REGIONAL ENTITY]~~SPP for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth on **Exhibit A**, *provided*, that ~~[REGIONAL ENTITY]~~ SPP shall not monitor and enforce compliance with Reliability Standards for ~~[REGIONAL ENTITY]~~SPP or an affiliated entity with respect to reliability functions for which

~~[REGIONAL ENTITY]~~SPP or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to ~~[REGIONAL ENTITY]~~SPP within, or additions to this delegation of authority to ~~[REGIONAL ENTITY]~~SPP beyond, the geographic boundaries set forth on **Exhibit A** are stated on **Exhibit A**.

(b) In circumstances where ~~[REGIONAL ENTITY]~~SPP or an affiliated entity is a Registered Entity, ~~[REGIONAL ENTITY]~~SPP shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce ~~[REGIONAL ENTITY]~~SPP's or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit ~~[REGIONAL ENTITY]~~SPP from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified on **Exhibit A** that is within the United States. Any delegation of authority by ERO Governmental Authorities in Canada or Mexico shall be governed by a separate agreement and is outside the scope of this Agreement; provided, however, that both ~~[REGIONAL ENTITY]~~SPP and NERC shall endeavor to ensure that this Agreement and such separate agreements are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, ~~[REGIONAL ENTITY]~~SPP shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, ~~[REGIONAL ENTITY]~~SPP shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process

for proposing and adopting Reliability Standards that affords ~~[REGIONAL ENTITY]~~SPP reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards ~~[and Regional Variances, if Regional Entity is organized on an Interconnection-wide basis]~~ through ~~[REGIONAL ENTITY]~~through SPP's process as set forth in **Exhibit C**. Proposals approved through ~~[REGIONAL ENTITY]~~SPP's process shall be reviewed by the NERC Board after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. ~~[REGIONAL ENTITY]~~SPP may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, ~~[REGIONAL ENTITY]~~SPP shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the geographic boundaries set forth, or as otherwise

specified, in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and ~~[REGIONAL ENTITY]~~SPP agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, *inter alia*, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. ~~[REGIONAL ENTITY]~~SPP may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, ~~[REGIONAL ENTITY]~~SPP agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) ~~[REGIONAL ENTITY]~~SPP shall report promptly to NERC any Possible Violation, Alleged Violation, or Confirmed Violation of a Reliability Standard, and its eventual disposition by ~~[REGIONAL ENTITY]~~SPP. Such report shall include the owner's, operator's, or user's name, which Reliability Standard or Reliability Standards were the subject of the Possible Violation, Alleged Violation, or Confirmed Violation, when the Possible Violation, Alleged Violation, or Confirmed Violation occurred, other pertinent facts including circumstances surrounding the Possible Violation, Alleged Violation, or Confirmed Violation with any known risk to the Bulk-Power System, when the Possible Violation, Alleged Violation, or Confirmed Violation was or will be mitigated, the name of a person knowledgeable about the Possible Violation, Alleged Violation, or Confirmed Violation to serve as a point of contact with the Commission, and any other information required by NERC compliance program procedures. NERC shall promptly forward such report to the Commission. NERC and ~~[REGIONAL ENTITY]~~SPP shall cooperate in filing such periodic summary reports as the Commission shall from time to time direct on Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards and summary analyses of such Possible Violations, Alleged Violations, and Confirmed Violations.

(c) Each Possible Violation, Alleged Violation, or Confirmed Violation shall be treated as nonpublic unless the matter is filed with the Commission as a Notice of Penalty, or, if disclosure is required, dismissed. The disposition of each Possible Violation, Alleged Violation, or Confirmed Violation that relates to a Cybersecurity Incident or that would jeopardize the security of the Bulk-Power System if publicly disclosed shall remain nonpublic unless the Commission directs otherwise.

(d) All dispositions by ~~[REGIONAL ENTITY]~~SPP of Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards shall be reported to NERC for review and, in the case of Confirmed Violations, penalties or sanctions, and settlements, for approval. Following approval of a disposition by NERC, NERC shall file the disposition with the Commission, if required by, and in accordance with, Section 215(e) of the Act and Section 39.7 of the ERO Regulations. NERC shall review ~~[REGIONAL ENTITY]~~SPP's dispositions based on the following criteria:

(i) whether the disposition is supported by a sufficient record compiled by ~~[REGIONAL ENTITY]~~SPP in accordance with the NERC Rules of Procedure, NERC directives and Commission requirements, taking into account the nature of the Possible Violation, Alleged Violation, or Confirmed Violation,

(ii) whether the disposition is consistent with any applicable directives issued pursuant to Section 8(c) of this Agreement, any applicable directions or guidance issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, or other applicable NERC guidance, concerning the Reliability Standards to which the Possible Violation, Alleged Violation, or Confirmed Violation relates,

(iii) if the disposition is a Confirmed Violation or settlement, whether it provides for a penalty or sanction, or a determination of no penalty or sanction, determined in accordance with the NERC Sanction Guidelines, Appendix 4B to the NERC Rules of Procedure, and

(iv) ~~—————(iv)———~~ whether the disposition is reasonably consistent with other dispositions by ~~[REGIONAL ENTITY]~~SPP and by other Regional Entities of Possible Violations, Alleged Violations, and Confirmed Violations involving the same or similar facts and circumstances.

NERC may reject any disposition, with an explanation of why NERC believes the disposition does not meet the above criteria. ~~{REGIONAL ENTITY}~~SPP may submit a disposition requiring NERC approval that has been rejected by NERC, or a revised disposition following a rejection, directly to the NERC Board Compliance Committee for approval without revising the disposition to address all the grounds on which NERC originally rejected the disposition. The final approval of ~~{REGIONAL ENTITY}~~SPP's disposition of a Possible Violation, Alleged Violation, or Confirmed Violation shall be made by the NERC Board Compliance Committee, provided, that the NERC Board or NERC Board Compliance Committee may, by appropriate resolution, delegate authority for final approval of dispositions of specified categories of Possible Violations, Alleged Violations, or Confirmed Violations to the NERC President.

(e) All appeals of penalties imposed by ~~{REGIONAL ENTITY}~~SPP as a result of a decision by ~~{REGIONAL ENTITY}~~SPP's Hearing Body shall be filed with, heard by and disposed of by, NERC₂ in accordance with the NERC Rules of Procedure.

(f) ~~{REGIONAL ENTITY}~~SPP shall maintain the capability to conduct investigations of Possible Violations and Alleged Violations of Reliability Standards and to conduct such investigations in a confidential manner.

(g) ~~{REGIONAL ENTITY}~~SPP shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan.

(h) As part of its compliance monitoring and enforcement program, ~~{REGIONAL ENTITY}~~SPP shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(i) As often as NERC deems necessary, but no less than every five years, NERC shall review ~~{REGIONAL ENTITY}~~SPP's compliance monitoring and enforcement program to determine that: (i) the program meets all applicable legal requirements; (ii) actual practices reflect the requirements; and (iii) the program administered pursuant to the Delegated Authority

promotes consistent interpretations across North America of Reliability Standards and comparable levels of sanctions and penalties for violations of Reliability Standards constituting comparable levels of threat to reliability of the Bulk-Power System.

~~7.~~ 7. Delegation-Related Activities.

7. Delegation-Related Activities. NERC will engage ~~[REGIONAL ENTITY]~~SPP on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed on **Exhibit E**. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (f), each of which shall be considered a statutory activity:

(a) **Certification of Bulk-Power System Entities.** The NERC Board shall set criteria for certification in accordance with the NERC Rules of Procedure. ~~[REGIONAL ENTITY]~~SPP shall issue certifications in accordance with the NERC Rules of Procedure.

(b) **Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.**

(i) The NERC Board shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by ~~[REGIONAL ENTITY]~~SPP and other Regional Entities. ~~[REGIONAL ENTITY]~~SPP shall provide timely and accurate information relating to registrations to NERC, on at least a monthly basis, to enable NERC to maintain a registration database that is accurate and up-to-date.

(iii) The NERC Board Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) **Reliability Assessment and Performance Analysis.** ~~[REGIONAL ENTITY]~~SPP shall develop assessments of the reliability of the Bulk-Power System, or ensure

that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. ~~[REGIONAL ENTITY]~~SPP shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives. NERC shall develop data-gathering quality control procedures, forms and reporting mechanisms, which shall be used by ~~[REGIONAL ENTITY]~~SPP and other Regional Entities in carrying out their responsibilities under this subsection (c).

(d) **Event Analysis and Reliability Improvement.** ~~[REGIONAL ENTITY]~~SPP shall conduct event analysis pursuant to the NERC Rules of Procedure and applicable governmental regulations. NERC and ~~[REGIONAL ENTITY]~~SPP shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, ~~[REGIONAL ENTITY]~~SPP shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) **Training and Education.** ~~[REGIONAL ENTITY]~~SPP may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) **Situation Awareness and Infrastructure Security.**

(i) ~~[REGIONAL ENTITY]~~SPP shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure and applicable governmental regulations, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System

(ii) ~~[REGIONAL ENTITY]~~SPP shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of ~~[REGIONAL ENTITY]~~SPP's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and ~~[REGIONAL ENTITY]~~SPP that matters relating to NERC's oversight of ~~[REGIONAL ENTITY]~~SPP's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and ~~[REGIONAL ENTITY]~~SPP and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) ~~(a)~~ ~~(i)~~ (i) NERC shall develop, in collaboration with ~~[REGIONAL ENTITY]~~SPP and other Regional Entities, performance goals, measures and other parameters (including, without limiting the scope of such goals, measures and parameters, financial performance goals, measures and parameters), and performance reports, which shall be used to measure NERC's and ~~[REGIONAL ENTITY]~~SPP's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. ~~[REGIONAL ENTITY]~~SPP shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate ~~[REGIONAL ENTITY]~~SPP's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters and performance reports to evaluate ~~[REGIONAL ENTITY]~~SPP's performance of its delegated functions and related activities and to provide advice and direction to ~~[REGIONAL ENTITY]~~SPP on performance improvements. The performance goals, measures and other parameters and the values of such goals, measures and parameters, shall be reviewed by NERC, ~~[REGIONAL ENTITY]~~SPP and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, ~~[REGIONAL ENTITY]~~SPP shall be required to develop, submit for NERC approval, and implement action plans to address areas of its performance that are reasonably determined by NERC, based on analysis of

~~[REGIONAL ENTITY]~~SPP's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring ~~[REGIONAL ENTITY]~~SPP to adopt and implement an action plan or other remedial action, NERC shall issue a notice to ~~[REGIONAL ENTITY]~~SPP of the need and basis for an action plan or other remedial action and provide an opportunity for ~~[REGIONAL ENTITY]~~SPP to submit a written response contesting NERC's evaluation of ~~[REGIONAL ENTITY]~~SPP's performance and the need for an action plan. ~~[REGIONAL ENTITY]~~SPP may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board review and reconsider the request. NERC and ~~[REGIONAL ENTITY]~~SPP shall work collaboratively as needed in the development and implementation of ~~[REGIONAL ENTITY]~~SPP's action plan. A final action plan submitted by ~~[REGIONAL ENTITY]~~SPP to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to ~~[REGIONAL ENTITY]~~SPP standardized training and education programs, which shall be designed taking into account input from ~~[REGIONAL ENTITY]~~SPP and other Regional Entities, for ~~[REGIONAL ENTITY]~~SPP personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to ~~[REGIONAL ENTITY]~~SPP concerning the manner in which ~~[REGIONAL ENTITY]~~SPP shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with ~~[REGIONAL ENTITY]~~SPP and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and ~~[REGIONAL ENTITY]~~SPP and, if applicable, other Regional Entities are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President; *provided*, that before the NERC President issues a directive pursuant to this paragraph (ii), ~~[REGIONAL ENTITY]~~SPP and, if applicable, other Regional Entities, shall be given a reasonable opportunity to present their positions on,

and a suggested alternative version or versions of, the proposed directive to the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, ~~[REGIONAL ENTITY]~~SPP, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by ~~[REGIONAL ENTITY]~~SPP, the NERC Board (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without ~~[REGIONAL ENTITY]~~SPP's agreement, *provided*, that ~~[REGIONAL ENTITY]~~SPP shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and ~~[REGIONAL ENTITY]~~SPP and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which ~~[REGIONAL ENTITY]~~SPP, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The Board or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the Board or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. ~~[REGIONAL ENTITY]~~SPP, either individually or in conjunction with other Regional Entities, may request that the NERC Board or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with ~~[REGIONAL ENTITY]~~SPP, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) Any audits of ~~[REGIONAL ENTITY]~~SPP performed by NERC shall be limited to an examination of ~~[REGIONAL ENTITY]~~SPP's compliance with this Agreement, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c)

9. Funding. ~~[REGIONAL ENTITY]~~SPP and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed on **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) ~~[REGIONAL ENTITY]~~SPP shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. ~~[REGIONAL ENTITY]~~SPP's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, ~~[REGIONAL ENTITY]~~SPP to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E**. ~~[REGIONAL ENTITY]~~SPP's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) ~~[REGIONAL ENTITY]~~SPP and NERC agree that the portion of ~~[REGIONAL ENTITY]~~SPP's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by ~~[REGIONAL ENTITY]~~SPP and approved by NERC and the Commission. If ~~[REGIONAL ENTITY]~~SPP proposes to use a formula other than Net Energy for Load beginning in the following year, ~~[REGIONAL ENTITY]~~SPP shall submit the proposed formula to NERC in

sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and SPP ~~[REGIONAL ENTITY]~~ to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide ~~[REGIONAL ENTITY]~~SPP with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) ~~[REGIONAL ENTITY]~~SPP shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed on Exhibit E, as well as for all other activities of ~~[REGIONAL ENTITY]~~SPP, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund ~~[REGIONAL ENTITY]~~SPP's performance of its Delegated Authority and related activities in accordance with ~~[REGIONAL ENTITY]~~SPP's Commission-approved business plan and budget, in the amount of ~~[REGIONAL ENTITY]~~SPP's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting ~~[REGIONAL ENTITY]~~SPP's approved assessments from end users and other entities and payment of the approved assessment amount to ~~[REGIONAL ENTITY]~~SPP, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon ~~[REGIONAL ENTITY]~~SPP that has not been provided for in an approved business plan and

budget or an approved amended or supplemental business plan and budget, without ~~[REGIONAL ENTITY]~~SPP's consent.

~~(g)~~(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and ~~[REGIONAL ENTITY]~~SPP fiscal year budget with the actual results at the NERC and Regional Entity levels. ~~[REGIONAL ENTITY]~~SPP shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) ~~[REGIONAL ENTITY]~~SPP shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) ~~[REGIONAL ENTITY]~~SPP shall submit audited financial statements annually, including supporting materials, in a form provided by NERC no later than May 1 of the following year.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which ~~[REGIONAL ENTITY]~~SPP shall offset penalty monies it receives ~~(other than penalty monies received from an operational function or division or affiliated entity of [REGIONAL ENTITY])~~ against its next year's annual budget for carrying out functions under this Agreement, ~~and the mechanism by which [REGIONAL ENTITY] shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of [REGIONAL ENTITY].~~ *Provided*provided, that, subject to approval by NERC and the Commission, ~~[REGIONAL ENTITY]~~SPP may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged,

in whole or in part, by reason thereof. ~~[REGIONAL ENTITY]~~SPP may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit ~~[REGIONAL ENTITY]~~SPP from contracting with other entities to assist it in carrying out its Delegated Authority, provided ~~[REGIONAL ENTITY]~~SPP retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on ~~{January 1, 2011}~~ (the "Effective Date").

(b) The term of the Agreement shall be five (5) years from the Effective Date, prior to which time NERC shall conduct an audit pursuant to subsection 6(i) to ensure that ~~[REGIONAL ENTITY]~~SPP continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. If ~~[REGIONAL ENTITY]~~SPP meets such requirements, this Agreement may be renewed for another five (5) year term. This

Agreement may be renewed for successive additional five (5) year renewal terms provided that prior to the end of each renewal term, NERC shall conduct an audit pursuant to subsection 6(i) to ensure that ~~[REGIONAL ENTITY]~~SPP continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. Provided, that either Party may terminate this Agreement as of the end of a term by giving written notice to terminate at least one (1) year prior to the end of the term. If this Agreement is not renewed or becomes subject to termination for any reason, the Parties shall work to provide for a transition of ~~[REGIONAL ENTITY]~~SPP's Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement. The termination of this Agreement shall not take effect until such transition has been effected, unless the transition period exceeds one year, at which time ~~[REGIONAL ENTITY]~~SPP may unilaterally terminate.

(c) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by ~~[REGIONAL ENTITY]~~SPP and NERC.

(d) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. ~~[REGIONAL ENTITY]~~SPP and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and

subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and ~~[REGIONAL ENTITY]~~SPP shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of the ~~[REGIONAL ENTITY]~~SPP's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that the ~~[REGIONAL ENTITY]~~SPP or NERC is found liable for gross negligence or intentional misconduct, in which case ~~[REGIONAL ENTITY]~~SPP or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party.

15. Confidentiality. During the course of the Parties' performance under this Agreement, a Party may receive Confidential Information, as defined in Section 1500 of NERC's Rules of Procedure. Except as set forth herein, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance

that confidential treatment will be accorded to such Confidential Information. In addition, each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein. This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of ~~REGIONAL ENTITY~~SPP under this Agreement without first obtaining the consent of ~~REGIONAL ENTITY~~SPP, which consent shall not be unreasonably withheld or delayed. To the extent ~~REGIONAL ENTITY~~SPP does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of ~~REGIONAL ENTITY~~SPP under this Agreement, ~~REGIONAL ENTITY~~SPP shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by ~~REGIONAL ENTITY~~SPP to NERC and the Commission, or at such other time as may be mutually agreed by ~~REGIONAL ENTITY~~SPP and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and ~~REGIONAL ENTITY~~SPP, (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to ~~REGIONAL ENTITY~~SPP's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute.

~~REGIONAL ENTITY~~SPP shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, *provided*, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), *provided*, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. *Provided, however,* that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. Whether expressly so stated or not, all notices, demands, requests, and other communications required or permitted by or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand or reputable overnight courier:

If to NERC:

If to ~~REGIONAL ENTITY~~SPP:

North American Electric Southwest Power Pool, Inc.
Reliability Corporation 415 N. McKinley
116-390 Village Blvd. Suite 140
Princeton, NJ 08540-5721

Little Rock, AR 72211

Attn: General Counsel
Facsimile: (609) 452-9550

Attn: Alison Hayes
Facsimile: (501) 821-8726

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of New Jersey without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in New Jersey. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in New Jersey for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that ~~[REGIONAL ENTITY]~~SPP may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN
ELECTRIC RELIABILITY CORPORATION
POWER POOL, INC.

~~{REGIONAL ENTITY}~~SOUTHWEST

By: _____

By: _____

Name: _____

Name: _____ ==

Title: _____

Title: _____ ==

Date: _____

Date: _____

Exhibit A — Regional Boundaries ~~Exhibit A to the delegation agreement for each Regional Entity receiving Delegated~~

~~Authority shall describe the geographic or electrical boundaries covered by the proposed delegation of authority. **Exhibit A** for each Regional Entity shall reflect coordination with neighboring Regional Entities, as appropriate, to ensure that all relevant areas are either included within the geographic boundaries of a Regional Entity or specifically identified as not being within the geographic boundaries of any Regional Entity. Any exclusions of geographic or electrical areas or of Registered Entities from the scope of the Regional Entity's Delegated Authority within the geographic or electrical boundaries shown on **Exhibit A**, and any additions of geographic or electrical areas or of Registered Entities located outside the boundaries shown on **Exhibit A** to the scope of the Regional Entity's Delegated Authority, shall be specifically stated or described in **Exhibit A**.~~

Regional Boundaries

The geographic boundaries of Southwest Power Pool (SPP) are determined by the service areas of its membership, comprised of investor-owned utilities, municipal, cooperative, state and federal systems, merchant electricity generators and power marketers.

The SPP Regional Entity covers an area of approximately 255,000 square miles of service territory (purple region depicted below) in all or part of eight states: Arkansas, Kansas, Louisiana, New Mexico, Mississippi, Missouri, Oklahoma, and Texas.

Service provided by SPP members in areas which overlap with neighboring regions:

- ◆ The area in northeastern Oklahoma is served by Western Farmers Electric Cooperative, Oklahoma Gas & Electric Company, Oklahoma Municipal Power Authority, Grand River Dam Authority, and AEP West.
- ◆ The area in Arkansas is served by Arkansas Electric Cooperative Corporation, Oklahoma Gas & Electric Company, and AEP West.
- ◆ The area in western Missouri is served by Aquila, Empire District Electric Company, City Power & Light (Independence, MO), City Utilities (Springfield, MO), Grand River Dam Authority, Kansas City Power & Light Company, City Power & Light (Independence, MO), and Southwestern Power Administration.

Within the SPP region, compliance monitoring and enforcement functions with respect to reliability functions for which SPP is the registered entity are performed by SERC Reliability Corporation (SERC) pursuant to a contract between SPP and SERC dated as of (DATE).

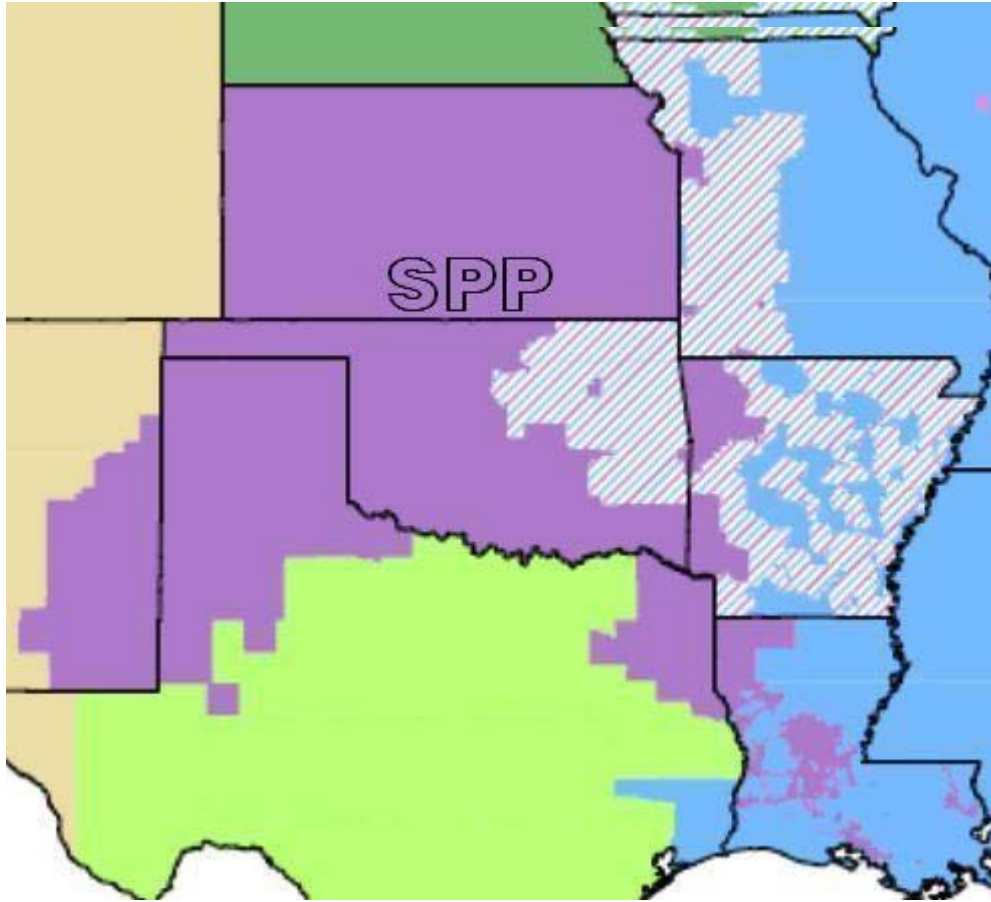


Exhibit B – Governance

Exhibit B shall set forth the Regional Entity’s bylaws, which NERC agrees demonstrate that the Regional Entity meets the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence of the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Southwest Power Pool, Inc.
Bylaws
Original Volume No. 4

Southwest Power Pool, Inc.

B Y L A W S

Issued by: L. Patrick Bourne, Manager
Transmission and Regulatory Policy

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Southwest Power Pool Bylaws
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B Y L A W S
of
Southwest Power Pool, Inc.

PREAMBLE

The values and principles upon which SPP is incorporated and formed include: a relationship-based organization; member-driven processes; independence through diversity of Organizational Group membership; recognition that reliability and economic/equity issues are inseparable; and, deliberate evolutionary, as opposed to revolutionary, implementation of new concepts. These values and principles should guide those serving this organization. The Board of Directors will endeavor to ensure equity to all Members while also assuring the continuous adaptation to controlling conditions within these stated values and principles.

1.0 DEFINITIONS

1.1 Affiliate Relationships

Affiliate Relationships are relationships between SPP Members that have one or more of the following attributes in common:

- (a) are subsidiaries of the same company;
- (b) one Member is a subsidiary of another Member;
- (c) have, through an agency agreement, turned over control of a majority of their generation facilities to another Member;
- (d) have, through an agency agreement, turned over control of a majority of their transmission system to another Member, except to the extent that the facilities are turned over to an independent transmission company recognized by FERC;
- (e) have an exclusive marketing alliance between Members; or
- (f) ownership by one Member of ten percent or greater of another Member.

1.2 Articles of Incorporation

SPP's articles of incorporation as filed with the state of Arkansas.

1.3 Board of Directors

The Board of Directors of SPP, which shall manage the general business of SPP pursuant to these Bylaws.

1.4 Bylaws

These bylaws.

1.5 Criteria

Planning and operating standards and procedures as approved by the Board of Directors.

1.5a Existing Obligations

Certain financial obligations as defined in Section 8.7.1 of these Bylaws.

1.5b ERO

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

1.6 Member

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

1.7 Membership

The collective Members of SPP.

1.8 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.

1.9 NERC

The North American Electric Reliability Corporation or successor organizations.

1.10 Net Energy for Load

The electrical energy requirements of an electric system are defined as system net generation plus energy received from others, less energy delivered to others through interchange. It includes system losses but excludes energy required for the storage at energy storage facilities.

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1.11 Officers

The officers of SPP as elected by the Board of Directors. The Officers consist of the President and the Corporate Secretary, at a minimum. Any Officer must be independent of any Member organization.

1.12 Organizational Group

A group, other than the Board of Directors, comprising a committee or working group that is charged with specific responsibilities toward accomplishing SPP's mission.

1.13 Regional Criteria

SPP planning and operating standards and procedures as approved by the Board of Directors.

1.14 Regional Entity Trustees

A governing body of SPP, independent of the Board of Directors, which specifically oversees SPP's function as an ERO Regional Entity pursuant to the Delegation Agreement between SPP and the ERO.

1.15 Regional Reliability Standards

Electric reliability requirements submitted to the ERO by the Regional Entity Trustees; and once approved, implemented and enforced by SPP under authority as the Regional Entity.

1.16 Registered Entity(ies)

A bulk electric system owner, operator or user that is required to comply with ERO reliability standards pursuant to the Energy Policy Act of 2005.

1.17 SPP

Southwest Power Pool, Inc.

1.18 SPPgional Entity

That part of SPPsponsible for the delegated functions pursuant to the Delegation Agreement between SPP and the ERO.

1.19 SPP Compliance Monitoring and Enforcement Program

The program used by the North American Electric Reliability Corporation ("NERC") and the Regional Entities to monitor, assess, and enforce compliance with Reliability Standards within the United States.

1.20 Staff

The technical and administrative staff of SPP as hired by the Officers to accomplish SPP's mission.

1.21 Standards Development Team

An SPP Organizational Group assigned or choosing to develop an SPPgional Reliability Standard for submission to the ERO for approval for enforcement.

1.22 Transmission Owning Member

A Member that has placed more than 500 miles of non-radial facilities operated at or above 60 kV under the independent administration of SPP for the provision of regional transmission service as set forth in the Membership Agreement.

1.23 Transmission Using Member

A Member that does not meet the definition of a Transmission Owning Member.

2.0 MEMBERSHIP

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.

2.2 Applications

Membership by an entity shall be obtained upon meeting the following requirements:

- (a) Meeting membership qualifications;
- (b) Providing an application for membership to the SPP President; and
- (c) Executing the Membership Agreement and delivering a signed copy to the President.

The President shall review applications, approve those meeting membership qualifications and promptly give written notice of the new Member to all other Members. The Board of Directors will review any disputes arising as to the qualifications of the new Member. Membership will commence at the beginning of the next calendar month following completion of these requirements or some other date as may be mutually agreed upon.

2.3 Member Responsibilities and Obligations

Members recognize that SPP exists and operates for the benefit of the bulk electric transmission system and to ensure the reliability of the nation's power supply. As such, Members are required to act to further these goals by participating in projects, and complying with regulatory requirements. Failure to comply with these provisions will be considered a violation of these Bylaws and the Member may be removed in accordance with the provisions for *Removal of Members* in the Membership Agreement.

2.4 Termination, Removal and Reinstatement

The Board of Directors may terminate the membership of any Member in accordance with the Membership Agreement. The President shall promptly give written notice of the removal to all other Members. Any former Member seeking to rejoin SPP shall apply to the Board of Directors for reinstatement. In its application for reinstatement, the former Member shall:

- (a) provide evidence that it has fully paid any accrued financial obligation to SPP;
- (b) demonstrate it has corrected the reason for its removal;
- (c) establish that it will be in compliance with SPP membership requirements; and
- (d) deliver an executed Membership Agreement to the President.

2.5 Participation in Regional Entity Activities

Participation in SPPgional Entity activities is open to the public and does not require membership in SPP, Inc. nor any of the obligations of membership, including SPP, Inc.'s annual fee.

3.0 ORGANIZATIONAL ADMINISTRATION

3.1 Structure

Member input on decision-making shall be accomplished primarily through Membership participation in Organizational Groups. Members are expected to provide representation to Organizational Groups as requested. Unless otherwise provided in these Bylaws, Organizational Group representation will be appointed by the Board of Directors, who shall consider the various types and expertise of Members and their geographic locations, to achieve a widespread and effective representation of the Membership. The Chair of any Organizational Group may appoint any ad hoc task forces as necessary to fulfill its mission. Task force appointments shall be made with due consideration of the various types and expertise of Members and their geographic locations. Criteria for serving on an Organizational Group will be determined in the group's scope. Except for any full representation group, an appointment to an Organizational Group is for an individual, not a corporate entity. Participation in certain sessions of Organizational Group meetings where market sensitive issues are discussed may be restricted to persons representing entities that have executed ERO's Confidentiality Agreement. Representatives on all Organizational Groups will be documented in the SPP directory maintained by the Staff. Organizational Group vacancies will be filled on an interim basis by appointment of the President unless otherwise provided for in these Bylaws.

3.2 Attendance and Proxy

Except for the Market and Operations Policy Committee (MOPC), if a representative does not attend three consecutive Organizational Group meetings, he/she will be considered to have resigned from the group, absent express waiver of this requirement by the chair of the group. Any appeal of removal from the roster of an Organizational Group should be directed to the Corporate Secretary. Any resulting vacancy will be filled in accordance with Section 3.1 *Structure* of these Bylaws.

If a representative is unable to attend an Organizational Group meeting, he/she may in writing appoint a substitute representative who shall have such rights to participate and vote as the representative specifies. The substitute representative may be another member of the Organizational Group or another person who has the authority to act on behalf of the representative. A representative may not grant a proxy for more than three consecutive meetings without the express consent of the chair of the Organizational Group. If a representative exceeds the proxy limit, he/she will be considered to have resigned from the Organizational Group and the vacancy will be filled in accordance with these Bylaws; except, in the case of any full representation Organizational Group, in which case a new representative will be solicited from the member company.

A proxy provided to another representative of the Organizational Group will not be recorded as attendance at the meeting and will not serve to meet or maintain the quorum requirements. A proxy provided to another person with the authority to act on behalf of the representative will be recorded as attendance at a meeting for the purpose of meeting or maintaining the quorum requirements.

3.3 Leadership

3.3.1 Appointment

The Chair of all Organizational Groups shall be nominated by the Corporate Governance Committee for consideration and appointment by the Board of Directors. A Vice Chair shall be elected by the members of an Organizational Group, unless provided otherwise in these Bylaws. A Vice Chair shall act for a Chair:

- (a) at the request of the Chair;
- (b) if the Chair becomes incapacitated and unable to discharge the functions of the position; or
- (c) if the position of the Chair becomes vacant, until a new Chair takes office.

3.3.2 Terms

The terms of the Chair and Vice Chair of all Organizational Groups shall coincide with the two-year term of the Chair of the Board of Directors. Organizational Group representation will be reviewed annually for compliance with the Bylaws by the Corporate Governance Committee.

3.3.3 Vacancies

Should any individual having been appointed as a Chair of any Organizational Group be unable to serve for the term specified, or be unable to serve on a NERC Organizational Group under provisions of these Bylaws, a replacement shall be appointed by the Chair of the Board of Directors for the unexpired term of office.

3.4 Executive Authority

The Officers shall carry out the rights, duties, and obligations of SPP pursuant to the authority granted by the Board of Directors. Officers will execute the SPP Standards of Conduct upon employment. The Standards of Conduct outline the independence requirements for all employees of SPP. The Officers shall be empowered to:

- (a) employ qualified technical and administrative employees;
- (b) engage office space;
- (c) employ outside technical and special service organizations;
- (d) execute contracts;
- (e) provide for independent regional reliability coordination, transmission service administration, and other services as may be directed by the Board of Directors;
- (f) serve as SPP's representative before regulatory bodies, NERC, and in other public forums;
- (g) incur reasonable expenses; and
- (h) make Staff resources available to individual Members or groups of Members on a non-firm, non-priority, first-come-first-serve basis so as not to interfere with current or future needs and priorities established by SPP.

3.5 Meetings

Organizational Groups shall meet as necessary. SPP meetings shall be open, however, any Organizational Group may limit attendance at a meeting by an affirmative vote of the Organizational Group as necessary to safeguard confidentiality of sensitive information, including but not limited to Order 889 Code of Conduct requirements, personnel, financial, or legal matters. Representatives shall be given at least fifteen days written notice of the date, time, place and purpose of each regular or special meeting. Telephone conference meetings may be called as appropriate by the Chair of any Organizational Group with at least one-day prior notice.

3.6 Order of Business

The latest edition of Robert's Rules of Order will generally govern all SPP meetings on any point not specifically covered in these Bylaws.

3.7 Expenses

The expenses of a representative participating in the activities of SPP Organizational Groups and task forces shall be borne by that representative.

3.8 Quorum

The quorum for a meeting of the Markets and Operations Policy Committee or the Membership shall be those Members present. The quorum for any other Organizational Group or task force shall be one-half of the representatives thereof, but not less than three representatives; provided, that a lesser number may adjourn the meeting to a later time. The quorum for a meeting must be established and maintained throughout the meeting in order for the Organizational Group to take any binding action(s). Notwithstanding the above, any actions taken before a quorum is lost are considered valid and binding. A proxy will serve to meet the quorum requirements as described in Section 3.2 *Proxy* of these Bylaws.

3.9 Voting

3.9.1 Markets and Operations Policy Committee and Membership

Upon joining, Members shall be assigned to one of two Membership sectors for the sole purpose of voting on matters before the Markets and Operations Policy Committee or the Membership: Transmission Owning Members, or Transmission Using Members. Each sector votes separately with the result for that sector being a percent of approving votes to the total number of Members voting. An action is approved if the average of these two percentages is at least sixty-six percent. If no Members are present within a sector, the single present sector-voting ratio will determine approval. Unless otherwise stated in these Bylaws, the Markets and Operations Policy Committee or the Membership may determine to vote on an issue by email. The outcome of any email vote must be recorded in the minutes for the group.

3.9.2 Organizational Groups and Task Forces

Each representative of an Organizational Group or Task Force shall have one vote. A simple majority of participants present or represented by proxy and voting shall be required for approval of an action for all other Organizational Group and Task Force action(s). Unless otherwise stated in these Bylaws, an Organizational Group or Task Force may determine to vote on an issue by email. The outcome of any email vote must be recorded in the minutes for the group.

If an Organizational Group is acting as a Standards Development Team as defined in Section 9.5 *Regional Reliability Standards Development Process* of these Bylaws, it will vote in accordance with the SPP Standards Development Process as approved by FERC.

3.10 Appeal

Should any Member or group of Members disagree on an action taken or recommended by any Organizational Group, such Member(s) may, in writing, appeal and submit an alternate recommendation to the Board of Directors prior to the meeting at which consideration of the action by the Board of Directors is scheduled.

3.11 Staff Independence and Support

SPP Staff members will be required to execute the SPP Standards of Conduct upon employment and annually thereafter. The Standards of Conduct outline the independence requirements for employees of SPP. The President shall assign to each Organizational Group an SPP Staff member, who shall attend all meetings and act as secretary to the Organizational Group and any ad hoc task forces of that group. Staff secretaries of all Organizational Groups and task forces shall be non-voting. Minutes shall be kept of pertinent discussion, business transacted, decisions reached, and actions taken at each meeting of SPP Organizational Groups or task forces by the secretary. Minutes shall be published within seven calendar days following a meeting but in any event in advance of the next meeting, and considered final documents upon their approval by the Organizational Group or task force.

3.12 Publications and Data Bases

SPP shall publish and distribute reports as necessary to fulfill the SPP mission. SPP shall also develop and maintain electronic databases of relevant technical information. The release of member-specific proprietary information will be governed by the appropriate SPP governing document (the OATT, the Membership Agreement, the Bylaws, the SPP Criteria) and/or a properly executed confidentiality agreement. Standard publications and standard forms of non-proprietary information will be made available at no charge

3.13 Dispute Resolution

These procedures are established for the equitable, efficient and expeditious resolution of disputes. These procedures are intended to cover disputes between any two or more Members, between Members and consenting non-members, or between SPP and any Member(s) or consenting non-member(s). SPP and Members are strongly encouraged to take part in the complete process herein described prior to litigation or the utilization of other dispute resolution processes. SPP administrative involvement in the proceeding is to coordinate with an appropriate firm or panel to facilitate the resolution of the dispute and to provide meeting coordination and facilities. These procedures do not apply to disputes that are covered by the dispute resolution procedures of the SPP OATT or the SPP Compliance Monitoring and Enforcement Program.

3.13.1 Instigation

Any Member may begin these dispute resolution procedures by making a request in writing to the President. The President will inform the Board of Directors of the initiation of any dispute resolution proceedings. This written request must contain the authorized signatures of all parties to the dispute. The request must contain:

- (a) a statement of the issues in dispute;
- (b) the positions of each of the parties relating to each of the issues;
- (c) the specific dispute resolution procedure desired; and
- (d) any agreed-upon modifications or specific additions to the proceedings described in these Bylaws by which the dispute may be resolved.

3.13.2 Dispute Resolution Process

In the event SPP is a party to the dispute, the parties shall engage a firm specializing in alternative dispute resolution to administer the dispute resolution process. The firm will be mutually determined by the parties and the process will be administered in accordance with these Bylaws and such other SPP governing documents as may be relevant to the proceeding. In the event the parties cannot mutually agree to the engagement of a firm, the dispute resolution process will be abandoned and other available means for resolution will be pursued.

In the event SPP is not a party to the dispute, the parties to the dispute may engage a firm specializing in alternative dispute resolution to administer the dispute resolution process. The firm will be mutually determined by the parties and the process will be administered in accordance with these Bylaws and such other SPP governing documents as may be relevant to the proceeding. In the event the parties cannot mutually agree to the engagement of a firm, and do not determine some other mutually acceptable procedure, the President of SPP shall provide to each party to the dispute a list of candidates to be used in forming a three-person dispute resolution panel. The candidates shall be persons meeting the requirements for directors. The President shall then call a telephone conference meeting during which each party shall alternate striking names from the list

until those remaining constitute the dispute resolution panel. This panel shall select a chair from its membership. Should any candidate decline to serve or resign from a current appointment for any reason, the candidate whose name was last struck from the list shall be contacted to serve. The President shall assign a Staff representative to assist the panel as secretary. The President shall manage the panel selection process to ensure its timely completion.

3.13.3 Resolution Procedures

The types of proceedings available for the resolution of disputes are:

- (a) An Advisory Proceeding to assist each party through discussion and advice, on a separate and individual basis without active participation in the joint discussions and negotiations, to resolve the dispute informally by mutual agreement;
- (b) A Mediation Proceeding to assist the parties through active participation in the joint discussions and negotiations (including specific recommendations of the issues in dispute) through which the parties indirectly attempt to resolve the dispute informally by mutual agreement;
- (c) A non-binding Dispute Resolution Proceeding to hear formal evidence on factual matters related to the issues submitted, make written findings and conclusions of fact, and issue specific written recommendations for resolution of each issue in dispute.
- (d) A binding Dispute Resolution Proceeding to hear formal evidence on factual matters related to the issues submitted, make written findings and conclusions of fact, and issue directives and awards for resolution of each issue in dispute.

The panel chair shall determine meeting arrangements and format necessary to efficiently expedite the resolution of the dispute, and the Staff secretary shall notify the parties of these details. Each party to the dispute must have at least one representative present at all related meetings with full authority to resolve the dispute. Upon conclusion of this process, the panel chair shall notify the President of its outcome. After consultation with the parties to the dispute and the panel chair to determine the completion of the process as described herein, and/or as modified by the parties, the President shall discharge the panel, and notify the Board of Directors of the results. The parties to the dispute agree to complete the process within 90 days from selection of the panel. Final determinations may be subject to corporate or regulatory approvals, which the parties should disclose at the outset of the process. The Staff secretary shall maintain minutes of the panel meetings, which shall become part of SPP's historical records.

3.13.4 Expenses

The parties to the dispute shall share equally all reasonable charges for the meeting location, administrative costs, and related travel expenses of panel members. The parties to the dispute shall also share equally all reasonable compensation for time and service of panel members and related incremental expenses of the SPP Staff. The President shall determine reasonableness of time and service costs for panel members prior to process implementation. The SPP Staff secretary shall account for these expenses. Each party to the dispute shall be responsible for their respective associated expenses.

3.13.5 Liability

The parties to any dispute which is the subject of these dispute resolution procedures shall hold harmless SPP, its Members, Organizational Groups and each of their directors, officers, agents, employees or other representatives, and the panel members from any liabilities, claims, or damages resulting from any agreement or lack of agreement as a result of the dispute resolution proceedings. The foregoing hold harmless right shall not be extended to the parties to any given dispute or to their directors, officers, agents, employees or other representatives.

3.14 Meeting of Members

The Chair of the Board of Directors shall convene and preside over meetings of Members for the purpose of electing Directors, Members Committee representatives, and Regional Entity Trustees to positions becoming vacant in the ensuing year, and any other necessary business. The Membership shall meet at least once per calendar year.

3.15 Liability, Insurance and Indemnification

For purposes of this section “SPP” refers to SPP and its officers, directors, Regional Entity Trustees, employees or agents, and “Member” refers to the Members of SPP as defined in these Bylaws. None of the provisions of this section, including the waiver of liability in Section 3.15.1 below, absolving SPP or its Members, directors, Regional Entity Trustees, officer, agents, employees or other representatives of liability or any provisions for insurance or indemnification apply to actions which are unlawful, undertaken in bad faith, or are the result of gross negligence or willful misconduct.

3.15.1 Waiver of Liability

- (a) SPP shall not be liable to any Member for damages arising out of or related to any directive, order, procedure, action, or requirement of SPP, under the then effective Bylaws and Criteria.
- (b) No Member shall be liable to any other Member or to SPP for damages arising out of or related to any action by the Member pursuant to any directive, order, procedure, action or requirement of SPP, under the then effective Bylaws and Criteria.
- (c) Each Member waives any future claim it might have against SPP or other Members arising out of or resulting from any directive, order, procedure, action or requirement of SPP, under the then effective Bylaws and Criteria.
- (d) SPP waives any future claim it might have against any Member arising out of or resulting from any actions taken by a Member pursuant to any directive, order, procedure, action or requirement of SPP, under the then effective Bylaws and Criteria.

3.15.2 Insurance

The President is authorized to procure insurance to protect SPP, its directors, Regional Entity Trustees, officers, agents, employees, or other representatives against damages arising out of or related to any directive, order, procedure, action or requirement of SPP, under the then effective Bylaws and Criteria or pursuant to the OATT.

3.15.3 Indemnification of Directors, Officers, Agents and Employees

Except for actions which are unlawful, undertaken in bad faith, or are the result of gross negligence or willful misconduct, SPP shall indemnify its directors, officers, agents, employees, or other representatives to the maximum extent allowed by law consistent with these Bylaws. Each director, Regional Entity Trustee, officer, agent, employee, or other representative of SPP shall be indemnified by SPP against all judgments, penalties, fines, settlements, and reasonable expenses, including legal fees, incurred as a result of, or in connection with, any threatened, pending or completed civil, criminal, administrative, or investigative proceedings to which the incumbent may be made a party by reason of acting or having acted in official capacity as a director, Regional Entity Trustee, officer, agent, employee, or representative of SPP, or in any other capacity which the incumbent may hold at the request of SPP, as its representative in any other organization, subject to the following conditions:

- (a) Such director, Regional Entity Trustee, officer, agent, employee, or other representative must have acted in good faith and, in the case of criminal proceedings, must have had no reasonable cause to believe that conduct was unlawful; provided, that SPP shall not provide indemnification of any conduct judged unlawful in criminal proceedings. When acting in official capacity, the incumbent must have reasonably believed that conduct was in the best interests of SPP, and, when acting in any other capacity, must have reasonably believed that conduct was at least not opposed to the best interests of SPP.
- (b) If the proceeding was brought by or on behalf of SPP, however, indemnification shall be made only with respect to reasonable expenses referenced above. No indemnification of any kind shall be made in any such proceeding in which the director, Regional Entity Trustee, officer, agent, employee, or other representative shall have been adjudged liable to SPP.

- (c) In no event, however, will indemnification be made with respect to any described proceeding which charges or alleges improper personal benefit to a director, Regional Entity Trustee, officer, agent, employee, or other representative and where liability is imposed on the basis of the receipt of such improper personal benefit.
- (d) In order for any director, Regional Entity Trustee, agent, employee, or other representative to receive indemnification under this provision, the person shall vigorously assert and pursue any and all defenses to those claims, charges, or proceedings covered herein which are reasonable and legally available and shall fully cooperate with SPP or any attorneys involved in the defense of any such claim, charges, or proceedings on behalf of SPP.
- (e) No indemnification shall be made in any specific instance until it has been determined by SPP that indemnification is permissible in that specific case, under the standards set forth herein and that any expenses claimed or to be incurred are reasonable. These two (2) determinations shall be made by a majority vote of at least a quorum of the Board of Directors consisting solely of directors who were not parties to the proceeding for which indemnification or reimbursement of expenses is claimed. If such a quorum cannot be obtained, a majority of at least a quorum of the full Board of Directors, including directors who are parties to said proceeding, shall designate a special legal counsel who shall make said determinations on behalf of SPP.
- (f) Any reasonable expenses, as shall be determined above, that have been incurred by a director, Regional Entity Trustee, officer, agent, employee, or other representative who has been made a party to a proceeding as defined herein, may be paid or reimbursed in advance upon a majority vote of a quorum of the full Board of Directors, including those who may be a party to the same 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.

3.16 Compliance with Membership Requirements

Compliance monitoring of Members and Staff shall be performed to ensure compliance with all requirements of Membership. Certain SPP compliance monitoring and enforcement functions, as detailed in Section 9.0, shall be performed in concert with related ERO programs, and will be overseen by the Regional Entity Trustees. Other monitoring functions shall be provided by appropriate SPP staff under the oversight of the Oversight Committee and the Board of Directors. Compliance monitoring shall be an after-the-fact investigative and assessment function.

Monitoring functions shall include but are not limited to:

- (a) Investigation of all reports or discoveries of non-compliance with approved Bylaws, Regional Criteria, OATT, and agreements between SPP and its Members;
- (b) Obtaining all information needed to investigate all facets of possible non-compliance with Membership requirements;
- (c) Performance of in-depth reviews of operations in order to investigate non-compliance with Membership requirements upon approval from the Oversight Committee;
- (d) Comprehensive audits when recurring issues covering a broad spectrum of violations of Membership requirements are determined and documented;
- (e) Imposition of financial penalties and/or sanctions for non-compliance associated with the results of investigations or audits pursuant to approved standards, policies and/or Criteria;
- (f) Confirmation that SPP is conforming to its own Regional Criteria, OATT, business practices, and reliability operations in a manner that does not stifle the efficiency of the energy markets;
- (g) Utilization of dispute resolution procedures as necessary to resolve conflicts or appeals; and
- (h) Coordination of policy modifications to clearly define requirements and penalties in order to objectively monitor compliance with Membership requirements.

Issued by: L. Patrick Bourne, Director – Regulatory Policy

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3.17 Market Monitoring

SPP shall establish and provide appropriate support to a market monitoring function in accordance with its OATT. Market monitoring functions shall be carried out in a manner consistent with the safe and reliable operation of the SPP transmission system, the operation of a robust, competitive and non-discriminatory electric power market, and the principle that a Market Participant as defined in the SPP OATT, or group of Market Participants, shall not have undue influence or impact.

The market monitoring unit shall report to the Board of Directors. Any public reports submitted shall be provided to the Board of Directors and concurrently to the appropriate regulatory body or bodies. The President shall ensure that the market monitoring entity has adequate resources, access to information, and the full cooperation of Staff and Organizational Groups for the effective execution of its duties.

Market monitoring functions shall include but are not limited to:

- (a) Monitoring and reporting on compliance and market power issues relating to transmission services, including compliance and market power issues involving congestion management and ancillary services and the potential of any market participant(s) to exercise market power within the region by affecting available transmission capacity;
- (b) Evaluation and recommendation of any required modifications to the OATT, standards or Criteria;

- (c) Ensuring that the monitoring program is conducted in an independent and objective manner;
- (d) Development of reporting procedures to inform governmental agencies and others concerning market monitoring activities;
- (e) Monitoring the behavior of market participants to determine whether there is any behavior that hinders the reliable, efficient and non-discriminatory provision of transmission service by SPP;
- (f) Ensuring that SPP's involvement in markets does not discriminate in favor of any market participant or its own interests; and
- (g) Recommend plans for mitigating market power, subject to appropriate regulatory approval.

4.0 BOARD OF DIRECTORS

4.1 Duties

The Board of Directors shall at all times act in the best interest of SPP in its management, control and direction of the general business of SPP. The Board of Directors shall solicit and consider a straw vote from the Members Committee as an indication of the level of consensus among Members in advance of taking any actions other than those occurring in executive session. Its duties shall include, but are not limited to the following:

- (a) Direct activities of all SPP Organizational Groups;
- (b) Serve on SPP Organizational Groups;
- (c) Remove Members, and approve the re-entry of Members that have been removed;
- (d) Authorize all substantive contracts and debt instruments;
- (e) Select and review the performance of SPP Officers, who shall serve at the pleasure of the Board of Directors;
- (f) Approve policies by which positions, duties, qualifications, salaries, benefits and other necessary matters pertaining to the SPP Officers are determined;
- (g) Review, approve, disapprove or recommend revision to the actions of any Organizational Group;
- (h) Act on appeals pursuant to Section 3.10;

- (i) Approve and implement Regional Criteria for enforcement under the terms and conditions of the SPP Membership Agreement;
- (j) Provide input with the Members Committee to the Regional Entity Trustees, on SPPgional 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;
- (k) Approve or revise the operating and capital budgets and any additional expenditures;
 - (l) Convene a meeting of Members at least annually;
 - (m) Approve amendments to these Bylaws as permitted by these Bylaws;
 - (n) Approve amendments to the Membership Agreement as permitted by the Membership Agreement;
 - (o) Approve Regional Criteria pertaining to planning and operating standards and policies and penalties for non-compliance with such Criteria; and
 - (p) Authorize filings with regulatory bodies.

4.2 Composition and Qualifications

4.2.1 Composition

The Board of Directors shall consist of seven persons. The seven directors shall be independent of any Member; one director shall be the President of SPP. A Director shall not be limited in the number of terms he/she may serve. The President shall be excluded from voting on business related to the office of President or the incumbent of that office. No other Staff member shall be permitted to serve as a director

4.2.2 Qualifications

Directors shall have recent and relevant senior management expertise and experience in one or more of the following disciplines: finance, accounting, electric transmission or generation planning or operation, law and regulation, commercial markets, and trading and associated risk management.

4.2.3 Conflicts of Interest

Directors shall not be a director, officer, or employee of, and shall have no direct business relationship, financial interest in, or other affiliation with, a Member or customer of services provided by SPP. Directors may invest in accordance with SPP's Standards of Conduct. Participation in a pension plan of a Member or customer shall not be deemed to be a direct financial benefit if the Member's or customer's financial performance has no material effect on such pension plan.

4.3 Term and Election

Except for the President, a director shall be elected at the meeting of Members to a three-year term commencing upon election and continuing until his/her duly elected successor takes office. The election process shall be as follows:

- (a) At least 90 calendar days prior to the meeting of Members when election of new directors is required, the Corporate Governance Committee shall commence the process to nominate persons equal in number to the directors to be elected;
- (b) At least 45 calendar days prior to the meeting of Members, the Corporate Governance Committee shall determine the persons it nominates for election as directors, specifying the nominee for any vacancy to be filled. The Corporate Secretary shall prepare the ballot accordingly and shall deliver same to Members at least 30 calendar days prior to the meeting of Members;
- (c) For purposes of electing or removing directors only, each group of Members with Affiliate Relationships shall be considered a single Member;
- (d) Any additional nominee(s) may be added to the ballot if a petition is received by the Corporate Secretary at least 15 calendar days prior to the meeting of Members and evidencing support of at least 20 percent of the existing Membership; and

- (e)
- 1) If only one candidate is nominated for a seat, each Member shall be entitled to cast a vote for or against the nominee. The votes will be calculated in accordance with Section 3.9 *Voting* of these Bylaws, which requires a super majority. In the event a director position is not filled, the Corporate Governance Committee will determine a new nominee for recommendation for election by the Membership at a special meeting of Members to be held no later than the next regular Board of Directors/Members Committee meeting;
 - 2) If multiple candidates are nominated for a seat, each Member shall be entitled to cast a vote for only one nominee, but may vote against each candidate. The votes will be calculated in accordance with Section 3.9 *Voting* of these Bylaws, with the exception that a simple majority of votes cast will determine which nominee is elected. In the event a director position is not filled, the Corporate Governance Committee will determine a new nominee for recommendation for election by the Membership at a special meeting of Members to be held no later than the next regular Board of Directors/Members Committee meeting.

4.4 Resignation and Removal of Directors

Any director may resign by written notice to the President noting the effective date of the resignation. The Membership may remove a director with cause by vote in accordance with Section 3.9 *Voting* of these Bylaws. Removal proceedings may only be initiated by a petition signed by not less than twenty percent of the Members. The petition shall state the specific grounds for removal and shall specify whether the removal vote is to be taken at a special meeting of Members or at the next regular meeting of Members. A director who is the subject of removal proceedings shall be given fifteen days to respond to the Member petition in writing to the President.

4.5 Vacancies

If a vacancy occurs, the Corporate Governance Committee will present a nominee to the Membership for consideration and election to fill the vacancy for the unexpired term at a special meeting of Members following 30 calendar days notice from the Corporate Secretary. The election will be held in accordance with Section 4.3 *Term and Election* of these Bylaws. The replacement director shall take office immediately upon election.

4.6 Functioning of the Board of Directors

In reaching any decision and in considering the recommendations of any Organizational Group or task force, the Board of Directors shall abide by the principles in these Bylaws.

4.6.1 Meetings and Notice of Meetings

The Board of Directors shall meet at least three times per calendar year and additionally upon the call of the Chair or upon concurrence of at least four directors. At least fifteen days' written notice shall be given by the President to each director, the Members Committee, and the Regional State Committee of the date, time, place and purpose of a meeting of the Board of Directors, unless such notice is waived by the Board of Directors. Telephone conference meetings may be called as appropriate by the Chair with at least one-day prior notice. Board of Directors' meetings shall include the Members Committee, a representative from the Regional Entity Trustees, and a representative from the Regional State Committee (as defined in Section 7.2) for all meetings except when in executive

session; provided however, the failure of representatives of the Members Committee and/or of the Regional Entity Trustees and/or of the Regional State Committee to attend, in whole or in part, shall not prevent the Board of Directors from convening and conducting business, and taking binding votes. The Chair shall grant any Member's request to address the Board of Directors.

4.6.2 Chair and Vice Chair; Election and Terms

The Board of Directors shall elect from its membership a Chair and Vice Chair for two-year terms commencing upon election and continuing until their duly elected successors take office or until their term as a director expires without re-election. The President of SPP may not serve as the Chairman of the Board of Directors. The Vice Chair shall act for the Chair:

- (a) at the request of the Chair;
- (b) in the event the Chair should become incapacitated and unable to discharge the functions of the office; or
- (c) if the office of Chair becomes vacant, until the next regularly scheduled meeting of the Board of Directors, at which meeting a new Chair shall be elected by the Board of Directors to fill the vacancy. The Chair shall appoint a director to fill a vacant Vice Chair position until the next meeting of the Board of Directors, at which meeting a new Vice Chair shall be elected by the Board of Directors to fill the vacancy.

4.6.3 Quorum and Voting

Five of the directors shall constitute a quorum of the Board of Directors; provided, that a lesser number may adjourn the meeting to a later time. Decisions of the Board of Directors shall be by simple majority vote of the directors present and voting. Directors must be present at a meeting to vote; no votes by proxy are permitted. Voting will be by secret ballot. The Corporate Secretary will collect and tally the ballots, and announce the results of a vote. Only voting results will be announced and recorded in the minutes; individual votes will not be announced or recorded.

4.6.4 Compensation of Directors

Directors shall receive compensation as recommended by the Corporate Governance Committee, and approved by the Membership, and shall be reimbursed for actual expenses reasonably incurred or accrued in the performance of their duties.

4.6.5 Executive Session

Executive sessions (open only to directors and to parties invited by the Chair) shall be held as necessary upon agreement of the Board of Directors to safeguard confidentiality of sensitive information regarding employee, financial, or legal matters.

5.0 COMMITTEES ADVISING THE BOARD OF DIRECTORS

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.
- (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 19 persons. Four representatives shall be investor owned utilities Members; four 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; two representatives shall be alternative power/public interest Members; 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 with individual or aggregated loads of less than 1-MW. Representatives will be elected in accordance with Section 5.1.2 of these Bylaws.

5.1.1.2 Qualifications

A representative shall be an officer or employee of a Member with decision-making responsibility over SPPlated activities, and must be the Member's representative to the Membership.

5.1.2 Term and Election

Representatives shall be nominated by the Corporate Governance Committee and elected each year at the meeting of Members to staggered three-year terms commencing upon election and continuing until their duly elected successors take office. The election process shall be as follows:

- (a) At least 90 calendar days prior to the meeting of Members at which election of new representatives is required, the Corporate Governance Committee shall nominate persons equal in number to the representatives to be elected;
- (c) At least 30 calendar days prior to the meeting of Members, the Corporate Governance Committee shall determine the persons it nominates for election as representatives, specifying the nominee for any vacancy to be filled. The Corporate Secretary shall prepare the ballot accordingly, leaving space for additional names, and shall deliver same to Members at least two weeks prior to the meeting of Members;
- (c) For purposes of electing and removing representatives only, each group of Members with Affiliate Relationships shall be considered a single vote;
- (d) At the meeting of Members, any additional nominee or nominees may be added to the ballot if a motion is made and seconded to add such nominee or nominees; and
- (e) The required number of representatives shall be elected by written ballot. A Member shall be entitled to cast a number of votes equal to the number of representatives to be elected. A Member may not cumulate votes. The candidates in each sector receiving the greatest number of votes will fill vacancies.

5.1.3 Resignation and Removal of Members Committee Representatives

Any representative may resign by written notice to the President noting the effective date of the resignation. A representative may be removed, with cause, by the affirmative vote of a majority of the Members at a meeting of Members. Removal proceedings may only be initiated by a petition signed by not less than twenty percent of the Members. The petition shall state the specific grounds for removal and shall specify whether the removal vote is to be taken at a special meeting of Members or at the next regular meeting of Members. A representative who is the subject of removal proceedings shall be given fifteen days to respond to the Member petition in writing to the President.

5.1.4 Vacancies

If a vacancy occurs the Corporate Governance Committee may elect an interim representative from the same sector to serve until a replacement representative from the same sector is elected and takes office. A special election shall be held at the next meeting of Members to fill the vacancy for the unexpired term. The replacement representative shall take office immediately following the election.

5.1.5 Meetings

The Members Committee shall meet only with the Board of Directors.

6.0 COMMITTEES REPORTING TO THE BOARD OF DIRECTORS

This section describes the general scopes and responsibilities of the Organizational Groups reporting directly to the Board of Directors. Nothing in this section is meant to limit these responsibilities or activities in the effort to fulfill SPP's mission.

6.1 Markets and Operations Policy Committee

Each SPP Member shall appoint a representative to the Markets and Operations Policy Committee (MOPC). Each representative designated shall be an officer or employee of

the Member. The Board of Directors will appoint the Chair and Vice Chair of the MOPC. Each member of the MOPC may continue to be a member thereof until the appropriate Member appoints a successor.

The MOPC shall meet at least three times per calendar year, and additionally as needed. The MOPC shall report to the Board of Directors following each MOPC meeting with respect to its activities and with such recommendations, as the MOPC deems necessary.

The responsibilities of the Markets and Operations Policy Committee shall include:

- (a) Recommend practices for system design, planning, adequacy, regional transmission service tariff, interconnections, operation, reliability, market designs and efficiency, and market power mitigation that will help to assure efficient and reliable power supply among the systems in SPP and SPP transmission customers;
- (b) Coordinate and review with ERO Policies and Standards and their applicability to SPP, its Members, and Registered Entities in the SPP footprint;
- (c) Present any Regional Reliability Standards for ERO adoption in accordance with SPP's Standards Development Process.
- (d) Coordinate and oversee the work of any Standards Development Team(s).
- (e) Report to the Trustees on all standards recommended by working groups reporting to the MOPC.
- (f) Make appropriate recommendations to the Board of Directors and Regional Entity Trustees regarding SPP's compliance with ERO Policies and Standards;
- (g) Review Member operating plans and problems that are pertinent to SPP planning and operation;
- (h) Maintain an annual series of load flow and short circuit models and associated stability data bases representing the current and planned electric network of the region, and maintain a data base of all transmission, generation, and supporting facilities within SPP;
- (i) Review and assess the current and planned electric system of the region;
- (j) Make use of studies available from other regions;
- (k) Recommend to the Board of Directors criteria for planning, operations, and to assist in the efficiency and vitality of the wholesale electricity market;

- (l) Coordinate inter-regional and intra-regional plans and facilitate planning, information exchange, and operations between inter-regional and intra-regional groups;
- (m) Develop a coordinated plan for intra-regional transmission for greater efficiency and reliability of electric power supply;
- (n) Recommend to the Board of Directors and Members individual or joint action to improve the operation of the systems comprising SPP;
- (o) Respond to activities as requested by the Strategic Planning Committee and the Board of Directors;
- (p) Monitor the current state and evolution of the electric energy supply industry and proactively recommend commercial practices that meet industry needs and promote commerce;
- (q) Work with all SPP Organizational Groups to promote a high standard of operational reliability;
- (r) Continue coordination of its efforts with the efforts of North American Energy Standards Board (NAESB) and the ISO/RTO Council (IRC), including periodic review of NAESB business practices and IRC policies and their applicability to SPP and its Members;
- (s) Complete a self-assessment annually to determine how effectively the MOPC is meeting its responsibilities; and
- (t) Perform such other functions as the Board of Directors may delegate or direct.

6.2 Strategic Planning Committee

The Strategic Planning Committee (SPC) shall be comprised of eleven members. Three representatives shall be from the Board of Directors; four representatives from the Transmission Owning Member sector as nominated by the Corporate Governance Committee; and four representatives from the Transmission Using Member sector as nominated by the Corporate Governance Committee.

The Board of Directors shall appoint the representatives of the SPC. Each representative of the SPC shall continue to be a representative thereof until the Board of

Directors appoints his/her successor. Where a vacancy occurs, the Corporate Governance Committee will fill the vacancy on an interim basis until the next meeting of the Board of Directors.

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

The responsibilities of the Strategic Planning Committee shall include:

- (a) Gather information from SPP Members, customers, Staff, regulatory jurisdictions, market monitors, and legislative bodies on industry trends, forecasts and directions;
- (b) Assess the industry environment in which SPP will be operating;
- (c) Assess SPP's capabilities and competencies against the industry environment, including coordination with neighboring entities;
- (d) Develop and recommend to the Board of Directors a mission and vision statement and accompanying goals and objectives;
- (e) Formulate strategies to ensure achievement of SPP's mission statement, goals, objectives, and responsibilities, and recommend necessary modifications to SPP processes to carry out these strategies;
- (f) Work with other Organizational Groups in developing related action plans, schedules and budgets;
- (g) Complete a self-assessment annually to determine how effectively the SPC is meeting its responsibilities; and
- (h) Perform such other functions as the Board of Directors may delegate or direct.

6.3 Human Resources Committee

The Human Resources Committee (HRC) shall be comprised of six members. Two representatives shall be from the Board of Directors, one of whom shall serve as the Chair; two representatives from the Transmission Owning Member sector as nominated by the Corporate Governance Committee; and two representatives from the Transmission Using Member sector as nominated by the Corporate Governance Committee.

The Board of Directors shall appoint the representatives of the HRC. Each representative of the HRC shall continue to be a representative thereof until the Board of Directors appoints his/her successor. Where a vacancy occurs the Corporate Governance Committee will fill the vacancy on an interim basis until the next meeting of the Board of Directors.

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

The responsibilities of the Human Resources Committee shall include assistance to the Board of Directors in fulfilling its responsibility to the Members, and investment community with respect to the oversight of:

- (a) The development and administration of employee benefit programs;
- (b) The effectiveness of SPP's compensation plan for employees;
- (c) The activities of investment managers charged with managing employee benefit assets, including evaluation of performance;
- (d) Approve and monitor SPP staffing structure to ensure it accomplishes organizational mission;
- (e) Maintain current job description for the President and conduct annual performance evaluation;
- (f) Recommend policies by which positions, duties, qualifications, salaries, benefits and other necessary matters pertaining to the SPP Officers are determined;

- (g) Other duties and responsibilities detailed in the Human Resources Committee charter; and
- (h) Perform such other functions as the Board of Directors may delegate or direct.

6.4 Oversight Committee

The Oversight Committee (OC) shall be comprised of three members from the Board of Directors.

The Board of Directors shall appoint the representatives of the OC. Each representative of the OC shall continue to be a representative thereof until the Board of Directors appoints his/her successor. Where a vacancy occurs, the Board of Directors will fill the vacancy.

The OC shall meet as needed, provided that a quorum, as defined in these Bylaws, is present. The OC shall report to the Board of Directors following each OC meeting with respect to its activities and with such recommendations, as the OC deems necessary.

The responsibilities of the Oversight Committee shall include:

- (a) Oversee the process of monitoring compliance to SPP and NERC policies other than that assigned to the Regional Entity Trustees under these Bylaws;
- (b) Independently review activities of the Staff;
- (c) Hear and rule on appeals from Members regarding penalty assessment or fine distribution prior to dispute resolution proceedings;
- (d) Recommend Regional Criteria changes necessary for enforcement of mandatory compliance and in response to unclear enforcement provisions of Regional Criteria;
- (e) Grant specific additional authority to the Staff responsible for the oversight monitoring function when needed to perform challenging investigations;
- (f) Oversee the Internal Audit function and receive regular reports, except for that work associated with SAS70 Audit requirements and other financial matters;
- (g) Complete a self-assessment annually to determine how effectively the OC is meeting its responsibilities; and
- (h) Perform such other functions as the Board of Directors may delegate or direct.

6.5 Finance Committee

The Finance Committee (FC) shall be comprised of six members. Two representatives shall be from the Board of Directors, one of whom shall serve as the Chair; two representatives from the Transmission Owning Member sector as nominated by the Corporate Governance Committee; and two representatives from the Transmission Using Member sector as nominated by the Corporate Governance Committee.

The Board of Directors shall appoint the representatives of the FC. Each representative of the FC shall continue to be a representative thereof until the Board of Directors appoints his/her successor. Where a vacancy occurs the Corporate Governance Committee will fill the vacancy on an interim basis until the next meeting of the Board of Directors.

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

The responsibilities of the Finance Committee shall include assistance to the Board of Directors in fulfilling its responsibility to the Members, and investment community with respect to its oversight of:

- (a) The quality and integrity of SPP's financial statements;
- (b) SPP's compliance with financially-based legal and regulatory requirements;
- (c) The independent auditor's qualifications, selection, and independence;
- (d) The performance of SPP's internal audit function and independent auditors as relates to SAS70 Audit requirements;
- (e) The development and implementation of annual and long-term operating and capital budgets;
- (f) The management of risk;
- (g) Develop policies for management of debt financing and for long-term contracting;
- (h) Monitoring methodology for cost recovery to ensure continuing equity for Members;

- (i) Other duties and responsibilities detailed in the Finance Committee charter; and
- (j) Perform such other functions as the Board of Directors may delegate or direct.

6.6 Corporate Governance Committee

To the extent that the membership allows, the Corporate Governance Committee (CGC) shall be comprised of nine 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.

Where a vacancy occurs with respect to a representative of a sector, the representatives from the appropriate sector will fill the vacancy.

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.

The responsibilities of the Corporate Governance Committee shall include:

- (a) Seek input from the Board of Directors, the Members Committee, or the Trustees as to the skills needed to fill any vacancy under consideration;
- (b) In the event of a vacancy or the replacement of an existing director, provide candidates identified by an independent executive search firm for consideration to the Members for election to the Board of Directors;
- (c) In the event of a vacancy or the replacement of an existing Trustee, provide candidates for consideration to the Members for election to the Regional Entity Trustees;

- (d) In the event of a vacancy or the replacement of an existing Members Committee representative, provide candidates for consideration to the Membership for election to the Members Committee;
- (e) Fill vacancies for Organizational Groups in accordance with these Bylaws;
- (f) Monitor the composition of the Board of Directors to ensure balance, independence, maintenance of qualifications under any applicable laws, avoidance of conflict of interest, and periodic review of the criteria for independence set out in the Bylaws and appropriate regulatory bodies, recommending changes, as appropriate;
- (g) Recommend to the Board of Directors the appointment of Organizational Group representatives and leadership except for the Corporate Governance Committee, whose representatives are elected by members in each category; the Members Committee, whose representatives are elected by the Membership; and the Market and Operations Policy Committee, whose representatives are appointed by the Members;
- (h) Develop criteria governing the overall composition of the Board of Directors for recommendation to the Membership;
- (i) Develop criteria governing the overall composition of the Regional Entity Trustees for recommendation to the Membership;
- (j) Coordinate an annual review and assessment of the effectiveness of the Board of Directors, its structure, and process;
- (k) Coordinate an annual review and assessment of the effectiveness of the Regional Entity Trustees, its structure, and process;
- (l) Review annually the structure of the Organizational Groups, and together with the Organizational Group Chairs, the charters of each Organizational Group, and recommend changes to the Board of Directors, as appropriate;
- (m) Review the self-assessments of the Organizational Groups to assure that they are being done on a consistent basis;

- (n) Develop recommendations for the Board of Directors regarding a Chair/Vice Chair succession policy;
- (o) Recommend compensation levels for the Board of Directors and Regional Entity Trustees to the Membership;
- (p) Complete a self-assessment annually to determine how effectively the CGC is meeting its responsibilities; and
- (q) Perform such other functions as the Board of Directors may delegate or direct.

7.0 REGULATORY INVOLVEMENT AND REGIONAL STATE COMMITTEE

Any regulatory agency having utility rates or services jurisdiction over a Member may participate fully in all SPP activities, including participation at the SPP Board of Directors meetings. These representatives shall have all the same rights as Members except the right to vote. Participation includes the designation of representatives by each of the regulatory jurisdictions to participate in any type of committee, working group, task force, and Board of Directors meetings.

7.1 Retention of State Regulatory Jurisdiction

Nothing in the formation or operation of SPP as a FERC recognized regional transmission organization is in any way intended to diminish existing state regulatory jurisdiction and authority. Each state regulatory agency is expressly reserved the right to exercise all lawful means available to protect its existing jurisdiction and authority.

7.2 Regional State Committee

An RSC, to be comprised of one designated commissioner from each state regulatory commission having jurisdiction over an SPP Member, shall be established to provide both direction and input on all matters pertinent to the participation of the Members in SPP. This direction and input shall be provided within the context of SPP's organizational group meetings as well as Board of Directors meetings. The SPP Staff will assist the RSC in its collective responsibilities and requests by providing information and analysis. SPP will fund the costs of the RSC pursuant to an annual budget developed by the RSC and submitted to SPP as part of its budgeting process, which budget must ultimately be approved by the Board of Directors.

The RSC has primary responsibility for determining regional proposals and the transition process in the following areas:

- (a) whether and to what extent participant funding will be used for transmission enhancements;
- (b) whether license plate or postage stamp rates will be used for the regional access charge;
- (c) FTR allocation, where a locational price methodology is used; and
- (d) the transition mechanism to be used to assure that existing firm customers receive FTRs equivalent to the customers' existing firm rights.

The RSC will also determine the approach for resource adequacy across the entire region. In addition, with respect to transmission planning, the RSC will determine whether transmission upgrades for remote resources will be included in the regional transmission planning process and the role of transmission owners in proposing transmission upgrades in the regional planning process.

As the RSC reaches decisions on the methodology that will be used to address any of these issues, SPP will file this methodology pursuant to Section 205 of the Federal Power Act. However, nothing in this section prohibits SPP from filing its own related proposal(s) pursuant to Section 205 of the Federal Power Act.

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Transmission and Regulatory Policy

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Issued on: August 2, 2004

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7.3 Retention of Other Regulatory Jurisdiction

Nothing in the formation or operation of SPP as a FERC recognized regional transmission organization is in any way intended to diminish the jurisdiction or authority of any other regulatory body. Any regulatory agency having utility rates or services jurisdiction over a Member or the regional transmission organization reserves the right to exercise all lawful means available to protect its existing jurisdiction and authority.

8.0 FISCAL ADMINISTRATION

The fiscal year shall coincide with the calendar year.

8.1 Operating Budget

SPP Staff and the Finance Committee will prepare an annual budget of expenditures for the next fiscal year and an estimate for an additional two years. The proposed budget shall be submitted to the Board of Directors not less than two weeks prior to the meeting at which the budget is to be considered for approval. Except as addressed in Section 9.0 *Regional Entity Function*, once approved by the Board of Directors, the budget shall constitute the authority required by the Officers for expenditures for the ensuing year. Modifications to the budget during the fiscal year must be recommended to the Board of Directors by the Finance Committee. The President shall have the authority to approve expenditures in accordance with SPP policy as approved by the Board of Directors.

8.2 Annual Membership Fee

All SPP Members will be subject to an annual membership fee in the amount of \$6,000, or other amount established by the Board of Directors. Unless otherwise agreed, Membership fees for new Members are due at the execution of the Membership Agreement. Membership fees are not subject to refund. The Board of Directors shall determine the annual membership fee for the upcoming year in advance of the last meeting of Members in a calendar year. Legitimate public interest groups (e.g. consumer advocates, environmental groups, or citizen participation groups) may seek a waiver of the annual membership fee. The request for waiver must be directed to the President in writing 90 days in advance of the start of each fiscal year.

8.3 ERO and Regional Entity Costs

SPP is a Regional Entity of the Electric Reliability Organization and is subject to the terms of the Delegation Agreement executed by SPP and the ERO. SPP will have certain functions as signatory to the Delegation Agreement related to the establishment and submission of annual budgets related to fulfillment of Regional Entity functions as well as participation in the costs incurred by ERO. The Delegation Agreement may specify SPP's responsibility to collect ERO costs from SPP's Regional Entity footprint, and may specify ERO's responsibility to fund SPP's Regional Entity budget.

SPP will clearly set out the costs associated with its operation as a Regional Entity within SPP's annual budget.

8.4 Monthly Assessments

SPP will assess certain Members described herein on a monthly basis all costs not otherwise collected. Costs recovered under the assessment will include but are not limited to all operating costs, financing costs, debt repayment, and capital expenditures associated with the performance of SPP's functions as assigned by the Board of Directors. Significant among these are costs associated with regional reliability coordination and the provision of transmission service. SPP shall determine the assessment rate based on its annual budgeted net expenditures divided by estimated annual Schedule 1 billing units for service sold under SPP's OATT and Member load eligible to take, but not taking, Network Integration Transmission Service under SPP's OATT. The Board of Directors may review the assumptions used in determining the assessment rate at any time and may adjust the assessment rate appropriately should conditions warrant. Each load-serving Member shall then be assessed the monthly assessment rate applied to its load eligible to take Network Integration Transmission Service under the SPP OATT. Further, each load-serving Member shall receive a credit against the monthly assessment for that month's Schedule 1 fees paid for Network Integration Transmission Service and for Point-to-Point Transmission Service that had a delivery point within the SPP region, under the SPP OATT.

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8.5 Fiscal Agent

The President shall serve as the fiscal agent of SPP. The President shall keep an up-to-date record of receipts and disbursements and furnish reports to the Board of Directors and the Finance Committee.

8.6 Auditors

The Board of Directors shall annually engage an independent certified public accounting firm to perform an annual audit of SPP's financial records and prepare a report on the financial condition of SPP. The Finance Committee shall present the audit report to the Board of Directors upon completion.

8.7 Financial Obligation of Withdrawing Members

8.7.1 Existing Obligations

"Existing Obligations" are the following:

- a. Member's unpaid annual membership fee.
- b. Member's unpaid dues, assessments, and other amounts charged under Section 3.8 or otherwise under the Bylaws, plus the Member's share of costs SPP customarily includes in such dues, assessments or other charges, but which as of the Termination Date SPP had not included in such dues, assessments or other charges.
- c. Member's share (computed in accordance with the Bylaws) of the entire principal amounts of all SPP Financial Obligations outstanding as of the Termination Date. "Financial Obligations" are all long-term (in excess of six (6) months) financial obligations of SPP, including but not limited to the following:
 - i. debts under all loans, loan agreements, borrowings, promissory notes, bonds, and credit lines, under which SPP is obligated, including principal and interest;
 - ii. all payment obligations under equipment leases, financing leases, capital leases, real estate and office space leases, consulting contracts, and contracts for outsourced services;

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- iii. any unfunded liabilities of any SPP employee pension funds, whether or not liquidated or demanded; and
- iv. the general and administrative overhead of SPP for a period of three (3) months.
- d. Any costs, expenses or liabilities incurred by SPP directly due to the Termination, regardless of when incurred or payable, and including without limitation prepayment premiums or penalties arising under SPP Financial Obligations.
- 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.

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Transmission and Regulatory Policy

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Issued on: December 12, 2005

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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 within SPP
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.

9.0 REGIONAL ENTITY FUNCTION

9.1 Regional Entity

SPP operates as a Regional Entity under FERC jurisdiction with oversight powers delegated to it by the ERO. The Regional Entity Trustees shall appoint representatives to ERO organizational groups as necessary to represent the interests of the SPPgional Entity. SPP may pay appropriate associated travel expenses of those appointed representatives upon receipt by the Secretary to the Trustees of an expense report as normally filed within the representative's system.

9.2 Regional Entity Staff

The Regional Entity Trustees will oversee staffing requirements for the SPPgional Entity. All SPPgional Entity staff shall report through the Regional Entity (RE) General Manager to the Trustees.

9.3 RE General Manager

The RE General Manager shall be selected by and report to the SPPgional Entity Trustees, and will provide leadership and vision, oversee the execution of RE strategic direction, and direct the day-to-day operations of the RE. The RE General Manager shall carry out the rights, duties and obligations of the SPP pursuant to the authority granted by these Bylaws, the Regional Entity Trustees, and SPP corporate policies. The RE General Manager's responsibilities shall include but are not limited to:

- (a) Providing guidance and oversight of the execution of the performance of delegated statutory functions from the ERO;
- (b) Developing and managing an appropriate organizational structure and staffing levels to accomplish the RE functions;
- (c) Developing an annual RE business plan and budget for RE Trustee, NERC and FERC approval;
- (d) Providing sound fiscal management;
- (e) Ensuring compliance with SPP's Bylaws and Regional Entity Delegation Agreement, as well as other applicable federal, state, and local laws; and
- (f) Interfacing with SPP members and stakeholders, federal and state regulators, other Regional Entities, and NERC on matters related to the reliability of the bulk power system.

The President shall ensure that the RE General Manager has adequate resources, access to information, and the full cooperation of Staff and Organizational Groups for the effective execution of his/her duties.

9.4 Duties of Regional Entity Staff

Regional Entity functions related to compliance monitoring and enforcement shall include but are not limited to:

- (a) Investigation of all reports or discoveries of non-compliance with approved ERO policies and standards;
- (b) Obtaining all information needed to investigate all facets of possible noncompliance with ERO policies and standards;
- (c) Performance of in-depth reviews of operations in conjunction with the Compliance Monitoring and Enforcement Program (CMEP);
- (d) Comprehensive audits when recurring issues covering a broad spectrum of violations of ERO policies and standards are determined and documented;
- (e) Recommendation of financial penalties and/or sanctions for non-compliance with ERO policies and standards pursuant to ERO guidelines;
- (f) Assist the Regional Entity Trustees with third party audits to confirm that SPP is conforming to ERO policies and standards;
- (g) Utilization of dispute resolution procedures as necessary to resolve conflicts or appeals; and
- (h) Coordination of policy modifications to clearly define ERO requirements, and penalties in order to objectively monitor compliance.

9.5 Regional Reliability Standards Development Process

When an SPP working group or task force is considering an SPPgional Reliability Standard, it will be designated the Standards Development Team (SDT) for that Standard in accordance with the SPPgional Entity Standards Development Process Manual. For purposes of an SDT, participation and voting will be open to any interested party in accordance with the Standards Development Process and without regard to membership status in SPP.

9.6 Compliance Monitoring and Enforcement Program

The Regional Entity Trustees will oversee SPP's Compliance Monitoring and Enforcement Program (CMEP). The CMEP will enforce compliance according to ERO reliability standards

for Registered Entities. Regional Entity staff shall oversee compliance auditing of registered entities, and will report audit results to the Regional Entity Trustees. All audits of SPP's compliance with ERO reliability standards will be performed by external third party auditors as coordinated and managed by the Regional Entity Trustees.

9.7 Regional Entity Trustees

9.7.1 Functions and Duties of the Regional Entity Trustees

The Regional Entity Trustees shall at all times act in the best interests of SPP's role as the SPPgional Entity in its management, control, and direction of the general business of the Regional Entity functions. In reaching any decision and in considering the recommendations of an appropriate entity, the Regional Entity Trustees shall abide by the principles in these Bylaws. Its duties shall include, but are not limited to oversight of the following:

- (a) Select, oversee and review the performance of the SPP General Manager in carrying out the statutory functions and duties as defined in the Delegation Agreement between ERO and SPP;
- (b) Approve the annual RE business plan and budget;
- (c) Perform function assigned by the SPP Compliance Monitoring and Enforcement Program;
- (d) Track and review Regional Standards from MOPC for submission to the ERO and FERC for approval and implementation.
- (e) Complete a self-assessment annually to determine how effectively the Regional Entity Trustees are meeting their responsibilities; and
- (f) Provide an annual report to the Board of Directors regarding the effectiveness of the Regional Entity function and processes.

9.7.2 Composition and Qualifications

9.7.2.1 Composition

The Regional Entity Trustees shall consist of three (3) persons. The trustees shall be independent of the SPP Board of Directors, any Member, industry stakeholder, or SPP organizational group. Regional Entity Trustees do not serve as members of the SPP Board of Directors. A trustee shall not be limited in the number of terms he/she may serve.

9.7.2.2 Qualifications

Regional Entity Trustees shall have relevant senior management expertise and experience in the reliable operation of the bulk electric transmission system in North America.

9.7.2.3 Conflicts of Interest

Regional Entity Trustees shall not be a director, officer, or employee of, and shall have no direct business relationship, financial interest in, or other affiliation with, a Member, a customer of services provided by SPP, or a Registered Entity in the SPP footprint. Trustees may invest in accordance with the SPP Standards of Conduct. Participation in a pension plan of a Member, customer, or Registered Entity in the SPP footprint shall not be deemed to be a direct financial benefit if the Member's, customer's, or Registered Entity's financial performance has no material effect on such pension plan.

9.7.3 Term and Election

Regional Entity Trustees shall be elected at the meeting of Members to a three-year term commencing upon election and continuing until his/her duly elected successor takes office. The election process shall be as follows:

- (a) At least 90 calendar days prior to the meeting of Members when election of a new trustee is required, the Corporate Governance Committee shall commence the process to nominate persons for the position to be elected;

- (b) At least 45 calendar days prior to the meeting of Members, the Corporate Governance Committee shall determine the person it nominates for election as a trustee, specifying the nominee for any vacancy to be filled. The Corporate Secretary shall prepare the ballot accordingly, leaving space for additional names, and shall deliver same to Members at least 30 calendar days prior to the meeting of Members;
- (c) For purposes of electing or removing trustees only, Members with Affiliate Relationships shall be considered a single Member;
- (d) Any additional nominee(s) may be added to the ballot if a petition is received by the Corporate Secretary at least 15 calendar days prior to the meeting of Members and evidencing support of at least 20 percent of the existing Membership; and
- (e) 1) If only one candidate is nominated for a seat, each Member shall be entitled to cast a vote for or against the nominee. The votes will be calculated in accordance with Section 3.9 *Voting* of these Bylaws, which requires a super majority. In the event a trustees position is not filled the Corporate Governance Committee will determine a new nominee for recommendation for election by the Membership at a special meeting of Members to be held but no later than the next regular Board of Directors/Members Committee meeting;

2) If multiple candidates are nominated for a seat, each Member shall be entitled to cast a vote for only one nominee, but may vote against each candidate. The votes will be calculated in accordance with Section 3.9 *Voting* of these Bylaws, with the exception that a simple majority of votes cast will determine which nominee is elected. In the event a trustee position is not filled, the Corporate Governance Committee will determine a new nominee for recommendation for election by the Membership at a special meeting of Members to be held no later than the next regular Board of Directors/Members Committee meeting.

9.7.4 Resignation and Removal of Regional Entity Trustees

Any Regional Entity Trustee may resign by written notice to the President noting the effective date of the resignation. The Membership may remove a trustee with cause in accordance with Section 3.9 *Voting* of these Bylaws. Removal proceedings may only be initiated by a petition signed by not less than twenty percent of the Members. The petition shall state the specific grounds for removal and shall specify whether the removal vote is to be taken at a special meeting of Members or at the next regular meeting of Members. A trustee who is the subject of removal proceedings shall be given fifteen days to respond to the Member petition in writing to the President.

9.7.5 Vacancies

If a vacancy occurs, the Corporate Governance Committee will present a nominee to the Membership for consideration and election to fill the vacancy for the unexpired term at a special meeting of Members following 30 calendar days notice from the corporate Secretary. The election will be held in accordance with Section 9.7.3 *Term and Election* of these Bylaws. The replacement trustee shall take office immediately upon election.

9.7.6 Meetings and Notice of Meetings

Regular Regional Entity Trustees' meetings will be scheduled in conjunction with the regularly scheduled SPP Board of Directors meetings, provided the meeting schedule may be adjusted for good cause and with sufficient notice, and additionally upon the call of the chair or upon concurrence of at least two trustees. Except as otherwise provided in these Bylaws, all meetings will be open to any interested party. At least fifteen days' written notice shall be given by the chair to each trustee, the Board of Directors, and the Members Committee of the date, time, place and purpose of a meeting, unless such notice is waived by the trustees. Telephone conference meetings may be called as appropriate by the chair with at least one-day prior notice. The chair shall grant any party's request to address the Regional Entity Trustees.

9.7.7 Chair

The Regional Entity Trustees shall elect from its membership a chair for a two-year term commencing upon election and continuing until the chair's duly elected successor takes office or until the chair's term as a trustee expires without re-election. The panel may elect to rotate the chair to the senior member of the panel when the initial, or subsequent, chair's term expires.

9.7.8 Quorum and Voting

Two trustees shall constitute a quorum of the Regional Entity Trustees necessary for a binding vote. Decisions of the Regional Entity Trustees require two affirmative votes. Trustees must be present at a meeting to vote; no votes by proxy are permitted. All Regional Entity Trustee decisions regarding the Regional Entity are final except as subject to oversight by the ERO and FERC.

9.7.9 Compensation of Regional Entity Trustees

Regional Entity Trustees shall receive compensation as recommended by the Corporate Governance Committee, and approved by the Membership submitted for approval as part of the ERO budget process. Trustees shall be reimbursed for actual expenses reasonably incurred or accrued in the performance of their duties.

9.7.10 Executive Session

Executive sessions (open only to Trustees and parties invited by the chair of the Regional Entity Trustees) shall be held as necessary upon agreement of the Regional Entity Trustees to safeguard confidentiality of sensitive information regarding employee, financial or legal matters, or confidential information related to compliance matters.

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 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, 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. All amendments are subject to the requisite regulatory approval(s).

11.0 EFFECTIVE DATE AND TRANSITION PROVISIONS

These Bylaws shall become effective the day following acceptance at FERC and remain in force thereafter as may be amended. These Bylaws hereby cancel and supersede SPP Bylaws; provided, that these Bylaws do not relieve any Member from any financial obligation incurred thereunder. Binding obligations entered into by authority of Officers or the Board of Directors, or the Regional Entity Trustees under these Bylaws are hereby assumed and confirmed as obligations of SPP under these Bylaws.

Exhibit C – Regional Standard Development Procedure

Exhibit C shall set forth the Regional Entity’s standards development procedure, which NERC agrees meets the following common attributes:

COMMON ATTRIBUTE 1

Proposed regional reliability standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA [add reference to any applicable authorities in Canada and Mexico]. No regional reliability standard shall be effective within the ~~[Regional Entity Name]~~SPP area unless filed by NERC with FERC [and applicable authorities in Canada and Mexico] and approved by FERC [and applicable authorities in Canada and Mexico].

COMMON ATTRIBUTE 2

~~[Regional Entity Name]~~SPP regional reliability standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. A ~~[Regional Entity Name]~~An SPP reliability standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. A regional reliability standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

COMMON ATTRIBUTE 3

~~[Regional Entity Name]~~SPP regional reliability standards, when approved by FERC ~~[add applicable authorities in Canada]~~, shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the ~~[Regional Entity Name]~~SPP area, regardless of membership in the region.

COMMON ATTRIBUTE 4

Requester — The requester is the sponsor of the regional reliability standard request and may assist in the development of the standard. Any member of ~~[Regional Entity Name]~~,SPP or group within ~~[Regional Entity Name]~~SPP shall be allowed to request that a regional reliability standard be developed, modified, or withdrawn. Additionally, any entity (person, organization, company, government agency, individual, etc.) that is directly and materially affected by the reliability of the bulk power system in the ~~[Regional Entity Name]~~SPP area shall be allowed to request a regional reliability standard be developed, modified, or withdrawn.

COMMON ATTRIBUTE 5

[Standards or other named] committee — The ~~[Regional Entity Name]~~SPP [standards] committee manages the standards development process. The [standards] committee will consider which requests for new or revised standards shall be assigned for development (or existing standards considered for deletion). The [standards] committee will advise the ~~[Regional Entity Name]~~SPP board on standards presented for adoption.

COMMON ATTRIBUTE 6

~~[Alternative 6A: For a Regional Entity that chooses to vote using a balanced stakeholder committee.]~~

~~The [standards] committee is a balanced stakeholder committee, inclusive of all stakeholder interests that provide for or are materially impacted by the reliability of the bulk power system. [The [standards] committee votes to approve standards.] See Appendix A for the representation model of the [standards] committee.~~

~~[Alternative 6B: For a Regional Entity that chooses to vote using a balanced ballot body of stakeholders.]~~

Registered ballot body — The registered ballot body comprises all entities or individuals that qualify for one of the stakeholder segments; are registered with ~~[Regional Entity Name]~~SPP as potential ballot participants in the voting on standards; and are current with any designated fees. Each member of the registered ballot body is eligible to vote on standards. [Each standard action has its own ballot pool formed of interested members of the registered ballot body. Each ballot pool comprises those members of the registered ballot body that respond to a pre-ballot survey for that particular standard action indicating their desire to participate in such a ballot pool.] The representation model of the registered ballot body is provided in Appendix A.]

COMMON ATTRIBUTE 7

~~[Regional Entity Name]~~SPP will coordinate with NERC such that the acknowledgement of receipt of a standard request identified in step 1, notice of comment posting period identified in step 4, and notice for vote identified in step 5 below are concurrently posted on both the ~~[Regional Entity Name]~~SPP and NERC websites.

COMMON ATTRIBUTE 8

An acceptable standard request shall contain a description of the proposed regional reliability standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed standard.

COMMON ATTRIBUTE 9

Within [no greater than 60] days of receipt of a completed standard request, the [standards] committee shall determine the disposition of the standard request.

COMMON ATTRIBUTE 10

The [standards] committee may take one of the following actions:

- Accept the standard request as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The [standards] committee may, at its discretion, expand or narrow the scope of the standard request under consideration. The [standards] committee shall prioritize the development of standard in relation to other proposed standards, as may be required based on the volume of requests and resources.
- Reject the standard request. If the [standards] committee rejects a standard request, a written explanation for rejection will be delivered to the requester within [no greater than 30] days of the decision.
- Remand the standard request back to the requester for additional work. The standards process manager will make reasonable efforts to assist the requester in addressing the deficiencies identified by the [standards] committee. The requester may then resubmit the modified standard request using the process above. The requester may choose to withdraw the standard request from further consideration prior to acceptance by the [standards] committee.

COMMON ATTRIBUTE 11

Any standard request that is accepted by the [standards] committee for development of a standard (or modification or deletion of an existing standard) shall be posted for public viewing on the ~~[Regional Entity Name]~~[SPP](#) website within [no greater than 30] days of acceptance by the committee.

COMMON ATTRIBUTE 12

The standards process manager shall submit the proposed members of the drafting team to the [standards] committee. The [standards] committee shall approve the drafting team membership within 60 days of accepting a standard request for development, modifying the recommendations of the standards process manager as the committee deems appropriate, and assign development of the proposed standard to the drafting team.

COMMON ATTRIBUTE 13

At the direction from the [standards] committee, the standards process manager shall facilitate the posting of the draft standard on the ~~{Regional Entity Name}~~SPP website, along with a draft implementation plan and supporting documents, for a no less than a [30]-day comment period. The standards process manager shall provide notice to ~~{Regional Entity Name}~~SPP stakeholders and other potentially interested entities, both within and outside of the ~~{Regional Entity Name}~~SPP area, of the posting using communication procedures then currently in effect or by other means as deemed appropriate.

COMMON ATTRIBUTE 14

The drafting team shall prepare a summary of the comments received and the changes made to the proposed standard as a result of these comments. The drafting team shall summarize comments that were rejected by the drafting team and the reason(s) that these comments were rejected, in part or whole. The summary, along with a response to each comment received will be posted on the ~~{Regional Entity Name}~~SPP website no later than the next posting of the proposed standard.

COMMON ATTRIBUTE 15

Upon recommendation of the drafting team, and if the [standards] committee concurs that all of the requirements for development of the standard have been met, the standards process manager shall post the proposed standard and implementation plan for ballot and shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

COMMON ATTRIBUTE 16

The standards process manager shall schedule a vote by the ~~{Regional Entity Name}~~SPP [registered ballot body/[standards] committee]. The vote shall commence no sooner than [15] days and no later than [30] days following the issuance of the notice for the vote.

COMMON ATTRIBUTE 17

[Alternative *17A: For an RE that chooses to vote using a balanced stakeholder committee.*]

~~The [standards] committee shall give due consideration to the work of the drafting team, as well as the comments of stakeholders and minority objections, in approving a proposed regional~~

~~reliability standard for submittal to the [Regional Entity Name] board. The [standards] committee may vote to approve or not approve the standard. Alternatively, the [standards] committee may remand the standard to the drafting team for further work or form a new drafting team for that purpose.~~*[Alternative 17B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]*

The ~~[Regional Entity Name]~~SPP registered ballot body shall be able to vote on the proposed standard during a period of [not less than 10] days.

COMMON ATTRIBUTE 18

~~*[Alternative 18A: For an RE that chooses to vote using a balanced stakeholder committee.]*~~

~~The [standards] committee may not itself modify the standard without issuing a new notice to stakeholders regarding a vote of the modified standard.~~

[Alternative 18B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

All members of ~~[Regional Entity Name]~~SPP are eligible to participate in voting on proposed new standards, standard revisions or standard deletions. [Alternatively: Each standard action requires formation of a ballot pool of interested members of the registered ballot body.]

COMMON ATTRIBUTE 19

~~*[Alternative 19A: For an RE that chooses to vote using a balanced stakeholder committee.]*~~

~~Actions by the committee shall be recorded in the regular minutes of the committee.~~

[Alternative 19B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]

Approval of the proposed regional reliability standard shall require a [two thirds] majority in the affirmative (affirmative votes divided by the sum of affirmative and negative votes). Abstentions and non-responses shall not count toward the results, except that abstentions may be used in the determination of a quorum. A quorum shall mean [XX%] of the members of the [registered ballot body/ballot pool] submitted a ballot.

COMMON ATTRIBUTE 20

Under no circumstances may the board substantively modify the proposed regional reliability standard.

COMMON ATTRIBUTE 21

Once a regional reliability standard is approved by the board, the standard will be submitted to NERC for approval and filing with FERC [and applicable authorities in Canada and Mexico.]

COMMON ATTRIBUTE 22

- **Open** - Participation in the development of a regional reliability standard shall be open to all organizations that are directly and materially affected by the ~~[Regional Entity Name]~~SPP bulk power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in ~~[Regional Entity Name]~~SPP, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to the ~~[Regional Entity Name]~~SPP members and others.

COMMON ATTRIBUTE 23

- **Balanced** — The ~~[Regional Entity Name]~~SPP standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.

COMMON ATTRIBUTE 24

- **Inclusive** — Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the ~~[Regional Entity Name]~~SPP area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.

COMMON ATTRIBUTE 25

- **Fair due process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.

COMMON ATTRIBUTE 26

- **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.

COMMON ATTRIBUTE 27

- Does not unnecessarily delay development of the proposed reliability standard.

COMMON ATTRIBUTE 28

Each standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

COMMON ATTRIBUTE 29

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all regional reliability standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

COMMON ATTRIBUTE 30

To ensure uniformity of regional reliability standards, a regional reliability standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

COMMON ATTRIBUTE 31

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

COMMON ATTRIBUTE 32

Applicability	<p>Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions.</p> <p>If not applicable to the entire {Regional—Entity Name}<u>SPP</u> area, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.</p>
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COMMON ATTRIBUTE 33

Measure(s)	<p>Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.</p>
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COMMON ATTRIBUTE 34

Compliance Monitoring Process	<p>Defines for each measure:</p> <ul style="list-style-type: none">• The specific data or information that is required to measure performance or outcomes.• The entity that is responsible for providing the data or information for measuring performance or outcomes.• The process that will be used to evaluate data or information for the purpose of assessing
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	<p>performance or outcomes.</p> <ul style="list-style-type: none">• The entity that is responsible for evaluating data or information to assess performance or outcomes.• The time period in which performance or outcomes is measured, evaluated, and then reset.• Measurement data retention requirements and assignment of responsibility for data archiving.
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Southwest Power Pool
Regional Entity
Standards Development Process
Manual

October 2, 2007

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I. Introduction

This manual defines the fair and open process for adoption, approval, revision, reaffirmation, and deletion of a regional reliability standard (Standard) by Southwest Power Pool, a regional entity (RE). Standards provide for the reliable regional and sub-regional planning and operation of the Bulk Power System (BPS), consistent with Good Utility Practice within an RE's geographical footprint.

Due process is the key to ensuring that Standards are developed in an environment that is equitable, accessible and responsive to the requirements of all interested and affected parties. An open and fair process ensures that all interested and affected parties have an opportunity to participate in a Standard's development.

Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the Bulk Power System has a right to participate by: a) expressing a position and its basis, b) having that position considered, c) voting on a proposed regional reliability standard through a segment weighted balanced process, and d) having the right to appeal.

II. Background

An RE may develop, through its own processes, separate Standards that go beyond, add detail to, or implement NERC reliability standards, or otherwise address issues that are not addressed in NERC reliability standards.

NERC reliability standards and the RE's Standards are all to be included within the RE's Compliance Program.

RE Standards are developed consistent with the following philosophies and according to the process defined in this manual:

- A fair and open process that provides an opportunity for all interested parties to participate;
- Avoid any impact on commerce that is not necessary for reliability;
- Provide a level of BPS reliability that is adequate to protect public health, safety, welfare, and national security and do not have a significant adverse impact on reliability; and
- A justifiable difference between regions or between sub-regions within the Regional geographic area.

The NERC Board of Trustees has adopted reliability principles and market interface principles to define the purpose, scope, and nature of reliability standards. These principles are fundamental to reliability and the market interface, and provide a constant beacon to guide the development of reliability standards. The NERC Board of Trustees may modify these principles from time to time, as necessary, to adapt its vision for reliability standards. Persons and committees that are responsible for the RE Standards process shall consider these NERC principles in the execution of those duties.

NERC reliability standards are based on certain reliability principles that define the foundation of reliability for the North American BPS. Each Standard shall enable or support one or more of the reliability principles, thereby ensuring that it serves a purpose in support of reliability of the North American BPS. Each Standard shall also be consistent with all of the reliability principles, thereby ensuring that no Standard undermines reliability through an unintended consequence.

While NERC reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that BPS reliability and electricity markets are inseparable and mutually interdependent, all Standards shall be consistent with the market interface principles. Consideration of the market interface principles is intended to ensure that Standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

III. Regional Reliability Standard Definition, Characteristics, and Elements

A. Definition of a Regional Reliability Standard

A NERC reliability standard defines certain obligations or requirements of entities that operate, plan, and use the Bulk Power Systems of North America. The obligations or requirements must be material to reliability and measurable. Each obligation and requirement shall support one or more of the stated reliability principles and shall be consistent with all of the stated reliability and market interface principles in the NERC Standards Process Manual.

SPP RE may develop, through the process described in this manual, separate SPP Regional Reliability Standards (Standard) that go beyond, add detail to, or implement NERC reliability standards, or that cover matters not addressed in NERC continent-wide reliability standards. SPP Regional Reliability Standards may be developed and exist separately from NERC continent-wide reliability standards, or may be proposed as NERC reliability standards. Standards that exist separately from NERC reliability standards shall be more stringent than a NERC continent-wide reliability standard, including a regional difference that addresses matters that the NERC continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. These regional reliability standards, if approved by the RE Trustees, are forwarded to NERC for review and submittal to FERC for approval.

B. Definition of SPP Criteria

SPP Criteria are those requirements used by SPP members that are for purposes others than those specified for SPP Regional Reliability Standards (Standards). SPP Criteria are enforceable only under the terms and conditions of the SPP Membership Agreement. SPP Criteria may be developed in accordance with SPP Bylaws outside the process described within this manual since these criteria are not intended to be used by the SPP Regional Entity for compliance and enforcement under the authority delegated under the NERC – SPP Regional Delegation Agreement.

C. Characteristics of a Regional Reliability Standard

Standards define obligations or requirements for the operation and planning of interconnected systems and market interface practices that will be enforceable under the authority of the SPP RE. The format and process defined by this manual applies to all Standards.

A Standard shall have the following characteristics:

- **Material to Reliability** - A Standard shall be material to the reliability of bulk power systems of the RE's region. If the reliability of the bulk power systems could be compromised without a particular standard or by a failure to comply with that standard, then the standard is material to reliability.
- **Measurable** - A Standard shall establish technical or performance requirements that can be practically measured.

- **Relative to NERC Reliability Standards** - A Standard must go beyond, add detail to, or implement NERC reliability standards, or cover matters not addressed in NERC reliability standards.

D. Elements of a Regional Reliability Standard

An RE Standard shall consist of the elements identified in this section of this manual. These elements are intended to apply a systematic discipline in the development and revision of Standards. This discipline is necessary to achieve standards that are measurable, enforceable, and consistent. The format allows a clear statement of the purpose, requirements, measures, and penalties for non-compliance associated with each Standard. Supporting documents to aid in the implementation of a Standard may be referenced by the Standard but are not part of the Standard itself. All mandatory requirements of a Standard shall be within an element of the standard.

Performance Elements of a Regional Reliability Standard

Identification Number	A unique identification number assigned in accordance with an administrative classification system to facilitate tracking and reference RE documentation. Format for Regional Standard Request will be: RSR-000
Title	A brief, descriptive phrase identifying the topic of the Standard.
Effective Date and Status	The effective date of the Standard or, prior to adoption of the Standard by the RE through its own processes, the proposed effective date. The status of the standard will be indicated as active or by reference to one of the numbered steps in the standards process.
Purpose	The purpose of the Standard. The purpose shall explicitly state what outcome will be achieved or is expected by this Standard. The purpose is agreed to early in the process as a step toward obtaining approval to proceed with the development of the standard. The purpose should link the standard to the relevant principle(s).
Requirement(s)	Explicitly stated technical, performance, and preparedness requirements. Each requirement identifies the responsible entity and the action to be performed or outcome to be achieved. Each statement in the requirements section shall be a statement for which compliance is mandatory. Any additional comments or statements for which compliance is not mandatory such as background or explanatory information should be placed in a separate document and referenced. (See Supporting References).

Applicability	<p>Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions.</p> <p>If not applicable to the entire SPP area, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.</p>
Risk Factor(s)	<p>The potential reliability significance of each requirement, designated as a High, Medium, or Lower Risk Factor in accordance with the criteria listed below:</p> <p>A High Risk Factor requirement (a) is one that, if violated, could directly cause or contribute to bulk power system instability, separation, or a cascading sequence of failures, or could place the bulk power system at an unacceptable risk of instability, separation, or cascading failures; or (b) is a requirement in a planning time frame that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly cause or contribute to bulk power system instability, separation, or a cascading sequence of failures, or could place the bulk power system at an unacceptable risk of instability, separation, or cascading failures, or could hinder restoration to a normal condition.</p> <p>A Medium Risk Factor requirement (a) is a requirement that, if violated, could directly affect the electrical state or the capability of the bulk power system, or the ability to effectively monitor and control the bulk power system, but is unlikely to lead to bulk power system instability, separation, or cascading failures; or (b) is a requirement in a planning time frame that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly affect the electrical state or capability of the bulk power system, or the ability to effectively monitor, control, or restore the bulk power system, but is unlikely, under emergency, abnormal, or restoration conditions anticipated by the preparations, to lead to bulk power system instability, separation, or cascading failures, nor to hinder restoration to a normal condition.</p> <p>A Lower Risk Factor requirement is administrative in nature and (a) is a requirement that, if violated, would not be expected to affect the electrical state or capability of the bulk power system, or the ability to effectively monitor and control the bulk power system; or (b) is a requirement in a planning time frame that, if violated, would not, under the emergency, abnormal, or restorative conditions anticipated by the preparations, be expected to affect the electrical state or capability of the bulk power system, or the ability to effectively monitor, control, or restore the bulk power system.</p>

Measure(s)	Each requirement shall be addressed by one or more measurements. Measurements will be used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measurement identifies to whom the measurement applies and the expected level of performance or outcomes required to demonstrate compliance. Each measurement shall be tangible, practical, and as objective as is practical. Measures are proxies to assess required performance or outcomes. Achieving the measures should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirements(s) to which it applies.
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Compliance Elements of a Regional Reliability Standard

Compliance Monitoring Process	<p>The following compliance elements, which are part of the standard and are balloted with the standard are developed for each measure in a standard by the NERC compliance program in coordination with the standard drafting team:</p> <ul style="list-style-type: none"> • The specific data or information required to measure performance or outcomes. • The entity responsible for providing the data or information for measuring performance or outcomes. • The process used to evaluate data or information for the purpose of assessing performance or outcomes. • The entity responsible for evaluating data or information to assess performance or outcomes. • The time period in which performance or outcomes is measured, evaluated, and then reset. • Measurement data retention requirements and assignment of responsibility for data archiving.
Violation Severity Levels	Defines the degree to which compliance with a requirement was not achieved. The violation severity levels, are part of the standard and are balloted with the standard, and developed by the NERC compliance program in coordination with the standard drafting team.

Supporting Information Elements

Interpretations	Formally approved interpretations of the reliability standard. Interpretations are temporary, as the standard should be revised to incorporate the interpretation. Interpretations are developed and approved through a process described in the section Interpretations of Standards.
Implementation Plan	Each standard shall have an associated implementation plan describing the effective date of the standard or effective dates if there is a phased implementation. The implementation plan may also describe the implementation of the standard in the compliance program and other considerations in the initial use of the standard, such as necessary tools, training, etc. The implementation plan must be posted for at least one public comment period and is approved as part of the ballot of the standard.
Supporting References	This section references related documents that support reasons for, or otherwise provide additional information related to, the Standard. Examples include, but are not limited to: <ul style="list-style-type: none">• Development history of the Standard and prior versions• Notes pertaining to implementation or compliance• Standard references• Standard supplements• Procedures• Practices• Training references• Technical references• White papers• Internet links to related information

IV. Roles in the Regional Reliability Standards Development Process

Any member of NERC, including any member of a regional reliability organization, regional entity, or group within NERC shall be allowed to request that a Standard be developed, modified, or withdrawn. Additionally, any entity (person, organization, company, government agency, individual, etc.) who is directly and materially affected by the reliability of the North American Bulk Power Systems shall be allowed to request a Standard be developed, modified, or withdrawn.

Originator - Any entity (person, organization, company, governmental agency, individual, etc.) that is directly and materially affected by the operation of an RE's BPS, is allowed to request a Standard be developed or an existing Standard be modified, or deleted.

Registered ballot body — The registered ballot body comprises all entities or individuals that qualify for one of the voting segments and are registered with SPP as a ballot participant in the voting of a proposed standard. Membership in SPP is not a requirement for registration. Registration in a ballot body must be done via the SPP website by close of business the day prior to the day voting begins on the standard. [Each standard action has its own registered ballot body.] The representation model of the registered ballot body is provided in Sec V. B. Regional Reliability Standards Development Process Steps, Step 5 – Open Voting.] The outcome of the vote of the registered ballot body is forwarded to the RE Trustees regardless of advisory voting outcomes at the MOPC or SPP Board level.

SPP Regional Entity Trustees (RE Trustees) – The SPP Regional Entity Trustees shall act on any proposed Standard that has gone through the process contained in this manual. Upon approval by the RE Trustees, the Standard will be submitted to NERC for approval under the ERO. RE Trustees are notified of all proposed regional reliability standards requests and receive progress reports from the RE Staff. They also receive notice of the outcome of votes by the ballot body and any recommendations and reports on proposed standards made by the SDT, MOPC and SPP Board.

Regional Entity Staff (RE Staff)- RE Staff shall support the RE Trustees in their oversight authority over the Standards Development Process and any other function or responsibility ascribed to them in the NERC- Southwest Power Pool, Inc. Delegation Agreement.

SPP Markets and Operations Policy Committee (MOPC) - The SPP Markets and Operations Policy Committee will assign Standards to a Standards Development Team for development or revision

SPP Board of Directors and Members Committee (BOD/MC) – The SPP Board of Directors in conjunction with the Members Committee provides advisory votes to the RE Trustees on reliability matters as they pertain to the RE. The BOD/MC votes on proposed regional standards or changes to regional standards for the sole purpose of providing an additional stakeholder forum for review, and valuable input to the RE Trustees decision on a regional standard based on the groups expertise on reliability, operations and market matters as well as its wide diverse representation of the SPP membership.

Compliance Director – The RE office responsible for the administration of the SPP Compliance Program. The duties of this office includes but are not limited to, providing inputs and comments during the standards development process to ensure the measures will be effective and can be practically implemented.

Standard Drafting Team (SDT) – Usually an existing SPP Working Group or Task Force that is comprised of technical experts. Any interested party may attend meetings, provide input and comments, and vote under provisions of the SPP Regional Standards Process Manual.

V. Regional Reliability Standards Development Process

A. Assumptions and Prerequisites

The process for developing and approving Standards is similar to procedures accredited by the American National Standards Institute (ANSI), like that employed by the North American Energy Standards Board (NAESB). The Standards development process has the following characteristics:

- **Inclusive** - Any entity (person, organization, company, governmental agency, individual, etc.) representing an organization with a direct and material interest has a right to participate by:
 - a) Expressing an opinion and its basis,
 - b) Having that position considered,
 - c) Voting on a proposed regional reliability standard through a segment weighted balanced process, and
 - d) Appealing any negative decision

- **Openness** - Participation is open to all organizations that are directly and materially affected by the RE's BPS reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in the RE, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of SDT's are open to all interested parties and are noticed on the SPP website at least 15 days in advance. Since pre-existing SPP committees, working groups, or task forces may be assigned the responsibilities of a SDT, the agenda for meetings will note that an SDT activity is being undertaken to distinguish such activity from other non-SDT related agenda items. The openness provisions of this manual apply only and explicitly to the SDT activities. Meetings of subcommittees and working groups serving as a SDT shall follow the SPP Bylaws Sec 3.5 Meetings.
- **Balance** - The RE Standards development process strives to have an appropriate balance of interests. The process prevents any two voting sectors from dominating voting outcomes and no single voting sectors from defeating a proposed reliability standard.
- **Due Process** – The SPP Regional Reliability Standards Development Process provides reasonable notice and opportunity for public comment. At the minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.

- **Transparent** – All actions material to the development of a SPP regional reliability standard shall be transparent. All standards development meetings shall be open and publicly noticed on the SPP website.

B. Regional Reliability Standards Development Process Steps

Note: The term “days” below refers to calendar days.

Step 1 – Request to Develop, Revise or Delete a Regional Reliability Standard

Any individual representing an organization (Originator) that is directly or materially impacted by the operation of the BPS within the geographical footprint of the RE may submit a request to the Markets and Operations Policy Committee (MOPC) for the development, modification, or deletion of an RE Standard. Any such request shall be submitted to the MOPC Chairman, or his/her designee, or by another process as otherwise posted on the SPP website. The request should be made using the SPP Regional Standard Request Form (RSR) in Appendix B.

The MOPC or a designee will work with the Originator to develop a description of the proposed Standard subject matter containing sufficient detail to clearly define the purpose, scope, impacted parties, and other relevant information related to the proposed Standard.

Step 2 – Notification to Regional Entity Trustees & Public Notice

The Chairman of the MOPC or his/her designee will forward the request to the RE Trustees. SPP staff will also post the request on the SPP website for public notice and may utilize any appropriate SPP email distribution lists within 30 days. The request is not to be judged as appropriate or useful at this stage.

The MOPC will assign the drafting and scoping responsibility to an appropriate SPP Working Group or Task Force. This group will become the Standards Drafting Team (SDT) for this particular Standard request. The assignment will include any necessary deadlines and due dates for the Standard.

Any documentation of the deliberations of the SDT concerning the Standard shall be made available in accordance with the SPP Bylaws requirements for meeting and organizational groups then in effect. Meetings of the SDT are open to any interested party. Meeting dates and actions on the regional reliability standard are publicly noticed on SPP's public Web site.

The SDT shall provide a report to the RE Trustees and the MOPC on a periodic basis (at least at every regularly scheduled meeting) noting the status of the Standard that has been assigned to it for consideration.

Step 3 – Scoping and Drafting

The SDT will draft the language of the Standard per the Standard description provided by the MOPC and the Originator. The SDT may recommend changes to the scope, purpose, need or other relevant aspects of the Standard through consultation with the MOPC.

The SDT develops a work plan for completing the Standard development work, including the establishment of milestones for completing critical elements of the work in sufficient detail to ensure that the SDT will meet the date objective in the assignment, or an alternative date. This plan will be provided to the RE Trustees and the MOPC.

The SDT may meet in person or via electronic means as necessary; may establish sub-work teams (made up of members of the SDT) as necessary; and perform other activities to address the parameters of the Standard and the established milestone date(s).

The SDT should consider:

- The impact of the Standard on neighboring regions, and seek appropriate input from the neighboring regions if the Standard is determined to have such an impact.
- An implementation plan, including the nature, extent and duration of field-testing, if any.
- The need for any existing Standard to be deleted, in part or whole, or otherwise impacted by the implementation of the draft Standard.
- Technical reports, white papers and/or work papers that provide technical support for the draft Standard under consideration.
- Documenting the perceived reliability impact should the Standard be approved.

The SDT will regularly (at least at every regularly scheduled meeting) report to the RE Trustees and the MOPC on its progress in meeting a timely completion of the draft Standard. The SDT may request consideration of scope changes of the Standard at any point in the Standard development process.

The RE Trustees or the MOPC may, at any time direct the SDT move to Step 4 and post for comment the current work product, or to terminate the activity if there is no further need for the Standard. If the activity is terminated RE Staff will notify the Originator and the RE Trustees within 30 days.

If there are competing drafts all will be posted on the SPP website for comment. The MOPC may take this step at any time after a SDT has been commissioned to develop the Standard.

For Standards in progress, the MOPC must take action to move to Step 4. *Public Comments*, or to reject the proposal. If the MOPC votes to terminate the activity, the RE Trustees must be notified with supporting reasons provided to them. The proposed standard would then go directly to Step 11. (See Step 11. *RE Trustees Action*)

Step 4 – Post Draft for 30 Day Public Comments

RE Staff will post the draft Standard on the SPP website, along with any supporting documents, for a 30-day comment period. RE Staff shall also inform registered entities and other potentially interested stakeholders of the posting using available SPP communication resources, or by other means deemed appropriate. Comments may be submitted using the RSR Comment Form in Appendix B available on the SPP internet website.

Within 30 days of the conclusion of 30-day comment posting period the SDT shall convene and consider changes to the draft Standard, the implementation plan and/or supporting technical documents. The SDT may elect to return to Step 3. *Scoping and Drafting* to revise the draft Standard, and/or any supporting documentation. The SDT shall summarize the comments received and any changes made as a result. This summary will be and posted on the SPP website when completed.

Step 5 – Open Voting

The SDT shall direct the RE Staff to post the revised draft Standard and other relevant documents including, implementation plan, supporting technical documentation, and summary of comments.

RE Staff will schedule a vote by interested parties to commence no sooner than 15 days and no later than 30 days following the posting of the revised draft.

Members of the ballot body shall be allowed to vote over a period of 15 days. Voting will be through electronic means or other means provided by SPP.

SPP Segment Weighted Voting

Registration in a ballot body created for a specific proposed regional standard is required to vote. Registration for a proposed Standard is noticed on the SPP website and through a Standards email exploder for a period of 15 days prior to the start of the ballot (subscription to the Standards email exploder is open to any interested party through the SPP website). All interested parties who register with the ballot body may vote on the proposed new Standard, Standard revision or Standard deletion. An interested party may only register in one segment.

The five SPP voting segments for Regional Reliability Standards are:

- 1) Transmission
- 2) Generation
- 3) Marketer/Broker
- 4) Distribution/Load Serving Entity
- 5) End User and Public Interest

RE Staff will accept votes any time during the 15-day ballot period for the Standard. Votes will be counted by voting segment. Each voting segment will receive 20% of the vote. A weighted vote of 2/3 affirmative of those voting will pass a Standard for further consideration (Step 7). If the vote fails to achieve a 2/3 majority of those voting, the Standard will be returned to the SDT for consideration for future action (Step 3). The SDT may: revise the Standard; post the Standard again for comments; reballot the Standard; ask the RE Trustees to terminate the request; or any other action it deems appropriate.

The RE Trustees are notified of the outcome of the vote and any actions taken by the SDT as a result of the vote. The RE Trustees will determine any additional action to be taken. (See Step 11. *RE Trustees Action*)

Step 6 – Prepare Consensus Draft & Minority Report

When a Standard is approved, the SDT will prepare a consensus draft representing the version of the Standard to be presented to the MOPC and the BOD/MC before final action by the RE Trustees.

Minority Report and Appeals

- A minority report will be prepared if there are significant issues that cannot be resolved within the SDT during the drafting phase (Step 3) or from the public comments (Step 4).
- A minority report will include any appeals from interested parties that the SPP Standards Procedure Manual was violated in the development of the Standard.
- The minority report remains a part of the record of the Standard and is available to any interested party during any subsequent steps.
- The consensus draft and any minority reports are presented to the MOPC for its consideration and an advisory vote.

Step 7 – Post Draft Standard for Action on the MOPC Agenda

A recommended Standard is noticed for consideration on the MOPC agenda. The agenda materials are made available per the SPP Bylaws, Section 3.5.

If a Standard requires consideration by the MOPC prior to a regularly scheduled meeting, the RE Staff will notify the MOPC Chairman who will notice a special meeting in accordance with the SPP Bylaws.

Step 8 – MOPC Review

The MOPC will provide an advisory vote on the Standard under the governance provisions of the SPP Bylaws, Section 3.9 Voting.

If the MOPC opposes the Standard, the MOPC may request revision of the Standard or termination of further activity on the Standard. If the Standard is terminated, notice is provided (described in Step 9) to the RE Trustees for further action (Step 11).

If the MOPC concurs with the Standard, the Standard proceeds to the SPP Board of Directors and Members Committee for review (Step 9).

The RE Trustees are notified of the outcome of the MOPC review.

Step 9 – SPP Board of Directors/Members Committee Review

A draft Standard submitted to the SPP Board of Directors/Members Committee (BOD/MC) for review must be publicly posted at least 10 days prior to consideration by the BOD/MC. The BOD/MC may consider the Standard at a regularly scheduled meeting, or as determined by the Chairman of the BOD/MC.

The BOD/MC shall be provided:

- The consensus draft Standard and any modification or deletion of other related existing Standard(s)
- Implementation Plan (including recommended field testing and effective dates)

- Technical Documentation supporting the draft Standard
- A summary of the registered ballot body vote and summary of the comments and responses that accompanied the votes including a Minority Report if applicable.
- The results of the MOPC advisory vote and any comments
- Any other information relevant to the Standard

The BOD/MC will:

- Provide an advisory vote to the RE Trustees on the Standard (Step 10); or
- Return the Standard to the MOPC with comments

In the case of a second return of a Standard, the proposed Standard is forwarded to the RE Trustees for action. (The proposed Standard would go directly to Step 11).

Step 10 –Presentation to RE Trustees

A draft Standard submitted to the RE Trustees for action must be publicly posted at least 10 days prior to consideration by the RE Trustees.

The RE Trustees shall be provided:

- The consensus draft Standard and any modification or deletion of other related existing Standard(s)
- Implementation Plan (including recommended field testing and effective dates)
- Technical Documentation supporting the draft Standard
- A summary of the registered ballot body vote and summary of the comments and responses that accompanied the vote including a Minority Report if applicable
- The results of the MOPC advisory vote and any comments
- The result of the BOD/MC advisory vote and any comments
- Any other information relevant to the Standard

Step 11 - RE Trustees Action

The RE Trustees will:

- Recommend NERC approve the Standard through the NERC process; or
- Remand the Standard to the SDT through the MOPC with comments and instructions; or
- Determine there is no need for the Standard and terminate any future activity.

The RE Trustees may consider the Standard at a regularly scheduled meeting, or as determined by the Chairman of the RE Trustees.

If a Standard is forwarded to the RE Trustees for action as a result of an opposing MOPC vote (Step 8), or if automatically forwarded to them as a result of two or more returns by the MOPC

or SPP Board (Step 9), the RE Trustees will take definitive action, including initiating the process from Step 3, Scoping and Drafting. The RE Trustees may not submit a Standard to NERC for approval without a positive outcome from open and balanced voting in Step 5.

Advisory votes of the MOPC and the BOD/MC do not impact the RE Trustees' authority to submit a Standard to NERC.

Step 12 – Submit to NERC for Approval as Regional Standard

RE Staff will notify interested parties of submission of Standard to NERC by the RE Trustees through the normal and customary communication procedures and processes then in effect.

The RE Staff will publicly notice any further steps necessary to have a Standard reviewed and/or approved through the NERC or any successor organization standards process.

C. Filing of Regional Reliability Standards with Regulatory Agencies

The development of Standards must be administered in coordination with the NERC Standards Development Procedure. At the discretion of the NERC Board of Trustees, adopted Standards may be filed with applicable regulatory agencies in the United States, Canada, and Mexico. Regional Reliability Standards once approved by FERC, are made part of the NERC standards and shall be enforced accordingly.

Appendix A

I. Maintenance of the Regional Reliability Standards Development Process Manual

Any interested party may propose changes to this Manual. Such Process Manual change requests will follow all the steps of the Regional Reliability Standards Process outlined in Section V., Part B of this Manual.

II. Appeals

Persons who have directly and materially affected interests and who have been or will be adversely affected by any substantive or procedural action or inaction related to the development, approval, revision, reaffirmation, or withdrawal of a Standard shall have the right to appeal. This appeals process applies only to the Standards process as defined in this procedure.

The burden of proof to show adverse effect shall be on the appellant. Appeals shall be made within 30 days of the date of the action purported to cause the adverse effect, except appeals for inaction, which may be made at any time. In all cases, the request for appeal must be made prior to the next step in the process.

The appeal will be addressed by the RE Trustees. The appeal is included in a Minority Report of the Standard which remains a part of the record for the Standard throughout the SPP Regional Standards Procedure.

The final decisions of any appeal shall be documented in writing and made public.

A complaint will be noted in a Minority Report including the substantive or procedural action or inaction associated with a reliability standard or the standards process. The complaint should describe the actual or potential adverse impact to the appellant. The RE Trustees will provide a written response to the complaint. The appellants response to the RE Trustees determination will be included in the Minority Report.

The RE Trustees shall provide a response to any remaining open complaints.

Appendix B: SPP Regional Standard Request Form

RSR Number		RSR Title	
SPP Regional Standard Name (include Section No., Title, and existing Standard Version if any)			
Requested Resolution Date (if applicable)			
Description			
Reliability Need or Purpose – Try to identify if known: Technical requirements, reliability risk factor, measurements (refer to SPP Standards Process Manual for descriptions).			
Tariff Implications or Changes (Yes or No; If yes include a summary of impact and/or specific changes)			
Criteria Implications or Changes (Yes or No; If yes include a summary of impact and/or specific changes)			
NERC Standard Implications (Yes or No, and summary of impact)			

Sponsor	
Name	
E-mail Address	
Company	
Company Address	
Phone Number	
Fax Number	

Proposed Regional Standard Language

Appendix C: SPP Regional Standard Request Comment Form

RSR Number		RSR Title	
-------------------	--	------------------	--

Date	
-------------	--

Submitter's Information	
Name	
E-mail Address	
Company	
Company Address	
Phone Number	
Fax Number	

Comment Form Instructions (please delete before submitting comments):

Comments are to be submitted electronically and are due by close of business of the comment due date. Please follow this file naming convention:
 ###PRR <Company Name> Comments<date>.doc.

Comments

Revised Regional Standard Language

Appendix D: SPP Standards Development Procedure

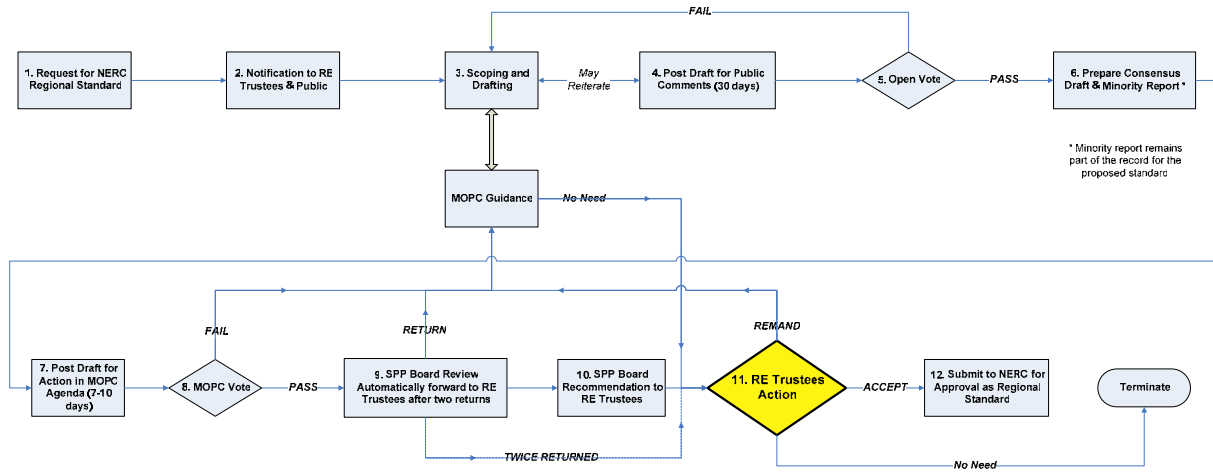


EXHIBIT D – COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

~~[REGIONAL ENTITY]~~SPP will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within ~~[REGIONAL ENTITY]~~SPP's geographic or electrical boundaries, and such other scope, set forth on **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

~~[REGIONAL ENTITY]~~SPP shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either ~~[REGIONAL ENTITY]~~SPP's board or a balanced compliance panel reporting directly to ~~[REGIONAL ENTITY]~~SPP's board. ~~[REGIONAL ENTITY]~~SPP's hearing body is ~~[its board] [if not the board, insert the name of the committee or group serving as the hearing body]~~the SPP Regional Entity Trustees.

~~[If the hearing body is a compliance panel other than the board, provide here a description of how the members of the compliance panel are selected and the qualifications to be selected for the compliance panel.]~~

~~[REGIONAL ENTITY]~~SPP shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: ~~[Describe any deviations, or state "None". If there are deviations from the NERC pro forma Hearing Procedures, [REGIONAL ENTITY]'s Hearing Procedures shall be included as a separate attachment to this Exhibit D.]~~

3.0 OTHER DECISION-MAKING BODIES

~~If [Regional Entity] uses other decision-making bodies within its compliance program, provide here a description of the function of that body to the extent not described elsewhere in the Agreement or exhibits, how the members of that body are selected, and the qualifications to be selected for that body.]~~

SPP has engaged the SERC Reliability Corporation (SERC) to oversee the compliance monitoring and enforcement responsibility within the SPP Region as related to SPP's compliance with Reliability Standards requirements that are applicable to the functions for which SPP is a Registered Entity.

Exhibit E — Funding

1. Scope of activities funded through the ERO funding mechanism

~~[Regional Entity]~~SPP shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) ~~—(a)—~~NERC and ~~[Regional Entity]~~SPP, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of ~~[Regional Entity's]~~SPP's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require ~~[Regional Entity]~~SPP (i) to submit to NERC draft(s) of ~~[Regional Entity]~~SPP's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by ~~[Regional Entity]~~SPP Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of ~~[Regional Entity]~~SPP's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The ~~[Regional Entity]~~SPP business plan and budget submission shall include supporting materials, including ~~[Regional Entity]~~SPP's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. ~~[Regional Entity]~~SPP's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) ~~(b)—~~NERC shall review and approve ~~[Regional Entity]~~SPP's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct ~~[Regional Entity]~~SPP to make such revisions as NERC deems appropriate prior

to approval. NERC shall submit ~~[Regional Entity]~~SPP's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of ~~[REGIONAL ENTITY]~~SPP's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. ~~[Regional Entity]~~SPP shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying ~~[Regional Entity's]~~SPP's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of ~~[Regional Entity's]~~SPP's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

~~[IF NERC WILL BILL AND COLLECT ASSESSMENTS DIRECTLY FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):]~~

- ~~(a)~~ (a) NERC shall submit invoices to the load-serving entities or designees identified by ~~[Regional Entity]~~SPP covering the NERC and ~~[Regional Entity]~~SPP assessments approved for collection.

~~[IF THE REGIONAL ENTITY WILL ACT AS THE BILLING AND COLLECTION AGENT ON BEHALF OF NERC TO BILL AND COLLECT ASSESSMENTS FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):]~~

~~(a) NERC and [Regional Entity] agree that [Regional Entity] shall act as the billing and collection agent on behalf of NERC to bill and collect [Regional Entity]'s assessments from load-serving entities and designees (or such other entities as agreed by NERC and [Regional Entity]). [Regional Entity] agrees that it shall (i) issue all invoices to load-serving entities and other entities in a prompt and timely manner after receipt from NERC of the information needed to issue the invoices; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC in a timely manner, as follows: Prior to the start of each calendar quarter, and once per week thereafter until all billings for the quarter are collected, [Regional Entity] will electronically transfer to NERC, in immediately available funds, all payments received by [Regional Entity] from load-serving entities or other entities for payment of invoices. On~~

~~the same day that [Regional Entity] makes each electronic transfer of funds to NERC, [Regional Entity] shall send an e-mail to the Chief Financial Officer or Controller of NERC detailing the collections being transmitted, including a listing of the load-serving entities or other entities from which payments were collected and the amount collected from each entity. [Note: If NERC and Regional Entity have a different collection and payment arrangement, the preceding two sentences will be modified accordingly to describe it.]~~

~~[Regional Entity] agrees that it shall not in any way use its position as billing and collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of Reliability Standards (including Regional Reliability Standards and Regional Variances), administration of the compliance monitoring and enforcement program and other compliance and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of [Regional Entity's] budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this Agreement.~~

- (b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from ERO Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, ~~[Regional Entity]~~SPP shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, ~~[Regional Entity]~~SPP is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within ~~[REGIONAL ENTITY]~~SPP's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within ~~[Regional Entity]~~SPP's region.
- (c) Upon approval by ERO Governmental Authorities of ~~[Regional Entity]~~SPP's annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay ~~[Regional Entity's]~~SPP's annual assessment to Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by ~~[Regional Entity], other than penalty monies received from an operational function or division or affiliated entity of [Regional Entity]~~ SPP, shall be applied as a general offset to ~~[Regional Entity]~~SPP's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. ~~Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of [Regional Entity] shall be~~

~~transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.~~

6. Budget and Funding for ~~[Regional Entity]~~SPP's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), ~~[Regional Entity]~~SPP performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): ~~[List and describe all~~

SPP's performs non-statutory activities performed by Regional Entity, or state "None".] as a Regional Transmission Organization ("RTO"). As a RTO, SPP is mandated by the Commission to ensure reliable supplies of power, adequate transmission infrastructure, and competitive wholesale prices of electricity. In furtherance of this mandate, SPP's specific non-statutory activities are the following primary services:

1. Tariff Administration: Independent administration of the Open Access Transmission Tariff that provides one-stop shopping for regional transmission service with consistent rates and terms.
2. Reliability Coordination: SPP monitors power flow throughout our footprint. We anticipate problems and take preemptive action to mitigate operating limit violations. SPP coordinates regional response in emergency situations or blackouts.
3. Regional Scheduling: SPP ensures that the amount of power sent is coordinated and matched with power received. SPP's regional scheduling service reduces the number of entities with which SPP members and customers have to coordinate.
4. Market Operations: SPP administers an Energy Imbalance Marketplace, monitors resource/load balance and ensures that less expensive power is used to serve load before expensive power, all while ensuring system reliability is met.
5. Expansion Planning: SPP's planning process seeks to identify system limitations and develop transmission upgrades for increased capacity.
6. Contract Services: SPP provides reliability, tariff administration, and scheduling for non-members on a contract basis.

~~[Regional Entity]~~SPP shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: ~~[List and describe the methods and procedures Regional Entity employs to keep costs and funding of statutory activities separate from costs and funding of non-statutory activities, including at a minimum a description of how Regional Entity's bank accounts and receivables/payables procedures are set up for both statutory and non-statutory functions, a~~

~~description of how Regional Entity ensures each employee involved in both statutory and non-statutory functions keeps accurate time records reflecting his/her activities, and a description of how Regional Entity's general and administrative costs are allocated between statutory activities and non-statutory activities. If the necessary descriptions are lengthy they may be provided in a separate attachment labeled "Attachment E-1", and state here "See Attachment E-1." If Regional Entity has listed no non-statutory functions in the preceding paragraph, state here "Not applicable."}]~~

(i) Separation of funding sources for statutory activities and non-statutory activities. As a RTO, SPP is a public utility under the Federal Power Act, and is required to submit its budget to the Commission. The Commission already has approved SPP's RTO activities and has ordered that SPP's budgets be filed with the Commission.

SPP's non-statutory activities are funded separately from its Regional Entity statutory activities through the imposition of a Commission-approved Tariff Administration Fee charged by SPP to all load under the SPP Open Access Tariff, except for Contract Services activities, which are funded by contract fees. Additionally, SPP's members are assessed an annual membership fee.

SPP shall provide its budget for such non-statutory activities to NERC at the same time that SPP submits its annual budget to FERC. SPP agrees that no costs of non-statutory activities are to be included in the calculation of SPP's dues, fees, and other charges for its statutory activities.

As provided in section 4(c) of this Exhibit E, on a quarterly basis, NERC will pay SPP an amount equal to one-fourth of the current year approved annual funding amount for SPP's statutory activities. Upon receipt of payment from NERC, SPP will deposit these funds into an account established solely to receive and hold funding received from NERC pursuant to SPP's performance of statutory activities under the Delegation Agreement. On a monthly basis, all expenses incurred by SPP for statutory activities and for non-statutory activities are recorded and paid from the SPP operating account. Throughout the year, as expenses incurred for SPP statutory activities are paid from the SPP operating account, transfers are made from the account established solely to receive and hold funding received from NERC to the SPP operating account in the amounts of payments made for expenses incurred for SPP statutory activities. The RE General Manager shall have sole authority to approve all withdrawal of funds from the SPP Regional Entity bank account.

(ii) Separation of costs of statutory activities and non-statutory activities. All employees performing functions directly attributed to SPP's delegated responsibilities who also perform functions related to SPP's non-statutory activities will utilize a time tracking system to accurately reflect their time spent on statutory activities. Periodically, but no less frequently than annually, SPP will input the time associated with its direct function staff performing statutory activities into a cost calculation model. Specific, direct costs attributable to the direct function staff performing statutory activities are salary, SPP-paid medical insurance, Medicare and Social Security taxes, and other SPP-paid benefits. These costs are then combined with other directly assignable costs of statutory activities, such as

travel, meetings, contractors, professional services, fees and expenses of Regional Entity independent trustees, and other direct administrative expenses, and reported on the NERC Statement of Activities.

In addition, an allocation of SPP overhead costs to statutory activities is calculated and the allocated overhead costs are recorded on the NERC Statement of Activities. These overhead costs are shared throughout the SPP organization and include costs for payroll and accounts payable processing, human resources and benefits management, accounting, information technology, executive leadership, corporate affairs and communications, office costs and other support services and expenditures. This allocation is calculated using a standard hourly rate multiplied by the number of SPP staff hours spent directly performing SPP's statutory activities. The hourly rate for allocated overhead costs is developed using SPP's current year expenses, by separating SPP's shared services support costs which support all of SPP's functions (i.e., the costs for the activities identified in the second sentence of this paragraph) from SPP's operational resource pool. The total indirect costs are then divided by estimated total annual available work hours for SPP's operational resource pool. The average annual employee utilization rate assumes each employee works an eighthour work day with adjustments to reflect SPP's employment policies related to vacation allotment, SPP holidays and other non-productive leave. The total expenses for statutory activities in a month as recorded on the NERC Statement of Activities are used to determine the amount of transfer to be made to the SPP operating account to reimburse the SPP operating account for the payment of expenses of SPP's statutory activities. The RE General Manager shall have sole authority to approve all withdrawal of funds from the SPP Regional Entity bank account.

~~[Regional Entity]SPP~~ shall provide its budget for such non-statutory activities to NERC at the same time that ~~[Regional Entity]SPP~~ submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement.—~~[Regional Entity's] SPP's~~ budget for non-statutory activities that is provided to NERC shall contain a detailed list of ~~[Regional Entity's]SPP's~~ non-statutory activities and a description of the funding sources for the non-statutory activities. ~~[Regional Entity]SPP~~ agrees that no costs (which shall include a reasonable allocation of ~~[Regional Entity]SPP's~~ general and administrative costs) of non-statutory activities are to be included in the calculation of ~~[Regional Entity's]SPP's~~ assessments, dues, fees, and other charges for its statutory activities.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if ~~[Regional Entity]SPP~~ determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, ~~[Regional Entity]SPP~~ shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in ~~[Regional Entity]SPP's~~ approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct ~~[Regional Entity]SPP~~ to

make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~[Regional Entity]~~SPP's approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Statements

NERC shall conduct reviews of the quarterly and annual financial statements submitted by ~~[Regional Entity]~~SPP pursuant to Section 9(h) and (i) of the Agreement. ~~[Regional Entity]~~SPP shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC based on its reviews.

ATTACHMENT 8A

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED DELEGATION AGREEMENT

WITH

TEXAS RELIABILITY ENTITY

CLEAN VERSION



**RESOLUTION OF THE BOARD OF DIRECTORS OF
TEXAS RELIABILITY ENTITY, INC.**

April 27, 2010

WHEREAS, the Board of Directors (Board) of Texas Reliability Entity, Inc. has determined it to be desirable and in the best interest of Texas Reliability Entity, Inc. to approve the Amended and Restated Delegation Agreement between North American Electric Reliability Corporation and Texas Reliability Entity, Inc., including all exhibits, which is attached hereto as Attachment A and incorporated herein for all purposes, with no material changes;

THEREFORE be it RESOLVED, that the Board hereby approves the Amended and Restated Delegation Agreement between North American Electric Reliability Corporation and Texas Reliability Entity, Inc. which is attached hereto as Attachment A and incorporated herein for all purposes, with no material changes.

CORPORATE SECRETARY'S CERTIFICATE

I, Susan Vincent, Corporate Secretary of Texas Reliability Entity, Inc. do hereby certify that, at the April 27, 2010 Texas Reliability Entity, Inc. Board of Directors Meeting, the Board of Directors of Texas Reliability Entity, Inc. approved the above referenced resolution. The motion passed by unanimous voice vote.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of April 2010.

A handwritten signature in cursive script, appearing to read "Susan Vincent", written over a solid horizontal line.

Susan Vincent
Corporate Secretary

Exhibit A
Pro Forma Delegation Agreement

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND TEXAS RELIABILITY ENTITY, INC.**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”) made as of January 1, 2011, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and Texas Reliability Entity, Inc. (“Texas RE”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified on **Exhibit A** to this Agreement, and for other purposes. NERC and Texas RE may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824n) (hereafter “the Act”), which, among other things, provides for the establishment of an electric reliability organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as Texas RE provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, Texas RE is organized on an Interconnection-wide basis and therefore is entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through Texas RE to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that Texas RE meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and Texas RE, having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and Texas RE agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to Texas RE to propose and enforce Reliability Standards pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, Texas RE hereby represents and warrants to NERC that:

(i) Texas RE is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. Texas RE is governed in accordance with its bylaws by a combination independent and balanced stakeholder board. Pursuant to these bylaws, no two industry sectors can control any Texas RE decision and no single industry sector can veto any Texas RE decision. The relevant portions of such bylaws are attached hereto in **Exhibit B**¹, and as so attached are in full force and effect. No other such corporate governance documents are binding upon Texas RE.

(ii) As set forth in **Exhibit C** hereto², Texas RE has developed a standards development procedure, which provides the process that Texas RE may use to develop Regional Reliability Standards and Regional Variances that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, Texas RE has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within Texas RE's geographic boundaries as shown on **Exhibit A**.

(b) NERC hereby represents and warrants to Texas RE that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

3. Covenants.

¹ The **Exhibit B** from Texas RE shall meet the requirements contained in **Exhibit B** to this Agreement.

² The **Exhibit C** from Texas RE shall meet the requirements contained in **Exhibit C** to this Agreement.

(a) During the term of this Agreement, Texas RE shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC's approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of Texas RE under this Agreement without first obtaining the consent of Texas RE, which consent shall not be unreasonably withheld or delayed.

(c) During the term of this Agreement, NERC and Texas RE shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

4. **Delegation of Authority.**

(a) Based upon the representations, warranties and covenants of Texas RE in Sections 2 and 3 above, the corporate governance documents set forth in **Exhibit B**, the standards development process set forth in **Exhibit C**, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to Texas RE for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth on **Exhibit A**, *provided*, that Texas RE shall not monitor and enforce compliance with Reliability Standards for Texas RE or an affiliated entity with respect to reliability functions for which Texas RE or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to Texas RE within, or additions to this delegation of authority to Texas RE beyond, the geographic boundaries set forth on **Exhibit A** are stated on **Exhibit A**.

(b) In circumstances where Texas RE or an affiliated entity is a Registered Entity, Texas RE shall enter into an agreement with another Regional Entity or NERC for the other

Regional Entity or NERC to monitor and enforce Texas RE's or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit Texas RE from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified on **Exhibit A** that is within the United States. Any delegation of authority by ERO Governmental Authorities in Canada or Mexico shall be governed by a separate agreement and is outside the scope of this Agreement; provided, however, that both Texas RE and NERC shall endeavor to ensure that this Agreement and such separate agreements are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, Texas RE shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, Texas RE shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords Texas RE reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards and Regional Variances through Texas RE's process as set forth in **Exhibit C**. Proposals approved through Texas RE's process shall be reviewed by the NERC Board after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance,

applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. Texas RE may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, Texas RE shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the geographic boundaries set forth, or as otherwise specified, in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and Texas RE agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, *inter alia*, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. Texas RE may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, Texas RE agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued

by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) Texas RE shall report promptly to NERC any Possible Violation, Alleged Violation, or Confirmed Violation of a Reliability Standard, and its eventual disposition by Texas RE. Such report shall include the owner's, operator's, or user's name, which Reliability Standard or Reliability Standards were the subject of the Possible Violation, Alleged Violation, or Confirmed Violation, when the Possible Violation, Alleged Violation, or Confirmed Violation occurred, other pertinent facts including circumstances surrounding the Possible Violation, Alleged Violation, or Confirmed Violation with any known risk to the Bulk-Power System, when the Possible Violation, Alleged Violation, or Confirmed Violation was or will be mitigated, the name of a person knowledgeable about the Possible Violation, Alleged Violation, or Confirmed Violation to serve as a point of contact with the Commission, and any other information required by NERC compliance program procedures. NERC shall promptly forward such report to the Commission. NERC and Texas RE shall cooperate in filing such periodic summary reports as the Commission shall from time to time direct on Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards and summary analyses of such Possible Violations, Alleged Violations, and Confirmed Violations.

(c) Each Possible Violation, Alleged Violation, or Confirmed Violation shall be treated as nonpublic unless the matter is filed with the Commission as a Notice of Penalty, or, if disclosure is required, dismissed. The disposition of each Possible Violation, Alleged Violation, or Confirmed Violation that relates to a Cybersecurity Incident or that would jeopardize the security of the Bulk-Power System if publicly disclosed shall remain nonpublic unless the Commission directs otherwise.

(d) All dispositions by Texas RE of Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards shall be reported to NERC for review and, in the case of Confirmed Violations, penalties or sanctions, and settlements, for approval. Following approval of a disposition by NERC, NERC shall file the disposition with the Commission, if required by, and in accordance with, Section 215(e) of the Act and Section 39.7 of the ERO Regulations. NERC shall review Texas RE's dispositions based on the following criteria:

(i) whether the disposition is supported by a sufficient record compiled by Texas RE in accordance with the NERC Rules of Procedure, NERC directives and

Commission requirements, taking into account the nature of the Possible Violation, Alleged Violation, or Confirmed Violation,

(ii) whether the disposition is consistent with any applicable directives issued pursuant to Section 8(c) of this Agreement, any applicable directions or guidance issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, or other applicable NERC guidance, concerning the Reliability Standards to which the Possible Violation, Alleged Violation, or Confirmed Violation relates,

(iii) if the disposition is a Confirmed Violation or settlement, whether it provides for a penalty or sanction, or a determination of no penalty or sanction, determined in accordance with the NERC Sanction Guidelines, Appendix 4B to the NERC Rules of Procedure, and

(iv) whether the disposition is reasonably consistent with other dispositions by Texas RE and by other Regional Entities of Possible Violations, Alleged Violations, and Confirmed Violations involving the same or similar facts and circumstances.

NERC may reject any disposition, with an explanation of why NERC believes the disposition does not meet the above criteria. Texas RE may submit a disposition requiring NERC approval that has been rejected by NERC, or a revised disposition following a rejection, directly to the NERC Board Compliance Committee for approval without revising the disposition to address all the grounds on which NERC originally rejected the disposition. The final approval of Texas RE's disposition of a Possible Violation, Alleged Violation, or Confirmed Violation shall be made by the NERC Board Compliance Committee, provided, that the NERC Board or NERC Board Compliance Committee may, by appropriate resolution, delegate authority for final approval of dispositions of specified categories of Possible Violations, Alleged Violations, or Confirmed Violations to the NERC President.

(e) All appeals of penalties imposed by Texas RE as a result of a decision by Texas RE's Hearing Body shall be filed with, heard by and disposed of by, NERC in accordance with the NERC Rules of Procedure.

(f) Texas RE shall maintain the capability to conduct investigations of Possible Violations and Alleged Violations of Reliability Standards and to conduct such investigations in a confidential manner.

(g) Texas RE shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan.

(h) As part of its compliance monitoring and enforcement program, Texas RE shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(i) As often as NERC deems necessary, but no less than every five years, NERC shall review Texas RE's compliance monitoring and enforcement program to determine that: (i) the program meets all applicable legal requirements; (ii) actual practices reflect the requirements; and (iii) the program administered pursuant to the Delegated Authority promotes consistent interpretations across North America of Reliability Standards and comparable levels of sanctions and penalties for violations of Reliability Standards constituting comparable levels of threat to reliability of the Bulk-Power System.

7. Delegation-Related Activities.

NERC will engage Texas RE on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed on **Exhibit E**. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (f), each of which shall be considered a statutory activity:

(a) Certification of Bulk-Power System Entities. The NERC Board shall set criteria for certification in accordance with the NERC Rules of Procedure. Texas RE shall issue certifications in accordance with the NERC Rules of Procedure.

(b) Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.

(i) The NERC Board shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by Texas RE and other Regional Entities. Texas RE shall provide timely and accurate information relating to registrations to NERC, on at least a monthly basis, to enable NERC to maintain a registration database that is accurate and up-to-date.

(iii) The NERC Board Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) Reliability Assessment and Performance Analysis. Texas RE shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. Texas RE shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives. NERC shall develop data-gathering quality control procedures, forms and reporting mechanisms, which shall be used by Texas RE and other Regional Entities in carrying out their responsibilities under this subsection (c).

(d) Event Analysis and Reliability Improvement. Texas RE shall conduct event analysis pursuant to the NERC Rules of Procedure and applicable governmental regulations. NERC and Texas RE shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, Texas RE shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) Training and Education. Texas RE may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) Situation Awareness and Infrastructure Security.

(i) Texas RE shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure and applicable governmental regulations, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System

(ii) Texas RE shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of Texas RE's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and Texas RE that matters relating to NERC's oversight of Texas RE's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and Texas RE and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with Texas RE and other Regional Entities, performance goals, measures and other parameters (including, without limiting the scope of such goals, measures and parameters, financial performance goals, measures and parameters), and performance reports, which shall be used to measure NERC's and Texas RE's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. Texas RE shall provide data, information and reports to

NERC, in accordance with established schedules, to enable NERC to calculate Texas RE's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters and performance reports to evaluate Texas RE's performance of its delegated functions and related activities and to provide advice and direction to Texas RE on performance improvements. The performance goals, measures and other parameters and the values of such goals, measures and parameters, shall be reviewed by NERC, Texas RE and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, Texas RE shall be required to develop, submit for NERC approval, and implement action plans to address areas of its performance that are reasonably determined by NERC, based on analysis of Texas RE's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring Texas RE to adopt and implement an action plan or other remedial action, NERC shall issue a notice to Texas RE of the need and basis for an action plan or other remedial action and provide an opportunity for Texas RE to submit a written response contesting NERC's evaluation of Texas RE's performance and the need for an action plan. Texas RE may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board review and reconsider the request. NERC and Texas RE shall work collaboratively as needed in the development and implementation of Texas RE's action plan. A final action plan submitted by Texas RE to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to Texas RE standardized training and education programs, which shall be designed taking into account input from Texas RE and other Regional Entities, for Texas RE personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to Texas RE concerning the manner in which Texas RE shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a

collaborative process with Texas RE and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and Texas RE and, if applicable, other Regional Entities are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President; *provided*, that before the NERC President issues a directive pursuant to this paragraph (ii), Texas RE and, if applicable, other Regional Entities, shall be given a reasonable opportunity to present their positions on, and a suggested alternative version or versions of, the proposed directive to the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, Texas RE, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by Texas RE, the NERC Board (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without Texas RE's agreement, *provided*, that Texas RE shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and Texas RE and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which Texas RE, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The Board or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions,

taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the Board or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. Texas RE, either individually or in conjunction with other Regional Entities, may request that the NERC Board or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with Texas RE, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) Any audits of Texas RE performed by NERC shall be limited to an examination of Texas RE's compliance with this Agreement, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c)

9. Funding. Texas RE and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed on **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) Texas RE shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. Texas RE's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, Texas RE to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E**. Texas RE's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) Texas RE and NERC agree that the portion of Texas RE's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic

boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by Texas RE and approved by NERC and the Commission. If Texas RE proposes to use a formula other than Net Energy for Load beginning in the following year, Texas RE shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and Texas RE to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide Texas RE with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) Texas RE shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed on Exhibit E, as well as for all other activities of Texas RE, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund Texas RE's performance of its Delegated Authority and related activities in accordance with Texas RE's Commission-approved business plan and budget, in the amount of Texas RE's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting Texas RE's approved assessments from end users and other entities and payment of the approved assessment amount to Texas RE, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon Texas

RE that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without Texas RE's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and Texas RE fiscal year budget with the actual results at the NERC and Regional Entity levels. Texas RE shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) Texas RE shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) Texas RE shall submit audited financial statements annually, including supporting materials, in a form provided by NERC no later than May 1 of the following year.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which Texas RE shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of Texas RE) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which Texas RE shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of Texas RE. *Provided*, that, subject to approval by NERC and the Commission, Texas RE may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. Texas RE may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit Texas RE from contracting with other entities to

assist it in carrying out its Delegated Authority, provided Texas RE retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the “Default Notice”). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on January 1, 2011 (the “Effective Date”).

(b) The term of the Agreement shall be five (5) years from the Effective Date, prior to which time NERC shall conduct an audit pursuant to subsection 6(i) to ensure that Texas RE continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. If Texas RE meets such requirements, this Agreement may be renewed for another five (5) year term. This Agreement may be renewed for successive additional five (5) year renewal terms provided that prior to the end of each renewal term, NERC shall conduct an audit pursuant to subsection 6(i) to ensure that Texas RE continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for

delegation. Provided, that either Party may terminate this Agreement as of the end of a term by giving written notice to terminate at least one (1) year prior to the end of the term. If this Agreement is not renewed or becomes subject to termination for any reason, the Parties shall work to provide for a transition of Texas RE's Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement. The termination of this Agreement shall not take effect until such transition has been effected, unless the transition period exceeds one year, at which time Texas RE may unilaterally terminate.

(c) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by Texas RE and NERC.

(d) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. Texas RE and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and Texas RE shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation

costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of the Texas RE's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that the Texas RE or NERC is found liable for gross negligence or intentional misconduct, in which case Texas RE or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party.

15. Confidentiality. During the course of the Parties' performance under this Agreement, a Party may receive Confidential Information, as defined in Section 1500 of NERC's Rules of Procedure. Except as set forth herein, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information. In addition, each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein. This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement.

16. **Amendment.** Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. **Amendments to the NERC Rules of Procedure.** NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of Texas RE under this Agreement without first obtaining the consent of Texas RE, which consent shall not be unreasonably withheld or delayed. To the extent Texas RE does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of Texas RE under this Agreement, Texas RE shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by Texas RE to NERC and the Commission, or at such other time as may be mutually agreed by Texas RE and NERC.

18. **Dispute Resolution.** In the event a dispute arises under this Agreement between NERC and Texas RE (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to Texas RE's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. Texas RE shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, *provided*, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), *provided*, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission

requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. *Provided, however*, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. Whether expressly so stated or not, all notices, demands, requests, and other communications required or permitted by or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand or reputable overnight courier:

If to NERC:

North American Electric
Reliability Corporation
116-390 Village Blvd.
Princeton, NJ 08540-5721
Attn: General Counsel
Facsimile: (609) 452-9550

If to Texas RE:

Texas Reliability Entity, Inc.
2700 Via Fortuna
Suite 225
Austin, Texas 78746
Attn: General Counsel
Facsimile:(512) 225-7165

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of New Jersey without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in New Jersey. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction

in New Jersey for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that Texas RE may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN
ELECTRIC RELIABILITY CORPORATION

TEXAS RELIABILITY ENTITY, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A — Regional Boundaries

Exhibit A to the delegation agreement for each Regional Entity receiving Delegated Authority shall describe the geographic or electrical boundaries covered by the proposed delegation of authority. **Exhibit A** for each Regional Entity shall reflect coordination with neighboring Regional Entities, as appropriate, to ensure that all relevant areas are either included within the geographic boundaries of a Regional Entity or specifically identified as not being within the geographic boundaries of any Regional Entity. Any exclusions of geographic or electrical areas or of Registered Entities from the scope of the Regional Entity's Delegated Authority within the geographic or electrical boundaries shown on **Exhibit A**, and any additions of geographic or electrical areas or of Registered Entities located outside the boundaries shown on **Exhibit A** to the scope of the Regional Entity's Delegated Authority, shall be specifically stated or described in **Exhibit A**.

EXHIBIT A – REGIONAL BOUNDARIES

The ERCOT Region is the geographic area and associated transmission and distribution facilities that are not synchronously interconnected with electric utilities operating outside the jurisdiction of the Public Utility Commission of Texas. The ERCOT Region does not interconnect synchronously across state lines to import or export power with neighboring reliability regions. The ERCOT geographic region includes 200,000 square miles, 85% of Texas load, and 75% of Texas land area (does not include the Panhandle, El Paso area, and 2 areas of East Texas). The ERCOT Region includes the following Texas cities and towns: Dallas, Ft. Worth, Houston, San Antonio, Austin, Paris, Tyler, Nacogdoches, Lufkin, Bryan, College Station, Corpus Christi, Harlingen, Brownsville, Laredo, Brownwood, San Angelo, Abilene, Midland, Odessa, Fort Stockton, Monahans, Snyder, Vernon, Wichita Falls, Denton, Garland, Greenville, Waco, Temple, Killeen, Weatherford, and Graham, as indicated on the map below.

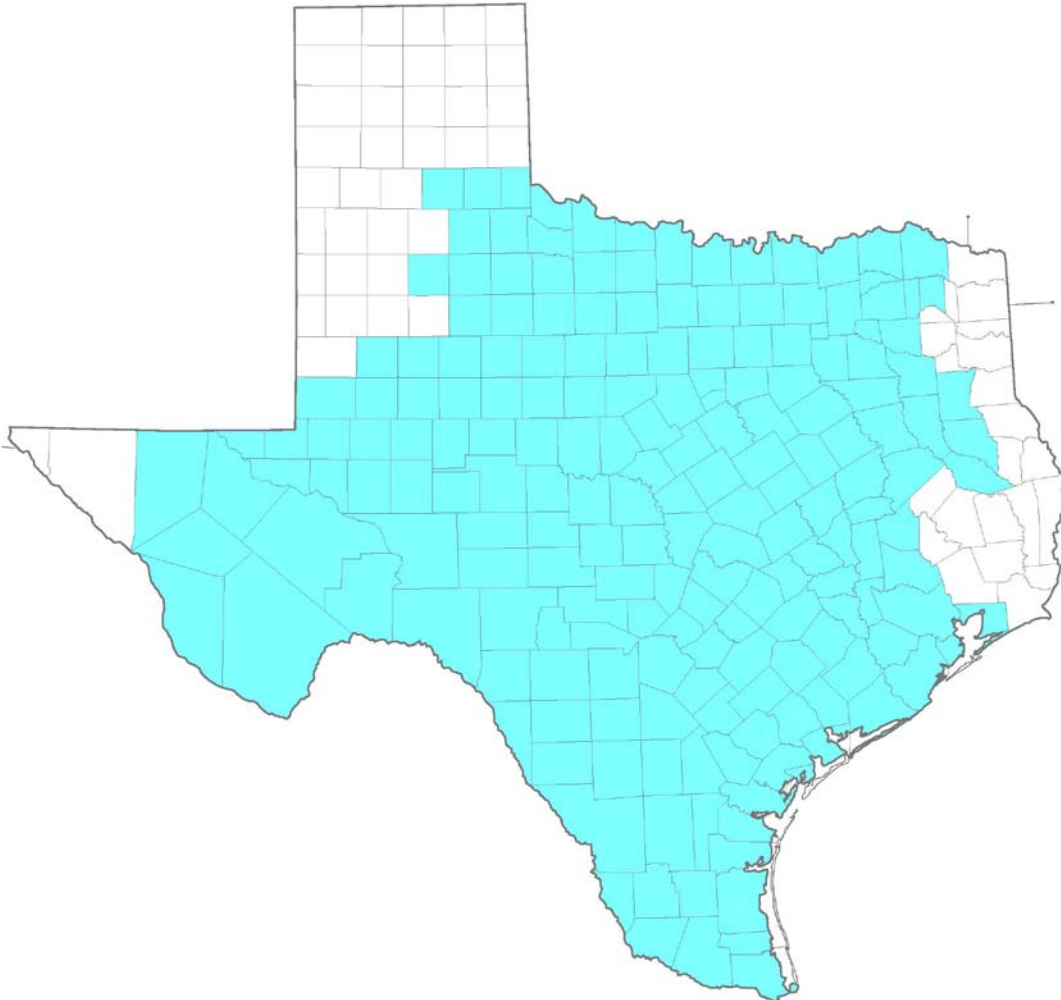


Exhibit B – Governance

Exhibit B shall set forth the Regional Entity’s bylaws, which NERC agrees demonstrate that the Regional Entity meets the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence of the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

BYLAWS
OF
TEXAS RELIABILITY ENTITY, INC.

(A Texas Non-Profit Corporation)

Approved by Membership – February 5, 2010

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ARTICLE I. DEFINITIONS

Section 1. Definitions. The capitalized terms used in these Bylaws of Texas Reliability Entity, Inc. (the "Corporation" or "Texas RE"), shall have the meanings set forth below, or if not set forth below, shall have the meanings given them in the NERC Rules of Procedure.

(a) "Affiliate" means any entity controlling, controlled by or under common control with the entity under consideration, and includes any entity (i.e., any commercial enterprise) in any of the following relationships: (i) an entity that directly or indirectly owns or holds at least five percent of the voting securities of another entity, (ii) an entity in a chain of successive ownership of at least five percent of the voting securities of another entity, (iii) an entity which shares a common parent with or is under common influence or control with another entity or (iv) an entity that actually exercises substantial influence or control over the policies and actions of another entity. Evidence of influence or control shall include the possession, directly or indirectly, of the power to direct or cause the direction of the management and/or policies and procedures of another, whether that power is established through ownership or voting of at least five percent of the voting securities or by any other direct or indirect means. In cases where the level of control or influence is disputed, the Board shall have discretion to determine whether or not the entities are Affiliates of one another. Membership in Texas RE shall not create an affiliation with Texas RE.

(b) "Board" means the Board of Directors of the Corporation.

(c) "Bulk Power System" or "BPS" means facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof) and facilities generating electric energy as needed to maintain transmission system reliability, but does not include facilities used in the local distribution of electricity.

(d) "Commission" or "FERC" means the Federal Energy Regulatory Commission.

(e) "Delegated Authority" means the authority delegated by NERC to the Corporation to propose and enforce NERC Reliability Standards and perform other reliability-related activities in the ERCOT Region under the Delegation Agreement executed by NERC and the Corporation and approved by FERC, pursuant to Section 215 of the Federal Power Act (16 U.S.C. §824n).

(f) "Delegation Agreement" means the agreement between the Corporation and NERC and approved by the Commission which describes the Delegated Authority and may be amended from time to time.

(g) "Electric Reliability Organization" or "ERO" means the organization that is certified by the Commission pursuant to Section 39.3 of its regulations, and has received recognition by appropriate regulatory authorities in Canada and Mexico, as applicable, to establish and enforce Reliability Standards for the Bulk Power Systems of the respective countries and that has entered into a delegation agreement with the Corporation pursuant to which the Electric Reliability Organization delegates enforcement authority for Reliability Standards for the Bulk Power System in the ERCOT Region. NERC was certified as the ERO on July 20, 2006.

(h) “ERCOT Region” means the geographic area and associated transmission and distribution facilities that are not synchronously interconnected with electric utilities operating outside the jurisdiction of the Public Utility Commission of Texas.

(i) “Independent Director” means a person who is not (a) an officer or employee of the Corporation; (b) a NERC Registered Entity or Member or an officer, director, or employee of a Member of the Corporation; or (c) an officer, director, or employee of any company or entity that would reasonably be perceived as having a direct financial interest in the outcome of Board decisions or having a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a Director, as more specifically described in Article IV of these Bylaws.

(j) “Initial Director” means a Director named in the Certificate of Formation and seated for formation of the Corporation.

(k) “Member” means a member of the Corporation pursuant to Article III of these Bylaws.

(l) “NERC” means North American Electric Reliability Corporation, the entity certified by FERC as the ERO on July 20, 2006.

(m) “NERC Rules of Procedure” means the Rules of Procedure that are adopted by NERC and approved by the Commission.

(n) “PUCT” means the Public Utility Commission of Texas.

(o) “OPUC” means the Texas Office of Public Utility Counsel.

(p) “Regional Entity” means an entity with a Delegation Agreement with NERC, as ERO, including the following organizations, in addition to Texas Reliability Entity: Florida Reliability Coordinating Council (FRCC), Midwest Reliability Organization (MRO), Northeast Power Coordinating Council (NPCC), ReliabilityFirst Corporation (RFC), Southeastern Electric Reliability Council (SERC), Southwest Power Pool (SPP), and Western Electricity Coordinating Council (WECC).

(q) “Regional Reliability Standard” means a standard for the ERCOT Region that is proposed and approved in accordance with the Texas RE Standards Development Process, as set forth in Exhibit C to the Delegation Agreement, and either, (i) sets more stringent reliability requirements than a national Reliability Standard, or (ii) covers matters not covered by a national Reliability Standard.

(r) “Registered Entity” means an entity that is registered with NERC and listed on the NERC Compliance Registry (available at www.nerc.com).

(s) “Reliability Standard” means a requirement to provide for Reliable Operation of the Bulk-Power System, which is approved by NERC and the Commission, pursuant to Section 215 of the Federal Power Act and all amendments thereto. This 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.

(t) “Reliable Operation” means operating the elements of the Bulk Power System within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of the Bulk Power System will not occur as a result of a sudden disturbance, including a cybersecurity incident, or unanticipated failure of system elements.

(u) “Sector” means a group of Members of the Corporation that are Bulk Power System owners, operators, or users, as defined in Article III, Section 4 of these Bylaws. Each Sector shall constitute a class of Members for purposes of Chapter 22 (Nonprofit Corporations) of the Texas Business Organizations Code.

ARTICLE II. PURPOSE

Section 1. General Purpose. The purpose of the Corporation is to preserve and enhance reliability in the ERCOT Region. In furtherance of this goal, the Corporation will:

(a) Perform Reliability Standards development, compliance monitoring, compliance enforcement, and other related activities as a Regional Entity, pursuant to 16 U.S.C. §824n, in accordance with the Corporation’s Delegation Agreement with NERC;

(b) Carry out other activities as set forth in the Delegation Agreement, the NERC Rules of Procedure, or as otherwise required or requested by NERC, in support of the Delegated Authority, including but not limited to organization registration and certification, reliability assessment and performance analysis, training and education, and situational awareness and infrastructure security; and

(c) Engage in any other lawful act or activity that is not in conflict with the Corporation’s duties as a Regional Entity and for which non-profit corporations may be organized under the Texas Business Organizations Code.

Section 2. Non-Profit Corporation. The Corporation is a Texas non-profit corporation.

Section 3. Geographic Area. The Corporation will perform its operations primarily within the ERCOT Region. The ERCOT Region includes 200,000 square miles, 85% of Texas load, and 75% of Texas land area (does not include the Panhandle, El Paso area, and 2 areas of East Texas). The ERCOT Region includes the following Texas cities and towns: Dallas, Ft. Worth, Houston, San Antonio, Austin, Paris, Tyler, Nacogdoches, Lufkin, Bryan, College Station, Corpus Christi, Harlingen, Brownsville, Laredo, Brownwood, San Angelo, Abilene, Midland, Odessa, Fort Stockton, Monahans, Snyder, Vernon, Wichita Falls, Denton, Garland, Greenville, Waco, Temple, Killeen, Weatherford, and Graham, and does not interconnect synchronously across state lines to import or export power with neighboring reliability regions.

ARTICLE III. MEMBERSHIP

Section 1. Members. The Corporation is a membership corporation. Membership in the Corporation is voluntary and is open only to any entity that is a user, owner or operator of the ERCOT Region Bulk Power System, registers with the Corporation as a Member, maintains its registration in accordance with this Article III, and complies with the other conditions and obligations of membership specified in these Bylaws. All Members must qualify and be registered in one of the Sectors defined in Article III, Section 4. Membership in the Corporation is not a condition to participating in the development or consideration of proposed Regional Standards.

Section 2. Registration as a Member. Any entity that is eligible to be a Member of the Corporation in accordance with Article III, Section 1 may become a Member by completing and submitting to the secretary of the Corporation a membership registration on a form prescribed by the Corporation. The Member shall designate one representative and an alternative representative with authority to receive notices, cast votes, and execute waivers and consents on behalf of the Member. The secretary of the Corporation shall maintain a current roster of the Members of the Corporation including each Member's designated representative and alternative representative. From time to time, the Board shall establish a date by which Members shall submit their registration renewals. All Members shall be required to renew their registrations annually and within 30 calendar days of a request by an officer of the Corporation, using a registration renewal form prescribed by the Corporation. The secretary of the Corporation shall remove from the roster of Members of the Corporation any Member that has not submitted a registration renewal within 30 days following a date established by the Corporation. The secretary shall inform any Member that is removed from the roster of Members of such removal, by sending notice to such former Member's last known address on the records of the Corporation.

Section 3. Obligations and Conditions of Membership.

(a) Members must agree to promote, support, and comply with Reliability Standards, and assist the Corporation in its compliance with the terms and provisions of the Corporation's Delegation Agreement with NERC. Each Member shall agree, in writing, to accept the responsibility to comply with policies of NERC and the Corporation as set forth in their respective certificates of formation, bylaws, rules of procedure, and Reliability Standards, as applicable, as from time to time adopted, approved, or amended.

(b) As an additional condition of membership in the Corporation, each Member shall be required to execute an agreement with the Corporation, in a form to be specified by the Corporation, that such entity will hold all Directors, officers, employees, and agents of the Corporation, as well as volunteers participating in good faith in the activities of the Corporation, harmless for any injury or damage caused by any act or omission of any director, officer, employee, agent, or volunteer in the course of performance of his or her duties on behalf of the Corporation, other than for willful acts of misconduct.

(c) Consistent with applicable laws and regulations, Members must share nonproprietary information at the Corporation's request as necessary for the furtherance of the Corporation's activities and consistent with NERC, PUCT, or any other applicable rules relating to confidentiality.

Section 4. Membership Sectors. Each Member shall elect to be assigned to one of the following membership Sectors:

(a) **System Coordination and Planning:** An entity that is registered with NERC as a Reliability Coordinator (RC), Balancing Authority (BA), Planning Authority (PA), Resource Planner (RP), or Interchange Authority (IA).

(b) **Transmission and Distribution:** An entity that is registered with NERC as a Transmission Owner (TO), Transmission Planner (TP), Transmission Service Provider (TSP), Distribution Provider (DP), and/or Transmission Operator (TOP) and is not a Cooperative or Municipal Utility.

(c) **Cooperative:** An entity that is (a) a corporation organized under Chapter 161 of the Texas Utilities Code or a predecessor statute to Chapter 161 and operating under that chapter; or (b) a corporation organized as an electric cooperative in a state other than Texas that has obtained a certificate of authority to conduct affairs in the State of Texas; or (c) a cooperative association organized under Tex. Rev. Civ. Stat. 1396-50.01 or a predecessor to that statute and operating under that statute and is registered with NERC for at least one reliability function.

(d) **Municipal Utility:** A municipally owned utility as defined in PURA §11.003 and is registered with NERC for at least one reliability function.

(e) **Generation:** An entity that is registered with NERC as a Generator Owner (GO) or Generator Operator (GOP).

(f) **Load-Serving and Marketing:** An entity that is registered with NERC as a Load Serving Entity (LSE), a Purchasing-Selling Entity, or any newly defined NERC reliability function for demand response.

Section 5. Participation.

(a) There is only one level of Membership, and no company or entity may simultaneously hold more than one Membership.

(b) Members must qualify in and join a Sector.

(c) A Member that is eligible for more than one Sector may join only one Sector and it must be the most appropriate Sector for its business. Any disputes regarding appropriateness of a Member's Sector will be decided by a majority vote of the Board.

(d) A company or entity that is an Affiliate of a Member may hold a separate membership in a different Sector, so long as the legal entities have different NERC Compliance Registry Numbers under which they are currently registered for the applicable NERC reliability function.

(e) A Member must continue to vote in the same Sector for a minimum of the remainder of the fiscal year in which it becomes a Member or until it is no longer eligible to remain in such Sector, and it must give notice to the Corporate secretary when it elects or is required to change Sectors.

(f) The Board may review the Sector qualification of any Member and may determine that a Member does not qualify for, and require them to change Sectors.

(g) A Member which is no longer eligible or not in good standing may not vote on any matters that require membership.

Section 6. Membership Fees. Members must pay an annual Membership Fee of \$250, to offset the expenses of membership qualification, coordination, and meetings, unless the Board waives the fee for any Member for good cause shown. The Board may agree to change the amount or frequency of the Membership Fee, from time to time, by majority vote.

Section 7. Term of Membership. Membership in the Corporation must be renewed on an annual basis and will only be retained as long as a Member meets its respective qualifications, obligations, and conditions of membership as set forth in these Bylaws. Membership is conditioned on the annual payment of Membership Fees, unless the Membership Fees are waived by the Board for good cause shown, as determined in the Board's sole discretion.

Section 8. Removal. No Member or Member representative may be sanctioned, expelled or suspended and no membership in the Corporation may be terminated or suspended except pursuant to a procedure that is fair and reasonable and is carried out in good faith. The Board may, by resolution, establish a procedure to terminate, expel, suspend, or sanction a Member following notice to the Member and exercise of appropriate due process procedures and a determination by the Board in its sole discretion that in its judgment the Member has violated its obligations and responsibilities to the Corporation. In the event that the Board does not adopt procedures, the following procedures shall apply:

(a) Written notice. Written notice of intent to terminate, expel, suspend or sanction a Member shall be delivered at least twenty (20) days in advance of the date when a hearing will be held to determine whether the Member shall be expelled, suspended, terminated or sanctioned. Such notice shall set forth the reasons therefore. Said notice must be given by facsimile (receipt confirmed), e-mail (receipt confirmed) or first class or certified mail sent to the last address of the Member to be expelled, suspended, terminated or sanctioned, as shown in the Corporation's records.

(b) Hearing. An opportunity shall be provided for the Member receiving such notice to be heard by the Board at the hearing, orally and in writing. The Member shall be entitled to have counsel present, and to participate in the hearing, at its own expense, and to present and cross-examine any witnesses.

(c) Liability. A Member which has been sanctioned, expelled, terminated or suspended shall remain liable to the Corporation for fees as a result of obligations incurred or commitments made prior to sanction, expulsion, termination or suspension.

(d) Challenges. Any proceeding challenging an expulsion, suspension, sanction or termination, including a proceeding in which defective notice is alleged, may be submitted to the Board in writing within one year after the effective date of the expulsion, suspension, sanction or termination. If the Board determines to hear such challenge, it shall notify the Member and such proceeding will be subject to the hearing requirements described in subsection (b) above of this Section 8.

Section 9. Resignation. Any other provision of these Bylaws notwithstanding, any Member may withdraw from participation in the activities of the Corporation at any time upon written notice to the chief executive officer or president of the Corporation, whereupon it

shall cease to be a Member, and its representatives shall cease to be entitled or obligated to participate in the activities of the Board or any activities requiring membership.

Section 10. Reinstatement. A former Member may submit a written request for reinstatement of Membership. The Board will reinstate the Membership unless the entity does not meet the Membership qualifications set forth in these Bylaws.

ARTICLE IV. BOARD OF DIRECTORS

Section 1. Board of Directors. The business and affairs of the Corporation shall be managed by the Board. The Board shall consist of (i) four (4) Independent Directors who are nominated and elected in accordance with the requirements and procedures specified in this Article IV (the "Independent Directors"); (ii) the Chairman of the PUCT or another PUCT Commissioner designated by the Chairman, as an *ex officio* non-voting member; (iii) Texas Public Counsel, from OPUC (or another employee of OPUC designated by Texas Public Counsel), as an *ex officio* non-voting member, representing the interests of residential and small commercial electricity consumers; (iv) the CEO of the Corporation as a voting member (the "Management Director"); (v) the chair of the Member Representatives Committee as a voting member; and (vi) the vice chair of the Member Representatives Committee as a voting member. The Directors who are the chair and vice chair of the Member Representatives Committee will be collectively referred to herein as "Affiliated Directors." Each Director, including the Affiliated Directors and excluding the non-voting members of the Board, shall have one (1) vote on any matter brought before the Board for a vote. All Directors are expected to serve the public interest and to represent the reliability concerns of the entire ERCOT Region Bulk Power System.

Section 2. Independent Directors. The Independent Directors shall be elected, shall have the qualifications specified, and shall serve in the manner provided in this Section.

(a) Qualifications:

(1) Experience in one or more of these fields: senior corporate leadership; professional disciplines of finance, accounting, engineering, bulk power systems, or law; regulation of utilities; and/or risk management.

(2) Independence of any NERC registered entity, including ERCOT ISO, and any ERCOT Region Market Participant. Requirements of independence include but are not limited to the following:

(i) Independent Directors and the immediate family (any spouse, mother, father, sibling, or dependent, and any spouse of mother, father, or sibling and including any step and adoptive parents, siblings or children) and household members of Independent Directors and their spouses shall not have current or recent status (within the last two years) as a director, officer or employee of an ERCOT Region NERC Registered Entity or ERCOT Region Market Participant.

(ii) Independent Directors and immediate family and household members of Independent Directors shall not have current status as a director, officer or employee of a non-ERCOT Region NERC Registered Entity.

(iii) Independent Directors and immediate family and household members of Independent Directors shall not have direct business relationships, other than retail customer relationships, with any NERC Registered Entity or Market Participant.

(iv) To the extent that an Independent Director or his or her spouse, dependent child, or any other household member owns stocks or bonds of NERC Registered Entities or Market Participants, these must be divested or placed in a blind trust prior to being seated on the Board.

(v) Independent Directors shall not have any relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a Board member, including the Delegated Authority.

(vi) Other criteria as approved by the Board.

(b) Term. Except for the Initial and originally elected Directors, the term for Independent Directors shall be staggered three year terms. An Independent Director may be elected for up to three consecutive terms. Notwithstanding the foregoing, the Directors named as Initial Directors will serve only until the first membership meeting of the Corporation at which Independent Directors are elected. If an Initial Director is qualified to be an Independent Director and elected by the membership, such Director's term as an Initial Director shall not be counted for purposes of term limits. For the originally elected Independent Directors, two positions will have three year terms, one position will have a two year term, and one position will have a one year term. The term for the Affiliated Directors who are chair and vice chair of the Member Representatives Committee shall be one year, and the terms of the *ex officio* Directors will not expire.

(c) Selection.

(1) Except for the selection of the Initial Directors, the Board shall appoint, on an annual basis, or more frequently if needed in the event of a special election pursuant to this subsection, a nominating committee (the "Nominating Committee") to recommend candidates (i) to succeed the Independent Directors whose terms expire during the current year and (ii) to serve the remainder of the term of any Independent Director who ceased to serve as a Director subsequent to the last annual election of Directors. Except for the original Nominating Committee appointed by the Initial Directors ("Initial Nominating Committee"), the Nominating Committee shall consist of all Independent Directors except those whose terms expire during the current year and are seeking re-election and Affiliated Directors and such other persons with such qualifications as the Board shall specify (provided that such other persons may not vote), provided that the Independent Directors shall constitute a majority of the voting members of the Nominating Committee. The Initial Nominating Committee will consist of the Initial Directors except the Management Director (as defined in Article IV, Section 3), and at least two other persons selected by these Initial Directors to represent the interests of the Membership. The PUCT Chair may choose to participate on the Nominating Committee. If any Nominating Committee should have only two eligible Independent Directors for any reason, the requirement that Independent Directors must constitute a majority of the voting members will be removed to allow both Affiliated Directors to participate on the Nominating Committee. The Nominating Committee may retain an executive search

firm to locate and present candidates with the required qualifications, as set forth in Article IV, Section 2(a).

(2) The Nominating Committee shall interview the qualified candidates and select and nominate, by at least a two-thirds majority, qualified candidate(s), consistent with the objectives that the Board as an entirety shall reflect expertise in the areas of technical electric operations and reliability, legal, senior corporate leadership, financial, risk management, and regulatory matters, and familiarity with regional system operation issues in the ERCOT Region, to present to the Membership for its approval.

(3) The Membership shall vote by Sector as described in Article V in favor or against the proposed Independent Director(s). A proposed Independent Director who is approved by a majority of the Sectors shall become an Independent Director.

(d) Director Voting Weights. All voting Directors shall have a single vote each.

(e) Alternates and Proxies. Independent Directors may designate another Independent Director as a proxy if unable to attend a Board meeting. Ex officio Directors may designate a selected proxy or an alternate representative who may attend meetings in the absence of such Director. The chair and vice chair of the Member Representatives Committee may designate each other or may designate an Independent Director as their proxy if unable to attend a Board meeting.

Section 3. Appointment of Management Director. The president and chief executive officer (CEO) of the Corporation shall serve as the Management Director of the Corporation, effective as of the date of his or her appointment by the Board as CEO of the Corporation in accordance with these Bylaws, to serve until such time that he or she ceases to hold the position of CEO. No action of the Members of the Corporation shall be required in connection with the appointment of the CEO as the Management Director of the Corporation.

Section 4. Chair and Vice Chair. Annually, the Board shall elect from the Board's membership, by resolution of the Board, a Chair and a Vice Chair. The Chair and Vice Chair shall each be one of the Independent Directors.

Section 5. Vacancies and Removal.

(a) Should any vacancy on the Board arise from the death, resignation, retirement, disqualification, or removal from office of any Director, or from any other cause, such vacancy shall be filled as follows:

(1) For an Independent Director, by the election of a new Independent Director at the next annual election of Directors to fill the remainder, if any, of the term of the departed Independent Director. provided, that the Board by resolution may in its discretion call a special election to fill any such vacancy for the remainder, if any, of the term of the departed Independent Director.

(2) For the Management Director, by the appointment of a new CEO or interim CEO to fill the vacancy.

(3) For an ex officio Director, by the appointment of a new PUCT Chair or Texas Public Counsel by whomever had the right to appoint such Director.

(4) For an Affiliated Director, by the election of a new chair or vice chair, as applicable, by the Member Representative Committee.

(b) A Director may be removed with or without cause at any time by whomever had the right to appoint such Director (for ex officio Directors), or for the elected Independent Directors, by an affirmative vote of sixty percent (60%) of the Members. In addition, the Board may remove any voting Director for cause, upon at least seventy-five percent (75%) affirmative votes of the eligible, remaining voting Directors. The right to elect Directors may not be assigned, sold, pledged or transferred in any manner.

Section 6. Committees of the Board. The Board shall by resolution create and appoint all committees of the Board as the Board deems necessary to perform its responsibilities. All committees of the Board shall have such duties as are prescribed and delegated by the Board. Committees to which any of the authority of the Board to manage the Corporation is delegated must have at least two Directors, and a majority of the members of the committee must be Directors.

ARTICLE V. MEETINGS OF MEMBERS OF THE CORPORATION

Section 1. Annual and Other Meetings of Members.

(a) An annual meeting of the Members to elect Directors and to conduct such other business as may come before the meeting shall be held on or about December 1 of each year or as soon thereafter as is reasonably practicable.

(b) Meetings of Members of the Corporation may be called for any purpose or purposes by resolution of the Board, by the chair of the Board, the CEO or the secretary of the Corporation, or by a number of Members constituting at least ten (10) percent of all Members on the roster of Members maintained by the secretary of the Corporation, which number shall include Members in at least three of the Sectors. Meetings of Members shall be held at the principal office of the Corporation or at such other place fixed by the Board as shall be specified in the notice of meeting. Meetings shall be called upon written notice of the time, date, place, and purposes of the meeting given to all Members on the roster of Members maintained by the secretary of the Corporation not less than ten (10) nor more than sixty (60) days prior to the date of the meeting. Only Members in good standing with the Corporation, as determined by the Board, have the right to vote at any meeting of the Members. Further, if at any point a Member no longer meets the qualifications for the Sector of which it is a member, the Entity may immediately elect to become a member in any Sector for which it does qualify.

Section 2. Quorum and Voting Requirements for Meetings of Members.

(a) At any meeting of the Members of the Corporation, attendance in person or by proxy by a majority of the Members in each of at least two-thirds of the Sectors on the roster of Members maintained by the secretary of the Corporation shall constitute a quorum.

(b) Except as otherwise expressly provided in the Corporation's Certificate of Formation, these Bylaws, or applicable law, Members shall vote by Sector and each Sector shall have one vote.

(c) Except as otherwise expressly provided in the Corporation's Certificate of Formation, these Bylaws or applicable law, actions by the Members of the Corporation shall be approved upon receipt of the affirmative vote of a majority of the Sectors of the Corporation at a meeting at which a quorum is present, in person or by proxy. Each Sector's vote shall be determined by the affirmative vote of a majority of the members of the Sector voting at the meeting.

Section 3. Waivers of Notice of Meetings of Members and Member Meeting Adjournments. Notice of a meeting of Members need not be given to any Member who signs a waiver of notice, in person or by proxy, whether before, during, or after the meeting. The attendance of any Member at a meeting, in person or by proxy, without protesting prior to the conclusion of the meeting the lack of proper notice of such meeting, shall constitute a waiver of notice of the meeting by such Member. When any meeting of Members is adjourned to another time or place, it shall not be necessary to give notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and if at the adjourned meeting only such business is transacted as might have been transacted at the original meeting.

Section 4. Action Without a Meeting of Members. Any action, required or permitted to be taken at a meeting of Members, may be taken without a meeting if the proposed action is posted to all Members (via email to an email distribution list to which Members may subscribe and by posting on the Corporation website) and consented to in writing by the minimum number of Members that would be required to approve the action at a meeting of the Members at which all Members were present. The voting in such a circumstance shall be performed in writing, including via email or other electronic means. The Members shall receive written notice of the results within ten (10) days of the action vote, and all written responses of the Members shall be filed with the Corporate records. The results of such voting will be posted on the Corporation's website.

Section 5. Meetings of the Members to be Open. Notice to the public of the dates, places, and times of meetings of the Members, and all non-confidential material provided to the Members, shall be posted on the Corporation's website at approximately the same time that notice is given to the Members. Meetings of the Members shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided, that the meeting may be held in or adjourned to closed session to discuss matters of a confidential nature, including but not limited to compliance and enforcement matters, personnel matters, litigation, or commercially sensitive or critical infrastructure information of the Corporation or any other entity. The results of any action taken without a meeting, as described above, will be posted on the Corporation's website.

ARTICLE VI. MEETINGS OF THE BOARD OF DIRECTORS

Section 1. Regular Meetings of the Board. Regular meetings of the Board shall be held at least quarterly. By resolution adopted at any meeting of the Board, the Board may provide for additional regular meetings that may be held as needed.

Section 2. Special Meetings of the Board. Special meetings of the Board for any purpose or purposes may be called at any time by the chair or by any two Directors. Such meetings may be held upon notice given to all Directors not less than three (3) days prior to the date of the meeting. Such notice shall specify the time, date, place, and purpose or purposes of

the meeting and may be given by telephone, email or other electronic media, or by express delivery.

Section 3. Quorum and Voting Requirements for Meetings of the Board.

The Board consisting of the Initial Directors (“Initial Board”) may conduct only organizational business of the corporation, including but not limited to approving these Bylaws, authorizing the opening of a bank account, appointing officers, approving the Delegation Agreement and reviewing and approving the Corporation’s business plan and budget. The quorum necessary for transaction of business by the Initial Board shall be a majority of the Initial Directors, either in person or by proxy, at meetings at which a quorum is present. Thereafter, unless otherwise expressly provided in the Corporation’s Certificate of Formation, these Bylaws or applicable law, (i) the quorum necessary for the transaction of business at meetings of the Board shall be a majority of the voting Directors in person or by proxy and at least three Independent Directors, and (ii) actions by the Board shall be deemed approved upon receipt of the affirmative vote of a majority of the Directors present and voting in person or by proxy at a meeting at which a quorum is present but in no case less than four votes.

Section 4. Meetings of the Board to be Open.

Notice to the public of the dates, places, and times of meetings of the Board, and all non-confidential material provided to the Board, shall be posted on the Corporation’s website at approximately the same time that notice or such material is given to the Directors and at least ten (10) business days prior to the scheduled meeting; provided however that the Board may meet on urgent matters on such shorter notice, not less than two (2) hours, as the person(s) calling such meeting may deem necessary or appropriate for urgent matters (emergency conditions threatening health or safety or a reasonably unforeseen situation). Meetings of the Board shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided, that the Board may meet in or adjourn to closed session to discuss matters of a confidential nature, including but not limited to compliance and enforcement matters, personnel matters, litigation, or commercially sensitive or critical infrastructure information of the Corporation or any other entity. Any or all of the Directors or members of a Board committee, may participate in a meeting of the Board, or a meeting of a committee, in person or by proxy, by means of any communications system by which all persons participating in the meeting are able to hear each other.

Section 5. Waivers of Notice of Board Meetings and Board Meeting Adjournments.

Notice of a board meeting need not be given to any Director who signs, or sends an email confirming a waiver of notice, in person or by proxy, whether before, during, or after the meeting, or who attends the meeting without protesting, prior to the conclusion of the meeting, the lack of notice of such meeting. Notice of an adjourned board meeting need not be given if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken and if the period of adjournment does not exceed ten (10) days.

Section 6. Action Without a Meeting.

Any action required or permitted to be taken at a meeting of the Board, or of any committee thereof, may be taken by the Board or by the committee without a meeting if the action is consented to in writing by the number of Directors or members of the committee, as the case may be, entitled to vote on the action that would be required to approve the action at a meeting of the Board or committee with all members of the Board or committee present. The call for action without a meeting of the Board may be initiated by the chair or by any two Directors. Notice of the proposed call for action without a meeting, and all non-confidential material provided to the Board in connection with the call for action without a meeting, shall be posted on the Corporation’s website and sent via email to an email distribution list to which Members and the public may subscribe at

approximately the same time notice of the call for action without a meeting or such material is provided to the Board. The call for action without a meeting of a committee of the Board may be initiated by the chair of the committee or by any two members of the committee. The Directors or members of the committee shall receive written notice of the results of such action within seven (7) days of the action vote. All written responses of the Directors shall be filed with the minutes of the Corporation, and all written responses of members of a committee shall be filed with the minutes of such committee.

ARTICLE VII. OFFICERS

Section 1. Selection of Officers. At a meeting held in accordance with Article VI of these Bylaws, the Board shall elect a CEO and shall approve a corporate secretary and such other officers of the Corporation (collectively, the "Officers") as it shall deem necessary. The CEO shall be nominated and elected by the Board. All of the other Officers shall be selected by the CEO and approved by the Board, and the removal of all Officers shall be confirmed by the Board. The Management Director shall not participate in votes electing, approving, or removing Officers. The duties and authority of the Officers shall be determined from time to time by the Board. Subject to any such determination, the Officers shall have the following duties and authority:

Section 2. Chief Executive Officer ("CEO"). The CEO shall be the chief executive officer of the Corporation. He or she shall be responsible for the day-to-day ongoing activities of the Corporation and shall have such other duties as may be delegated or assigned to him or her by the chair. The CEO may enter into and execute in the name of the Corporation contracts or other instruments not in the regular course of business that are authorized, either generally or specifically, by the Board.

Section 3. Corporate Secretary. The secretary shall maintain the roster of Members of the Corporation, shall cause notices of all meetings to be served as prescribed in these Bylaws, shall keep or cause to be kept the minutes of all meetings of the Members and the Board, and shall have charge of the seal of the Corporation. The secretary shall perform such other duties and possess such other powers as are incident to his or her office or as shall be assigned to him or her by the CEO

Section 4. Chief Financial Officer. If hired and approved, a chief financial officer shall have custody of the funds and securities of the Corporation, shall keep or cause to be kept regular books of account for the Corporation and shall have the duties normally assigned to a treasurer of a corporation. The chief financial officer shall perform such other duties and possess such other powers as are incident to his or her office or as shall be assigned to him or her by the CEO.

Section 5. Vice Presidents. The CEO may select such other Corporate officers as he or she deems appropriate, subject to Board approval. Any such officer shall perform such other duties and possess such powers as are incident to his or her office or as shall be assigned to him or her by the CEO.

ARTICLE VIII. RELIABILITY STANDARDS COMMITTEE

Section 1. Requirement. The Corporation shall have a Reliability Standards Committee, which shall operate in accordance with the Standards Development Process as set

forth in Exhibit C to the Delegation Agreement with NERC and approved by FERC. The chair and vice chair of the Standards Committee must be accepted or approved by the Board, in accordance with said Exhibit C.

ARTICLE IX. MEMBER REPRESENTATIVES COMMITTEE

Section 1. Purpose of Member Representatives Committee. The Corporation shall have a "Member Representatives Committee" that shall provide advice and recommendations to the Board with respect to: annual budgets, business plans and funding mechanisms of the Corporation; other matters relevant to reliability of the ERCOT Bulk Power System; and other matters pertinent to the purpose and operations of the Corporation. The Member Representatives Committee shall provide its advice and recommendation to the Board through its chair and the vice chair, who also serve as the Affiliated Directors on the Board. The Member Representatives Committee may create subcommittees, task forces, or working groups ("subcommittees") as it deems appropriate to study or discuss selected technical or compliance matters and to make recommendations to the Board as requested or required by the Board or as deemed appropriate to its purpose by the Member Representatives Committee. Because it is elected by the Members of the Corporation and not appointed by the Board, the Member Representatives Committee shall not be a standing committee of the Board of Directors of the Corporation, but is authorized to provide advice and recommendations directly to the Board, through its elected chair and vice chair.

Section 2. Composition of the Member Representatives Committee. The Member Representatives Committee shall consist of two representatives from each Sector to serve annually and will annually select a chair and vice chair for the Member Representatives Committee. The representatives of each Sector shall be officers, employees, or directors of Members in that Sector; provided however, except for a Sector that has only one Member, only one officer, employee, or director of a Member in a Sector may be a representative from that Sector. The Board may by resolution create additional non-voting positions on the Member Representatives Committee on its own initiative or at the written request of any group of Members of the Corporation that believes its interests are not adequately represented on the Member Representatives Committee. There shall be no limit on the number of terms that an officer, employee, or director of a Member, may serve on the Member Representatives Committee.

Section 3. Election of Representatives of the Member Representatives Committee. Unless a Sector adopts an alternative election procedure, the annual election of representatives from each Sector to the Member Representatives Committee, and any election to fill a vacancy, shall be conducted in accordance with the following process, which shall be administered by the officers of the Corporation.

(a) During the period beginning no more than ninety (90) days and ending no less than fifteen (15) days prior to an annual meeting, or beginning no more than forty-five (45) days and ending no less than fifteen (15) days prior to a special meeting called in whole or in part to hold an election to fill a vacancy, nominations may be submitted for candidates for election to the Member Representatives Committee. A nominee for election as a Sector representative must be an officer, employee, or director of a Member in that Sector. No more than one nominee who is an officer, employee, or director of a Member may stand for election in any single Sector; if more than one officer, employee, or director of a Member is nominated for election from a Sector, the Member shall designate which such nominee shall stand for election.

The election of representatives shall be conducted over a period of ten (10) days using an electronic process approved by the secretary of the Corporation.

(b) Each Member in a Sector shall have one vote for each Representative to be elected from the Sector in that election and may cast no more than one vote for any nominee. The nominee receiving the highest number of votes in each Sector shall be elected to one Representative position to be filled from that Sector and the nominee receiving the second highest number of votes shall be elected as the second Representative position for that Sector. To be elected on the first ballot, a nominee must receive a number of votes equal to a simple majority of the Members in the Sector casting votes in the election. If no nominee in a Sector receives a simple majority of votes cast in the first ballot, a second ballot shall be conducted which shall be limited to the number of candidates receiving the three (3) highest vote totals on the first ballot. The nominees receiving the two highest totals of votes on the second ballot shall be elected to the Representative positions for the Sector.

(c) A Sector may adopt an alternative procedure to the foregoing to nominate and elect its Representatives to the Member Representatives Committee if the alternative procedure is approved by vote of at least two-thirds of the Members in the Sector, provided, however that any alternative procedure may be reviewed and disapproved by the Board.

(d) A Sector may elect an Alternate to serve in place and at the convenience of the Sector's Member Representatives Committee Representative(s) in the event a Member Representatives Committee Representative cannot attend a Member Representatives Committee meeting.

Section 4. Chair and Vice Chair of the Member Representatives Committee. After the annual selection of its Representatives, the Member Representatives Committee shall select a chair and vice chair from among its voting Representatives by majority vote to serve during the upcoming year and be the Affiliated Directors on the Board. The selected chair and vice chair may not be representatives of the same Sector and may not concurrently serve on the Board of ERCOT ISO. The Board shall be notified of the selection of the chair and vice chair, but the selection will not be subject to approval of the Board. The chair is responsible for ensuring that minutes of the meetings are properly maintained and made available to the public, but the chair may delegate this responsibility to the vice chair or to another Representative of the Member Representatives Committee who may be designated as secretary of the Member Representatives Committee.

Section 5. Vacancies on the Member Representatives Committee. In the event that any Representative of the Member Representatives Committee ceases to serve as a Representative of the Member Representatives Committee as a result of his or her death, resignation, retirement, disqualification, removal, or other cause, the Members in the Sector of which such Representative was a representative shall elect, as soon thereafter as reasonably practicable, and in accordance with the procedures in this Article IX, a new Representative to replace the Representative of the Member Representatives Committee who ceased to serve. For those Sectors that have elected an Alternate, the Alternate will fill a vacancy left by the Sector's Member Representative and a new Alternate will be elected by the Sector.

Section 6. Meetings of the Member Representatives Committee. The Member Representatives Committee will plan and hold quarterly meetings, at a time and place determined by the Member Representatives Committee, normally shortly before the regular meetings of the Board, and posted on the Corporation's website. Except for closed session meetings specifically allowed by this Section, all meetings shall be open to the public. The

Member Representatives Committee shall adopt such procedural rules as are needed to operate in accordance with its purpose and will include procedures for coordinating with employees of the Corporation who provide administrative support, as set forth in subsection 6(c), below.

(a) Notice to the public of the dates, places, and times of meetings of the Member Representatives Committee and any subcommittees thereof, and all non-confidential material provided to the Representatives on the Member Representatives Committee or any subcommittees thereof, shall be posted on the Corporation's website at approximately the same time that notice or such material is given to the Member Representatives Committee, which will normally be at least one week prior to any meeting. Meetings of the Member Representatives Committee shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided, that the Member Representatives Committee may meet in or adjourn to closed session to discuss matters of a confidential nature, including but not limited to confidential planning information, critical infrastructure information, or commercially sensitive information of the Corporation or any other entity. Any or all Representatives of, and any other participants in, the Member Representatives Committee may participate in a meeting of the Member Representatives Committee by means of a communications system by which all persons participating in the meeting are able to hear each other.

(b) Special meetings may be called for any purpose or purposes by the chair of the Member Representatives Committee or by any three (3) Representatives of the Member Representatives Committee, which number shall include representatives from at least three Sectors, and require notice given to all Representatives of the Member Representatives Committee not less than seven (7) days prior to the date of the meeting. Such notice shall specify the time, date, place, and purpose or purposes of the meeting and may be given by telephone, facsimile, or other electronic media, or by express delivery.

(c) The Member Representatives Committee shall effectively coordinate with the employees of the Corporation and adopt procedural rules for the voting for Representatives, scheduling of meetings, and public posting of required meeting information and minutes. The chair or vice chair of the Member Representatives Committee shall provide all meeting agendas, material, minutes and other information required or desired to be posted on the Corporation's website to appropriate Corporation employees at least one business day prior to the time such information should be posted.

Section 7. Waivers of Notice of Meetings of the Member Representative Committee and Meeting Adjournments. Notice of a meeting of the Member Representatives Committee need not be given to any member of the Member Representatives Committee who signs a waiver of notice, in person or by proxy, whether before or after the meeting, or who attends the meeting without protesting, prior to the conclusion of the meeting, the lack of notice of such meeting. Notice of an adjourned meeting of the Member Representatives Committee need not be given if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken and if the period of adjournment does not exceed ten (10) days.

Section 8. Quorums and Voting for Meetings of the Member Representatives Committee. The quorum necessary for the transaction of business at meetings of the Member Representatives Committee shall be the presence, in person or by proxy, of two-thirds of the voting Representatives on the Member Representatives Committee entitled to attend. Each voting member of the Member Representatives Committee shall have one (1) vote on any matter coming before the Member Representatives Committee that requires

a vote. Except as otherwise expressly provided in the Corporation's Certificate of Formation, these Bylaws or applicable law, actions by members of the Member Representatives Committee shall be approved upon receipt of the affirmative vote of a majority of the voting members of the Member Representatives Committee present and voting at any meeting at which a quorum is present.

Section 9. Alternates and Proxies. Member Representatives may designate another Member Representative or an employee of the Member Representative's organization as a proxy if both the Member Representative and the Sector Alternate are unable to attend a Member Representatives Committee meeting. A member of the Member Representatives Committee may give a proxy only to a person who is an officer, employee, or director of a Member, registered in the same Sector.

Section 10. Other Procedures of the Member Representatives Committee. The chair of the Board shall preside at the initial meeting of the Member Representatives Committee, until a chair is selected in accordance with Article IX, Section 4. Except as to any matter as to which the procedure to be followed by the Member Representatives Committee is expressly set forth in these Bylaws, the Member Representatives Committee may adopt such additional procedures, not inconsistent with these Bylaws, as it deems appropriate, subject to review and disapproval by the Board.

ARTICLE X. OTHER COMMITTEES AND SUBCOMMITTEES

Section 1. Committees of the Corporation. In addition to those committees specified by these Bylaws, to which the Board shall appoint members in accordance with the requirements of these Bylaws, the Board may by resolution create standing committees of the Corporation; and may in addition by resolution appoint the members of such committees, subcommittees, task forces and Sector-specific forums as the Board deems necessary or desirable to carry out the purposes of the Corporation. The Board shall appoint members to such standing committees and other committees of the Corporation that are representative of Members, other interested parties, and the public, that provide for balanced decision-making and that include persons with sufficient technical knowledge and experience. All committees, subcommittees, task forces and Sector-specific forums shall have such scope and duties, not inconsistent with law, as are specified in these Bylaws and the Rules of Procedure of the Corporation or otherwise determined by the Board.

ARTICLE XI. BUDGETS AND FUNDING

Section 1. Compensation of the Board and Member Representatives Committee. The Board shall have the right to fix from time to time, by resolution adopted by a majority of the Directors including a majority of the Independent Directors then serving as Directors, the amount of the annual retainer fee or other compensation to be paid to the Independent Directors for their services to the Corporation, including any fees to be paid for each meeting of the Board or any Board committee attended by an Independent Director. The Board will evaluate the fee or other compensation at least every three years, to ensure that Director compensation is appropriate. No compensation shall be paid to any Management Director, Affiliated Director, or *ex officio* Director for his or her services on the Board, other than the compensation paid to the Management Director for services as CEO of the Corporation. No compensation shall be paid by the Corporation to any member of the Member Representatives

Committee for his or her services on the Member Representatives Committee. Independent Directors shall be entitled to be reimbursed their reasonable out-of-pocket expenditures for attending meetings and conducting the business of the Corporation.

Section 2. Preparation and Adoption of Annual Budget, Business Plan, and Funding Mechanism. The Board shall require the CEO to prepare for Board approval an annual business plan and budget for the administrative and other expenses of the Corporation, including the expenditures for the fiscal year for any material special projects undertaken by the Corporation and reasonable and proper reserves and provisions for contingencies, in accordance with all NERC and Commission requirements. The annual business plan, budget and funding mechanism of the Corporation shall be for a fiscal year commencing on January 1 and ending on December 31. Each annual business plan, budget, and funding mechanism shall be approved by the Board at a regular meeting or a special meeting of the Board duly called for that purpose. The Board shall approve each annual business plan, budget, and funding mechanism at a time that allows for timely submittal of the approved annual business plan, budget, and funding mechanism to the applicable regulatory authorities.

Section 3. Comments During Preparation of Annual Business Plan and Budget. In preparing the annual business plan and budget, the Board shall require that the CEO post a draft business plan and budget for review and comment by the Members of the Corporation, the Member Representatives Committee, and the standing committees of the Corporation for at least ten (10) days prior to the date of the meeting of the Board at which the annual business plan and budget is to be adopted.

Section 4. Modified or Supplemental Budgets. During the course of a fiscal year, the Board may modify any approved budget or develop and approve a supplemental budget if determined by the Board to be necessary due to such factors as a shortfall in revenues of the Corporation from projected levels, incurred or anticipated expenditures, duties, or new projects not provided for in the annual budget, or such other factors as in the judgment of the Board warrant modification of the budget for the fiscal year or development of a supplemental budget. In preparing a modified or supplemental budget, the Board shall follow the provisions of this Article XI, Section 4 to the extent practicable in the judgment of the Board in light of the urgency of the circumstances necessitating preparation and approval of the modified or supplemental budget. Each modified or supplemental budget shall be approved by the Board at a regular meeting or a special meeting of the Board duly called for that purpose.

Section 5. Submission of Annual Business Plans and Budgets to the Regulatory Authorities. Each annual budget, annual business plan, and annual, modified, or supplemental budget approved by the Board shall be submitted by the Corporation to the ERO and any applicable regulatory authorities for approval in accordance with its regulations, and shall not be effective until approved by the applicable regulatory authorities. If ordered to modify or remand an annual budget, business plan, or annual, modified, or supplemental funding mechanism, the Board shall promptly following such order adopt such modifications to the business plan, budget, or funding mechanism as are required or directed by the order of the ERO and any applicable regulatory authority.

ARTICLE XII. AMENDMENTS TO THE BYLAWS

Section 1. Amendments to the Bylaws. These Bylaws may be altered, amended, or repealed by action of the Membership, as set forth below. Any alteration,

amendment, repeal or adoption of Bylaws shall be subject to any applicable requirements for filing with or approval by the ERO or any other applicable regulatory authority. These Bylaws may be altered, amended, or repealed as follows:

(a) Any Director or Member suggesting amendments to these Bylaws must submit a proposal of the amendment, including any necessary supporting documents, to the CEO.

(b) The CEO shall place the proposal on the agenda for a Board meeting in the time and manner prescribed by the Board and within 95 days of the request.

(c) If the proposal is approved by an act of the Board as set forth in Article VI, Section 3, the Board shall place the proposal on the agenda of the next Annual Meeting of the Corporate Members unless the Board in its discretion calls a Special Meeting of the Corporate Members to vote on the proposal or determines to seek Membership approval without a meeting as provided in Article V, Section 4.

(d) If the proposal is not approved by the Board, the Members of the Corporation may call a meeting, pursuant to Article V, Section 1(b), for the purpose of voting on a proposal not approved by the Board. Any such proposal must be approved by a vote of five of the six Sectors at a meeting of Members called for that purpose or by written consent of five of the Sectors, where the number of votes for and against the proposed alteration, amendment, repeal or adoption of Bylaws shall be determined in accordance with Article V, Section 2.

ARTICLE XIII. INDEMNIFICATION; PROCEDURE; DISSOLUTION

Section 1. Indemnification. The Corporation shall indemnify each person who at any time shall serve, or shall have served, as an officer, Director, employee, or other corporate agent of the Corporation, is or was serving at its request as a director, officer, partner, venturer, proprietor, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise ("Indemnified Parties"), to the full extent from time to time permitted by the Texas Business Organizations Code and other applicable law. Such right of indemnification shall inure to the benefit of the legal representative of any such Indemnified Party. The foregoing indemnification shall be in addition to, and not in restriction or limitation of, any privilege or power that the Corporation may have with respect to the indemnification or reimbursement of its Indemnified Parties. The Corporation shall also pay or advance reasonable expenses incurred by an Indemnified Party in connection with a proceeding in advance of the final disposition of the proceeding upon receipt of a written affirmation by the Indemnified Party of a good faith belief that the standard of conduct necessary for indemnification under this Article XIII and the Texas Business Organizations Code has been met and a written undertaking by or on behalf of the officer, Director, or other corporate agent to repay the amount if it shall be ultimately determined that the Indemnified Party was not entitled to be indemnified by the Corporation.

Section 2. Parliamentary Rules. In the absence of and to the extent not inconsistent with specific provisions in these Bylaws, meetings or other actions pursuant to these Bylaws shall be governed by procedures that the Board may, from time to time, establish by resolution.

Section 3. Dissolution. Upon dissolution of the Corporation, in accordance with the Certificate of Formation, the remaining assets of the Corporation after payment of debts

shall be distributed in the manner determined by the Board, provided that, (i) no part of the assets shall be distributed to any Director of the Corporation, and (ii) the distribution of assets shall be consistent with the requirements of Section 501(c)(3) of the United States Internal Revenue Code of 1954.

ARTICLE XIV. CONFLICTS OF INTEREST

Section 1. Conflicts of Interest.

(a) Each Director shall have an affirmative duty to disclose to the Board or committee (as the case may be) any actual or potential conflicts of interest of the Director that arise during his or her tenure as a Director where, and to the extent that, such conflicts or potential conflicts directly or indirectly affect any matter that comes before the Board. A Director with a direct or potentially conflicting interest in a matter shall recuse himself from deliberations and actions on the matter in which the conflict arises and shall abstain on any vote on the matter and not otherwise participate in a decision on the matter. Any disclosure of a potential conflict of interest by a Director shall be noted in the minutes of the Board meeting at which the direct interest is disclosed. Mere attendance at the meeting, without participating in discussion of the issue raising the potential conflict, shall not constitute participation.

(b) The Corporation may not make any loan to a Director, committee member or officer of the Corporation. A Member, Director, officer, or committee member of the Corporation may not lend money to, or otherwise transact business with, the Corporation except as otherwise provided by these Bylaws, the Certificate of Formation, and applicable law. A related party transacting business with the Corporation has the same rights and obligations relating to those matters as other persons transacting business with the Corporation, provided the related party nature of the transaction is known to the Board. The Corporation may not borrow money from, or otherwise transact business with, a Member, Director, officer, or committee member of the Corporation unless the transaction is described fully in a legally binding instrument, is in the Corporation's best interests, and is on terms no less favorable to the Corporation than could be obtained in an arms-length transaction. The Corporation may not borrow money from, or otherwise transact business with, a Member, Director, officer, or committee member of the Corporation without full disclosure of all relevant facts and without the Board's approval, not including the vote of any person having a personal interest in the transaction.

Section 2. Prohibited Acts. No Member, Director, officer, or committee member of the Corporation may do any of the below-listed prohibited acts. Engaging in these prohibited acts may lead to sanction, suspension, expulsion or termination after a hearing as described in these Bylaws. The prohibited acts include the following:

- (a) Do any act in violation of these Bylaws.
- (b) Do any act in violation of a binding obligation of the Corporation except with the Board's prior approval.
- (c) Do any act with the intention of harming the Corporation or any of its operations.
- (d) Receive an improper personal benefit from the operation of the Corporation.

(e) Use the Corporation's assets, directly or indirectly, for any purpose other than carrying on the Corporation's business.

(f) Wrongfully transfer or dispose of Corporation property, including intangible property such as goodwill.

(g) Use the Corporation's name (or any substantially similar name) or any trademark or trade name adopted by the Corporation, except on behalf of Corporation in the ordinary course of its business or as a reference to the Corporation or its region.

(h) Disclose any of Corporation's or Members' business practices, trade secrets, or any other confidential or proprietary information not generally known to the business community to any person not authorized to receive it.

Section 3. Loans and Guarantees. Neither participation in the activities of the Corporation nor any provision of these Bylaws or of the Certificate of Formation shall be deemed to constitute a pledge or loan of the credit of any Member for the benefit of the Corporation or a guarantee by any Member of any obligation of the Corporation.

ARTICLE XV. BOOKS AND RECORDS; AUDIT; FISCAL YEAR

Section 1. Access to Books and Records. All Members of the Corporation will have access to the books and records of the Corporation, including financial statements and budgets; however, the Board shall establish procedures by which a Member, upon written demand stating the purpose of the demand may examine and copy the books and records of the Corporation. If necessary to protect the confidential information of the Corporation, a Member requesting examination of any of the Corporation's non-public books and records will be required to sign a confidentiality and non-disclosure agreement before viewing such information. The procedures shall include policies that provide reasonable protection against the unnecessary disclosure of information related to individual employees, including their compensation.

Section 2. Audit. At least annually, an audit of the financial statements of the Corporation shall be performed by the Auditor approved by the Board. The Auditor's opinion and the audited financial statements will be made available to all Members as described in Article XV, Section 1.

Section 3. Fiscal Year. The fiscal year of the Corporation shall be from January 1 through the following December 31, unless otherwise established by resolution of the Board.

Exhibit C – Regional Standard Development Procedure

Exhibit C shall set forth the Regional Entity’s standards development procedure, which NERC agrees meets the following common attributes:

COMMON ATTRIBUTE 1

Proposed regional reliability standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA . No regional reliability standard shall be effective within the Texas RE area unless filed by NERC with FERC and approved by FERC.

COMMON ATTRIBUTE 2

Texas RE regional reliability standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. A Texas RE reliability standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. A regional reliability standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

COMMON ATTRIBUTE 3

Texas RE regional reliability standards, when approved by FERC, shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the Texas RE area, regardless of membership in the region.

COMMON ATTRIBUTE 4

Requester — The requester is the sponsor of the regional reliability standard request and may assist in the development of the standard. Any member of Texas RE, or group within Texas RE, shall be allowed to request that a regional reliability standard be developed, modified, or withdrawn. Additionally, any entity (person, organization, company, government agency, individual, etc.) that is directly and materially affected by the reliability of the bulk power system in the Texas RE area shall be allowed to request a regional reliability standard be developed, modified, or withdrawn.

COMMON ATTRIBUTE 5

Reliability Standards Committee (RSC) — The Texas RE RSC manages the standards development process. The RSC will consider which requests for new or revised standards shall be assigned for development (or existing standards considered for deletion). The RSC will advise the Texas RE board on standards presented for adoption.

COMMON ATTRIBUTE 6

Registered ballot body — The registered ballot body comprises all entities or individuals that qualify for one of the stakeholder segments; are registered with Texas RE as potential ballot participants in the voting on standards; and are current with any designated fees. Each member of the registered ballot body is eligible to vote on standards. Each standard action has its own ballot pool formed of interested members of the registered ballot body. Each ballot pool comprises those members of the registered ballot body that respond to a pre-ballot survey for that particular standard action indicating their desire to participate in such a ballot pool. The representation model of the registered ballot body is provided in Appendix A.

COMMON ATTRIBUTE 7

Texas RE will coordinate with NERC such that the acknowledgement of receipt of a standard request identified in step 1, notice of comment posting period identified in step 4, and notice for vote identified in step 5 below are concurrently posted on both the Texas RE and NERC websites.

COMMON ATTRIBUTE 8

An acceptable standard request shall contain a description of the proposed regional reliability standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed standard.

COMMON ATTRIBUTE 9

Within no greater than 60 days of receipt of a completed standard request, the RSC shall determine the disposition of the standard request.

COMMON ATTRIBUTE 10

The RSC may take one of the following actions:

- Accept the standard request as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The RSC may, at its

discretion, expand or narrow the scope of the standard request under consideration. The RSC shall prioritize the development of standard in relation to other proposed standards, as may be required based on the volume of requests and resources.

- Reject the standard request. If the RSC rejects a standard request, a written explanation for rejection will be delivered to the requester within no greater than 30 days of the decision.
- Remand the standard request back to the requester for additional work. The standards process manager will make reasonable efforts to assist the requester in addressing the deficiencies identified by the RSC. The requester may then resubmit the modified standard request using the process above. The requester may choose to withdraw the standard request from further consideration prior to acceptance by the RSC.

COMMON ATTRIBUTE 11

Any standard request that is accepted by the RSC for development of a standard (or modification or deletion of an existing standard) shall be posted for public viewing on the Texas RE website within no greater than 30 days of acceptance by the committee.

COMMON ATTRIBUTE 12

The standards process manager shall submit the proposed members of the drafting team to the RSC. The RSC shall approve the drafting team membership within 60 days of accepting a standard request for development, modifying the recommendations of the standards process manager as the committee deems appropriate, and assign development of the proposed standard to the drafting team.

COMMON ATTRIBUTE 13

At the direction from the RSC, the standards process manager shall facilitate the posting of the draft standard on the Texas RE website, along with a draft implementation plan and supporting documents, for a no less than a 30-day comment period. The standards process manager shall provide notice to Texas RE stakeholders and other potentially interested entities, both within and outside of the Texas RE area, of the posting using communication procedures then currently in effect or by other means as deemed appropriate.

COMMON ATTRIBUTE 14

The drafting team shall prepare a summary of the comments received and the changes made to the proposed standard as a result of these comments. The drafting team shall summarize comments that were rejected by the drafting team and the reason(s) that these comments were

rejected, in part or whole. The summary, along with a response to each comment received will be posted on the Texas RE website no later than the next posting of the proposed standard.

COMMON ATTRIBUTE 15

Upon recommendation of the drafting team, and if the RSC concurs that all of the requirements for development of the standard have been met, the standards process manager shall post the proposed standard and implementation plan for ballot and shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

COMMON ATTRIBUTE 16

The standards process manager shall schedule a vote by the Texas RE registered ballot body. The vote shall commence no sooner than 15 days and no later than 30 days following the issuance of the notice for the vote.

COMMON ATTRIBUTE 17

The Texas RE registered ballot body shall be able to vote on the proposed standard during a period of not less than 10 days.

COMMON ATTRIBUTE 18

Each standard action requires formation of a ballot pool of interested members of the registered ballot body.

COMMON ATTRIBUTE 19

Approval of the proposed regional reliability standard shall require a two thirds majority in the affirmative (affirmative votes divided by the sum of affirmative and negative votes). Abstentions and non-responses shall not count toward the results, except that abstentions may be used in the determination of a quorum. A quorum shall mean four (4) of the six (6) Sectors of the members of the registered ballot body submitted a ballot.

COMMON ATTRIBUTE 20

Under no circumstances may the board substantively modify the proposed regional reliability standard.

COMMON ATTRIBUTE 21

Once a regional reliability standard is approved by the board, the standard will be submitted to NERC for approval and filing with FERC.

COMMON ATTRIBUTE 22

- **Open** - Participation in the development of a regional reliability standard shall be open to all organizations that are directly and materially affected by the Texas RE bulk power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in Texas RE, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to the Texas RE members and others.

COMMON ATTRIBUTE 23

- **Balanced** - The Texas RE standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.

COMMON ATTRIBUTE 24

- **Inclusive** — Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the Texas RE area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.

COMMON ATTRIBUTE 25

- **Fair due process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.

COMMON ATTRIBUTE 26

- **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.

COMMON ATTRIBUTE 27

- Does not unnecessarily delay development of the proposed reliability standard.

COMMON ATTRIBUTE 28

Each standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

COMMON ATTRIBUTE 29

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all regional reliability standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

COMMON ATTRIBUTE 30

To ensure uniformity of regional reliability standards, a regional reliability standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

COMMON ATTRIBUTE 31

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

COMMON ATTRIBUTE 32

Applicability	<p>Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions.</p> <p>If not applicable to the entire Texas RE area, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.</p>
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COMMON ATTRIBUTE 33

Measure(s)	<p>Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.</p>
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COMMON ATTRIBUTE 34

Compliance Monitoring Process	<p>Defines for each measure:</p> <ul style="list-style-type: none"> • The specific data or information that is required to measure performance or outcomes. • The entity that is responsible for providing the data or information for measuring performance or outcomes. • The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes. • The entity that is responsible for evaluating data or information to assess performance or outcomes.
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	<ul style="list-style-type: none">• The time period in which performance or outcomes is measured, evaluated, and then reset.• Measurement data retention requirements and assignment of responsibility for data archiving.
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**Texas Reliability Entity
Standards Development Process**

**Appendix to Exhibit C to the
Delegation Agreement
Between NERC and Texas Reliability Entity**

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I. Introduction

This document defines the fair and open process for adoption, approval, revision, and reaffirmation, of a Regional Reliability Standard (Regional Standard) for the ERCOT Region by Texas Reliability Entity, Inc. (Texas RE). Regional Standards provide for the reliable regional and sub-regional planning and operation of the Bulk-Power System (BPS), consistent with Good Utility Practice within a Regional Entity's (RE's) geographical footprint.

The process for obtaining a Texas RE Regional Variance to a NERC Reliability Standard shall be the same as the process for obtaining a Regional Standard. Throughout this document, where the term Regional Standard is used, the same process will be applied to a Regional Variance.

Due process is the key to ensuring that Regional Standards are developed in an environment that is equitable, accessible and responsive to the requirements of all interested and affected parties. An open and fair process ensures that all interested and affected parties have an opportunity to participate in a Regional Standard's development.

Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the BPS has a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.

Proposed Regional Standards shall be subject to approval by North American Electric Reliability Corporation (NERC), as the electric reliability organization, and by the Federal Energy Regulatory Commission (FERC) before becoming mandatory and enforceable under Section 215 of the FPA. No Regional Standard shall be effective within the Texas RE area unless filed by NERC with FERC and approved by FERC.

Regional Standards shall provide for as much uniformity as possible with reliability standards across the interconnected BPS of the North American continent. A Regional Standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the BPS. A Regional Standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

Regional Standards, when approved by FERC, shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable BPS owners, operators, and users within the Texas RE area, regardless of membership in the region.

II. Background

The Texas RE may develop, through its own processes, separate Regional Standards that go beyond, add detail to, or implement NERC Reliability Standards; obtain a Regional Variance; or otherwise address issues that are not addressed in NERC Reliability Standards.

NERC Reliability Standards and Regional Standards are all to be included within the Texas RE's Compliance Program.

Regional Standards are developed consistent with the following philosophies according to the process defined within this document:

- Developed in a fair and open process that provides an opportunity for all interested parties to participate;
- Does not have an adverse impact on commerce that is not necessary for reliability;
- Provides a level of BPS reliability that is adequate to protect public health, safety, welfare, and national security and does not have a significant adverse impact on reliability; and
- Based on a justifiable difference between regions or between sub-regions within the Regional geographic area.

The NERC Board of Trustees has adopted reliability principles and market interface principles to define the purpose, scope, and nature of reliability standards. As these principles are fundamental to reliability and the market interface, these principles provide a constant beacon to guide the development of reliability standards. The NERC Board of Trustees may modify these principles from time to time, as necessary, to adapt its vision for reliability standards. Persons and committees that are responsible for the Texas RE Standards Process shall consider these NERC Principles in the execution of those duties.

NERC Reliability Standards are based on certain reliability principles that define the foundation of reliability for the North American BPS. Each Regional Standard shall enable or support one or more of the reliability principles, thereby ensuring that each Regional Standard serves a purpose in support of reliability of the North American BPS. Each Regional Standard shall also be consistent with all of the reliability principles, thereby ensuring that no Regional Standard undermines reliability through an unintended consequence.

While NERC Reliability Standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that BPS reliability and electricity markets are inseparable and mutually interdependent, all Regional Standards shall be consistent with the market interface principles. Consideration of the market interface principles is intended to ensure that Regional Standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

III. Regional Standards Definition

A NERC Reliability Standard defines certain obligations or requirements of entities that operate, plan, and use the BPS of North America. The obligations or requirements must be material to reliability and measurable. Each obligation and requirement shall support one or more of the stated reliability principles and shall be consistent with all of the stated reliability and market interface principles.

Texas RE may develop, through its own processes: (1) Regional Standards that go beyond, add detail to, or implement NERC Reliability Standards or that cover matters not addressed in NERC Reliability Standards, and (2) Regional Variances that allow an alternative approach to meeting the same reliability objective as the NERC Reliability Standard and are typically necessitated by physical differences.

IV. Roles in the Texas RE Regional Standards Development Process

Originator – Any person, acting as a representative of an organization that is directly and materially affected by the operation of the ERCOT region BPS is allowed to request that a Regional Standard be developed or an existing Regional Standard modified, or deleted, by creating a Regional Standards Authorization Request (SAR) as described in Appendix B to this document.

Texas RE Board of Directors (Texas RE BOD) – The Texas RE BOD shall act on any proposed Regional Standard that has gone through the process. Once the Regional Standard is approved by FERC, compliance with the Regional Standard will be enforced consistent with the terms of the Regional Standard.

Registered Ballot Body (RBB) – The Registered Ballot Body is comprised of all entities or individuals (whether or not they are Texas RE corporate members) that are ERCOT region BPS owners, operators, and users and qualify for one of the below-listed Texas RE Standards Development Sectors, and are registered with the Texas RE as potential ballot participants.

Registered Ballot Pool (RBP) – Each Regional Standard has its own ballot pool formed of interested members of the Registered Ballot Body. Through the voting process, the RBP will ensure that the need for and technical merits of a proposed Regional Standard are appropriately considered. The RBP will also ensure that appropriate consideration of views and objections are received during the development process.

Reliability Standards Committee (RSC) – A balanced committee comprised of entities representing the six Texas RE Standard Development Sectors. The RSC will consist of two representatives from each Sector (except that Sectors with only one member may only have one representative), as elected by the Sector, and the RSC requires a quorum of at least one representative from at least two-thirds (2/3) of the Sectors to take action. The RSC in coordination with the Reliability Standards Manager will review, participate in, and manage the Texas RE Regional Standards Development Process, and develop Texas RE Regional Standards on a schedule as directed by NERC and as needed per the reliability related needs of the ERCOT Region. Where necessary or appropriate, the RSC will coordinate the development of Texas RE Regional Standards and Regional Variances with the development of national standards appearing in the NERC work plan, and the RSC will coordinate and submit comments as a group, to the extent feasible. The RSC will also review FERC Orders pertaining to standards and standards development activities to ensure directives are addressed in regional standard development.

Reliability Standards Manager (RSM) – A Texas RE employee assigned the task of ensuring that the development, revision or deletion of Regional Standards is in accordance with this document. The RSM works with the RSC to ensure the integrity of the process and consistency of quality and completeness of the Regional Standards. The RSM manages the Regional Standards Development Process, and coordinates and facilitates all actions contained in all steps in the process including the management of the Standard Drafting Teams and the facilitation of RSC meetings.

Reliability Standards Staff – Employees of the Texas RE that work with or for the Reliability Standards Manager.

Standard Drafting Team (SDT) – A team of technical experts, assigned by the RSC, and typically includes a Texas RE employee and the Originator, assigned the task of developing a proposed Regional Standard based upon an approved SAR using the Regional Standard Development Process contained in this document.

Texas RE Standards Development Sectors (Sectors) – The six (6) Texas RE Standards Development Sectors are defined as follows:

- **System Coordination and Planning:** An entity that is registered with NERC as a Reliability Coordinator (RC), Balancing Authority (BA), Planning Authority (PA), Resource Planner (RP), or Interchange Authority (IA)
- **Transmission:** An entity that is registered with NERC as a Transmission Owner (TO), Transmission Planner (TP), Transmission Service Provider (TSP), and/or Transmission Operator (TOP).
- **Cooperative or Utility:** An entity that is (a) a corporation organized under Chapter 161 of the Texas Utilities Code or a predecessor statute to Chapter 161 and operating under that chapter; or (b) a corporation organized as an electric cooperative in a state other than Texas that has obtained a certificate of authority to conduct affairs in the State of Texas; or (c) a cooperative association organized under Tex. Rev. Civ. Stat. 1396-50.01 or a predecessor to that statute and operating under that statute.
- **Municipal Utility:** A municipally owned utility as defined in PURA §11.003 and is registered with NERC for at least one registered function.
- **Generation:** An entity that is registered with NERC as a Generator Owner (GO) or Generator Operator (GOP).
- **Load-Serving and Marketing:** An entity that is registered with NERC as a Load Serving Entity (LSE), a Purchasing-Selling Entity, or any newly defined NERC Function for demand response, and any entity with a direct and material interest in the ERCOT region BPS that is not eligible for membership in any other Sector.

V. Texas RE Regional Standards Development Process

A. Assumptions and Prerequisites

The process for developing and approving Standards is generally based on the procedures of the American National Standards Institute (ANSI) and other standards-setting organizations in the United States and Canada. The Regional Standards development process has the following characteristics:

- **Due process** – Any person representing an organization with a direct and material interest has a right to participate by:
 - a) Expressing an opinion and its basis,
 - b) Having that position considered, and
 - c) Appealing any negative decision
- **Openness** – Participation is open to all organizations that are directly and materially affected by ERCOT region's BPS reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in Texas RE, and shall not be unreasonably restricted on the basis of technical qualifications or other such

requirements. Meetings of SDTs are open to all interested parties. All proposed SARs and Regional Standards are posted for comment on the Texas RE Website.

- **Balance** – The Texas RE Standards Development Process strives to have an appropriate balance of interests and shall not be dominated by any single interest category.

B. Regional Standards Development Process Steps

Note: The term “days” below refers to calendar days.

Texas RE will coordinate with NERC such that the acknowledgement of receipt of a Regional Standard request identified in Step 1, notice of comment posting period identified in Step 4, and notice for vote identified in Step 5 below are concurrently posted on both the Texas RE and NERC websites.

Step 1 – Development of a Standards Authorization Request (SAR) to Develop, Revise, or Delete a Regional Standard

Any entity (Originator) that is directly or materially impacted by the operation of the BPS (including all users, owners, and operators of the BPS and regardless of whether the entity is a Texas RE member) within the geographical footprint of Texas RE may request, via a submittal of a Standard Authorization Request (SAR) form, the development, modification, or deletion of a Regional Standard or Regional Variance.

Any such request shall be submitted to the Texas RE RSM, or his or her designee in electronic format. The SAR form may be downloaded from the Texas RE Website.

An acceptable SAR contains a description of the proposed Regional Standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed Regional Standard.

The RSM will verify that the submitted SAR form has been adequately completed. The RSM may offer the Originator suggestions regarding changes and/or improvements to enhance clarity of the Originator’s intent and objectives. The Originator is free to accept or reject these suggestions. Within 15 days the RSM will electronically acknowledge receipt of the SAR.

The RSM will post all adequately completed SARs on the Texas RE Website for public viewing and comment. This initial SAR comment period shall be 15 days. After this initial comment period, the RSM will then forward the SAR to the RSC for its consideration at the next regularly scheduled meeting of the RSC. Within 60 days of receipt of an adequately completed SAR that has been through the initial 15-day comment period, the RSC shall determine the disposition of the SAR and, if the RSC deems necessary, direct the RSM to post the revised SAR again for review and comment for another 15-day period.

The disposition decision process shall use the normal “business rules and procedures” of the RSC then in effect. The RSC may vote to take one of the following actions:

- Accept the SAR as a candidate for development of a new Regional Standard, revision of an existing Regional Standard, or deletion of an existing Regional Standard. The RSC may, in its sole discretion, expand or narrow the scope of the SAR under consideration.

The RSC shall prioritize the development of SARs as may be required based on the number of SARs under development at any time.

- Reject the SAR. If the RSC rejects a SAR, a written explanation for rejection will be delivered to the Originator within 30 days of the decision, and the Texas RE BOD will also be notified with such explanation. The Texas RE BOD may, at its discretion, direct the RSC to reconsider any SAR that has been rejected.
- Remand the SAR back to the Originator for additional work. The RSM will make reasonable efforts to assist the Originator in addressing the deficiencies identified by the RSC. The Originator may then resubmit the modified SAR using the process above. The Originator may choose to withdraw the SAR from further consideration prior to re-submittal to the RSC.

Any SAR that is accepted by the RSC for development of a Regional Standard (or modification or deletion of an existing Regional Standard) shall be posted for public viewing on the Texas RE Website, and their status will be updated as appropriate.

Any documentation of the deliberations of the RSC concerning SARs shall be made available according to normal “business rules and procedures” of the RSC then in effect.

Texas RE Staff shall submit a written report to the Texas RE BOD on a periodic basis (at least quarterly at regularly scheduled Texas RE BOD Meetings) showing the status of all SARs that have been brought to the RSC for consideration.

Step 2 – Formation of the Standard Drafting Team and Declaration of Milestone Date

Upon acceptance by the RSC of a SAR for development of a new Regional Standard (or modification or deletion of an existing Regional Standard), the RSC shall direct the RSM to assemble a qualified balanced slate for the SDT. The RSM will solicit drafting team nominees by announcing the opening of nominations to the stakeholders in the region. The SDT shall consist of a group of people who collectively have the necessary technical expertise and work process skills to draft the standard being requested in the SAR. The RSM shall recommend to the RSC a slate of ad-hoc individuals or a pre-existing task force, work group, or similar group for the SDT. The membership of the SDT shall not include more than one individual from any one entity.

The RSM will manage the SDT to ensure that the Texas RE Standards Development Process is followed, and that the team membership receives all necessary administrative support. This support typically includes a Texas RE staff member and the Originator if he/she chooses to participate. The RSM may develop additional guidelines to assist the SDT, but as a general rule, the RSM will follow the then-current NERC SDT Guidelines and associated NERC SDT procedures in the management of the regional SDTs. The RSC shall appoint the SDT interim chair (should not be a Texas RE staff person). The SDT will elect the permanent Chair and Vice-chair at its first meeting.

The RSM shall submit the proposed list of names of the SDT to the RSC. The RSC will either accept the recommendations of the RSM or modify the SDT slate, as it deems appropriate within 60 days of accepting a SAR for development.

Step 3 – Work and Work Product of the Standard Drafting Team

The RSM will collaborate with the SDT to develop a work plan including the establishment of milestones for completing critical elements. This plan shall be delivered and reported to the RSC, and based upon this work plan, the RSC shall declare a preliminary date on which a completed draft Regional Standard and associated supporting documentation will be available for comment.

The SDT is to meet, either in person or via electronic means (such as Web Ex) as necessary, establish sub-work teams or groups (made up of members of the SDT) as necessary, and performs other activities to address the parameters of the SAR and the milestone date(s) established

The work product of the SDT will consist of the following:

- A draft Regional Standard consistent with the SAR on which it was based.
- An assessment of the impact of the SAR on neighboring regions, and appropriate input from the neighboring regions if the SAR is determined to impact any neighboring region.
- An implementation plan, including the nature, extent and duration of field-testing, if any.
- Identification of any existing Regional Standard (or other regional criteria, protocol, or rule) that may be deleted, in part or whole, or otherwise impacted by the implementation of the draft Regional Standard.
- Technical reports and/or work papers that provide technical support for the draft Regional Standard under consideration.
- The perceived reliability impact should the Regional Standard be approved.
- A draft of recommended Violation Risk Factors (VRFs) and Violation Severity Levels (VSLs), in coordination with Texas RE staff.

Upon completion of these tasks, the SDT shall submit these documents to the RSC, which will verify that the proposed Regional Standard is consistent with the SAR on which it was developed.

The SDT shall regularly (at least once each month) report to and inform the RSC of its progress in meeting the timely completion of the draft Regional Standard. The SDT may request of the RSC, at any point in the Regional Standard Development Process, and change in the scope of the SAR.

The RSC may, at any time, exercise its authority over the Regional Standards Development Process by directing the SDT to move to Step 4 (below) and post the current work product for comment. Any interested entity (including the Originator and the RSM) that contends that the SDT is not effectively progressing on a draft standard or variance may notify the RSC. If any entity contends that the RSC has not taken timely action regarding any requested standard, the entity may file a written complaint with the RSM, who will notify the RSC. If the RSC cannot resolve the complaint within sixty days, the complaining entity may request that its complaint be included on the RSM's report to the Texas RE BOD.

Step 4 – Comment Posting Period

At the direction from the RSC, the RSM shall post the draft Regional Standard, VRFs, and VSLs on the Texas RE Website, along with a draft implementation plan and supporting documents, for a 30-day public comment period. The posting of draft VRFs and VSLs for stakeholder comment can be deferred until a second or later posting of the draft standard as determined by the standard drafting team; however, it is recommended that the VRFs and VSLs be posted for comment with the entire draft Regional Standard as early in the standard development process as possible. The RSM shall also give notice of the posting to all potentially interested entities inside or outside of the ERCOT region of which Texas RE is aware. The RSM will give notice using the typical communication procedures in effect or other means as deemed appropriate.

Within 30 days of the conclusion of the 30-day comment posting period, the SDT shall convene and consider changes to the draft Regional Standard, the implementation plan, supporting technical documents, VRFs, and/or VSLs, based upon comments received. The SDT shall also prepare a formal written response to every comment received. The SDT may then elect to return to Step 3 to revise the draft Regional Standard, implementation plan, and/or supporting technical documentation. If the comments received indicate that the VRFs or VSLs should be changed to better conform to the criteria for establishing those elements, then the SDT, working with Texas RE staff, may make revisions.

The SDT shall prepare a “modification report” summarizing the comments received, the team’s responses to the comments, and the changes made to the draft standard as a result of these comments. The modification report shall also summarize comments that were rejected by the SDT and the reason(s) that these comments were rejected, in part or whole. The RSM shall post responses to all comments on the Texas RE Website no later than the next posting of the revised draft standard.

Step 5 – Posting for Voting by the Registered Ballot Pool

Upon recommendation of the SDT, and if the RSC concurs that all of the requirements for development of the standard have been met, the RSM shall post the proposed standard and implementation plan for ballot and the VRFs and VSLs for poll on the Texas RE Website. The RSM shall also announce the vote to approve the standard and the opportunity to provide input into the VRFs and VSLs, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

The RSM will schedule a vote among the Registered Ballot Pool, which is to be scheduled to commence no sooner than 15 days and no later than 30 days following this posting.

The RSM shall send a notice to every entity in the Registered Ballot Body (RBB) to notify them of an opportunity to become a part of the Registered Ballot Pool for this Regional Standard or Regional Variance. Each member of the RBB will be allowed the opportunity to join a single ballot pool to participate in the determination of the approval of the Regional Standard and to provide input to the “non-binding poll” on the VRFs and VSLs associated with the Regional Standard. This notice should precede the start of the ballot by at least 30 days. The purpose of this notice is to establish a ballot pool to participate in the consensus development process and ballot the proposed action. All members of the Registered Ballot Body are eligible to participate in voting on proposed new Regional Standards, Regional Standard revisions, or Regional

Standard deletions. There shall be one person designated as the primary RBB representative of each entity. Those members of the RBB that sign up for the Ballot Pool become that pool.

The Texas RE Registered Ballot Pool shall be able to vote on the proposed standard and participate in the non-binding poll on the VRFs and VSLs during a 15-day period. Votes shall be submitted electronically, or through other means as approved by the RSC.

Voting is an advisory to the Texas RE BOD. The voting results shall be composed of only the votes from the Registered Ballot Pool members who have responded within the 15-day voting period. Votes may be accompanied by comments explaining the vote, but are not required. All comments shall be responded to and posted to the Texas RE Website prior to going to the RSC or Texas RE BOD.

At least one (1) representative from four (4) of the six (6) Sectors must vote to constitute a quorum. Each Sector shall have two (2) Sector votes.

The “poll” taken on the violation risk factors and violation severity levels is “non-binding.” The results of this poll will be reported to the Texas RE BOD and considered by Texas RE staff in forming its recommendations. The results of the poll are one element for the Texas RE BOD to consider when making a determination of whether to approve the compliance elements of the standards. The results of the poll do not determine whether these compliance elements are “approved.” In addition, if stakeholder comments submitted with the non-binding poll indicate specific improvements that would improve consensus, then the SDT, working with Texas RE staff, will revise the VRFs and VSLs to reflect stakeholder comments before the VRFs and VSLs are submitted to the Texas RE BOD.

Step 6A – Registered Ballot Pool Voting Receives 2/3 or Greater Affirmative Votes of the Texas RE Sectors

If a draft Regional Standard receives 2/3 or greater affirmative votes during the 15-day voting period, the RSC will forward the Regional Standard to the Texas RE BOD for action (Step 7).

Step 6B – Membership Voting Does Not Receive 2/3 Affirmative Votes of the Texas RE Sectors

If a draft Regional Standard does not receive 2/3 or greater affirmative votes during the 15-day voting period, the RSC may:

- Revise the SAR on which the draft Regional Standard was based and remand the development work back to the original SDT or a newly appointed SDT. The resulting draft Regional Standard and/or implementation plan shall be posted for a second voting period. The RSC may require a second comment period prior to a second voting period. The second posting of the draft Regional Standard, implementation plan, and supporting documentation shall be within 60 days of the RSC action.
 - If a draft Regional Standard receives 2/3 or greater affirmative votes during the second voting period, the RSC will forward to the Texas RE BOD for action (Step 7).
 - If a draft Regional Standard does not receive 2/3 or greater affirmative votes during the second voting period, the RSC will refer the draft Regional Standard

and implementation plan to the Texas RE BOD. The RSC may also submit an assessment, opinion, and recommendations to the Texas RE BOD (Step 7).

- Direct the existing SDT to reconsider or modify certain aspects of the draft Regional Standard and/or implementation plan. The resulting draft Regional Standard and/or implementation plan shall be posted for a second voting period. The RSC may require a second comment period prior to the second voting period. The second posting of the draft Regional Standard, implementation plan, and supporting documentation shall be within 60 days of the RSC action.
 - If a draft Regional Standard receives 2/3 or greater affirmative votes on the second voting period, the RSC will forward it to the Texas RE BOD for action (Step 7).
 - If a draft Regional Standard does not receive 2/3 or greater affirmative votes on the second voting period, the RSC will refer the draft Regional Standard and implementation plan to the Texas RE BOD. The RSC may also submit an assessment, opinion, and recommendations to the Texas RE BOD (Step 7).

Step 7 – Action by the Texas RE Board of Directors

A proposed Regional Standard and VRFs and VSLs submitted to the Texas RE BOD for action shall be publicly posted at least 10 days prior to action by the Texas RE BOD. At a regular or special meeting, the Texas RE BOD shall consider adoption of the draft Regional Standard and shall approve the associated VRFs and VSLs for any approved Regional Standard. The Texas RE BOD shall be provided with an “informational package” which includes:

- The draft Regional Standard and any modification or deletion of other related existing Regional Standard(s)
- Implementation Plan (including recommending field testing and effective dates)
- Technical Documentation supporting the draft Regional Standard
- The VRFs and VSLs recommended by Texas RE staff
- A summary of the vote and summary of the comments and responses that accompanied the votes and the non-binding poll on the VRFs and VSLs.

The Texas RE BOD will consider the results of the voting and dissenting opinions. The Texas RE BOD will consider any advice offered by the RSC and may:

- Approve the proposed Regional Standard;
- Remand the proposed Regional Standard to the RSC with comments and instructions;
or
- Disapprove the proposed Regional Standard without recourse.

Under no circumstances may the Texas RE BOD substantively modify the proposed Regional Standard.

Separately, the Texas RE BOD shall consider approval of the VRFs and VSLs for the Regional Standard. In making its determination, the BOD shall consider the following:

- The RSC shall present the results of the non-binding poll conducted and a summary of industry comments received on the final posting of the proposed VRFs and VSLs.
- Texas RE staff shall present a set of recommended VRFs and VSLs that considers the views of the standard drafting team, stakeholder comments received on the draft VRFs and VSLs during the posting for comment process, the non-binding poll results, appropriate governmental agency rules and directives, and VRF and VSL assignments for other Regional Standards to ensure consistency and relevance across the entire spectrum of Regional Standards.

Once a Regional Standard and the associated VRFs and VSLs are approved by the Texas RE BOD, the standard and its associated compliance elements will be submitted to NERC for approval and filing with FERC.

Step 8 – Implementation of a Regional Standard

Upon approval of a draft Regional Standard by the Texas RE BOD, the RSM will notify the membership of such action of the Texas RE BOD through the normal and customary membership communication procedures and processes then in effect. The RSM will take whatever steps are necessary to have a Regional Standard reviewed and/or approved by NERC or any successor organization.

C. Regional Standards Integration

Once the Regional Standard is approved by FERC, the RSM shall notify the stakeholders of the effective date. The RSM will also notify the Texas RE Compliance Staff for integration into the Texas RE Compliance Monitoring and Enforcement Program.

Appendix A – Stakeholder Representation

The Texas RE stakeholder representation for Regional Standards development is as follows:

I. Reliability Standards Committee (RSC)

The Reliability Standards Committee (RSC), comprised of two representatives (except for Sectors with only one member, which will have only one representative) from each of the six Texas RE Standards Development Sectors (System Coordination and Planning; Transmission; Generation; Cooperative Utility; Municipal Utility; Load-Serving and Marketing), is to provide balanced decision-making and due process for Regional Standards and Regional Variances. The RSC will receive, consider, and vote upon requests for new or revised Regional Standards and Regional Variances. The RSC requires a quorum of at least one representative from at least two-thirds of the Sectors.

The RSC will consider any requests for Regional Standards or Regional Variances from parties that are directly and materially affected by the operation of the ERCOT Region BPS that have first been submitted to the RSM for initial review.

II. Texas RE Board of Directors (BOD)

Texas RE is a Texas non-profit corporation that is governed by a combination independent and balanced stakeholder board. The Texas RE Board of Directors (BOD) includes the following directors:

- Four independent directors who are independent of any ERCOT region market participant and any NERC registered entity and are nominated and elected in accordance with the requirements and procedures specified in the Texas RE Bylaws;
- Two directors from different Sectors who are selected by the Texas RE Member Representatives Committee as its chair and vice chair;
- CEO of Texas RE;
- Chairman of the Public Utility Commission of Texas (PUCT) or another PUCT Commissioner designated by the Chairman (as *ex officio* non-voting Director); and
- Texas Public Counsel from the Office of Public Utility Counsel (OPUC) or another employee of OPUC designated by Public Counsel (as *ex officio* non-voting Director).

III. Registered Ballot Body (RBB)

A Registered Ballot Body (RBB) will be comprised of representatives from all the Sectors, to provide balanced decision-making on Regional Standards and Regional Variances. The RBB is eligible to vote on all proposed new or revised Regional Standards or Regional Variances. The RBB requires a quorum of at least one vote from at least two-thirds of the Sectors. At all meetings, each Sector shall have one (1) Sector vote, and each voting entity is entitled to only one vote. Each voting entity participating in the vote, shall receive an equal fraction of its Sector's vote. A Registered Ballot Pool (RBP) will be formed for each proposed Regional Standard or Regional Variance and will be a subset of the RBB. The RBP will vote on a particular standard action.

Appendix B – Principles, Characteristics, and Special Procedures

I. Principles

Due process is the key to ensuring that regional reliability standards are developed in an environment that is equitable, accessible and responsive to the requirements of all interested and affected parties. An open and fair process ensures that all interested and affected parties have an opportunity to participate in the development of a standard.

The Texas RE develops Regional Standards with due consideration of the following principles, in accordance with the steps outlined in this procedure. The process must ensure that any Regional Standard is technically sound and the technical specifications proposed would achieve a valuable reliability objective.

The standards development process has the following characteristics:

- **Open** – Participation in the development of a Regional Standard shall be open to all organizations that are directly and materially affected by ERCOT BPS reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in ERCOT, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to ERCOT members and others.
- **Balanced** – The Texas RE Standards Development Process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.
- **Inclusive** – Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the ERCOT BPS in the Texas RE area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.
- **Fair due process** – The Texas RE Standards Development Process shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.
- **Transparent** – All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the Texas RE Website.
- Does not unnecessarily delay development of the proposed Regional Standard.

NERC has adopted reliability principles and market interface principles to define the purpose, scope, and nature of reliability standards. These principles are to be used to guide the development of reliability standards, including regional reliability standards. The NERC Board of Trustees may modify these principles from time to time, as necessary, to adapt its vision for reliability standards.

Each Regional Standard shall enable or support one or more of the reliability principles, thereby ensuring that each Regional Standard serves a purpose in support of the reliability of the ERCOT BPS. Each Regional Standard shall also be consistent with all of the reliability principles, thereby ensuring that no Regional Standard undermines reliability through an unintended consequence.

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that BPS reliability and electricity markets are inseparable and mutually interdependent, all Regional Standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

II. Regional Standard Characteristics and Elements

a. Characteristics of a Regional Standard

The following characteristics describe objectives to be considered in the development of Regional Standards:

1. **Applicability** – Each Regional Standard clearly identifies the functional classes of entities responsible for complying with the standard, with any specific additions or exceptions noted. Such functional classes include: Reliability Coordinators, Balancing Authorities, Transmission Operators, Transmission Owners, Generator Operators, Generator Owners, Interchange Authorities, Transmission Service Providers, Planning Authorities, Transmission Planners, Resource Planners, Load-Serving Entities, Purchasing-Selling Entities, and Distribution Providers. Each Regional Standard identifies the geographic applicability of the standard. A standard may also identify any limitations on the applicability of the standard based on electric facility characteristics.
2. **Reliability Objectives** – Each Regional Standard has a clear statement of purpose that describes how the standard contributes to the reliability of the ERCOT BPS.
3. **Requirement or Outcome** – Each Regional Standard states one or more requirements, which if achieved by the applicable entities, will provide for a reliable BPS, consistent with good utility practices and the public interest.
4. **Measurability** – Each performance requirement is stated so as to be objectively measurable by a third party with knowledge or expertise in the area addressed by that requirement. Each performance requirement has one or more associated measures used to objectively evaluate compliance with the requirement. If performance can be practically measured quantitatively, metrics are provided to determine satisfactory performance.
5. **Technical Basis in Engineering and Operations** — Each Regional Standard is based upon sound engineering and operating judgment, analysis, or experience, as determined by expert practitioners in that particular field.

6. **Completeness** — Each Regional Standard is complete and self-contained. Supporting references may be provided with standards, but they are not part of the standard and do not impose mandatory requirements.
7. **Clear Language** — Each Regional Standard is stated using clear and unambiguous language. Responsible entities, using reasonable judgment and in keeping with good utility practice, are able to arrive at a consistent understanding of the required performance.
8. **Practicality** — Each Regional Standard establishes requirements that can be practically implemented by the assigned responsible entities within the specified effective date and thereafter.
9. **Consistent Terminology** — To the extent possible, Regional Standards use a set of standard terms and definitions that are approved through the regional standards development procedure.

Although Regional Standards have a common format and process, several types of standards may exist, each with a different approach to measurement:

- **Technical standards** are related to the provision, maintenance, operation, or state of electric systems, and will likely contain measures of physical parameters that are technical in nature.
- **Performance standards** are related to the actions of entities providing for or impacting the reliability of the BPS, and will likely contain measures of the results of such actions or qualities of performance of such actions.
- **Preparedness standards** are related to the actions of entities to be prepared for conditions that are unlikely to occur, but are nonetheless critical to reliability, and will likely contain measures of such preparations or the state of preparedness.

b. Elements of a Regional Standard

To ensure uniformity of regional reliability standards, a Regional Standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

Table 1 – Performance Elements of a Regional Standard

Identification Number	A unique identification number assigned in accordance with an administrative classification system to facilitate tracking and reference.
Title	A brief, descriptive phrase identifying the topic of the standard.
Applicability	Clear identification of the functional classes of entities responsible for

	complying with the standard, noting any specific additions or exceptions. If not applicable to the entire Texas RE area, then a clear identification of the portion of the BPS to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.
Effective Date and Status	The effective date of the standard or, prior to approval of the standard, the proposed effective date.
Purpose	The purpose of the standard. The purpose shall explicitly state what outcome will be achieved or is expected by this standard.
Requirement(s)	Explicitly stated technical, performance, and preparedness requirements. Each requirement identifies what entity is responsible and what action is to be performed or what outcome is to be achieved. Each statement in the requirements section shall be a statement for which compliance is mandatory.
Measure(s)	Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.

Table 2 – Compliance Elements of a Regional Standard

The following compliance elements are developed for each standard by the standard drafting team and are balloted with the regional standard:

Compliance Monitoring Process	<p>Defines for each measure:</p> <ul style="list-style-type: none"> • Compliance Enforcement Authority: The entity that is responsible for evaluating data or information to assess performance or outcomes. • Compliance Monitoring and Enforcement Processes: The processes that will be used to evaluate data or information for the purpose of assessing performance or outcomes. • Data Retention: Measurement data retention requirements and assignment of responsibility for data archiving. • Additional Compliance Information: Any other information related to assessing compliance such as the criteria or periodicity for filing specific reports.
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The following compliance elements are developed by the SDT, working with Texas RE staff, but are not considered to be part of the standard. These elements will be posted for stakeholder comment concurrent with the associated requirements as early in the standard development process as possible. The standard drafting team, working with Texas RE staff will respond to all

comments received. The drafting team, working with Texas RE staff may make modifications to the Violation Risk Factors (VRFs) and Violation Severity Levels (VSLs) based on stakeholder comments.

A non-binding poll will be conducted to assess stakeholders' agreement with VRFs and VSLs. If stakeholder comments submitted with the non-binding poll indicate specific improvements that would improve consensus, then the SDT, working with Texas RE staff, will revise the VRFs and VSLs to reflect stakeholder comments.

The RSC will report the results of the poll and a summary of industry comments received on the final posting of the proposed VRFs and VSLs to the Texas RE BOD. Texas RE staff will develop for BOD approval recommended assignments of VRFs and VSLs associated with Regional Standards being presented for approval by the BOD. In developing the recommended VRF and VSL assignments, Texas RE staff will take into consideration the views of the standard drafting team, stakeholder comments received on the draft VRFs and VSLs during the posting for comment process, the non-binding poll results, regulatory directives, and VRF and VSL assignments for other Regional Standards to ensure consistency and relevance across the entire spectrum of NERC Reliability Standards.

The Texas RE BOD has the authority to approve Violation Risk Factors and Violation Severity Levels and may modify the VRF or VSL proposed by Texas RE staff.

<p>Violation Risk Factors</p>	<p>The potential reliability significance of each requirement, designated as a High, Medium, or Lower Risk Factor in accordance with the criteria listed below:</p> <p>A High Risk Factor requirement (a) is one that, if violated, could directly cause or contribute to bulk power system instability, separation, or a cascading sequence of failures, or could place the bulk power system at an unacceptable risk of instability, separation, or cascading failures; or (b) is a requirement in a planning time frame that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly cause or contribute to bulk power system instability, separation, or a cascading sequence of failures, or could place the bulk power system at an unacceptable risk of instability, separation, or cascading failures, or could hinder restoration to a normal condition.</p> <p>A Medium Risk Factor requirement (a) is a requirement that, if violated, could directly affect the electrical state or the capability of the bulk power system, or the ability to effectively monitor and control the bulk power system, but is unlikely to lead to bulk power system instability, separation, or cascading failures; or (b) is a requirement in a planning time frame that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly affect the electrical state or capability of the bulk power system, or the ability to effectively monitor, control, or restore the bulk power system, but is unlikely, under emergency, abnormal, or restoration conditions anticipated by the preparations, to lead to bulk power system instability, separation, or cascading failures, nor to hinder restoration to a normal condition.</p>
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	<p>A Lower Risk Factor requirement is administrative in nature and (a) is a requirement that, if violated, would not be expected to affect the electrical state or capability of the bulk power system, or the ability to effectively monitor and control the bulk power system; or (b) is a requirement in a planning time frame that, if violated, would not, under the emergency, abnormal, or restorative conditions anticipated by the preparations, be expected to affect the electrical state or capability of the bulk power system, or the ability to effectively monitor, control, or restore the bulk power system.</p>
<p>Violation Severity Levels (VSLs)</p>	<p>Defines the degree to which compliance with a requirement was not achieved. Each requirement must have at least one VSL. While it is preferable to have four VSLs for each requirement, some requirements do not have multiple “degrees” of noncompliant performance and may have only one, two, or three VSLs.</p> <p>Lower Violation Severity Level:</p> <ul style="list-style-type: none"> • Missing a minor element (or a small percentage) of the required performance <p>Moderate Violation Severity Level:</p> <ul style="list-style-type: none"> • Missing at least one significant element (or a moderate percentage) of the required performance. <p>High Violation Severity Level:</p> <ul style="list-style-type: none"> • Missing more than one significant element (or is missing a high percentage) of the required performance or is missing a single vital component. <p>Severe Violation Severity Level:</p> <ul style="list-style-type: none"> • Missing most or all of the significant elements (or a significant percentage) of the required performance.

Table 3 – Supporting Information Elements

Interpretation	Any interpretation of regional reliability standard that is developed and approved in accordance with Section VI “Interpretation of Regional Standards” in Appendix B of this procedure, to expound on the application of the standard for unusual or unique situations or to provide clarifications.
Implementation Plan	Each regional reliability standard shall have an associated implementation plan describing the effective date of the standard or effective dates if there is a phased implementation. The implementation plan may also describe the implementation of the standard in the compliance program and other considerations in the initial use of the standard, such as necessary tools, training, etc. The implementation plan must be posted for at least one public comment period and is approved as part of the ballot of the standard.
Supporting References	<p>This section references related documents that support reasons for, or otherwise provide additional information related to the regional reliability standard. Examples include, but are not limited to:</p> <ul style="list-style-type: none"> • Glossary of terms • Developmental history of the standard and prior versions • Notes pertaining to implementation or compliance • Regional Standard references • Regional Standard supplements • Procedures • Practices • Training references • Technical references • White papers • Internet links to related information

III. Maintenance of the Texas RE Regional Standards Development Process

Significant changes to this process which are not made as part of a Texas RE request for an amendment to the Delegation Agreement shall begin with the preparation of a SAR and be addressed using the same procedure as a request to add, modify, or delete a Regional Standard.

The RSC has the authority to make ‘minor’ changes to this process as deemed appropriate by the RSC and subject to the RSC voting practices and procedures then in effect. The RSM, on behalf of the RSC, shall promptly notify the Texas RE BOD of such changes to this process for their review and concurrence at the next Texas RE BOD meeting.

IV. Maintenance of Regional Standards

The RSM shall ensure that each Regional Standard is reviewed at least once every five years from the effective date of the Standard or the latest revision to the Regional Standard, whichever is the later. The review process shall be conducted by soliciting comments from the stakeholders. If no changes are warranted, the RSM shall recommend to the Texas RE BOD that the Regional Standard be reaffirmed. If the review indicates a need to revise or delete a

Regional Standard, a SAR shall be prepared and submitted in accordance with the standards development process contained in this process.

V. Urgent Action

Under certain conditions, the RSC may designate a proposed Regional Standard or revision to a standard as requiring urgent action. Urgent action may be appropriate when a delay in implementing a proposed standard or revision could materially impact reliability of the BPS. The RSC must use its judgment carefully to ensure an urgent action is truly necessary and not simply an expedient way to change or implement a Regional Standard.

An originator shall prepare a SAR and a draft of the proposed standard and submit to the RSM. The standard request must include a justification for urgent action. The RSM submits the request to the RSC for its consideration. If the RSC designates the requested standard or revision as an urgent action item, then the RSM shall immediately post the draft for pre-ballot review. This posting requires a minimum 30-day posting period before the ballot and applies the same voting procedure as detailed in Step 6.

Any Regional Standard approved as an urgent action shall have a termination date specified that shall not exceed one year from the approval date. Should there be a need to make the standard permanent the standard would be required to go through the full Regional Standard Development Process. All urgent action standards require Texas RE BOD, NERC, and FERC approval, as outlined for standards in the regular process.

Urgent actions that expire may be renewed using the urgent action process again, in the event a permanent standard is not adopted. In determining whether to authorize an urgent action standard for a renewal ballot, the RSC shall consider the impact of the standard on the reliability of the BPS and whether expeditious progress is being made toward a permanent replacement standard. The RSC shall not authorize a renewal ballot if there is insufficient progress toward adopting a permanent replacement standard or if the RSC lacks confidence that a reasonable completion date is achievable. The intent is to ensure that an urgent action standard does not in effect take on a degree of permanence due to the lack of an expeditious effort to develop a permanent replacement standard. With these principles, there is no predetermined limit on the number of times an urgent action may be renewed. However, each urgent action standard renewal shall be effective only upon approval by the Texas RE BOD, and approval by applicable governmental authorities.

Any person or entity, including the drafting team working on a permanent replacement standard, may at any time submit a standard request proposing that an urgent action standard become a permanent standard by following the full standards process.

VI. Interpretations of Regional Standards

All persons who are directly and materially affected by ERCOT's BPS reliability shall be permitted to request an interpretation of a Regional Standard or Regional Variance (collectively referred to as Regional Standard). The person requesting an interpretation shall send a request to the RSM electronically using the Interpretation Request Form explaining the specific circumstances surrounding the request and what clarifications are required as applied to those circumstances. The request should indicate the material impact to the requesting party or others caused by the lack of clarity or a possibly incorrect interpretation of the standard.

The RSM shall assemble a team with the relevant expertise to address the clarification. The Interpretation Drafting Team (IDT) typically consists of members from the original SDT. The RSM shall submit the proposed list of names of the IDT to the RSC. The RSC will either accept the recommendations of the RSM or modify the IDT slate.

As soon as practical (not more than 45 days), the team will meet to draft a written interpretation to the Regional Standard addressing the issues raised. Once the IDT has completed a draft interpretation to the Regional Standard addressing only the issues raised, the team will forward the draft interpretation to the RSM. The RSM will forward the draft interpretation to the Texas RE Chief Executive Officer. The Chief Executive Officer shall assess if the inclusion of the interpretation lessens the measurability of the Regional Standard. Barring receipt of an opinion from the Chief Executive Officer within 21 days, that the interpretation lessens measurability or is not technically appropriate for the Regional Standard, the RSM shall forward the interpretation to the RSC. The RSC shall determine if the interpretation is consistent with the Regional Standard. The RSM, on behalf of the RSC, shall forward the interpretation to the Texas RE BOD for informational purposes as being appended to the approved Regional Standard.

Note: In the event that the Chief Executive Officer determines that measurability is lessened, the Chief Executive Officer shall provide an explanation of his/her reasoning to the RSM and IDT for inclusion in a subsequent reversion. In either case, the IDT and RSM will continue to re-circulate the interpretation as stated above.

The interpretation shall stand until such time as the Regional Standard is revised through the normal process, at which time the Regional Standard will be modified to incorporate the clarifications provided by the interpretation.

VII. Appeals

Persons who have directly and materially affected interests and who have been or will be adversely affected by any substantive or procedural action or inaction related to the development, approval, revision, reaffirmation, or withdrawal of a Regional Standard shall have the right to appeal. This Appeals Process applies only to this Regional Standards Process.

The burden of proof to show adverse effect shall be on the appellant. Appeals shall be made within 30 days of the date of the action purported to cause the adverse effect, except appeals for inaction, which may be made at any time. In all cases, the request for appeal must be made prior to the next step in the process.

The final decisions of any appeal shall be documented in writing and made public.

The Appeals Process provides two levels, with the goal of expeditiously resolving the issue to the satisfaction of the participants:

Level 1 Appeal

Level 1 is the required first step in the appeals process. The appellant submits a complaint in writing to the RSM that describes the substantive or procedural action or inaction associated with Regional Standard or the Regional Standards Process. The appellant describes in the complaint the actual or potential adverse impact to the appellant. Assisted by any necessary staff and committee resources, the RSM shall prepare a written response addressed to the appellant as soon as practical, but not more than 45 days after receipt of the complaint. If the appellant accepts the response as a satisfactory resolution of the issue, both the complaint and response will be made a part of the public record associated with the Regional Standard.

Level 2 Appeal

If after the Level 1 Appeal the appellant remains unsatisfied with the resolution, as indicated by the appellant in writing to the RSM, the RSM shall convene a Level 2 Appeals Panel. This panel shall consist of five members total appointed by the Texas RE BOD. In all cases, Level 2 Appeals Panel Members shall have no direct affiliation with the participants in the appeal.

The RSM shall post the complaint and other relevant materials and provide at least 30 days notice of the meeting of the Level 2 Appeals Panel. In addition to the appellant, any person that is directly and materially affected by the substantive or procedural action or inaction referenced in the complaint shall be heard by the panel. The panel shall not consider any expansion of the scope of the appeal that was not presented in the Level 1 Appeal. The panel may in its decision find for the appellant and remand the issue to the RSC with a statement of the issues and facts in regard to which fair and equitable action was not taken. The panel may find against the appellant with a specific statement of the facts that demonstrate fair and equitable treatment of the appellant and the appellant's objections. The panel may not, however, revise, approve, disapprove, or adopt a Regional Standard. The actions of the Level 2 Appeals Panel shall be publicly posted.

In addition to the foregoing, a procedural objection that has not been resolved may be submitted to Texas RE BOD for consideration at the time the Texas RE BOD decides whether to adopt a particular Regional Standard. The objection must be in writing, signed by an officer of the objecting entity, and contain a concise statement of the relief requested and a clear demonstration of the facts that justify that relief. The objection must be filed no later than 30 days after the announcement of the vote on the Regional Standard in question.

Appendix C – Regional Standard Authorization Request Form

The tables below provide a representative example of information in a Regional Standard Authorization Request (SAR). The RSM shall be responsible for implementing and maintaining the applicable form as needed to support the information requirements of the Texas RE Standards Process. The latest version of the form will be downloadable from the Texas RE's Standards Development Web page.

Standard Authorization Request

Texas RE to complete

ID
Authorized for Posting
Authorized for Development

Title of Proposed Regional Standard:
Request Date:

SAR Originator Information

Name:	SAR Type (Check one box.)
Company:	<input type="checkbox"/> New Regional Standard
Telephone:	<input type="checkbox"/> Revision to Existing Regional Standard
Fax:	<input type="checkbox"/> Withdrawal of Existing Regional Standard
Email:	<input type="checkbox"/> Urgent Action

Purpose (Describe the purpose of the proposed regional reliability standard – what the standard will achieve in support of reliability.)

Industry Need (Provide a detailed statement justifying the need for the proposed regional reliability standard, along with any supporting documentation.)
--

Brief Description (Describe the proposed regional reliability standard in sufficient detail to clearly define the scope in a manner that can be easily understood by others.)

Reliability Functions

The Regional Standard will Apply to the Following Functions (Check all applicable boxes.)

<input type="checkbox"/>	Reliability Coordinator	The entity that is the highest level of authority who is responsible for the reliable operation of the BPS, has the Wide Area view of the BPS, and has the operating tools, processes and procedures, including the authority to prevent or mitigate emergency operating situations in both next-day analysis and real-time operations. The Reliability Coordinator has the purview that is broad enough to enable the calculation of Interconnection Reliability Operating Limits, which may be based on the operating parameters of transmission systems beyond any Transmission Operator's vision.
<input type="checkbox"/>	Balancing Authority	The responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area, and supports Interconnection frequency in real time.
<input type="checkbox"/>	Interchange Authority	Authorizes valid and balanced Interchange Schedules.
<input type="checkbox"/>	Planning Authority	The responsible entity that coordinates and integrates transmission facility and service plans, resource plans, and protection systems.
<input type="checkbox"/>	Transmission Service Provider	The entity that administers the transmission tariff and provides Transmission Service to Transmission Customers under applicable transmission service agreements.
<input type="checkbox"/>	Transmission Owner	The entity that owns and maintains transmission facilities.
<input type="checkbox"/>	Transmission Operator	The entity responsible for the reliability of its "local" transmission system, and that operates or directs the operations of the transmission facilities.
<input type="checkbox"/>	Transmission Planner	The entity that develops a long-term (generally one year and beyond) plan for the reliability (adequacy) of the interconnected bulk power transmission systems within its portion of the Planning Authority Area.
<input type="checkbox"/>	Resource Planner	The entity that develops a long-term (generally one year and beyond) plan for the resource adequacy of specific loads (customer demand and energy requirements) within a Planning Authority Area.
<input type="checkbox"/>	Generator Operator	The entity that operates generating unit(s) and performs the functions of supplying energy and Interconnected Operations Services.
<input type="checkbox"/>	Generator Owner	Entity that owns and maintains generating units.
<input type="checkbox"/>	Purchasing-Selling Entity	The entity that purchases or sells, and takes title to, energy, capacity, and Interconnected Operations Services. Purchasing-Selling Entities may be affiliated or unaffiliated merchants and may or may not own generating facilities.

<input type="checkbox"/>	Distribution Provider	Provides and operates the “wires” between the transmission system and the customer.
<input type="checkbox"/>	Load-Serving Entity	Secures energy and transmission service (and related Interconnected Operations Services) to serve the electrical demand and energy requirements of its end-use customers.

Reliability and Market Interface Principles

Applicable Reliability Principles <i>(Check all boxes that apply.)</i>	
<input type="checkbox"/>	1. Interconnected BPSs shall be planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions as defined in the NERC Standards.
<input type="checkbox"/>	2. The frequency and voltage of interconnected BPSs shall be controlled within defined limits through the balancing of real and reactive power supply and demand.
<input type="checkbox"/>	3. Information necessary for the planning and operation of interconnected BPSs shall be made available to those entities responsible for planning and operating the systems reliably.
<input type="checkbox"/>	4. Plans for emergency operation and system restoration of interconnected BPSs shall be developed, coordinated, maintained, and implemented.
<input type="checkbox"/>	5. Facilities for communication, monitoring, and control shall be provided, used, and maintained for the reliability of interconnected BPSs.
<input type="checkbox"/>	6. Personnel responsible for planning and operating interconnected BPSs shall be trained, qualified, and have the responsibility and authority to implement actions.
<input type="checkbox"/>	7. The security of the interconnected BPSs shall be assessed, monitored, and maintained on a wide-area basis.

Does the proposed Regional Standard comply with all of the following Market Interface Principles? *(Select ‘yes’ or ‘no’ from the drop-down box.)*

Recognizing that reliability is an Common Attribute of a robust North American economy:	
1.	A reliability standard shall not give any market participant an unfair competitive advantage. Yes
2.	A reliability standard shall neither mandate nor prohibit any specific market structure. Yes
3.	A reliability standard shall not preclude market solutions to achieving compliance with that standard. Yes
4.	A reliability standard shall not require the public disclosure of commercially sensitive information. All market participants shall have equal opportunity to access commercially non-sensitive information that is required for compliance with reliability standards. Yes

Detailed Description (Provide enough detail so that an independent entity familiar with the industry could draft a standard based on this description.)

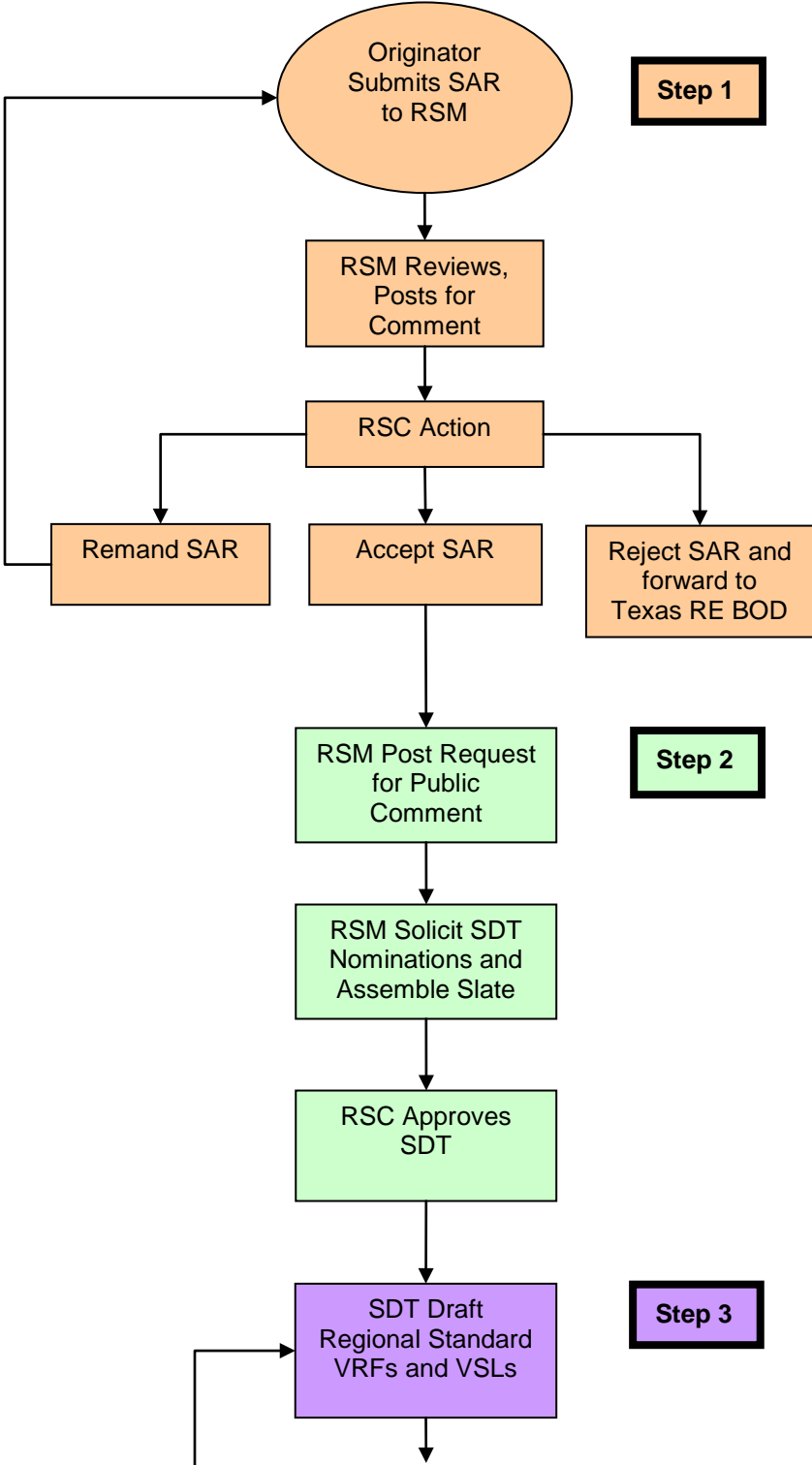
Related Standards

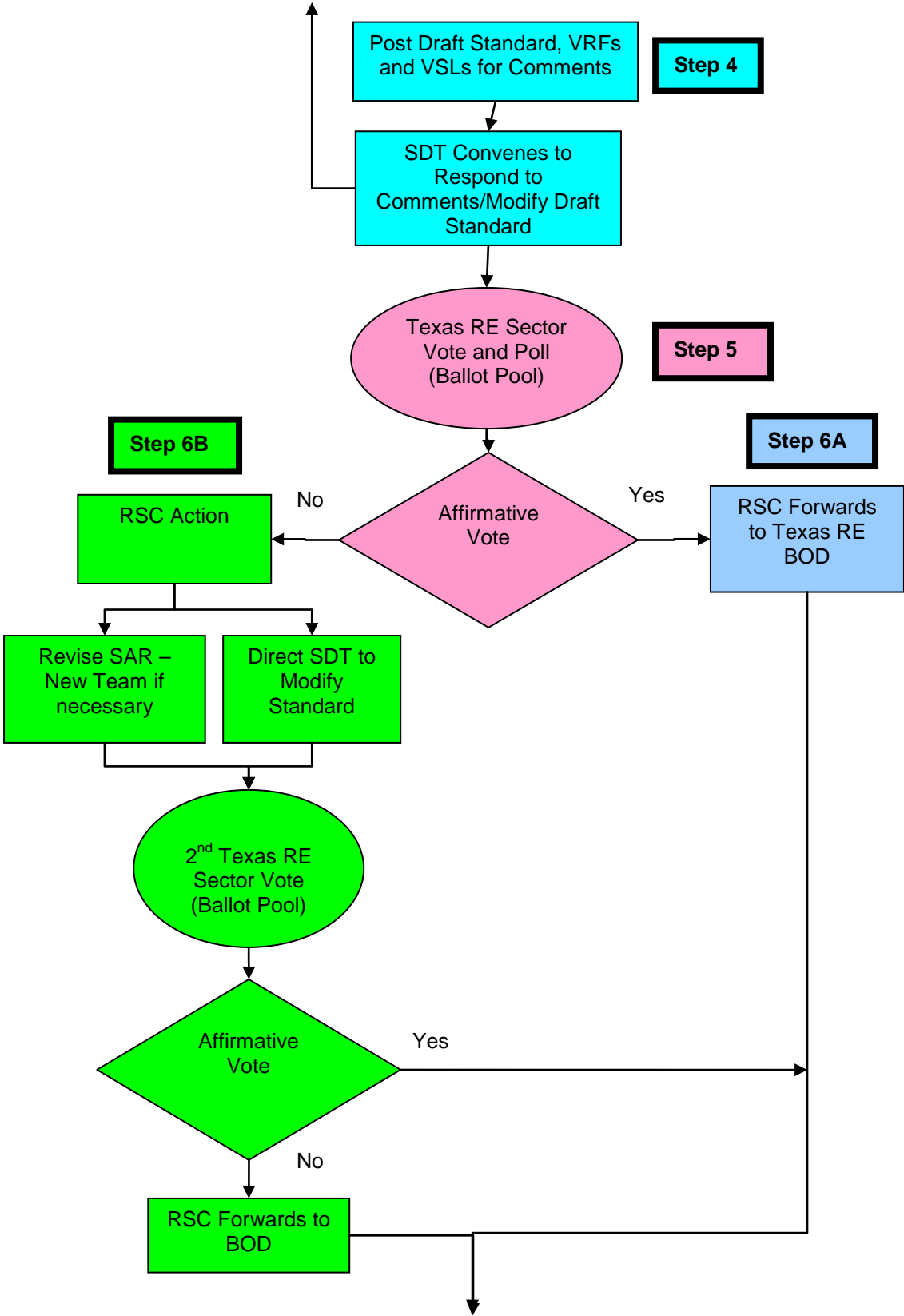
Standard No.	Explanation

Related SARs

SAR ID	Explanation

**Appendix D – Texas RE Standards Development Process
Diagram**





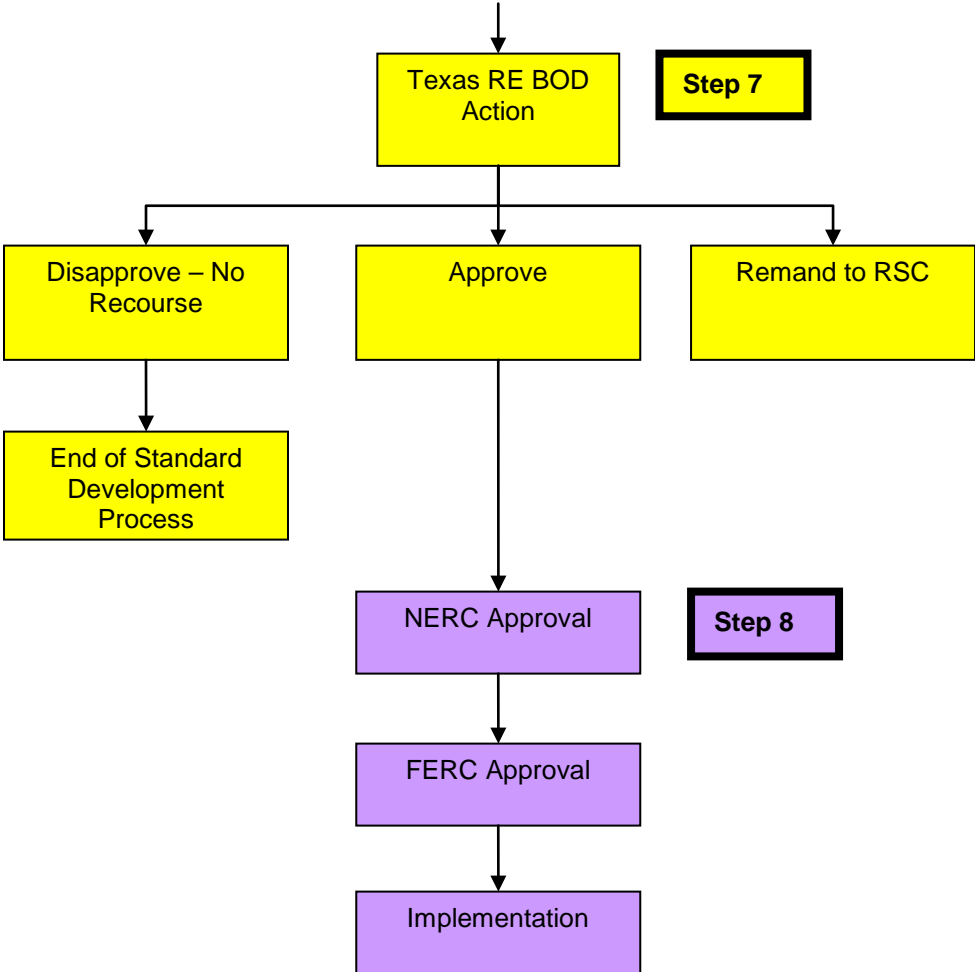


EXHIBIT D – COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

Texas RE will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within **Texas RE's** geographic or electrical boundaries, and such other scope, set forth on **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

Texas RE shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either **Texas RE's** board or a balanced compliance panel reporting directly to **Texas RE's** board. **Texas RE's** hearing body is the Public Utility Commission of Texas (PUCT).

- A. **Hearing Body.** Texas RE will use the PUCT as its Hearing Body, and the PUCT (as Hearing Body) will issue recommendations to the Texas RE Board of Directors (“Board”) which will make final decisions following regional hearings of compliance matters. The PUCT is comprised of three Commissioners who are appointed by the Governor of the State of Texas. The PUCT has extensive experience in conducting contested case hearings and other adjudicatory proceedings in a manner that assures due process of law to all participants. Texas RE intends to rely upon the PUCT’s experience and expertise in conducting the hearing process under the Delegation Agreement. Texas RE believes that it is more efficient and cost-effective to use existing PUCT procedures than to attempt to establish a redundant hearing process within Texas RE. The PUCT is uniquely well-positioned to perform this function for the ERCOT Region since electric utilities operating in the ERCOT Region do not synchronously interconnect with electric utilities operating outside of Texas, and ERCOT market participants have experience in participating in PUCT proceedings.
- B. **Public Hearings.** The PUCT as Hearing Body will hold public hearings on all matters referred to it by the Texas RE for hearing and recommendation. The PUCT’s performance of Hearing Body responsibilities is fully consistent with the NERC Rules of Procedure and with Section 39.7 of FERC Order 672, with the exception of Section 39.7(b)(4), which requires “[e]ach violation or alleged violation [to] be treated as nonpublic until the matter is filed with [FERC] as a notice of penalty or resolved by an admission ... or by a settlement or other negotiated disposition.” Because the PUCT is a “governmental body” under the Texas Open Meetings Act (Texas Government Code § 551.002), the PUCT is required to conduct any deliberations and render a decision in a meeting that is open to the public. The Texas Open Meetings Act also requires that any evidence or other submissions concerning a PUCT hearing, except for information that is confidential or privileged under law, be publicly available. Texas Attorney General opinions have determined that the need to consider confidential information does not

justify conducting a closed meeting or executive session. Although PUCT hearings, including those contemplated under this Exhibit D, are conducted as open meetings, steps are taken to prevent the disclosure of confidential information during the hearing process. Direct testimony in such cases is generally presented in written question and answer format, with any confidential information redacted, filed under seal and provided to parties pursuant to a protective order. In hearings conducted under these rules, the Hearing Body shall use best efforts to avoid the inadvertent disclosure of confidential information. The Presiding Officer may use the following methods to protect confidential information, in addition to the entry of an appropriate protective order: (1) Requiring the aggregation of confidential information aggregated to eliminate its confidentiality; (2) Permitting or requiring the redaction of testimony where the non-public information is not material to the merits; (3) Closing the public hearings on a temporary basis to those not bound under the terms of any case-specific protective order in place while the specific, confidential data is the subject of testimony or argument; and (4) other reasonable means in the discretion of the Presiding Officer.

Under the Texas Public Utility Regulatory Act (PURA) §39.151(j), market participants in the ERCOT market are required to comply with all scheduling, operating, planning, reliability, and settlement policies, rules, guidelines, and procedures ERCOT establishes. The PUCT is given authority to enforce this obligation through the imposition of penalties, revocation of certifications or other means. In any enforcement proceeding under PURA, PUCT deliberations are conducted in an open meeting in accordance with the procedures outlined above. ERCOT is thus unlike other power regions that may be implementing an enforcement mechanism for the first time. The history of public availability of this information in the ERCOT power region argues in favor of the continued public availability of information considered in enforcement hearings the PUCT conducts as Hearing Body for the Texas RE.

Moreover, elsewhere in Order No. 672, FERC stated that: “If the ERO or a Regional Entity wishes to conduct a public investigation, enforcement audit or permit interventions when determining whether to impose a penalty, the ERO or the Regional Entity must receive advance authorization from the Commission.”³

In response to the request by Texas RE’s predecessor to be permitted to hold public hearings as outlined herein, FERC issued *In the matter of Delegation Agreement Between the North American Electric Reliability Corporation and Texas Regional Entity, a division of ERCOT*, Docket No. RR07-1-000, *Order Accepting ERO Compliance Filing, Accepting ERO/Regional Entity Delegation Agreements and Accepting Regional Entity 2007 Business Plans*, 119 FERC 61,060 at ¶253 (Issued April 19, 2007)(Delegation Agreement Acceptance Order). The Delegation Agreement Acceptance Order provides for open hearings as requested.

- C. **Hearing Administration.** PUCT, as Hearing Body, is authorized to hear cases and render its recommendations through the PUCT Commissioners. The Hearing Body is authorized to use the PUCT staff of Administrative Law Judges (ALJs) and other trained employees to establish the procedures and timelines that will be followed in the regional hearings, including the conduct of hearings and the preparation of draft

³ Order 672, ¶511.

recommendations. These presiding officers will not, however, have any authority to issue a final recommendation on any alleged violation. The ALJs and staff may preside over hearings before the PUCT, may establish the procedural schedule for these proceedings, take evidence, prepare a draft recommendation, and perform all tasks delegated from the PUCT, except the final rendition and approval of the final recommendation to be provided to the Board.

- D. **Regional Hearing of Compliance Matters.** Texas RE shall establish the PUCT as the hearing body, with authority to conduct compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan. The PUCT will issue a final recommendation to the Board rather than a final order.

Texas RE shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any:

Detailed Hearing Procedures. The details of the Texas RE Regional Hearing Process are attached hereto as *Attachment 1 and Attachment 2*. *Attachment 1* consists of a summary of the NERC CMEP procedures that must be altered to accommodate Texas RE's request to have the PUCT act as its Hearing Body. *Attachment 1* is a summary of necessary revisions to Attachment 2 of the CMEP, and together with *Attachment 2* hereto and the incorporated PUCT Chapter 22 Procedural Rules, provides the details of the regional hearing process Texas RE has adopted.

In addition to the requested modifications to procedures set forth in Attachment 2 of the CMEP, Texas RE also varies from Section 5.5 of the main body of the CMEP, allowing the Board's decision (instead of the hearing body's decision) to be appealed to NERC. This language is contained as subsection 9.2 of *Attachment 1*: "The Registered Entity may appeal the Board's decision to NERC, as provided for in NERC Rules of Procedure, Sections 407.3 and 410."

3.0 OTHER DECISION-MAKING BODIES

Texas RE uses only its board as its decision-making body.

ATTACHMENT 1 TO EXHIBIT D – TEXAS RE REGIONAL HEARING PROCESS

1.0 Designation of Hearing Body

All formal compliance hearings shall be held before the Compliance Enforcement Authority's Hearing Body. The Hearing Body shall be the Public Utility Commission of Texas. All hearings shall be conducted under the hearing procedures set forth in Attachment 2 to Exhibit D ("Attachment 2—Rules of Procedure"), supplementing this Attachment 1. As set forth in Attachment 2— Rules of Procedure, the Hearing Body may delegate any hearing-related task to a Presiding Officer, except for the issuance of the final recommendation.

The Compliance Enforcement Authority shall initiate the hearing process following the completion of the Notice of Alleged Violation and proposed sanction and registered entity response processes in accordance with Section 5.1 of the North American Electric Reliability Corporation ("NERC") Compliance Monitoring and Enforcement Program ("NERC CMEP"), as set forth below.

Following the filing of a proceeding contesting an Alleged Violation or a Remedial Action Directive, no person shall engage in ex parte communications with the Hearing Body, including without limitation any appointed Presiding Officer, concerning the matter in dispute until the written decision of the Board of Directors or a compliance committee of the Board of Directors ("Board") is issued pursuant to Section 9.1 is appealed or the deadline for filing an appeal has passed; provided, however, that: (a) a member of the Hearing Body or the Presiding Officer may communicate ex parte with another member of the Hearing Body unless prohibited by other law, and (b) a member of the Hearing Body or the Presiding Officer may communicate ex parte with a Commission employee who has not participated in a hearing in the case for the purpose of using the special skills or knowledge of the agency and its staff in evaluating the evidence.

The Hearing Body may rule on all procedural and discovery matters pursuant to Attachment 2—Rules of Procedure.

The Hearing Body may delegate to a single commissioner, a hearings examiner, or an administrative law judge (a "Presiding Officer") the authority to establish the procedures and dates for the presentation of all materials concerning the alleged violation and the power to hear evidence and to issue a draft recommendation, but the Hearing Body may not delegate its authority to issue a final recommendation on the alleged violation to the Board of the Compliance Enforcement Authority.

In accordance with Attachment 2—Rules of Procedure, the Hearing Body may provide for additional procedures as it deems necessary to effectively carry out a compliance hearing. To the extent permitted by law, any provision in this Attachment 1 may be waived, suspended, or modified by the Presiding Officer or the Hearing Body, as defined in Attachment 2—Rules of Procedure §1.1.5, for good cause shown, either upon the Presiding Officer's or the Hearing Body's own motion or upon the motion of any Party.

2.0 Recusal of Member of Hearing Body

A Hearing Body member, Presiding Officer, or Technical Advisor shall recuse himself or herself if participation in the enforcement proceeding would violate the Compliance Enforcement Authority's Conflict of Interest or Code of Conduct policy.

The Registered Entity may raise an objection to any member of the Hearing Body, a Presiding Officer or Technical Advisor on grounds of a conflict of interest or the existence of other circumstances that could interfere with the that person's impartial performance of his or her duties. Such objections must be provided in writing and filed reasonably in advance of the start of the hearing and the Presiding Officer shall make a decision on the objection promptly. Upon request of the Registered Entity, the Hearing Body (without participation of the Hearing Body member, Presiding Officer, or Technical Advisor) may review the determination and, if so, shall issue a decision on the objection promptly.

3.0 Authorized Representatives

Both the Compliance Enforcement Authority and the Registered Entity shall submit to the Hearing Body the names of the persons authorized to represent them in the Hearing Process pursuant to Attachment 2—Rules of Procedure. Such persons shall be officers or equivalents of the Regional Entity and the Registered Entity that have the authority to act on behalf of the Regional Entity and the Registered Entity, respectively. In addition, a party shall advise the Hearing Body and the other party if the party will be represented by legal counsel.

4.0 Statement of Alleged Violation and Response by Registered Entity

The Registered Entity shall initiate the compliance hearing process in accordance with Section 5.1 of the NERC CMEP and Attachment 2—Rules of Procedure by filing with the Hearing Body Clerk a statement or complaint contesting the written Notice of Alleged Violation and proposed sanction and serving a copy upon the Compliance Enforcement Authority. Specifically, the Registered Entity shall file with the Hearing Body (with service of copies upon the Compliance Enforcement Authority) a written statement of reasons why the Alleged Violation is in error or a written statement of reasons why the proposed penalty or sanction is inappropriate (if applicable in the particular case), along with copies of all documents relied on by the Registered Entity to support its position. If the dispute involves a Registered Entity's proposed mitigation plan ("Registered Entity's Mitigation Proposal") that has not been accepted by the Compliance Enforcement Authority, the Registered Entity may initiate the hearing process by filing a request for hearing with the Hearing Body Clerk and serving a copy upon the Compliance Enforcement Authority.

Within five (5) business days after the request for review of the Alleged Violation, penalty, or mitigation plan or Remedial Action Directive is filed, the Compliance Enforcement Authority's designated representative shall file with the Hearing Body (with copies to the Registered Entity) a copy of the written Notice of the Alleged Violation and proposed sanction that was originally provided to the Registered Entity, along with copies of any non-privileged or non-exempt documents gathered and reviewed by the Compliance Enforcement Authority in the course of determining an Alleged Violation has occurred and in determining the proposed sanction or penalty.

If the hearing involves the question of whether a Registered Entity's Mitigation Proposal

should be accepted, within twenty (20) days after the request for review of the Alleged Violation, penalty, or mitigation plan or Remedial Action Directive is filed, the Compliance Enforcement Authority shall file a report stating why the Registered Entity's Mitigation Proposal was not accepted. If the hearing involves a Registered Entity's Mitigation Proposal, the Registered Entity shall file its proposed Mitigation Plan and supporting information stating why the Mitigation Plan should be accepted within thirty (30) days after the date the request for review of the Alleged Violation, penalty, or mitigation plan or Remedial Action Directive is filed.

5.0 Setting of Hearings and Conferences

The Hearing Body shall set a date for an initial conference within thirty (30) days after the date the request for review of the Alleged Violation, penalty, or mitigation plan or Remedial Action Directive is filed. At the initial conference, the Hearing Body shall establish specific procedures for the hearing including (1) any procedures for exchange of additional documents, (2) any written testimony, (3) the hearing date(s), and (4) dates for any briefs. Subject to Section 6.0 and the Attachment 2—Rules of Procedure, each party shall be entitled to (1) present the testimony of witnesses, (2) cross-examination of opposing witnesses, (3) make an oral presentation of position, and (4) file a written post-hearing brief.

The Hearing Body may hold additional conferences. All notices of conferences and hearings shall set forth the date, time and place of hearing. The Hearing Body shall issue a written order setting forth the agreements and rulings made at each conference.

By agreement of the parties or order of the Hearing Body, any conference or hearing may be conducted via teleconference, except that, subject to section 6.0 of this hearing process, witnesses shall personally appear at the hearing.

All prehearing conferences and hearings shall be open to the public, except when the use of a closed meeting is authorized by Texas law.

6.0 Conduct of Hearing

The hearing will be conducted under the provisions of this section 6.0 and the Attachment 2— Rules of Procedure.

The hearing need not be held on consecutive days, and shall be held at the offices of the Hearing Body unless the Hearing Body decides on a different location after consulting with the parties.

The party requesting transcription of the hearing, the Registered Entity or Compliance Enforcement Authority, will arrange and pay for transcription of the hearing.

The Hearing Body shall direct the direct testimony of any witnesses be in written form in accordance with Attachment 2— Rules of Procedure. All witnesses shall be required to appear in person, unless waived by the parties and the Hearing Body. Motions shall be made and decided, evidence shall be presented, and a record shall be made in accordance with Attachment 2— Rules of Procedure.

7.0 Submission of Post-Hearing Briefs

The parties may submit post-hearing briefs on a schedule established by the Hearing Body pursuant to Attachment 2— Rules of Procedure. The parties may, and on request of the Hearing Body shall, submit proposed findings of fact and conclusions of law.

8.0 Record of the Compliance Hearing

If applicable, copies of the following documents shall be maintained by the Hearing Body as the record of the hearing process:

- (1) The written notice that a request for review of the Alleged Violation, penalty, or mitigation plan or Remedial Action Directive has been filed with the Hearing Body Clerk;
- (2) The Notice of Alleged Violation and sanction issued by the Compliance Enforcement Authority and the response filed by the Registered Entity, including in each case all attachments thereto and documents provided therewith;
- (3) If the hearing involves a Registered Entity's Mitigation Proposal, (a) the Registered Entity's Mitigation Proposal and supporting information as to why the Registered Entity's Mitigation Proposal should be accepted and (b) the report of the Compliance Enforcement Authority stating why the Registrant's Mitigation Proposal was not accepted;
- (4) Any requests for recusal of a member of the Hearing Body, a Presiding Officer, or a Technical Advisor, and any responses to such requests;
- (5) All motions, notices and responses filed by the parties during the hearing process;
- (6) All documents that set forth or that summarize any ex parte communications;
- (7) All notices and rulings issued by the Hearing Body during the hearing process;
- (8) All interlocutory orders;
- (9) All written testimony and all exhibits received into evidence;
- (10) All written testimony and documentary exhibits that were proffered but not admitted into evidence;
- (11) Any transcript(s);
- (12) The parties' post-hearing briefs, any exceptions to the draft recommendation, any motions for reconsideration or rehearing, and any other post-decision briefing or motion;
- (13) The draft recommendation of the Presiding Officer, if any; and
- (14) The final recommendation of the Hearing Body.

9.0 Timing of Written Recommendation to the Board

The Hearing Body shall issue its written final recommendation to the Board within thirty (30) days following the submission of post-hearing briefs, or, if briefing is waived, following the conclusion of the hearing. The Hearing Body may in its discretion extend the time for the issuance of the written final recommendation to the Board for up to an additional sixty (60) days. The written final recommendation shall state the opinion of the Hearing Body with respect to Alleged Violations of Reliability Standards and proposed penalties or sanctions at issue in the hearing. If the hearing involves a Registered Entity's Mitigation Proposal, the written final recommendation shall either

propose acceptance or rejection of the Registered Entity's Mitigation Proposal. If the proposed Registered Entity's Mitigation Proposal is recommended for rejection, the Hearing Body may specify the provisions of an alternative plan of mitigation that the Registered Entity should be required to implement. The written final recommendation shall explain the reasons for the Hearing Body's conclusions and cite the testimony and exhibits relied on by the Hearing Body in reaching its opinions. Copies of the written final recommendation shall be served electronically and by certified mail on the Registered Entity and on the Compliance Enforcement Authority's designated representative at the time it is issued to the Board.

9.1 Written Decision by the Board

The Board shall issue its written decision accepting, rejecting or modifying the Hearing Body's recommendation, within twenty (20) business days following the issuance of the Hearing Body's written final recommendation. The Board may extend the date for issuance of its written decision for an additional twenty (20) business days in its sole discretion. The Board's written decision shall state the conclusion of the Board with respect to Alleged Violations of Reliability Standards and proposed penalties or sanctions at issue in the hearing. If the hearing involves a Registered Entity's Mitigation Proposal, the written decision shall either accept or reject the Registered Entity's Mitigation Proposal. If the proposed Registered Entity's Mitigation Proposal is rejected, the Board may specify the provisions of the Registered Entity's Mitigation Proposal that the Registered Entity should be required to implement, together with other mitigation measures the Board shall require. The written decision shall explain the reasons for the Board's conclusions and cite the testimony and exhibits relied on by the Board in reaching its conclusions. Copies of the written decision shall be served electronically and by certified mail on the Registered Entity, on the Compliance Enforcement Authority's designated representative, and on the Hearing Body.

9.2 NERC Appeal Process

The Registered Entity may appeal an adverse decision of the Board to NERC, as provided for in NERC Rules of Procedure, Sections 407.3 and 410.

10.0 Expedited Hearing Process for Disputes Concerning Remedial Action Directives

A Registered Entity that disputes a Remedial Action Directive issued by a Compliance Enforcement Authority may request an expedited hearing. To facilitate the expedited hearing, the Compliance Enforcement Authority may request that the Hearing Body convene for purposes of the expedited hearing process. The following expedited procedures shall be followed:

- (1) The Registered Entity shall file its written response the Remedial Action Directive and request for emergency hearing with the Hearing Body, with a copy to the Compliance Enforcement Authority's designated representative within two (2) business days after receipt of the Remedial Action Directive. The Hearing Body may appoint a Presiding Officer to conduct all proceedings under this Section 10.0, except for the issuance of a final recommendation to the Board.
- (2) The Hearing Body shall be convened for purposes of a prehearing, and if requested, for interim relief, not less than two (2) nor more than five (5) business days after receipt of the Registered Entity's request for a hearing.

- (3) The Hearing Body shall conduct a hearing on the matter, in person or by teleconference, within thirty (30) days after the Hearing Body is convened. At the hearing, the Compliance Enforcement Authority shall explain why the Remedial Action Directive should be complied with, and the Registered Entity shall explain why the Remedial Action Directive is not necessary or should be modified.
- (4) The Hearing Body shall issue a summary written recommendation to the Board within twenty (20) business days following the hearing, stating whether the Registered Entity should or should not be required to comply with the Remedial Action Directive and identifying any modifications to the directive that it finds appropriate.
- (5) The Board shall issue a summary written decision within ten (10) business days following the Hearing Body's issuance of its summary written recommendation, stating whether the Registered Entity shall or shall not be required to comply with the Remedial Action Directive and identifying any modifications to the directive that it finds appropriate.
- (6) If the Board's summary written decision concludes that the Registered Entity is required to comply with the Remedial Action Directive or any modification to such directive (including adjustments to the timetable for implementation), the Registered Entity shall be required to begin implementing the Remedial Action Directive upon receipt of the summary written decision, if it has not already implemented the Remedial Action Directive.
- (7) Within thirty (30) days following issuance of its summary written decision, the Board shall issue a full written decision regarding the Remedial Action Directive to the requirements of Section 9.0, above, that may be appealed consistent with Section 9.2.
- (8) This Section 10.0 provides procedures for the expeditious determination of the propriety of a contested Remedial Action Directive. Nothing in this Section shall be read to impair the Compliance Enforcement Authority's authority to issue a Notice of Alleged Violation and proposed sanction on alleged violations of standards addressed by a Remedial Action Directive or on other alleged violations occurring contemporaneously with the Remedial Action Directive or at any other time using the non-expedited procedures of this Attachment 1 or Attachment 2— Rules of Procedure.

ATTACHMENT 2 TO EXHIBIT D – TEXAS RE RULES OF PROCEDURE

1.1 Applicability, Definitions and Interpretation

1.1.1 Procedure Governed

The provisions set forth in this Attachment 2 to the Texas Reliability Entity, Inc. (“Texas RE” or “Compliance Enforcement Authority”) (“Rules of Procedure”) shall apply to and govern practice and procedure before the Compliance Enforcement Authority and Hearing Board, as defined herein, in hearings in the ERCOT region of the United States conducted into (a) whether Registered Entities within the Compliance Enforcement Authority’s area of responsibility have violated Reliability Standards, and (b) if so, to determine the appropriate Mitigation Plans as well as any remedial actions, penalties or sanctions in accordance with the NERC *ERO Sanction Guidelines* and other applicable penalty guidelines approved by FERC pursuant to 18 C.F.R. Section 39.7(g)(2). Any hearing conducted pursuant to these Rules of Procedure shall be conducted before the Public Utility Commission of Texas (“Commission”), as is further provided herein.

1.1.2 Deviations and Exceptions

- (a) To the extent permitted by law, any provision in these Rules of Procedure may be waived, suspended or modified by the Presiding Officer or the Hearing Body, as defined in Section 1.1.5, for good cause shown, either upon the Presiding Officer’s or the Hearing Body’s own motion or upon the motion of any Party.
- (b) Where an issue is not addressed by the terms of these Rules, the Hearing Body shall use the Chapter 22 Procedural Rules.
- (c) The following provisions of Chapter 22 shall not be applicable to proceedings brought under these Procedural Rules:
 - (1) P.U.C. PROC. R. § 22.32;
 - (2) P.U.C. PROC. R. § 22.33;
 - (3) P.U.C. PROC. R. § 22.35;
 - (4) P.U.C. PROC. R. §§ 22.51-22.54;
 - (5) P.U.C. PROC. R. § 22.56;
 - (6) P.U.C. PROC. R. § 22.71(j);
 - (7) P.U.C. PROC. R. §§ 22.102(a)(3), (4) and (c);
 - (8) P.U.C. PROC. R. §§ 22.103-22.105;
 - (9) P.U.C. PROC. R. §§ 22.125-22.126;
 - (10) P.U.C. PROC. R. § 22.202(e);
 - (11) P.U.C. PROC. R. §§ 22.206-22.207;
 - (12) P.U.C. PROC. R. §§ 22.241-22.246;
 - (13) P.U.C. PROC. R. §§ 22.251-22.252;
 - (14) P.U.C. PROC. R. § 22.263(d); and

(15) P.U.C. PROC. R. §§ 22.281-22.284.

(d) For purposes of this Attachment 2—Rules of Procedure, the following shall supplement the terms of a Chapter 22 Rule, as specified:

(1) P.U.C. PROC. R. § 22.31. The following subsection (d) shall be added:

“(d) The Hearing Body Clerk shall designate each proceeding brought under these rules as a docket.”

(2) P.U.C. PROC. R. § 22.72(e). The following sentence shall be added at the end of this subsection:

“A party or its authorized representative shall also provide in its signature block one or more electronic mail addresses to which service may be made.”

(3) P.U.C. PROC. R. § 22.74(b). The following sentence shall be added at the end of this subsection:

“(b) . . . Service may be made by electronic mail to the email address included in a signature block of a party or its authorized representative.

* * *

“(4) Service by email shall be complete upon transmission of the communication from the electronic mail server of the serving party.”

(e) All proceedings filed under these rules shall be conducted under the Commission’s Chapter 22 Procedural Rules, as modified herein, but may not be referred to the State Office of Administrative Hearings.

1.1.3 Standards for Discretion

The Hearing Body’s discretion under these Rules of Procedure shall be exercised to accomplish the following goals:

- (a) Integrity of the Fact-Finding Process - The principal goal of the hearing process is to assemble a complete factual record to serve as a basis for a correct and legally sustainable ruling, decision or order.
- (b) Fairness - Persons appearing in Compliance Enforcement Authority proceedings should be treated fairly. To this end, Parties should be given fair notice and opportunity to present explanations, factual information, documentation and legal argument. Action shall be taken as necessary to eliminate any disadvantage or prejudice to a Party that would otherwise result from another Party’s failure to act diligently and in good faith.
- (c) Independence - The hearing process should be tailored to protect against undue influence from any Person, Party or interest group.
- (d) Balanced Decision-Making - Decisions should be based solely on the facts and arguments of record in a proceeding and by individuals who satisfy the Compliance Enforcement Authority’s conflict of interest policy.

- (e) Impartiality - Persons appearing before the Hearing Body should not be subject to discriminatory or preferential treatment. Registered Entities should be treated consistently unless a reasonable basis is shown in any particular proceeding to depart from prior rulings, decisions or orders.
- (f) Expedition - Proceedings shall be brought to a conclusion as swiftly as is possible in keeping with the other goals of the hearing process.

1.1.4 Interpretation

- (a) These Rules of Procedure shall be interpreted in such a manner as will aid in effectuating the Standards for Discretion set forth in Section 1.1.3, and so as to require that all practices in connection with the hearings shall be just and reasonable.
- (b) Unless the context otherwise requires, the singular of a term used herein shall include the plural and the plural of a term shall include the singular.
- (c) To the extent that the text of a rule is inconsistent with its caption, the text of the rule shall control.

1.1.5 Definitions

- (a) Unless otherwise defined, as used in these Rules of Procedure (i) definitions in Section 1.1 of the NERC Compliance Monitoring and Enforcement Program shall apply, and (ii) the following terms shall have the following meanings:

“Board” means the Board of Directors of Texas Reliability Entity.

“Bulk-Power System,” for the purposes of these Rules of Procedure, has the meaning set forth in 16 U.S.C. §824o(a)(1).

“Chapter 22” or “Commission Procedural Rules” shall mean the Chapter 22 Procedural Rules of the Commission, 16 TEX. ADMIN. CODE ch. 22., and be cited as “P.U.C. PROC. R. § [].”

“Commission” means the Public Utility Commission of Texas.

“Compliance Enforcement Authority Clerk,” as designated by the Compliance Enforcement Authority.

“Compliance Enforcement Authority” means the Regional Entity, by and through its Chief Executive Officer.

“Compliance Enforcement Authority’s area of responsibility” means the Texas Reliability Entity’s corporate region.

“Critical Energy Infrastructure Information” means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (i) relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person in planning an attack on critical infrastructure; and (iii) does not simply give the location of the critical infrastructure.

“Critical infrastructure” means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.

“Cybersecurity Incident” means a malicious act or suspicious event that disrupts, or was an attempt to disrupt, the operation of those programmable electronic devices and communications networks including hardware, software, and data that are essential to the Reliable Operation of the Bulk-Power System.

“ERO” means the Electric Reliability Organization, currently the North American Electric Reliability Corporation, or any successor organization, certified by FERC pursuant to 18 C.F.R. §39.3.

“FERC” means the Federal Energy Regulatory Commission.

“Filing Clerk” or “Hearing Body Clerk” means the Central Records filing clerk of the Public Utility Commission of Texas.

“Hearing Body” means the Public Utility Commission of Texas.

“Mitigation Plan” means an action plan developed by a Registered Entity to (i) correct a violation of a Reliability Standard and (ii) prevent reoccurrence of the violation. A Mitigation Plan is required when a Registered Entity violates a Reliability Standard as determined by any means including Compliance Enforcement Authority Decision, settlement agreement, or otherwise.

“Party” means any Person who is allowed or required to participate in a proceeding conducted pursuant to these Rules of Procedure. The term “Party” as used herein shall include the members of the Compliance Staff of the Compliance Enforcement Authority that participate in a proceeding.

“Penalty” as used herein includes all penalties and sanctions that may be imposed pursuant to 16 U.S.C. §824o-1 and applicable regulations, including but not limited to a monetary or non-monetary penalty; a limitation on an activity, function, operation or other appropriate sanction; or the addition of the Registered Entity to a reliability watch list composed of major violators. Penalties must be within the range set forth in the NERC *ERO Sanction Guidelines* approved by FERC pursuant to 18 C.F.R. Section 39.7(g)(2), and shall bear a reasonable relation to the seriousness of a Registered Entity’s violation and take into consideration any timely efforts made by the Registered Entity to remedy the violation.

“Person” means any individual, partnership, corporation, limited liability company, governmental body, association, joint stock company, public trust, organized group of persons, whether incorporated or not, or any other legal entity.

“Presiding Officer” or “Hearing Examiner” means an individual employed or contracted by the Hearing Body and designated by the Hearing Body to preside over hearings conducted pursuant to these Rules of Procedure.

“North American Electric Reliability Council” or “NERC” means North American Electric Reliability Corporation.

“Registered Entity” means each user, owner and operator of the Bulk-Power System within the United States that is required to register with the Regional Entity pursuant to 18 C.F.R. § 39.2.

“Regional Entity” means Texas Reliability Entity or Texas RE.

“Reliable Operation” has the meaning set forth in Section 215 of the Federal Power Act.

“Reliability Standards” means standards approved by FERC pursuant to Section 215 of the Federal Power Act and 18 C.F.R. Section 39.5, as such standards are authorized and in effect from time to time.

“Remedial Action Directive” means an action (other than a penalty or sanction) required that (1) is to bring a Registered Entity into compliance with a Reliability Standard or to avoid a Reliability Standard violation, and (2) is immediately necessary to protect the reliability of the Bulk Power System from an imminent threat of harm.

“Respondent” means the Registered Entity who is the subject of the Notice of Alleged Violation or contested Mitigation Plan that is the basis for the proceeding, whichever is applicable.

“Staff” or “Compliance Staff” means individuals employed or contracted by the Compliance Enforcement Authority who have the authority to make initial determinations of Registered Entities’ compliance with or violation of the Reliability Standards and associated Penalties and Mitigation Plans.

“Technical Advisor” means any Staff member, Hearing Body employee, third-party contractor, or industry stakeholder who satisfies the Compliance Enforcement Authority’s conflict of interest policy and is selected to assist in a proceeding by providing technical advice to the Presiding Officer and/or the Hearing Body.

- (b) For purposes of this Attachment 2--Rules of Procedure and in application to any proceeding brought under these rules, the following terms shall be substituted for the term used in a Chapter 22 rule:

“Administrative law judge” shall mean and refer to the defined term “Presiding Officer.”

“Central records” shall mean “Hearing Body Clerk.”

“Final order” shall mean “final recommendation.”

“Proposal for decision” shall mean “draft recommendation.”

“Public utility” shall mean “party.”

- (c) If a term is defined in this Attachment 2—Rules of Procedure and in Chapter 22, the meaning expressed herein shall prevail.

1.1.6 Interventions Are Not Permitted

The Respondent(s) and Compliance Staff shall be Parties to the proceeding. Unless otherwise authorized by FERC, no other Persons shall be permitted to intervene or otherwise become a Party to the proceeding.

1.1.7. Proceedings Open to the Public

All hearings, oral arguments, and meetings of the Hearing Body shall be open to the public, and every notice, ruling, order or any other issuance of the Presiding Officer or Hearing Body, and any transcript, made in any proceeding shall be publicly released unless a Party has requested that it be kept confidential in accordance with Texas law, and the Presiding Officer or Hearing Body determines that the information should not be released publicly.

1.1.8 Numbering and Docketing System

The Staff of the Compliance Enforcement Authority shall maintain a system of numbering proceedings before they are sent to the Hearing Body for a hearing under these procedures. A numbered proceeding shall be created within the Compliance Enforcement Authority upon the issuance of a notice of Alleged Violation. Unless NERC provides a different docketing system that will be used uniformly by the Compliance Enforcement Authority, proceeding numbers shall be assigned sequentially beginning with a two digit number that relates to the last two digits of the year in which the docket is initiated, followed by a dash ("-"), followed by the letters "[RE]", followed by a dash ("-"), followed by a four digit number that will be "0001" on January 1 of each calendar year and ascend sequentially until December 31 of the same calendar year. If the proceeding is not settled and becomes a contested matter before the Hearing Body, the Hearing Body's numbering and docketing system shall govern the tracking of such filings while under the Hearing Body's administration.

1.2 Hold Harmless

A condition of a Party invoking these Rules of Procedure and participating in a hearing is that the Party agrees that the Compliance Enforcement Authority, including without limitation its members, board of directors or trustees, compliance committee, any other committees or subcommittees, Staff, contracted employees, attorneys and experts (outside or in-house), Hearing Body members, Presiding Officers and Technical Advisors, shall not be liable, and shall be held harmless against the consequences of, or any action or inaction arising out of, the hearing process, or of any agreement reached in resolution of a dispute or any failure to reach agreement as a result of a proceeding. This "hold harmless" provision does not extend to matters constituting gross negligence, intentional misconduct, or breach of confidentiality.

1.3 Initiation of the Hearing Process

Except when contesting a Remedial Action Directive pursuant to section 1.5 of these Rules of Procedure, a Registered Entity may file a response or complaint with the Compliance Enforcement Authority and the Filing Clerk requesting a hearing if:

- (a) The Registered Entity contests a Notice of Alleged Violation as to the existence or scope of the alleged violation, the proposed Penalty, or both; or
- (b) The Registered Entity contests the Compliance Enforcement Authority's rejection of Registered Entity's Mitigation Proposal in whole or in part.

A Registered Entity must file its hearing request within forty (40) days after (i) the Registered Entity files its response to the notice of Alleged Violation; or (ii) the Compliance Staff submits to the Registered Entity its statement identifying a disagreement with the Registered Entity's Mitigation Proposal, whichever is applicable. If the Registered Entity does not file a hearing request within the time period set forth in this Section, then the Registered Entity will be deemed to have agreed and waived any objection to the proposed Penalty, the Alleged Violation or the Compliance Staff's stated position on the Registered Entity's Mitigation Proposal, whichever is applicable.

Either a notice of Alleged Violation issued to a Registered Entity or a Staff statement setting forth its disagreement with a Registered Entity's Mitigation Proposal shall clearly state that the Registered Entity has the option to contest the Alleged Violation, proposed Penalty, or both, or the Compliance Staff's position on the Registered Entity's Mitigation Proposal.

A Registered Entity shall attach to a request for hearing whichever of the following are applicable:

- (a) The Registered Entity's Self-Reporting of a violation;
- (b) The Notice of Alleged Violation and the Registered Entity's response thereto; or
- (c) The Registered Entity's Mitigation Proposal and the Compliance Staff's statement identifying its disagreement with the Registered Entity's Mitigation Proposal.

1.4 General Hearing Procedure

Except as otherwise specified in this Attachment 2—Rules of Procedure, the procedures and timelines set forth in Chapter 22 shall govern the conduct of a hearing arising under these rules.

1.4.1 Hearing Body

The Hearing Body, consisting of a quorum of the Commission, shall hear all proceedings brought under these Rules of Procedure, unless the Commission elects to delegate all or part of the proceeding to a Presiding Officer who is a member of the Commission Staff. The Hearing Body is vested with the exclusive authority to issue a final recommendation to the Board for the resolution of the issue(s) presented. The following procedures shall also apply:

- (a) The Hearing Body or any individual member thereof may, but is not required to, attend any prehearing conference, status hearing or evidentiary hearing, or to submit questions to the Presiding Officer to submit to a Party or any witness at any such hearing. No more than one member of the Hearing Body may be present for any prehearing conference, status hearing, or evidentiary hearing unless the Hearing Body has complied with the Open Meetings requirements of Texas law.
- (b) The Hearing Body shall resolve the issue(s) in every hearing through the issuance of a final recommendation to the Board. In issuing a final recommendation to the Board, the Hearing Body shall consider the Presiding Officer's draft recommendation but shall have the authority to

reject, modify or approve the draft recommendation in whole or in part in issuing its final recommendation.

1.4.2 Technical Advisor

The Presiding Officer or the Hearing Body may elect to use one or more Technical Advisors to assist in any proceeding. Such an election may be made at any time during the course of a proceeding. Any Staff member who serves as a Technical Advisor shall not have been involved in or consulted at any time in regard to any Compliance Staff investigation, initial determination of Alleged Violation or Penalty, or assessment of a Registered Entity's proposed Mitigation Plan that resulted in the proceeding in which technical advice would be rendered, and shall not otherwise participate in the proceeding on which such technical advice would be rendered.

If the Presiding Officer or Hearing Body uses a Technical Advisor to assist in any hearing, the Presiding Officer or Hearing Body shall disclose the identity, employment history and professional affiliations of the Technical Advisor within two (2) days of the Technical Advisor's assignment to the proceeding, and Parties to the hearing may raise objections to the Technical Advisor's participation within 10 business days of disclosure.

1.5 Initiation of Remedial Action Directive Hearing

Staff may issue a Remedial Action Directive to a Registered Entity at any time, including during any proceeding related to an alleged violation of a Reliability Standard. The Compliance Enforcement Authority will notify NERC within two (2) days after its Staff issues a Remedial Action Directive.

The Registered Entity may contest the Remedial Action Directive in accordance with these Rules of Procedure and Delegation Agreement, Exhibit D, Attachment 1, §10, by filing a written notice with the Compliance Enforcement Authority that states that the Registered Entity contests the Remedial Action Directive and that the Registered Entity requests a Remedial Action Directive hearing. The Registered Entity shall attach a copy of the Remedial Action Directive to its written notice. The Registered Entity must provide such notice within two (2) business days following issuance of the Remedial Action Directive. If the Registered Entity does not give written notice to the Compliance Enforcement Authority within the required time period, the Registered Entity shall be deemed to have waived its right to contest the Remedial Action Directive.

The Registered Entity shall simultaneously file with the Hearing Body Clerk a copy of the notice that it is contesting the Remedial Action Directive.

The Hearing Body Clerk shall assign a docket number, and issue a Notice of Hearing that sets forth the date, time and place at which the hearing will convene.

Exhibit E — Funding

1. Scope of activities funded through the ERO funding mechanism

Texas RE shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and Texas RE, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of Texas RE's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require Texas RE (i) to submit to NERC draft(s) of Texas RE's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by Texas RE Board of Directors to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of Texas RE's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The Texas RE business plan and budget submission shall include supporting materials, including Texas RE's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. Texas RE's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve Texas RE's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct Texas RE to make such revisions as NERC deems appropriate prior to approval. NERC shall submit Texas RE's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

4-14-2010

Assessments to fund the costs of Texas RE's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. Texas RE shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying Texas RE's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of Texas RE's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used. NERC and Texas RE agree that for purposes of Section 3 and 4 of this Exhibit E, Electric Reliability Council of Texas (ERCOT ISO), as the sole independent system operator and Balancing Authority, is the only load-serving entity or designee in Texas RE's region and shall be invoiced for the entire NERC and Texas RE assessments approved for collection.

4. Collection of Funding

(a) NERC shall submit invoices to the load-serving entities or designees identified by Texas RE covering the NERC and Texas RE assessments approved for collection.

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from ERO Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, Texas RE shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, Texas RE is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within Texas RE's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within Texas RE's region.

(c) Upon approval by ERO Governmental Authorities of Texas RE's annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay Texas RE's annual assessment to Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

4-14-2010

Except as otherwise approved by the Commission, all penalty monies received by Texas RE, other than penalty monies received from an operational function or division or affiliated entity of Texas RE, shall be applied as a general offset to Texas RE's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of Texas RE shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for Texas RE's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), Texas RE performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"):

Texas RE does not anticipate auditing or investigating market participants' compliance with ERCOT Protocols and Operating Guides in 2011. Texas RE will, however, need to respond to subpoenas and provide testimony and support to the Public Utility Commission of Texas (PUCT) regarding Texas RE's ERCOT Protocol and Operating Guide compliance and enforcement audits, investigations, and reports from the period in which Texas RE conducted the compliance investigations.

Texas RE shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions:

- A. Texas RE segregates the funding for its statutory activities and non-statutory activities by recording the funding transactions in separate and distinct general ledger accounts, in accordance with Generally Accepted Accounting Principles.
- B. Texas RE utilizes and must maintain a time recording and expense management system under which employee time and expenses incurred in the conduct of non-statutory activities will be tracked to ensure that they are not funded by NERC remittances intended for the funding of statutory activities.
- C. Texas RE has adopted a detailed system of Account Codes, Department Codes and Activity Codes which are used in recording expenses. The Activity Codes are specific to statutory activities and non-statutory activities. The Texas RE Activity Codes are modeled on the NERC Functional Categories. Texas RE shall use Department Codes that are unique to Texas RE to record all costs and expenses incurred by Texas RE for statutory activities and non-statutory activities.

4-14-2010

- D. Texas RE shall use Activity Codes to appropriately track its costs for statutory activities separately from its costs for non-statutory activities.
- E. Where employee time or an expense affects multiple activities, Texas RE will use an accurate basis of allocation of the time or expense between the activities being performed based on specific metrics, such as time tracking, data observations or total cost input. Total cost input relates the portion of the expense to the total expense to establish an appropriate method to allocate.

Texas RE shall provide its budget for such non-statutory activities to NERC at the same time that Texas RE submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. Texas RE's budget for non-statutory activities that is provided to NERC shall contain a detailed list of Texas RE's non-statutory activities and a description of the funding sources for the non-statutory activities. Texas RE agrees that no costs (which shall include a reasonable allocation of Texas RE's general and administrative costs) of non-statutory activities are to be included in the calculation of Texas RE's assessments, dues, fees, and other charges for its statutory activities.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if Texas RE determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, Texas RE shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in Texas RE's approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct Texas RE to make such revisions as NERC deems appropriate prior to approval. NERC shall submit Texas RE's approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Statements

NERC shall conduct reviews of the quarterly and annual financial statements submitted by Texas RE pursuant to Section 9(h) and (i) of the Agreement. Texas RE shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC based on its reviews.

ATTACHMENT 8B

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED DELEGATION AGREEMENT

WITH

TEXAS RELIABILITY ENTITY

REDLINED AGAINST

REVISED PRO FORMA DELEGATION AGREEMENT

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND ~~REGIONAL~~TEXAS RELIABILITY ENTITY, INC.**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”) made as of ~~January 1, 2011~~, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and ~~REGIONAL ENTITY~~Texas Reliability Entity, Inc. (“Texas RE”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified on **Exhibit A** to this Agreement, and for other purposes. NERC and ~~REGIONAL ENTITY~~Texas RE may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824n) (hereafter “the Act”), which, among other things, provides for the establishment of an electric reliability organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as ~~REGIONAL ENTITY~~Texas RE provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, ~~REGIONAL ENTITY~~Texas RE ~~is/is not~~ organized on an Interconnection-wide basis and therefore ~~is/is not~~ entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through ~~REGIONAL ENTITY~~Texas RE to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that ~~{REGIONAL ENTITY}~~Texas RE meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and ~~{REGIONAL ENTITY}~~Texas RE, having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and ~~{REGIONAL ENTITY}~~Texas RE agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to ~~{REGIONAL ENTITY}~~Texas RE to propose and enforce Reliability Standards pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, ~~{REGIONAL ENTITY}~~Texas RE hereby represents and warrants to NERC that:

(i) ~~{REGIONAL ENTITY}~~Texas RE is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. ~~{REGIONAL ENTITY}~~Texas RE is governed in accordance with its bylaws by ~~{select appropriate: an independent board/a balanced stakeholder board/}~~ a combination independent and balanced stakeholder board~~].~~ Pursuant to these bylaws, no two industry sectors can control any ~~{REGIONAL ENTITY}~~Texas RE decision and no single industry sector can veto any ~~{REGIONAL ENTITY}~~Texas RE decision. The relevant portions of such bylaws are attached hereto in **Exhibit B**¹, and as so attached are in full force and effect. No other such corporate governance documents are binding upon ~~{REGIONAL ENTITY}~~Texas RE.

(ii) As set forth in **Exhibit C** hereto², ~~{REGIONAL ENTITY}~~Texas RE has developed a standards development procedure, which provides the process that ~~{REGIONAL ENTITY}~~Texas RE may use to develop Regional Reliability Standards ~~{and Regional Variances, if the regional entity is organized on an Interconnection wide basis}~~ that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, ~~{REGIONAL ENTITY}~~Texas RE has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within ~~{REGIONAL ENTITY}~~'s Texas RE's geographic boundaries as shown on **Exhibit A**.

(b) NERC hereby represents and warrants to ~~{REGIONAL ENTITY}~~Texas RE that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

¹ The **Exhibit B** from ~~{REGIONAL ENTITY}~~Texas RE shall meet the requirements contained in **Exhibit B** to this Agreement.

² The **Exhibit C** from ~~{REGIONAL ENTITY}~~Texas RE shall meet the requirements contained in **Exhibit C** to this Agreement.

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

3. Covenants.

(a) During the term of this Agreement, ~~REGIONAL ENTITY~~Texas RE shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC's approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of ~~REGIONAL ENTITY~~Texas RE under this Agreement without first obtaining the consent of ~~REGIONAL ENTITY~~,Texas RE, which consent shall not be unreasonably withheld or delayed.

(c) During the term of this Agreement, NERC and ~~REGIONAL ENTITY~~Texas RE shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of ~~REGIONAL ENTITY~~Texas RE in Sections 2 and 3 above, the corporate governance documents set forth in **Exhibit B**, the standards development process set forth in **Exhibit C**, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to ~~REGIONAL ENTITY~~Texas RE for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth on **Exhibit A**, *provided*, that ~~REGIONAL ENTITY~~Texas RE shall not monitor and enforce compliance with Reliability

Standards for ~~{REGIONAL ENTITY}~~Texas RE or an affiliated entity with respect to reliability functions for which ~~{REGIONAL ENTITY}~~Texas RE or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to ~~{REGIONAL ENTITY}~~Texas RE within, or additions to this delegation of authority to ~~{REGIONAL ENTITY}~~Texas RE beyond, the geographic boundaries set forth on **Exhibit A** are stated on **Exhibit A**.

(b) In circumstances where ~~{REGIONAL ENTITY}~~Texas RE or an affiliated entity is a Registered Entity, ~~{REGIONAL ENTITY}~~Texas RE shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce ~~{REGIONAL ENTITY}~~'sTexas RE's or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit ~~{REGIONAL ENTITY}~~Texas RE from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified on **Exhibit A** that is within the United States. Any delegation of authority by ERO Governmental Authorities in Canada or Mexico shall be governed by a separate agreement and is outside the scope of this Agreement; provided, however, that both ~~{REGIONAL ENTITY}~~Texas RE and NERC shall endeavor to ensure that this Agreement and such separate agreements are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, ~~{REGIONAL ENTITY}~~Texas RE shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, ~~{REGIONAL ENTITY}~~Texas RE shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process

for proposing and adopting Reliability Standards that affords ~~[REGIONAL ENTITY]~~Texas RE reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards ~~and Regional Variances,~~ ~~if Regional Entity is organized on an Interconnection-wide basis~~ through ~~[REGIONAL ENTITY]'s~~Texas RE's process as set forth in **Exhibit C**. Proposals approved through ~~[REGIONAL ENTITY]'s~~Texas RE's process shall be reviewed by the NERC Board after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. ~~[REGIONAL ENTITY]~~Texas RE may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, ~~[REGIONAL ENTITY]~~Texas RE shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the geographic boundaries set forth, or as

otherwise specified, in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and ~~{REGIONAL ENTITY}~~Texas RE agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, *inter alia*, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. ~~{REGIONAL ENTITY}~~Texas RE may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, ~~{REGIONAL ENTITY}~~Texas RE agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) ~~{REGIONAL ENTITY}~~Texas RE shall report promptly to NERC any Possible Violation, Alleged Violation, or Confirmed Violation of a Reliability Standard, and its eventual disposition by ~~{REGIONAL ENTITY}~~Texas RE. Such report shall include the owner's, operator's, or user's name, which Reliability Standard or Reliability Standards were the subject of the Possible Violation, Alleged Violation, or Confirmed Violation, when the Possible Violation, Alleged Violation, or Confirmed Violation occurred, other pertinent facts including circumstances surrounding the Possible Violation, Alleged Violation, or Confirmed Violation with any known risk to the Bulk-Power System, when the Possible Violation, Alleged Violation, or Confirmed Violation was or will be mitigated, the name of a person knowledgeable about the Possible Violation, Alleged Violation, or Confirmed Violation to serve as a point of contact with the Commission, and any other information required by NERC compliance program procedures. NERC shall promptly forward such report to the Commission. NERC and ~~{REGIONAL ENTITY}~~Texas RE shall cooperate in filing such periodic summary reports as the Commission shall from time to time direct on Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards and summary analyses of such Possible Violations, Alleged Violations, and Confirmed Violations.

(c) Each Possible Violation, Alleged Violation, or Confirmed Violation shall be treated as nonpublic unless the matter is filed with the Commission as a Notice of Penalty, or, if disclosure is required, dismissed. The disposition of each Possible Violation, Alleged Violation, or Confirmed Violation that relates to a Cybersecurity Incident or that would jeopardize the security of the Bulk-Power System if publicly disclosed shall remain nonpublic unless the Commission directs otherwise.

(d) All dispositions by ~~[REGIONAL ENTITY]~~Texas RE of Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards shall be reported to NERC for review and, in the case of Confirmed Violations, penalties or sanctions, and settlements, for approval. Following approval of a disposition by NERC, NERC shall file the disposition with the Commission, if required by, and in accordance with, Section 215(e) of the Act and Section 39.7 of the ERO Regulations. NERC shall review ~~[REGIONAL ENTITY]~~'s Texas RE's dispositions based on the following criteria:

(i) whether the disposition is supported by a sufficient record compiled by ~~[REGIONAL ENTITY]~~Texas RE in accordance with the NERC Rules of Procedure, NERC directives and Commission requirements, taking into account the nature of the Possible Violation, Alleged Violation, or Confirmed Violation,

(ii) whether the disposition is consistent with any applicable directives issued pursuant to Section 8(c) of this Agreement, any applicable directions or guidance issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, or other applicable NERC guidance, concerning the Reliability Standards to which the Possible Violation, Alleged Violation, or Confirmed Violation relates,

(iii) if the disposition is a Confirmed Violation or settlement, whether it provides for a penalty or sanction, or a determination of no penalty or sanction, determined in accordance with the NERC Sanction Guidelines, Appendix 4B to the NERC Rules of Procedure, and

(iv) whether the disposition is reasonably consistent with other dispositions by ~~[REGIONAL ENTITY]~~Texas RE and by other Regional Entities of Possible Violations, Alleged Violations, and Confirmed Violations involving the same or similar facts and circumstances.

NERC may reject any disposition, with an explanation of why NERC believes the disposition does not meet the above criteria. ~~{REGIONAL ENTITY}~~Texas RE may submit a disposition requiring NERC approval that has been rejected by NERC, or a revised disposition following a rejection, directly to the NERC Board Compliance Committee for approval without revising the disposition to address all the grounds on which NERC originally rejected the disposition. The final approval of ~~{REGIONAL ENTITY}~~'sTexas RE's disposition of a Possible Violation, Alleged Violation, or Confirmed Violation shall be made by the NERC Board Compliance Committee, provided, that the NERC Board or NERC Board Compliance Committee may, by appropriate resolution, delegate authority for final approval of dispositions of specified categories of Possible Violations, Alleged Violations, or Confirmed Violations to the NERC President.

(e) All appeals of penalties imposed by ~~{REGIONAL ENTITY}~~Texas RE as a result of a decision by ~~{REGIONAL ENTITY}~~'sTexas RE's Hearing Body shall be filed with, heard by and disposed of by, NERC in accordance with the NERC Rules of Procedure.

(f) ~~{REGIONAL ENTITY}~~Texas RE shall maintain the capability to conduct investigations of Possible Violations and Alleged Violations of Reliability Standards and to conduct such investigations in a confidential manner.

(g) ~~{REGIONAL ENTITY}~~Texas RE shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan.

(h) As part of its compliance monitoring and enforcement program, ~~{REGIONAL ENTITY}~~Texas RE shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(i) As often as NERC deems necessary, but no less than every five years, NERC shall review ~~{REGIONAL ENTITY}~~'sTexas RE's compliance monitoring and enforcement program to determine that: (i) the program meets all applicable legal requirements; (ii) actual practices

reflect the requirements; and (iii) the program administered pursuant to the Delegated Authority promotes consistent interpretations across North America of Reliability Standards and comparable levels of sanctions and penalties for violations of Reliability Standards constituting comparable levels of threat to reliability of the Bulk-Power System.

7. Delegation-Related Activities.

NERC will engage ~~{REGIONAL ENTITY}~~Texas RE on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed on **Exhibit E**. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (f), each of which shall be considered a statutory activity:

(a) Certification of Bulk-Power System Entities. The NERC Board shall set criteria for certification in accordance with the NERC Rules of Procedure. ~~{REGIONAL ENTITY}~~Texas RE shall issue certifications in accordance with the NERC Rules of Procedure.

(b) Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.

(i) The NERC Board shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by ~~{REGIONAL ENTITY}~~Texas RE and other Regional Entities. ~~{REGIONAL ENTITY}~~Texas RE shall provide timely and accurate information relating to registrations to NERC, on at least a monthly basis, to enable NERC to maintain a registration database that is accurate and up-to-date.

(iii) The NERC Board Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) **Reliability Assessment and Performance Analysis.** ~~{REGIONAL ENTITY}~~Texas RE shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. ~~{REGIONAL ENTITY}~~Texas RE shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives. NERC shall develop data-gathering quality control procedures, forms and reporting mechanisms, which shall be used by ~~{REGIONAL ENTITY}~~Texas RE and other Regional Entities in carrying out their responsibilities under this subsection (c).

(d) **Event Analysis and Reliability Improvement.** ~~{REGIONAL ENTITY}~~Texas RE shall conduct event analysis pursuant to the NERC Rules of Procedure and applicable governmental regulations. NERC and ~~{REGIONAL ENTITY}~~Texas RE shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, ~~{REGIONAL ENTITY}~~Texas RE shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) **Training and Education.** ~~{REGIONAL ENTITY}~~Texas RE may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) **Situation Awareness and Infrastructure Security.**

(i) ~~{REGIONAL ENTITY}~~Texas RE shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure and applicable governmental regulations, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System

(ii) ~~{REGIONAL ENTITY}~~Texas RE shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of ~~{REGIONAL ENTITY}~~'s Texas RE's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and ~~{REGIONAL ENTITY}~~Texas RE that matters relating to NERC's oversight of ~~{REGIONAL ENTITY}~~'s Texas RE's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and ~~{REGIONAL ENTITY}~~Texas RE and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with ~~{REGIONAL ENTITY}~~Texas RE and other Regional Entities, performance goals, measures and other parameters (including, without limiting the scope of such goals, measures and parameters, financial performance goals, measures and parameters), and performance reports, which shall be used to measure NERC's and ~~{REGIONAL ENTITY}~~'s Texas RE's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. ~~{REGIONAL ENTITY}~~Texas RE shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate ~~{REGIONAL ENTITY}~~'s Texas RE's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters and performance reports to evaluate ~~{REGIONAL ENTITY}~~'s Texas RE's performance of its delegated functions and related activities and to provide advice and direction to ~~{REGIONAL ENTITY}~~Texas RE on performance improvements. The performance goals, measures and other parameters and the values of such goals, measures and parameters, shall be reviewed by NERC, ~~{REGIONAL ENTITY}~~Texas RE and the other Regional Entities, revised if appropriate, and

made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, ~~{REGIONAL ENTITY}~~Texas RE shall be required to develop, submit for NERC approval, and implement action plans to address areas of its performance that are reasonably determined by NERC, based on analysis of ~~{REGIONAL ENTITY}~~'s Texas RE's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring ~~{REGIONAL ENTITY}~~Texas RE to adopt and implement an action plan or other remedial action, NERC shall issue a notice to ~~{REGIONAL ENTITY}~~Texas RE of the need and basis for an action plan or other remedial action and provide an opportunity for ~~{REGIONAL ENTITY}~~Texas RE to submit a written response contesting NERC's evaluation of ~~{REGIONAL ENTITY}~~'s Texas RE's performance and the need for an action plan. ~~{REGIONAL ENTITY}~~Texas RE may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board review and reconsider the request. NERC and ~~{REGIONAL ENTITY}~~Texas RE shall work collaboratively as needed in the development and implementation of ~~{REGIONAL ENTITY}~~'s Texas RE's action plan. A final action plan submitted by ~~{REGIONAL ENTITY}~~Texas RE to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to ~~{REGIONAL ENTITY}~~Texas RE standardized training and education programs, which shall be designed taking into account input from ~~{REGIONAL ENTITY}~~Texas RE and other Regional Entities, for ~~{REGIONAL ENTITY}~~Texas RE personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to ~~{REGIONAL ENTITY}~~Texas RE concerning the manner in which ~~{REGIONAL ENTITY}~~Texas RE shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with ~~{REGIONAL ENTITY}~~Texas RE and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and ~~{REGIONAL ENTITY}~~Texas RE and, if applicable, other Regional Entities are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President; *provided*, that before the NERC President issues a directive pursuant to this paragraph (ii), ~~{REGIONAL ENTITY}~~Texas RE and, if applicable, other Regional Entities, shall be given a reasonable opportunity to present their positions on, and a suggested alternative version or versions of, the proposed directive to the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, ~~{REGIONAL ENTITY}~~Texas RE, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by ~~{REGIONAL ENTITY}~~Texas RE, the NERC Board (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without ~~{REGIONAL ENTITY}~~'sTexas RE's agreement, *provided*, that ~~{REGIONAL ENTITY}~~Texas RE shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and ~~{REGIONAL ENTITY}~~Texas RE and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which ~~{REGIONAL ENTITY}~~Texas RE, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The Board or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power

System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the Board or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. ~~[REGIONAL ENTITY]~~, Texas RE, either individually or in conjunction with other Regional Entities, may request that the NERC Board or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with ~~[REGIONAL ENTITY]~~, Texas RE, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) Any audits of ~~[REGIONAL ENTITY]~~, Texas RE performed by NERC shall be limited to an examination of ~~[REGIONAL ENTITY]~~'s Texas RE's compliance with this Agreement, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c)

9. Funding. ~~[REGIONAL ENTITY]~~, Texas RE and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed on **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) ~~[REGIONAL ENTITY]~~, Texas RE shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. ~~[REGIONAL ENTITY]~~'s Texas RE's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, ~~[REGIONAL ENTITY]~~, Texas RE to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E**. ~~[REGIONAL ENTITY]~~'s Texas RE's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) ~~[REGIONAL ENTITY]~~, Texas RE and NERC agree that the portion of ~~[REGIONAL ENTITY]~~'s Texas RE's approved budget for the functions and activities described

in Sections 5, 6 and 7 and listed on **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by ~~[REGIONAL ENTITY]~~Texas RE and approved by NERC and the Commission. If ~~[REGIONAL ENTITY]~~Texas RE proposes to use a formula other than Net Energy for Load beginning in the following year, ~~[REGIONAL ENTITY]~~Texas RE shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and ~~[REGIONAL ENTITY]~~Texas RE to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide ~~[REGIONAL ENTITY]~~Texas RE with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) ~~[REGIONAL ENTITY]~~Texas RE shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed on Exhibit E, as well as for all other activities of ~~[REGIONAL ENTITY]~~,Texas RE, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund ~~[REGIONAL ENTITY]~~'sTexas RE's performance of its Delegated Authority and related activities in accordance with ~~[REGIONAL ENTITY]~~'sTexas RE's Commission-approved business plan and budget, in the amount of ~~[REGIONAL~~

~~ENTITY~~'s Texas RE's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting ~~REGIONAL ENTITY~~'s Texas RE's approved assessments from end users and other entities and payment of the approved assessment amount to ~~REGIONAL ENTITY~~, Texas RE, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon ~~REGIONAL ENTITY~~ Texas RE that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without ~~REGIONAL ENTITY~~'s Texas RE's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and ~~REGIONAL ENTITY~~ Texas RE fiscal year budget with the actual results at the NERC and Regional Entity levels. ~~REGIONAL ENTITY~~ Texas RE shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) ~~REGIONAL ENTITY~~ Texas RE shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) ~~REGIONAL ENTITY~~ Texas RE shall submit audited financial statements annually, including supporting materials, in a form provided by NERC no later than May 1 of the following year.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which ~~REGIONAL ENTITY~~ Texas RE shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of ~~REGIONAL ENTITY~~ Texas RE) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which ~~REGIONAL ENTITY~~ Texas RE shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of ~~REGIONAL ENTITY~~ Texas RE. *Provided*, that, subject to approval by NERC and the

Commission, ~~{REGIONAL ENTITY}~~Texas RE may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. ~~{REGIONAL ENTITY}~~Texas RE may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit ~~{REGIONAL ENTITY}~~Texas RE from contracting with other entities to assist it in carrying out its Delegated Authority, provided ~~{REGIONAL ENTITY}~~Texas RE retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on ~~{January 1, 2011}~~ (the “Effective Date”).

(b) The term of the Agreement shall be five (5) years from the Effective Date, prior to which time NERC shall conduct an audit pursuant to subsection 6(i) to ensure that ~~{REGIONAL ENTITY}~~Texas RE continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. If ~~{REGIONAL ENTITY}~~Texas RE meets such requirements, this Agreement may be renewed for another five (5) year term. This Agreement may be renewed for successive additional five (5) year renewal terms provided that prior to the end of each renewal term, NERC shall conduct an audit pursuant to subsection 6(i) to ensure that ~~{REGIONAL ENTITY}~~Texas RE continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. Provided, that either Party may terminate this Agreement as of the end of a term by giving written notice to terminate at least one (1) year prior to the end of the term. If this Agreement is not renewed or becomes subject to termination for any reason, the Parties shall work to provide for a transition of ~~{REGIONAL ENTITY}~~Texas RE's Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement. The termination of this Agreement shall not take effect until such transition has been effected, unless the transition period exceeds one year, at which time ~~{REGIONAL ENTITY}~~Texas RE may unilaterally terminate.

(c) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the

Commission, or at such other time as may be mutually agreed by ~~{REGIONAL ENTITY}~~Texas RE and NERC.

(d) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. ~~{REGIONAL ENTITY}~~Texas RE and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and ~~{REGIONAL ENTITY}~~Texas RE shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of the ~~{REGIONAL ENTITY}~~'s Texas RE's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that the ~~{REGIONAL ENTITY}~~Texas RE or NERC is found liable for gross negligence or intentional misconduct, in which case ~~{REGIONAL ENTITY}~~Texas RE or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party.

15. Confidentiality. During the course of the Parties' performance under this Agreement, a Party may receive Confidential Information, as defined in Section 1500 of NERC's Rules of Procedure. Except as set forth herein, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party, unless disclosure is required by subpoena, law, or other

directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information. In addition, each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein. This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of ~~{REGIONAL ENTITY}~~Texas RE under this Agreement without first obtaining the consent of ~~{REGIONAL ENTITY}~~Texas RE, which consent shall not be unreasonably withheld or delayed. To the extent ~~{REGIONAL ENTITY}~~Texas RE does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of ~~{REGIONAL ENTITY}~~Texas RE under this Agreement, ~~{REGIONAL ENTITY}~~Texas RE shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one

year following written notice by ~~{REGIONAL ENTITY}~~Texas RE to NERC and the Commission, or at such other time as may be mutually agreed by ~~{REGIONAL ENTITY}~~Texas RE and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and ~~{REGIONAL ENTITY}~~Texas RE (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to ~~{REGIONAL ENTITY}~~'s Texas RE's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. ~~{REGIONAL ENTITY}~~Texas RE shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, *provided*, that the designated

representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), *provided*, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. *Provided, however*, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. Whether expressly so stated or not, all notices, demands, requests, and other communications required or permitted by or provided for in this Agreement shall be given in

writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand or reputable overnight courier:

If to NERC:

If to ~~REGIONAL ENTITY~~ Texas RE:

North American Electric
Reliability Corporation
116-390 Village Blvd.
Princeton, NJ 08540-5721

Texas Reliability Entity, Inc.
2700 Via Fortuna
Suite 225

_____ Austin, Texas

78746

Attn: General Counsel
Facsimile: (609) 452-9550

Attn: General Counsel
Facsimile: ~~_____~~ :(512) 225-7165

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of New Jersey without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in New Jersey. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in New Jersey for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that ~~REGIONAL ENTITY~~ Texas RE may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to

the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN
ELECTRIC RELIABILITY CORPORATION
ENTITY, INC.

~~REGIONAL~~ TEXAS RELIABILITY

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A — Regional Boundaries

Exhibit A to the delegation agreement for each Regional Entity receiving Delegated Authority shall describe the geographic or electrical boundaries covered by the proposed delegation of authority. **Exhibit A** for each Regional Entity shall reflect coordination with neighboring Regional Entities, as appropriate, to ensure that all relevant areas are either included within the geographic boundaries of a Regional Entity or specifically identified as not being within the geographic boundaries of any Regional Entity. Any exclusions of geographic or electrical areas or of Registered Entities from the scope of the Regional Entity's Delegated Authority within the geographic or electrical boundaries shown on **Exhibit A**, and any additions of geographic or electrical areas or of Registered Entities located outside the boundaries shown on **Exhibit A** to the scope of the Regional Entity's Delegated Authority, shall be specifically stated or described in **Exhibit A**.

EXHIBIT A – REGIONAL BOUNDARIES

The ERCOT Region is the geographic area and associated transmission and distribution facilities that are not synchronously interconnected with electric utilities operating outside the jurisdiction of the Public Utility Commission of Texas. The ERCOT Region does not interconnect synchronously across state lines to import or export power with neighboring reliability regions. The ERCOT geographic region includes 200,000 square miles, 85% of Texas load, and 75% of Texas land area (does not include the Panhandle, El Paso area, and 2 areas of East Texas). The ERCOT Region includes the following Texas cities and towns: Dallas, Ft. Worth, Houston, San Antonio, Austin, Paris, Tyler, Nacogdoches, Lufkin, Bryan, College Station, Corpus Christi, Harlingen, Brownsville, Laredo, Brownwood, San Angelo, Abilene, Midland, Odessa, Fort Stockton, Monahans, Snyder, Vernon, Wichita Falls, Denton, Garland, Greenville, Waco, Temple, Killeen, Weatherford, and Graham, as indicated on the map below.

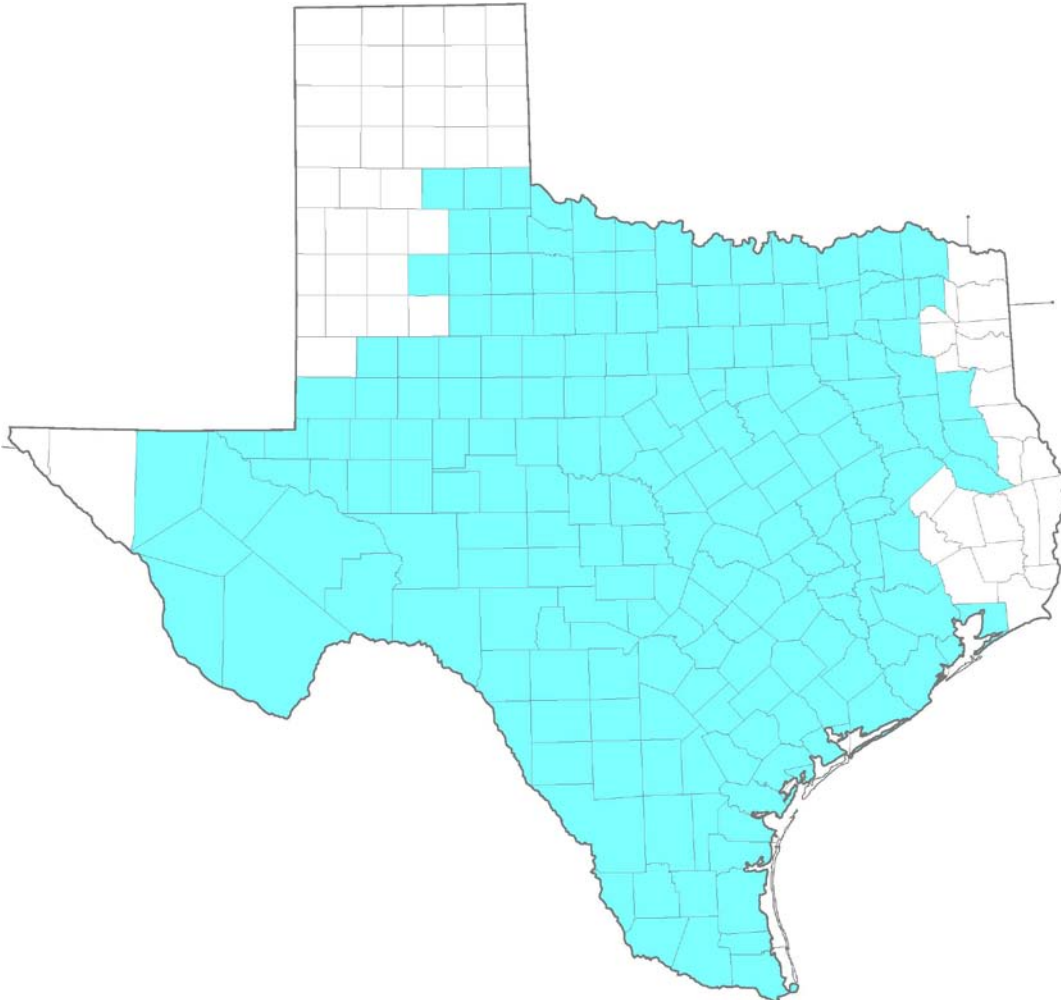


Exhibit B – Governance

Exhibit B shall set forth the Regional Entity’s bylaws, which NERC agrees demonstrate that the Regional Entity meets the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence of the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

BYLAWS
OF
TEXAS RELIABILITY ENTITY, INC.

(A Texas Non-Profit Corporation)

Approved by Membership – February 5, 2010

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ARTICLE I. DEFINITIONS

Section 1. Definitions. The capitalized terms used in these Bylaws of Texas Reliability Entity, Inc. (the "Corporation" or "Texas RE"), shall have the meanings set forth below, or if not set forth below, shall have the meanings given them in the NERC Rules of Procedure.

(a) "Affiliate" means any entity controlling, controlled by or under common control with the entity under consideration, and includes any entity (i.e., any commercial enterprise) in any of the following relationships: (i) an entity that directly or indirectly owns or holds at least five percent of the voting securities of another entity, (ii) an entity in a chain of successive ownership of at least five percent of the voting securities of another entity, (iii) an entity which shares a common parent with or is under common influence or control with another entity or (iv) an entity that actually exercises substantial influence or control over the policies and actions of another entity. Evidence of influence or control shall include the possession, directly or indirectly, of the power to direct or cause the direction of the management and/or policies and procedures of another, whether that power is established through ownership or voting of at least five percent of the voting securities or by any other direct or indirect means. In cases where the level of control or influence is disputed, the Board shall have discretion to determine whether or not the entities are Affiliates of one another. Membership in Texas RE shall not create an affiliation with Texas RE.

(b) "Board" means the Board of Directors of the Corporation.

(c) "Bulk Power System" or "BPS" means facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof) and facilities generating electric energy as needed to maintain transmission system reliability, but does not include facilities used in the local distribution of electricity.

(d) "Commission" or "FERC" means the Federal Energy Regulatory Commission.

(e) "Delegated Authority" means the authority delegated by NERC to the Corporation to propose and enforce NERC Reliability Standards and perform other reliability-related activities in the ERCOT Region under the Delegation Agreement executed by NERC and the Corporation and approved by FERC, pursuant to Section 215 of the Federal Power Act (16 U.S.C. §824n).

(f) "Delegation Agreement" means the agreement between the Corporation and NERC and approved by the Commission which describes the Delegated Authority and may be amended from time to time.

(g) "Electric Reliability Organization" or "ERO" means the organization that is certified by the Commission pursuant to Section 39.3 of its regulations, and has received recognition by appropriate regulatory authorities in Canada and Mexico, as applicable, to establish and enforce Reliability Standards for the Bulk Power Systems of the respective countries and that has entered into a delegation agreement with the Corporation pursuant to which the Electric Reliability Organization delegates enforcement authority for Reliability Standards for the Bulk Power System in the ERCOT Region. NERC was certified as the ERO on July 20, 2006.

(h) “ERCOT Region” means the geographic area and associated transmission and distribution facilities that are not synchronously interconnected with electric utilities operating outside the jurisdiction of the Public Utility Commission of Texas.

(i) “Independent Director” means a person who is not (a) an officer or employee of the Corporation; (b) a NERC Registered Entity or Member or an officer, director, or employee of a Member of the Corporation; or (c) an officer, director, or employee of any company or entity that would reasonably be perceived as having a direct financial interest in the outcome of Board decisions or having a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a Director, as more specifically described in Article IV of these Bylaws.

(j) “Initial Director” means a Director named in the Certificate of Formation and seated for formation of the Corporation.

(k) “Member” means a member of the Corporation pursuant to Article III of these Bylaws.

(l) “NERC” means North American Electric Reliability Corporation, the entity certified by FERC as the ERO on July 20, 2006.

(m) “NERC Rules of Procedure” means the Rules of Procedure that are adopted by NERC and approved by the Commission.

(n) “PUCT” means the Public Utility Commission of Texas.

(o) “OPUC” means the Texas Office of Public Utility Counsel.

(p) “Regional Entity” means an entity with a Delegation Agreement with NERC, as ERO, including the following organizations, in addition to Texas Reliability Entity: Florida Reliability Coordinating Council (FRCC), Midwest Reliability Organization (MRO), Northeast Power Coordinating Council (NPCC), ReliabilityFirst Corporation (RFC), Southeastern Electric Reliability Council (SERC), Southwest Power Pool (SPP), and Western Electricity Coordinating Council (WECC).

(q) “Regional Reliability Standard” means a standard for the ERCOT Region that is proposed and approved in accordance with the Texas RE Standards Development Process, as set forth in Exhibit C to the Delegation Agreement, and either, (i) sets more stringent reliability requirements than a national Reliability Standard, or (ii) covers matters not covered by a national Reliability Standard.

(r) “Registered Entity” means an entity that is registered with NERC and listed on the NERC Compliance Registry (available at www.nerc.com).

(s) “Reliability Standard” means a requirement to provide for Reliable Operation of the Bulk-Power System, which is approved by NERC and the Commission, pursuant to Section 215 of the Federal Power Act and all amendments thereto. This 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.

(t) “Reliable Operation” means operating the elements of the Bulk Power System within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of the Bulk Power System will not occur as a result of a sudden disturbance, including a cybersecurity incident, or unanticipated failure of system elements.

(u) “Sector” means a group of Members of the Corporation that are Bulk Power System owners, operators, or users, as defined in Article III, Section 4 of these Bylaws. Each Sector shall constitute a class of Members for purposes of Chapter 22 (Nonprofit Corporations) of the Texas Business Organizations Code.

ARTICLE II. PURPOSE

Section 1. General Purpose. The purpose of the Corporation is to preserve and enhance reliability in the ERCOT Region. In furtherance of this goal, the Corporation will:

(a) Perform Reliability Standards development, compliance monitoring, compliance enforcement, and other related activities as a Regional Entity, pursuant to 16 U.S.C. §824n, in accordance with the Corporation’s Delegation Agreement with NERC;

(b) Carry out other activities as set forth in the Delegation Agreement, the NERC Rules of Procedure, or as otherwise required or requested by NERC, in support of the Delegated Authority, including but not limited to organization registration and certification, reliability assessment and performance analysis, training and education, and situational awareness and infrastructure security; and

(c) Engage in any other lawful act or activity that is not in conflict with the Corporation’s duties as a Regional Entity and for which non-profit corporations may be organized under the Texas Business Organizations Code.

Section 2. Non-Profit Corporation. The Corporation is a Texas non-profit corporation.

Section 3. Geographic Area. The Corporation will perform its operations primarily within the ERCOT Region. The ERCOT Region includes 200,000 square miles, 85% of Texas load, and 75% of Texas land area (does not include the Panhandle, El Paso area, and 2 areas of East Texas). The ERCOT Region includes the following Texas cities and towns: Dallas, Ft. Worth, Houston, San Antonio, Austin, Paris, Tyler, Nacogdoches, Lufkin, Bryan, College Station, Corpus Christi, Harlingen, Brownsville, Laredo, Brownwood, San Angelo, Abilene, Midland, Odessa, Fort Stockton, Monahans, Snyder, Vernon, Wichita Falls, Denton, Garland, Greenville, Waco, Temple, Killeen, Weatherford, and Graham, and does not interconnect synchronously across state lines to import or export power with neighboring reliability regions.

ARTICLE III. MEMBERSHIP

Section 1. Members. The Corporation is a membership corporation. Membership in the Corporation is voluntary and is open only to any entity that is a user, owner or operator of the ERCOT Region Bulk Power System, registers with the Corporation as a Member, maintains its registration in accordance with this Article III, and complies with the other conditions and obligations of membership specified in these Bylaws. All Members must qualify and be registered in one of the Sectors defined in Article III, Section 4. Membership in the Corporation is not a condition to participating in the development or consideration of proposed Regional Standards.

Section 2. Registration as a Member. Any entity that is eligible to be a Member of the Corporation in accordance with Article III, Section 1 may become a Member by completing and submitting to the secretary of the Corporation a membership registration on a form prescribed by the Corporation. The Member shall designate one representative and an alternative representative with authority to receive notices, cast votes, and execute waivers and consents on behalf of the Member. The secretary of the Corporation shall maintain a current roster of the Members of the Corporation including each Member's designated representative and alternative representative. From time to time, the Board shall establish a date by which Members shall submit their registration renewals. All Members shall be required to renew their registrations annually and within 30 calendar days of a request by an officer of the Corporation, using a registration renewal form prescribed by the Corporation. The secretary of the Corporation shall remove from the roster of Members of the Corporation any Member that has not submitted a registration renewal within 30 days following a date established by the Corporation. The secretary shall inform any Member that is removed from the roster of Members of such removal, by sending notice to such former Member's last known address on the records of the Corporation.

Section 3. Obligations and Conditions of Membership.

(a) Members must agree to promote, support, and comply with Reliability Standards, and assist the Corporation in its compliance with the terms and provisions of the Corporation's Delegation Agreement with NERC. Each Member shall agree, in writing, to accept the responsibility to comply with policies of NERC and the Corporation as set forth in their respective certificates of formation, bylaws, rules of procedure, and Reliability Standards, as applicable, as from time to time adopted, approved, or amended.

(b) As an additional condition of membership in the Corporation, each Member shall be required to execute an agreement with the Corporation, in a form to be specified by the Corporation, that such entity will hold all Directors, officers, employees, and agents of the Corporation, as well as volunteers participating in good faith in the activities of the Corporation, harmless for any injury or damage caused by any act or omission of any director, officer, employee, agent, or volunteer in the course of performance of his or her duties on behalf of the Corporation, other than for willful acts of misconduct.

(c) Consistent with applicable laws and regulations, Members must share nonproprietary information at the Corporation's request as necessary for the furtherance of the Corporation's activities and consistent with NERC, PUCT, or any other applicable rules relating to confidentiality.

Section 4. Membership Sectors. Each Member shall elect to be assigned to one of the following membership Sectors:

(a) **System Coordination and Planning:** An entity that is registered with NERC as a Reliability Coordinator (RC), Balancing Authority (BA), Planning Authority (PA), Resource Planner (RP), or Interchange Authority (IA).

(b) **Transmission and Distribution:** An entity that is registered with NERC as a Transmission Owner (TO), Transmission Planner (TP), Transmission Service Provider (TSP), Distribution Provider (DP), and/or Transmission Operator (TOP) and is not a Cooperative or Municipal Utility.

(c) **Cooperative:** An entity that is (a) a corporation organized under Chapter 161 of the Texas Utilities Code or a predecessor statute to Chapter 161 and operating under that chapter; or (b) a corporation organized as an electric cooperative in a state other than Texas that has obtained a certificate of authority to conduct affairs in the State of Texas; or (c) a cooperative association organized under Tex. Rev. Civ. Stat. 1396-50.01 or a predecessor to that statute and operating under that statute and is registered with NERC for at least one reliability function.

(d) **Municipal Utility:** A municipally owned utility as defined in PURA §11.003 and is registered with NERC for at least one reliability function.

(e) **Generation:** An entity that is registered with NERC as a Generator Owner (GO) or Generator Operator (GOP).

(f) **Load-Serving and Marketing:** An entity that is registered with NERC as a Load Serving Entity (LSE), a Purchasing-Selling Entity, or any newly defined NERC reliability function for demand response.

Section 5. Participation.

(a) There is only one level of Membership, and no company or entity may simultaneously hold more than one Membership.

(b) Members must qualify in and join a Sector.

(c) A Member that is eligible for more than one Sector may join only one Sector and it must be the most appropriate Sector for its business. Any disputes regarding appropriateness of a Member's Sector will be decided by a majority vote of the Board.

(d) A company or entity that is an Affiliate of a Member may hold a separate membership in a different Sector, so long as the legal entities have different NERC Compliance Registry Numbers under which they are currently registered for the applicable NERC reliability function.

(e) A Member must continue to vote in the same Sector for a minimum of the remainder of the fiscal year in which it becomes a Member or until it is no longer eligible to remain in such Sector, and it must give notice to the Corporate secretary when it elects or is required to change Sectors.

(f) The Board may review the Sector qualification of any Member and may determine that a Member does not qualify for, and require them to change Sectors.

(g) A Member which is no longer eligible or not in good standing may not vote on any matters that require membership.

Section 6. Membership Fees. Members must pay an annual Membership Fee of \$250, to offset the expenses of membership qualification, coordination, and meetings, unless the Board waives the fee for any Member for good cause shown. The Board may agree to change the amount or frequency of the Membership Fee, from time to time, by majority vote.

Section 7. Term of Membership. Membership in the Corporation must be renewed on an annual basis and will only be retained as long as a Member meets its respective qualifications, obligations, and conditions of membership as set forth in these Bylaws. Membership is conditioned on the annual payment of Membership Fees, unless the Membership Fees are waived by the Board for good cause shown, as determined in the Board's sole discretion.

Section 8. Removal. No Member or Member representative may be sanctioned, expelled or suspended and no membership in the Corporation may be terminated or suspended except pursuant to a procedure that is fair and reasonable and is carried out in good faith. The Board may, by resolution, establish a procedure to terminate, expel, suspend, or sanction a Member following notice to the Member and exercise of appropriate due process procedures and a determination by the Board in its sole discretion that in its judgment the Member has violated its obligations and responsibilities to the Corporation. In the event that the Board does not adopt procedures, the following procedures shall apply:

(a) Written notice. Written notice of intent to terminate, expel, suspend or sanction a Member shall be delivered at least twenty (20) days in advance of the date when a hearing will be held to determine whether the Member shall be expelled, suspended, terminated or sanctioned. Such notice shall set forth the reasons therefore. Said notice must be given by facsimile (receipt confirmed), e-mail (receipt confirmed) or first class or certified mail sent to the last address of the Member to be expelled, suspended, terminated or sanctioned, as shown in the Corporation's records.

(b) Hearing. An opportunity shall be provided for the Member receiving such notice to be heard by the Board at the hearing, orally and in writing. The Member shall be entitled to have counsel present, and to participate in the hearing, at its own expense, and to present and cross-examine any witnesses.

(c) Liability. A Member which has been sanctioned, expelled, terminated or suspended shall remain liable to the Corporation for fees as a result of obligations incurred or commitments made prior to sanction, expulsion, termination or suspension.

(d) Challenges. Any proceeding challenging an expulsion, suspension, sanction or termination, including a proceeding in which defective notice is alleged, may be submitted to the Board in writing within one year after the effective date of the expulsion, suspension, sanction or termination. If the Board determines to hear such challenge, it shall notify the Member and such proceeding will be subject to the hearing requirements described in subsection (b) above of this Section 8.

Section 9. Resignation. Any other provision of these Bylaws notwithstanding, any Member may withdraw from participation in the activities of the Corporation at any time upon written notice to the chief executive officer or president of the Corporation, whereupon it

shall cease to be a Member, and its representatives shall cease to be entitled or obligated to participate in the activities of the Board or any activities requiring membership.

Section 10. Reinstatement. A former Member may submit a written request for reinstatement of Membership. The Board will reinstate the Membership unless the entity does not meet the Membership qualifications set forth in these Bylaws.

ARTICLE IV. BOARD OF DIRECTORS

Section 1. Board of Directors. The business and affairs of the Corporation shall be managed by the Board. The Board shall consist of (i) four (4) Independent Directors who are nominated and elected in accordance with the requirements and procedures specified in this Article IV (the "Independent Directors"); (ii) the Chairman of the PUCT or another PUCT Commissioner designated by the Chairman, as an *ex officio* non-voting member; (iii) Texas Public Counsel, from OPUC (or another employee of OPUC designated by Texas Public Counsel), as an *ex officio* non-voting member, representing the interests of residential and small commercial electricity consumers; (iv) the CEO of the Corporation as a voting member (the "Management Director"); (v) the chair of the Member Representatives Committee as a voting member; and (vi) the vice chair of the Member Representatives Committee as a voting member. The Directors who are the chair and vice chair of the Member Representatives Committee will be collectively referred to herein as "Affiliated Directors." Each Director, including the Affiliated Directors and excluding the non-voting members of the Board, shall have one (1) vote on any matter brought before the Board for a vote. All Directors are expected to serve the public interest and to represent the reliability concerns of the entire ERCOT Region Bulk Power System.

Section 2. Independent Directors. The Independent Directors shall be elected, shall have the qualifications specified, and shall serve in the manner provided in this Section.

(a) Qualifications:

(1) Experience in one or more of these fields: senior corporate leadership; professional disciplines of finance, accounting, engineering, bulk power systems, or law; regulation of utilities; and/or risk management.

(2) Independence of any NERC registered entity, including ERCOT ISO, and any ERCOT Region Market Participant. Requirements of independence include but are not limited to the following:

(i) Independent Directors and the immediate family (any spouse, mother, father, sibling, or dependent, and any spouse of mother, father, or sibling and including any step and adoptive parents, siblings or children) and household members of Independent Directors and their spouses shall not have current or recent status (within the last two years) as a director, officer or employee of an ERCOT Region NERC Registered Entity or ERCOT Region Market Participant.

(ii) Independent Directors and immediate family and household members of Independent Directors shall not have current status as a director, officer or employee of a non-ERCOT Region NERC Registered Entity.

(iii) Independent Directors and immediate family and household members of Independent Directors shall not have direct business relationships, other than retail customer relationships, with any NERC Registered Entity or Market Participant.

(iv) To the extent that an Independent Director or his or her spouse, dependent child, or any other household member owns stocks or bonds of NERC Registered Entities or Market Participants, these must be divested or placed in a blind trust prior to being seated on the Board.

(v) Independent Directors shall not have any relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a Board member, including the Delegated Authority.

(vi) Other criteria as approved by the Board.

(b) Term. Except for the Initial and originally elected Directors, the term for Independent Directors shall be staggered three year terms. An Independent Director may be elected for up to three consecutive terms. Notwithstanding the foregoing, the Directors named as Initial Directors will serve only until the first membership meeting of the Corporation at which Independent Directors are elected. If an Initial Director is qualified to be an Independent Director and elected by the membership, such Director's term as an Initial Director shall not be counted for purposes of term limits. For the originally elected Independent Directors, two positions will have three year terms, one position will have a two year term, and one position will have a one year term. The term for the Affiliated Directors who are chair and vice chair of the Member Representatives Committee shall be one year, and the terms of the *ex officio* Directors will not expire.

(c) Selection.

(1) Except for the selection of the Initial Directors, the Board shall appoint, on an annual basis, or more frequently if needed in the event of a special election pursuant to this subsection, a nominating committee (the "Nominating Committee") to recommend candidates (i) to succeed the Independent Directors whose terms expire during the current year and (ii) to serve the remainder of the term of any Independent Director who ceased to serve as a Director subsequent to the last annual election of Directors. Except for the original Nominating Committee appointed by the Initial Directors ("Initial Nominating Committee"), the Nominating Committee shall consist of all Independent Directors except those whose terms expire during the current year and are seeking re-election and Affiliated Directors and such other persons with such qualifications as the Board shall specify (provided that such other persons may not vote), provided that the Independent Directors shall constitute a majority of the voting members of the Nominating Committee. The Initial Nominating Committee will consist of the Initial Directors except the Management Director (as defined in Article IV, Section 3), and at least two other persons selected by these Initial Directors to represent the interests of the Membership. The PUCT Chair may choose to participate on the Nominating Committee. If any Nominating Committee should have only two eligible Independent Directors for any reason, the requirement that Independent Directors must constitute a majority of the voting members will be removed to allow both Affiliated Directors to participate on the Nominating Committee. The Nominating Committee may retain an executive search

firm to locate and present candidates with the required qualifications, as set forth in Article IV, Section 2(a).

(2) The Nominating Committee shall interview the qualified candidates and select and nominate, by at least a two-thirds majority, qualified candidate(s), consistent with the objectives that the Board as an entirety shall reflect expertise in the areas of technical electric operations and reliability, legal, senior corporate leadership, financial, risk management, and regulatory matters, and familiarity with regional system operation issues in the ERCOT Region, to present to the Membership for its approval.

(3) The Membership shall vote by Sector as described in Article V in favor or against the proposed Independent Director(s). A proposed Independent Director who is approved by a majority of the Sectors shall become an Independent Director.

(d) Director Voting Weights. All voting Directors shall have a single vote each.

(e) Alternates and Proxies. Independent Directors may designate another Independent Director as a proxy if unable to attend a Board meeting. Ex officio Directors may designate a selected proxy or an alternate representative who may attend meetings in the absence of such Director. The chair and vice chair of the Member Representatives Committee may designate each other or may designate an Independent Director as their proxy if unable to attend a Board meeting.

Section 3. Appointment of Management Director. The president and chief executive officer (CEO) of the Corporation shall serve as the Management Director of the Corporation, effective as of the date of his or her appointment by the Board as CEO of the Corporation in accordance with these Bylaws, to serve until such time that he or she ceases to hold the position of CEO. No action of the Members of the Corporation shall be required in connection with the appointment of the CEO as the Management Director of the Corporation.

Section 4. Chair and Vice Chair. Annually, the Board shall elect from the Board's membership, by resolution of the Board, a Chair and a Vice Chair. The Chair and Vice Chair shall each be one of the Independent Directors.

Section 5. Vacancies and Removal.

(a) Should any vacancy on the Board arise from the death, resignation, retirement, disqualification, or removal from office of any Director, or from any other cause, such vacancy shall be filled as follows:

(1) For an Independent Director, by the election of a new Independent Director at the next annual election of Directors to fill the remainder, if any, of the term of the departed Independent Director. provided, that the Board by resolution may in its discretion call a special election to fill any such vacancy for the remainder, if any, of the term of the departed Independent Director.

(2) For the Management Director, by the appointment of a new CEO or interim CEO to fill the vacancy.

(3) For an ex officio Director, by the appointment of a new PUCT Chair or Texas Public Counsel by whomever had the right to appoint such Director.

(4) For an Affiliated Director, by the election of a new chair or vice chair, as applicable, by the Member Representative Committee.

(b) A Director may be removed with or without cause at any time by whomever had the right to appoint such Director (for ex officio Directors), or for the elected Independent Directors, by an affirmative vote of sixty percent (60%) of the Members. In addition, the Board may remove any voting Director for cause, upon at least seventy-five percent (75%) affirmative votes of the eligible, remaining voting Directors. The right to elect Directors may not be assigned, sold, pledged or transferred in any manner.

Section 6. Committees of the Board. The Board shall by resolution create and appoint all committees of the Board as the Board deems necessary to perform its responsibilities. All committees of the Board shall have such duties as are prescribed and delegated by the Board. Committees to which any of the authority of the Board to manage the Corporation is delegated must have at least two Directors, and a majority of the members of the committee must be Directors.

ARTICLE V. MEETINGS OF MEMBERS OF THE CORPORATION

Section 1. Annual and Other Meetings of Members.

(a) An annual meeting of the Members to elect Directors and to conduct such other business as may come before the meeting shall be held on or about December 1 of each year or as soon thereafter as is reasonably practicable.

(b) Meetings of Members of the Corporation may be called for any purpose or purposes by resolution of the Board, by the chair of the Board, the CEO or the secretary of the Corporation, or by a number of Members constituting at least ten (10) percent of all Members on the roster of Members maintained by the secretary of the Corporation, which number shall include Members in at least three of the Sectors. Meetings of Members shall be held at the principal office of the Corporation or at such other place fixed by the Board as shall be specified in the notice of meeting. Meetings shall be called upon written notice of the time, date, place, and purposes of the meeting given to all Members on the roster of Members maintained by the secretary of the Corporation not less than ten (10) nor more than sixty (60) days prior to the date of the meeting. Only Members in good standing with the Corporation, as determined by the Board, have the right to vote at any meeting of the Members. Further, if at any point a Member no longer meets the qualifications for the Sector of which it is a member, the Entity may immediately elect to become a member in any Sector for which it does qualify.

Section 2. Quorum and Voting Requirements for Meetings of Members.

(a) At any meeting of the Members of the Corporation, attendance in person or by proxy by a majority of the Members in each of at least two-thirds of the Sectors on the roster of Members maintained by the secretary of the Corporation shall constitute a quorum.

(b) Except as otherwise expressly provided in the Corporation's Certificate of Formation, these Bylaws, or applicable law, Members shall vote by Sector and each Sector shall have one vote.

(c) Except as otherwise expressly provided in the Corporation's Certificate of Formation, these Bylaws or applicable law, actions by the Members of the Corporation shall be approved upon receipt of the affirmative vote of a majority of the Sectors of the Corporation at a meeting at which a quorum is present, in person or by proxy. Each Sector's vote shall be determined by the affirmative vote of a majority of the members of the Sector voting at the meeting.

Section 3. Waivers of Notice of Meetings of Members and Member Meeting Adjournments. Notice of a meeting of Members need not be given to any Member who signs a waiver of notice, in person or by proxy, whether before, during, or after the meeting. The attendance of any Member at a meeting, in person or by proxy, without protesting prior to the conclusion of the meeting the lack of proper notice of such meeting, shall constitute a waiver of notice of the meeting by such Member. When any meeting of Members is adjourned to another time or place, it shall not be necessary to give notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and if at the adjourned meeting only such business is transacted as might have been transacted at the original meeting.

Section 4. Action Without a Meeting of Members. Any action, required or permitted to be taken at a meeting of Members, may be taken without a meeting if the proposed action is posted to all Members (via email to an email distribution list to which Members may subscribe and by posting on the Corporation website) and consented to in writing by the minimum number of Members that would be required to approve the action at a meeting of the Members at which all Members were present. The voting in such a circumstance shall be performed in writing, including via email or other electronic means. The Members shall receive written notice of the results within ten (10) days of the action vote, and all written responses of the Members shall be filed with the Corporate records. The results of such voting will be posted on the Corporation's website.

Section 5. Meetings of the Members to be Open. Notice to the public of the dates, places, and times of meetings of the Members, and all non-confidential material provided to the Members, shall be posted on the Corporation's website at approximately the same time that notice is given to the Members. Meetings of the Members shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided, that the meeting may be held in or adjourned to closed session to discuss matters of a confidential nature, including but not limited to compliance and enforcement matters, personnel matters, litigation, or commercially sensitive or critical infrastructure information of the Corporation or any other entity. The results of any action taken without a meeting, as described above, will be posted on the Corporation's website.

ARTICLE VI. MEETINGS OF THE BOARD OF DIRECTORS

Section 1. Regular Meetings of the Board. Regular meetings of the Board shall be held at least quarterly. By resolution adopted at any meeting of the Board, the Board may provide for additional regular meetings that may be held as needed.

Section 2. Special Meetings of the Board. Special meetings of the Board for any purpose or purposes may be called at any time by the chair or by any two Directors. Such meetings may be held upon notice given to all Directors not less than three (3) days prior to the date of the meeting. Such notice shall specify the time, date, place, and purpose or purposes of

the meeting and may be given by telephone, email or other electronic media, or by express delivery.

Section 3. Quorum and Voting Requirements for Meetings of the Board.

The Board consisting of the Initial Directors (“Initial Board”) may conduct only organizational business of the corporation, including but not limited to approving these Bylaws, authorizing the opening of a bank account, appointing officers, approving the Delegation Agreement and reviewing and approving the Corporation’s business plan and budget. The quorum necessary for transaction of business by the Initial Board shall be a majority of the Initial Directors, either in person or by proxy, at meetings at which a quorum is present. Thereafter, unless otherwise expressly provided in the Corporation’s Certificate of Formation, these Bylaws or applicable law, (i) the quorum necessary for the transaction of business at meetings of the Board shall be a majority of the voting Directors in person or by proxy and at least three Independent Directors, and (ii) actions by the Board shall be deemed approved upon receipt of the affirmative vote of a majority of the Directors present and voting in person or by proxy at a meeting at which a quorum is present but in no case less than four votes.

Section 4. Meetings of the Board to be Open.

Notice to the public of the dates, places, and times of meetings of the Board, and all non-confidential material provided to the Board, shall be posted on the Corporation’s website at approximately the same time that notice or such material is given to the Directors and at least ten (10) business days prior to the scheduled meeting; provided however that the Board may meet on urgent matters on such shorter notice, not less than two (2) hours, as the person(s) calling such meeting may deem necessary or appropriate for urgent matters (emergency conditions threatening health or safety or a reasonably unforeseen situation). Meetings of the Board shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided, that the Board may meet in or adjourn to closed session to discuss matters of a confidential nature, including but not limited to compliance and enforcement matters, personnel matters, litigation, or commercially sensitive or critical infrastructure information of the Corporation or any other entity. Any or all of the Directors or members of a Board committee, may participate in a meeting of the Board, or a meeting of a committee, in person or by proxy, by means of any communications system by which all persons participating in the meeting are able to hear each other.

Section 5. Waivers of Notice of Board Meetings and Board Meeting Adjournments.

Notice of a board meeting need not be given to any Director who signs, or sends an email confirming a waiver of notice, in person or by proxy, whether before, during, or after the meeting, or who attends the meeting without protesting, prior to the conclusion of the meeting, the lack of notice of such meeting. Notice of an adjourned board meeting need not be given if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken and if the period of adjournment does not exceed ten (10) days.

Section 6. Action Without a Meeting.

Any action required or permitted to be taken at a meeting of the Board, or of any committee thereof, may be taken by the Board or by the committee without a meeting if the action is consented to in writing by the number of Directors or members of the committee, as the case may be, entitled to vote on the action that would be required to approve the action at a meeting of the Board or committee with all members of the Board or committee present. The call for action without a meeting of the Board may be initiated by the chair or by any two Directors. Notice of the proposed call for action without a meeting, and all non-confidential material provided to the Board in connection with the call for action without a meeting, shall be posted on the Corporation’s website and sent via email to an email distribution list to which Members and the public may subscribe at

approximately the same time notice of the call for action without a meeting or such material is provided to the Board. The call for action without a meeting of a committee of the Board may be initiated by the chair of the committee or by any two members of the committee. The Directors or members of the committee shall receive written notice of the results of such action within seven (7) days of the action vote. All written responses of the Directors shall be filed with the minutes of the Corporation, and all written responses of members of a committee shall be filed with the minutes of such committee.

ARTICLE VII. OFFICERS

Section 1. Selection of Officers. At a meeting held in accordance with Article VI of these Bylaws, the Board shall elect a CEO and shall approve a corporate secretary and such other officers of the Corporation (collectively, the "Officers") as it shall deem necessary. The CEO shall be nominated and elected by the Board. All of the other Officers shall be selected by the CEO and approved by the Board, and the removal of all Officers shall be confirmed by the Board. The Management Director shall not participate in votes electing, approving, or removing Officers. The duties and authority of the Officers shall be determined from time to time by the Board. Subject to any such determination, the Officers shall have the following duties and authority:

Section 2. Chief Executive Officer ("CEO"). The CEO shall be the chief executive officer of the Corporation. He or she shall be responsible for the day-to-day ongoing activities of the Corporation and shall have such other duties as may be delegated or assigned to him or her by the chair. The CEO may enter into and execute in the name of the Corporation contracts or other instruments not in the regular course of business that are authorized, either generally or specifically, by the Board.

Section 3. Corporate Secretary. The secretary shall maintain the roster of Members of the Corporation, shall cause notices of all meetings to be served as prescribed in these Bylaws, shall keep or cause to be kept the minutes of all meetings of the Members and the Board, and shall have charge of the seal of the Corporation. The secretary shall perform such other duties and possess such other powers as are incident to his or her office or as shall be assigned to him or her by the CEO

Section 4. Chief Financial Officer. If hired and approved, a chief financial officer shall have custody of the funds and securities of the Corporation, shall keep or cause to be kept regular books of account for the Corporation and shall have the duties normally assigned to a treasurer of a corporation. The chief financial officer shall perform such other duties and possess such other powers as are incident to his or her office or as shall be assigned to him or her by the CEO.

Section 5. Vice Presidents. The CEO may select such other Corporate officers as he or she deems appropriate, subject to Board approval. Any such officer shall perform such other duties and possess such powers as are incident to his or her office or as shall be assigned to him or her by the CEO.

ARTICLE VIII. RELIABILITY STANDARDS COMMITTEE

Section 1. Requirement. The Corporation shall have a Reliability Standards Committee, which shall operate in accordance with the Standards Development Process as set

forth in Exhibit C to the Delegation Agreement with NERC and approved by FERC. The chair and vice chair of the Standards Committee must be accepted or approved by the Board, in accordance with said Exhibit C.

ARTICLE IX. MEMBER REPRESENTATIVES COMMITTEE

Section 1. Purpose of Member Representatives Committee. The Corporation shall have a "Member Representatives Committee" that shall provide advice and recommendations to the Board with respect to: annual budgets, business plans and funding mechanisms of the Corporation; other matters relevant to reliability of the ERCOT Bulk Power System; and other matters pertinent to the purpose and operations of the Corporation. The Member Representatives Committee shall provide its advice and recommendation to the Board through its chair and the vice chair, who also serve as the Affiliated Directors on the Board. The Member Representatives Committee may create subcommittees, task forces, or working groups ("subcommittees") as it deems appropriate to study or discuss selected technical or compliance matters and to make recommendations to the Board as requested or required by the Board or as deemed appropriate to its purpose by the Member Representatives Committee. Because it is elected by the Members of the Corporation and not appointed by the Board, the Member Representatives Committee shall not be a standing committee of the Board of Directors of the Corporation, but is authorized to provide advice and recommendations directly to the Board, through its elected chair and vice chair.

Section 2. Composition of the Member Representatives Committee. The Member Representatives Committee shall consist of two representatives from each Sector to serve annually and will annually select a chair and vice chair for the Member Representatives Committee. The representatives of each Sector shall be officers, employees, or directors of Members in that Sector; provided however, except for a Sector that has only one Member, only one officer, employee, or director of a Member in a Sector may be a representative from that Sector. The Board may by resolution create additional non-voting positions on the Member Representatives Committee on its own initiative or at the written request of any group of Members of the Corporation that believes its interests are not adequately represented on the Member Representatives Committee. There shall be no limit on the number of terms that an officer, employee, or director of a Member, may serve on the Member Representatives Committee.

Section 3. Election of Representatives of the Member Representatives Committee. Unless a Sector adopts an alternative election procedure, the annual election of representatives from each Sector to the Member Representatives Committee, and any election to fill a vacancy, shall be conducted in accordance with the following process, which shall be administered by the officers of the Corporation.

(a) During the period beginning no more than ninety (90) days and ending no less than fifteen (15) days prior to an annual meeting, or beginning no more than forty-five (45) days and ending no less than fifteen (15) days prior to a special meeting called in whole or in part to hold an election to fill a vacancy, nominations may be submitted for candidates for election to the Member Representatives Committee. A nominee for election as a Sector representative must be an officer, employee, or director of a Member in that Sector. No more than one nominee who is an officer, employee, or director of a Member may stand for election in any single Sector; if more than one officer, employee, or director of a Member is nominated for election from a Sector, the Member shall designate which such nominee shall stand for election.

The election of representatives shall be conducted over a period of ten (10) days using an electronic process approved by the secretary of the Corporation.

(b) Each Member in a Sector shall have one vote for each Representative to be elected from the Sector in that election and may cast no more than one vote for any nominee. The nominee receiving the highest number of votes in each Sector shall be elected to one Representative position to be filled from that Sector and the nominee receiving the second highest number of votes shall be elected as the second Representative position for that Sector. To be elected on the first ballot, a nominee must receive a number of votes equal to a simple majority of the Members in the Sector casting votes in the election. If no nominee in a Sector receives a simple majority of votes cast in the first ballot, a second ballot shall be conducted which shall be limited to the number of candidates receiving the three (3) highest vote totals on the first ballot. The nominees receiving the two highest totals of votes on the second ballot shall be elected to the Representative positions for the Sector.

(c) A Sector may adopt an alternative procedure to the foregoing to nominate and elect its Representatives to the Member Representatives Committee if the alternative procedure is approved by vote of at least two-thirds of the Members in the Sector, provided, however that any alternative procedure may be reviewed and disapproved by the Board.

(d) A Sector may elect an Alternate to serve in place and at the convenience of the Sector's Member Representatives Committee Representative(s) in the event a Member Representatives Committee Representative cannot attend a Member Representatives Committee meeting.

Section 4. Chair and Vice Chair of the Member Representatives Committee. After the annual selection of its Representatives, the Member Representatives Committee shall select a chair and vice chair from among its voting Representatives by majority vote to serve during the upcoming year and be the Affiliated Directors on the Board. The selected chair and vice chair may not be representatives of the same Sector and may not concurrently serve on the Board of ERCOT ISO. The Board shall be notified of the selection of the chair and vice chair, but the selection will not be subject to approval of the Board. The chair is responsible for ensuring that minutes of the meetings are properly maintained and made available to the public, but the chair may delegate this responsibility to the vice chair or to another Representative of the Member Representatives Committee who may be designated as secretary of the Member Representatives Committee.

Section 5. Vacancies on the Member Representatives Committee. In the event that any Representative of the Member Representatives Committee ceases to serve as a Representative of the Member Representatives Committee as a result of his or her death, resignation, retirement, disqualification, removal, or other cause, the Members in the Sector of which such Representative was a representative shall elect, as soon thereafter as reasonably practicable, and in accordance with the procedures in this Article IX, a new Representative to replace the Representative of the Member Representatives Committee who ceased to serve. For those Sectors that have elected an Alternate, the Alternate will fill a vacancy left by the Sector's Member Representative and a new Alternate will be elected by the Sector.

Section 6. Meetings of the Member Representatives Committee. The Member Representatives Committee will plan and hold quarterly meetings, at a time and place determined by the Member Representatives Committee, normally shortly before the regular meetings of the Board, and posted on the Corporation's website. Except for closed session meetings specifically allowed by this Section, all meetings shall be open to the public. The

Member Representatives Committee shall adopt such procedural rules as are needed to operate in accordance with its purpose and will include procedures for coordinating with employees of the Corporation who provide administrative support, as set forth in subsection 6(c), below.

(a) Notice to the public of the dates, places, and times of meetings of the Member Representatives Committee and any subcommittees thereof, and all non-confidential material provided to the Representatives on the Member Representatives Committee or any subcommittees thereof, shall be posted on the Corporation's website at approximately the same time that notice or such material is given to the Member Representatives Committee, which will normally be at least one week prior to any meeting. Meetings of the Member Representatives Committee shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided, that the Member Representatives Committee may meet in or adjourn to closed session to discuss matters of a confidential nature, including but not limited to confidential planning information, critical infrastructure information, or commercially sensitive information of the Corporation or any other entity. Any or all Representatives of, and any other participants in, the Member Representatives Committee may participate in a meeting of the Member Representatives Committee by means of a communications system by which all persons participating in the meeting are able to hear each other.

(b) Special meetings may be called for any purpose or purposes by the chair of the Member Representatives Committee or by any three (3) Representatives of the Member Representatives Committee, which number shall include representatives from at least three Sectors, and require notice given to all Representatives of the Member Representatives Committee not less than seven (7) days prior to the date of the meeting. Such notice shall specify the time, date, place, and purpose or purposes of the meeting and may be given by telephone, facsimile, or other electronic media, or by express delivery.

(c) The Member Representatives Committee shall effectively coordinate with the employees of the Corporation and adopt procedural rules for the voting for Representatives, scheduling of meetings, and public posting of required meeting information and minutes. The chair or vice chair of the Member Representatives Committee shall provide all meeting agendas, material, minutes and other information required or desired to be posted on the Corporation's website to appropriate Corporation employees at least one business day prior to the time such information should be posted.

Section 7. Waivers of Notice of Meetings of the Member Representative Committee and Meeting Adjournments. Notice of a meeting of the Member Representatives Committee need not be given to any member of the Member Representatives Committee who signs a waiver of notice, in person or by proxy, whether before or after the meeting, or who attends the meeting without protesting, prior to the conclusion of the meeting, the lack of notice of such meeting. Notice of an adjourned meeting of the Member Representatives Committee need not be given if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken and if the period of adjournment does not exceed ten (10) days.

Section 8. Quorums and Voting for Meetings of the Member Representatives Committee. The quorum necessary for the transaction of business at meetings of the Member Representatives Committee shall be the presence, in person or by proxy, of two-thirds of the voting Representatives on the Member Representatives Committee entitled to attend. Each voting member of the Member Representatives Committee shall have one (1) vote on any matter coming before the Member Representatives Committee that requires

a vote. Except as otherwise expressly provided in the Corporation's Certificate of Formation, these Bylaws or applicable law, actions by members of the Member Representatives Committee shall be approved upon receipt of the affirmative vote of a majority of the voting members of the Member Representatives Committee present and voting at any meeting at which a quorum is present.

Section 9. Alternates and Proxies. Member Representatives may designate another Member Representative or an employee of the Member Representative's organization as a proxy if both the Member Representative and the Sector Alternate are unable to attend a Member Representatives Committee meeting. A member of the Member Representatives Committee may give a proxy only to a person who is an officer, employee, or director of a Member, registered in the same Sector.

Section 10. Other Procedures of the Member Representatives Committee. The chair of the Board shall preside at the initial meeting of the Member Representatives Committee, until a chair is selected in accordance with Article IX, Section 4. Except as to any matter as to which the procedure to be followed by the Member Representatives Committee is expressly set forth in these Bylaws, the Member Representatives Committee may adopt such additional procedures, not inconsistent with these Bylaws, as it deems appropriate, subject to review and disapproval by the Board.

ARTICLE X. OTHER COMMITTEES AND SUBCOMMITTEES

Section 1. Committees of the Corporation. In addition to those committees specified by these Bylaws, to which the Board shall appoint members in accordance with the requirements of these Bylaws, the Board may by resolution create standing committees of the Corporation; and may in addition by resolution appoint the members of such committees, subcommittees, task forces and Sector-specific forums as the Board deems necessary or desirable to carry out the purposes of the Corporation. The Board shall appoint members to such standing committees and other committees of the Corporation that are representative of Members, other interested parties, and the public, that provide for balanced decision-making and that include persons with sufficient technical knowledge and experience. All committees, subcommittees, task forces and Sector-specific forums shall have such scope and duties, not inconsistent with law, as are specified in these Bylaws and the Rules of Procedure of the Corporation or otherwise determined by the Board.

ARTICLE XI. BUDGETS AND FUNDING

Section 1. Compensation of the Board and Member Representatives Committee. The Board shall have the right to fix from time to time, by resolution adopted by a majority of the Directors including a majority of the Independent Directors then serving as Directors, the amount of the annual retainer fee or other compensation to be paid to the Independent Directors for their services to the Corporation, including any fees to be paid for each meeting of the Board or any Board committee attended by an Independent Director. The Board will evaluate the fee or other compensation at least every three years, to ensure that Director compensation is appropriate. No compensation shall be paid to any Management Director, Affiliated Director, or *ex officio* Director for his or her services on the Board, other than the compensation paid to the Management Director for services as CEO of the Corporation. No compensation shall be paid by the Corporation to any member of the Member Representatives

Committee for his or her services on the Member Representatives Committee. Independent Directors shall be entitled to be reimbursed their reasonable out-of-pocket expenditures for attending meetings and conducting the business of the Corporation.

Section 2. Preparation and Adoption of Annual Budget, Business Plan, and Funding Mechanism. The Board shall require the CEO to prepare for Board approval an annual business plan and budget for the administrative and other expenses of the Corporation, including the expenditures for the fiscal year for any material special projects undertaken by the Corporation and reasonable and proper reserves and provisions for contingencies, in accordance with all NERC and Commission requirements. The annual business plan, budget and funding mechanism of the Corporation shall be for a fiscal year commencing on January 1 and ending on December 31. Each annual business plan, budget, and funding mechanism shall be approved by the Board at a regular meeting or a special meeting of the Board duly called for that purpose. The Board shall approve each annual business plan, budget, and funding mechanism at a time that allows for timely submittal of the approved annual business plan, budget, and funding mechanism to the applicable regulatory authorities.

Section 3. Comments During Preparation of Annual Business Plan and Budget. In preparing the annual business plan and budget, the Board shall require that the CEO post a draft business plan and budget for review and comment by the Members of the Corporation, the Member Representatives Committee, and the standing committees of the Corporation for at least ten (10) days prior to the date of the meeting of the Board at which the annual business plan and budget is to be adopted.

Section 4. Modified or Supplemental Budgets. During the course of a fiscal year, the Board may modify any approved budget or develop and approve a supplemental budget if determined by the Board to be necessary due to such factors as a shortfall in revenues of the Corporation from projected levels, incurred or anticipated expenditures, duties, or new projects not provided for in the annual budget, or such other factors as in the judgment of the Board warrant modification of the budget for the fiscal year or development of a supplemental budget. In preparing a modified or supplemental budget, the Board shall follow the provisions of this Article XI, Section 4 to the extent practicable in the judgment of the Board in light of the urgency of the circumstances necessitating preparation and approval of the modified or supplemental budget. Each modified or supplemental budget shall be approved by the Board at a regular meeting or a special meeting of the Board duly called for that purpose.

Section 5. Submission of Annual Business Plans and Budgets to the Regulatory Authorities. Each annual budget, annual business plan, and annual, modified, or supplemental budget approved by the Board shall be submitted by the Corporation to the ERO and any applicable regulatory authorities for approval in accordance with its regulations, and shall not be effective until approved by the applicable regulatory authorities. If ordered to modify or remand an annual budget, business plan, or annual, modified, or supplemental funding mechanism, the Board shall promptly following such order adopt such modifications to the business plan, budget, or funding mechanism as are required or directed by the order of the ERO and any applicable regulatory authority.

ARTICLE XII. AMENDMENTS TO THE BYLAWS

Section 1. Amendments to the Bylaws. These Bylaws may be altered, amended, or repealed by action of the Membership, as set forth below. Any alteration,

amendment, repeal or adoption of Bylaws shall be subject to any applicable requirements for filing with or approval by the ERO or any other applicable regulatory authority. These Bylaws may be altered, amended, or repealed as follows:

(a) Any Director or Member suggesting amendments to these Bylaws must submit a proposal of the amendment, including any necessary supporting documents, to the CEO.

(b) The CEO shall place the proposal on the agenda for a Board meeting in the time and manner prescribed by the Board and within 95 days of the request.

(c) If the proposal is approved by an act of the Board as set forth in Article VI, Section 3, the Board shall place the proposal on the agenda of the next Annual Meeting of the Corporate Members unless the Board in its discretion calls a Special Meeting of the Corporate Members to vote on the proposal or determines to seek Membership approval without a meeting as provided in Article V, Section 4.

(d) If the proposal is not approved by the Board, the Members of the Corporation may call a meeting, pursuant to Article V, Section 1(b), for the purpose of voting on a proposal not approved by the Board. Any such proposal must be approved by a vote of five of the six Sectors at a meeting of Members called for that purpose or by written consent of five of the Sectors, where the number of votes for and against the proposed alteration, amendment, repeal or adoption of Bylaws shall be determined in accordance with Article V, Section 2.

ARTICLE XIII. INDEMNIFICATION; PROCEDURE; DISSOLUTION

Section 1. Indemnification. The Corporation shall indemnify each person who at any time shall serve, or shall have served, as an officer, Director, employee, or other corporate agent of the Corporation, is or was serving at its request as a director, officer, partner, venturer, proprietor, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise ("Indemnified Parties"), to the full extent from time to time permitted by the Texas Business Organizations Code and other applicable law. Such right of indemnification shall inure to the benefit of the legal representative of any such Indemnified Party. The foregoing indemnification shall be in addition to, and not in restriction or limitation of, any privilege or power that the Corporation may have with respect to the indemnification or reimbursement of its Indemnified Parties. The Corporation shall also pay or advance reasonable expenses incurred by an Indemnified Party in connection with a proceeding in advance of the final disposition of the proceeding upon receipt of a written affirmation by the Indemnified Party of a good faith belief that the standard of conduct necessary for indemnification under this Article XIII and the Texas Business Organizations Code has been met and a written undertaking by or on behalf of the officer, Director, or other corporate agent to repay the amount if it shall be ultimately determined that the Indemnified Party was not entitled to be indemnified by the Corporation.

Section 2. Parliamentary Rules. In the absence of and to the extent not inconsistent with specific provisions in these Bylaws, meetings or other actions pursuant to these Bylaws shall be governed by procedures that the Board may, from time to time, establish by resolution.

Section 3. Dissolution. Upon dissolution of the Corporation, in accordance with the Certificate of Formation, the remaining assets of the Corporation after payment of debts

shall be distributed in the manner determined by the Board, provided that, (i) no part of the assets shall be distributed to any Director of the Corporation, and (ii) the distribution of assets shall be consistent with the requirements of Section 501(c)(3) of the United States Internal Revenue Code of 1954.

ARTICLE XIV. CONFLICTS OF INTEREST

Section 1. Conflicts of Interest.

(a) Each Director shall have an affirmative duty to disclose to the Board or committee (as the case may be) any actual or potential conflicts of interest of the Director that arise during his or her tenure as a Director where, and to the extent that, such conflicts or potential conflicts directly or indirectly affect any matter that comes before the Board. A Director with a direct or potentially conflicting interest in a matter shall recuse himself from deliberations and actions on the matter in which the conflict arises and shall abstain on any vote on the matter and not otherwise participate in a decision on the matter. Any disclosure of a potential conflict of interest by a Director shall be noted in the minutes of the Board meeting at which the direct interest is disclosed. Mere attendance at the meeting, without participating in discussion of the issue raising the potential conflict, shall not constitute participation.

(b) The Corporation may not make any loan to a Director, committee member or officer of the Corporation. A Member, Director, officer, or committee member of the Corporation may not lend money to, or otherwise transact business with, the Corporation except as otherwise provided by these Bylaws, the Certificate of Formation, and applicable law. A related party transacting business with the Corporation has the same rights and obligations relating to those matters as other persons transacting business with the Corporation, provided the related party nature of the transaction is known to the Board. The Corporation may not borrow money from, or otherwise transact business with, a Member, Director, officer, or committee member of the Corporation unless the transaction is described fully in a legally binding instrument, is in the Corporation's best interests, and is on terms no less favorable to the Corporation than could be obtained in an arms-length transaction. The Corporation may not borrow money from, or otherwise transact business with, a Member, Director, officer, or committee member of the Corporation without full disclosure of all relevant facts and without the Board's approval, not including the vote of any person having a personal interest in the transaction.

Section 2. Prohibited Acts. No Member, Director, officer, or committee member of the Corporation may do any of the below-listed prohibited acts. Engaging in these prohibited acts may lead to sanction, suspension, expulsion or termination after a hearing as described in these Bylaws. The prohibited acts include the following:

- (a) Do any act in violation of these Bylaws.
- (b) Do any act in violation of a binding obligation of the Corporation except with the Board's prior approval.
- (c) Do any act with the intention of harming the Corporation or any of its operations.
- (d) Receive an improper personal benefit from the operation of the Corporation.

(e) Use the Corporation's assets, directly or indirectly, for any purpose other than carrying on the Corporation's business.

(f) Wrongfully transfer or dispose of Corporation property, including intangible property such as goodwill.

(g) Use the Corporation's name (or any substantially similar name) or any trademark or trade name adopted by the Corporation, except on behalf of Corporation in the ordinary course of its business or as a reference to the Corporation or its region.

(h) Disclose any of Corporation's or Members' business practices, trade secrets, or any other confidential or proprietary information not generally known to the business community to any person not authorized to receive it.

Section 3. Loans and Guarantees. Neither participation in the activities of the Corporation nor any provision of these Bylaws or of the Certificate of Formation shall be deemed to constitute a pledge or loan of the credit of any Member for the benefit of the Corporation or a guarantee by any Member of any obligation of the Corporation.

ARTICLE XV. BOOKS AND RECORDS; AUDIT; FISCAL YEAR

Section 1. Access to Books and Records. All Members of the Corporation will have access to the books and records of the Corporation, including financial statements and budgets; however, the Board shall establish procedures by which a Member, upon written demand stating the purpose of the demand may examine and copy the books and records of the Corporation. If necessary to protect the confidential information of the Corporation, a Member requesting examination of any of the Corporation's non-public books and records will be required to sign a confidentiality and non-disclosure agreement before viewing such information. The procedures shall include policies that provide reasonable protection against the unnecessary disclosure of information related to individual employees, including their compensation.

Section 2. Audit. At least annually, an audit of the financial statements of the Corporation shall be performed by the Auditor approved by the Board. The Auditor's opinion and the audited financial statements will be made available to all Members as described in Article XV, Section 1.

Section 3. Fiscal Year. The fiscal year of the Corporation shall be from January 1 through the following December 31, unless otherwise established by resolution of the Board.

Exhibit C – Regional Standard Development Procedure

Exhibit C shall set forth the Regional Entity’s standards development procedure, which NERC agrees meets the following common attributes:

COMMON ATTRIBUTE 1

Proposed regional reliability standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA ~~{add reference to any applicable authorities in Canada and Mexico}.~~ No regional reliability standard shall be effective within the ~~{Regional Entity Name}Texas RE~~ area unless filed by NERC with FERC ~~{and applicable authorities in Canada and Mexico}~~ and approved by FERC ~~{and applicable authorities in Canada and Mexico}.~~

COMMON ATTRIBUTE 2

~~{Regional Entity Name}Texas RE~~ regional reliability standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. A ~~{Regional Entity Name}Texas RE~~ reliability standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. A regional reliability standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

COMMON ATTRIBUTE 3

~~{Regional Entity Name}Texas RE~~ regional reliability standards, when approved by FERC ~~{add applicable authorities in Canada}.~~, shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the ~~{Regional Entity Name}Texas RE~~ area, regardless of membership in the region.

COMMON ATTRIBUTE 4

Requester — The requester is the sponsor of the regional reliability standard request and may assist in the development of the standard. Any member of ~~{Regional Entity Name}Texas RE~~, or group within ~~{Regional Entity Name}Texas RE~~, shall be allowed to request that a regional reliability standard be developed, modified, or withdrawn. Additionally, any entity (person, organization, company, government agency, individual, etc.) that is directly and materially affected by the reliability of the bulk power system in the ~~{Regional Entity Name}Texas RE~~ area shall be allowed to request a regional reliability standard be developed, modified, or withdrawn.

COMMON ATTRIBUTE 5

~~**[Reliability Standards or other named] committee****Committee (RSC)** — The ~~**[Regional Entity Name]****[standards] committee****Texas RE RSC** manages the standards development process. The ~~**[standards] committee****RSC** will consider which requests for new or revised standards shall be assigned for development (or existing standards considered for deletion). The ~~**[standards] committee****RSC** will advise the ~~**[Regional Entity Name]****Texas RE** board on standards presented for adoption.~~~~~~~~~~

COMMON ATTRIBUTE 6

~~*[Alternative 6A: For a Regional Entity that chooses to vote using a balanced stakeholder committee.]*~~

~~The **[standards] committee** is a balanced stakeholder committee, inclusive of all stakeholder interests that provide for or are materially impacted by the reliability of the bulk power system. **[The [standards] committee votes to approve standards.]** See Appendix A for the representation model of the **[standards] committee**.~~

~~*[Alternative 6B: For a Regional Entity that chooses to vote using a balanced ballot body of stakeholders.]*~~

~~f~~

~~**Registered ballot body** — The registered ballot body comprises all entities or individuals that qualify for one of the stakeholder segments; are registered with **[Regional Entity Name]****Texas RE** as potential ballot participants in the voting on standards; and are current with any designated fees. Each member of the registered ballot body is eligible to vote on standards. **[Each standard action has its own ballot pool formed of interested members of the registered ballot body. Each ballot pool comprises those members of the registered ballot body that respond to a pre-ballot survey for that particular standard action indicating their desire to participate in such a ballot pool.]** The representation model of the registered ballot body is provided in Appendix A.]~~

COMMON ATTRIBUTE 7

~~**[Regional Entity Name]****Texas RE** will coordinate with NERC such that the acknowledgement of receipt of a standard request identified in step 1, notice of comment posting period identified in step 4, and notice for vote identified in step 5 below are concurrently posted on both the **[Regional Entity Name]****Texas RE** and NERC websites.~~

COMMON ATTRIBUTE 8

An acceptable standard request shall contain a description of the proposed regional reliability standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed standard.

COMMON ATTRIBUTE 9

Within ~~{no greater than 60}~~ days of receipt of a completed standard request, the ~~{standards} committee~~RSC shall determine the disposition of the standard request.

COMMON ATTRIBUTE 10

The ~~{standards} committee~~RSC may take one of the following actions:

- Accept the standard request as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The ~~{standards} committee~~RSC may, at its discretion, expand or narrow the scope of the standard request under consideration. The ~~{standards} committee~~RSC shall prioritize the development of standard in relation to other proposed standards, as may be required based on the volume of requests and resources.
- Reject the standard request. If the ~~{standards} committee~~RSC rejects a standard request, a written explanation for rejection will be delivered to the requester within ~~{no greater than 30}~~ days of the decision.
- Remand the standard request back to the requester for additional work. The standards process manager will make reasonable efforts to assist the requester in addressing the deficiencies identified by the ~~{standards} committee~~RSC. The requester may then resubmit the modified standard request using the process above. The requester may choose to withdraw the standard request from further consideration prior to acceptance by the ~~{standards} committee~~RSC.

COMMON ATTRIBUTE 11

Any standard request that is accepted by the ~~{standards} committee~~RSC for development of a standard (or modification or deletion of an existing standard) shall be posted for public viewing on the ~~{Regional Entity Name}~~Texas RE website within ~~{no greater than 30}~~ days of acceptance by the committee.

COMMON ATTRIBUTE 12

The standards process manager shall submit the proposed members of the drafting team to the ~~{standards} committee~~RSC. ~~The {standards} committee~~RSC. ~~The RSC~~ shall approve the drafting

team membership within 60 days of accepting a standard request for development, modifying the recommendations of the standards process manager as the committee deems appropriate, and assign development of the proposed standard to the drafting team.

COMMON ATTRIBUTE 13

At the direction from the ~~{standards} committee~~RSC, the standards process manager shall facilitate the posting of the draft standard on the ~~{Regional Entity Name}~~Texas RE website, along with a draft implementation plan and supporting documents, for a no less than a {30}-day comment period. The standards process manager shall provide notice to ~~{Regional Entity Name}~~Texas RE stakeholders and other potentially interested entities, both within and outside of the ~~{Regional Entity Name}~~Texas RE area, of the posting using communication procedures then currently in effect or by other means as deemed appropriate.

COMMON ATTRIBUTE 14

The drafting team shall prepare a summary of the comments received and the changes made to the proposed standard as a result of these comments. The drafting team shall summarize comments that were rejected by the drafting team and the reason(s) that these comments were rejected, in part or whole. The summary, along with a response to each comment received will be posted on the ~~{Regional Entity Name}~~Texas RE website no later than the next posting of the proposed standard.

COMMON ATTRIBUTE 15

Upon recommendation of the drafting team, and if the ~~{standards} committee~~RSC concurs that all of the requirements for development of the standard have been met, the standards process manager shall post the proposed standard and implementation plan for ballot and shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

COMMON ATTRIBUTE 16

The standards process manager shall schedule a vote by the ~~{Regional Entity Name}~~{Texas RE} registered ballot body/~~{standards} committee~~. The vote shall commence no sooner than {15} days and no later than {30} days following the issuance of the notice for the vote.

COMMON ATTRIBUTE 17

~~[Alternative 17A: For an RE that chooses to vote using a balanced stakeholder committee.]~~

~~The [standards] committee shall give due consideration to the work of the drafting team, as well as the comments of stakeholders and minority objections, in approving a proposed regional reliability standard for submittal to the [Regional Entity Name] board. The [standards] committee may vote to approve or not approve the standard. Alternatively, the [standards] committee may remand the standard to the drafting team for further work or form a new drafting team for that purpose.~~

~~[Alternative 17B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]~~

~~The [Regional Entity Name] Texas RE registered ballot body shall be able to vote on the proposed standard during a period of [not less than 10] days.~~

COMMON ATTRIBUTE 18

~~[Alternative 18A: For an RE that chooses to vote using a balanced stakeholder committee.]~~

~~The [standards] committee may not itself modify the standard without issuing a new notice to stakeholders regarding a vote of the modified standard.~~

~~[Alternative 18B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]~~

~~All members of [Regional Entity Name] are eligible to participate in voting on proposed new standards, standard revisions or standard deletions. [Alternatively:~~

~~Each standard action requires formation of a ballot pool of interested members of the registered ballot body.]~~

COMMON ATTRIBUTE 19

~~[Alternative 19A: For an RE that chooses to vote using a balanced stakeholder committee.]~~

~~Actions by the committee shall be recorded in the regular minutes of the committee.~~

~~[Alternative 19B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]~~

Approval of the proposed regional reliability standard shall require a [two thirds] majority in the affirmative (affirmative votes divided by the sum of affirmative and negative votes). Abstentions and non-responses shall not count toward the results, except that abstentions may be used in the determination of a quorum. A quorum shall mean [XX%]four (4) of the six (6) Sectors of the members of the [registered ballot body/ballot pool] submitted a ballot.

COMMON ATTRIBUTE 20

Under no circumstances may the board substantively modify the proposed regional reliability standard.

COMMON ATTRIBUTE 21

Once a regional reliability standard is approved by the board, the standard will be submitted to NERC for approval and filing with FERC ~~and applicable authorities in Canada and Mexico.~~

COMMON ATTRIBUTE 22

- **Open** - Participation in the development of a regional reliability standard shall be open to all organizations that are directly and materially affected by the ~~{Regional Entity Name}~~Texas RE bulk power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in ~~{Regional Entity Name}~~,Texas RE, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to the ~~{Regional Entity Name}~~Texas RE members and others.

COMMON ATTRIBUTE 23

- **Balanced** - The ~~{Regional Entity Name}~~Texas RE standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.

COMMON ATTRIBUTE 24

- **Inclusive** — Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the ~~{Regional Entity Name}~~Texas RE area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.

COMMON ATTRIBUTE 25

- **Fair due process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public

comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.

COMMON ATTRIBUTE 26

- **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.

COMMON ATTRIBUTE 27

- Does not unnecessarily delay development of the proposed reliability standard.

COMMON ATTRIBUTE 28

Each standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

COMMON ATTRIBUTE 29

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all regional reliability standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

COMMON ATTRIBUTE 30

To ensure uniformity of regional reliability standards, a regional reliability standard shall consist of the elements identified in this section of the procedure. These elements are intended

to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

COMMON ATTRIBUTE 31

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

COMMON ATTRIBUTE 32

Applicability	<p>Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions.</p> <p>If not applicable to the entire {Regional Entity Name}Texas RE area, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.</p>
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COMMON ATTRIBUTE 33

Measure(s)	<p>Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.</p>
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COMMON ATTRIBUTE 34

Compliance	Defines for each measure:
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Monitoring Process	<ul style="list-style-type: none">• The specific data or information that is required to measure performance or outcomes.• The entity that is responsible for providing the data or information for measuring performance or outcomes.• The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes.• The entity that is responsible for evaluating data or information to assess performance or outcomes.• The time period in which performance or outcomes is measured, evaluated, and then reset.• Measurement data retention requirements and assignment of responsibility for data archiving.
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**Texas Reliability Entity
Standards Development Process**

**Appendix to Exhibit C to the
Delegation Agreement
Between NERC and Texas Reliability Entity**

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I. Introduction

This document defines the fair and open process for adoption, approval, revision, and reaffirmation, of a Regional Reliability Standard (Regional Standard) for the ERCOT Region by Texas Reliability Entity, Inc. (Texas RE). Regional Standards provide for the reliable regional and sub-regional planning and operation of the Bulk-Power System (BPS), consistent with Good Utility Practice within a Regional Entity's (RE's) geographical footprint.

The process for obtaining a Texas RE Regional Variance to a NERC Reliability Standard shall be the same as the process for obtaining a Regional Standard. Throughout this document, where the term Regional Standard is used, the same process will be applied to a Regional Variance.

Due process is the key to ensuring that Regional Standards are developed in an environment that is equitable, accessible and responsive to the requirements of all interested and affected parties. An open and fair process ensures that all interested and affected parties have an opportunity to participate in a Regional Standard's development.

Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the BPS has a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.

Proposed Regional Standards shall be subject to approval by North American Electric Reliability Corporation (NERC), as the electric reliability organization, and by the Federal Energy Regulatory Commission (FERC) before becoming mandatory and enforceable under Section 215 of the FPA. No Regional Standard shall be effective within the Texas RE area unless filed by NERC with FERC and approved by FERC.

Regional Standards shall provide for as much uniformity as possible with reliability standards across the interconnected BPS of the North American continent. A Regional Standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the BPS. A Regional Standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

Regional Standards, when approved by FERC, shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable BPS owners, operators, and users within the Texas RE area, regardless of membership in the region.

II. Background

The Texas RE may develop, through its own processes, separate Regional Standards that go beyond, add detail to, or implement NERC Reliability Standards; obtain a Regional Variance; or otherwise address issues that are not addressed in NERC Reliability Standards.

NERC Reliability Standards and Regional Standards are all to be included within the Texas RE's Compliance Program.

Regional Standards are developed consistent with the following philosophies according to the process defined within this document:

- Developed in a fair and open process that provides an opportunity for all interested parties to participate;
- Does not have an adverse impact on commerce that is not necessary for reliability;
- Provides a level of BPS reliability that is adequate to protect public health, safety, welfare, and national security and does not have a significant adverse impact on reliability; and
- Based on a justifiable difference between regions or between sub-regions within the Regional geographic area.

The NERC Board of Trustees has adopted reliability principles and market interface principles to define the purpose, scope, and nature of reliability standards. As these principles are fundamental to reliability and the market interface, these principles provide a constant beacon to guide the development of reliability standards. The NERC Board of Trustees may modify these principles from time to time, as necessary, to adapt its vision for reliability standards. Persons and committees that are responsible for the Texas RE Standards Process shall consider these NERC Principles in the execution of those duties.

NERC Reliability Standards are based on certain reliability principles that define the foundation of reliability for the North American BPS. Each Regional Standard shall enable or support one or more of the reliability principles, thereby ensuring that each Regional Standard serves a purpose in support of reliability of the North American BPS. Each Regional Standard shall also be consistent with all of the reliability principles, thereby ensuring that no Regional Standard undermines reliability through an unintended consequence.

While NERC Reliability Standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that BPS reliability and electricity markets are inseparable and mutually interdependent, all Regional Standards shall be consistent with the market interface principles. Consideration of the market interface principles is intended to ensure that Regional Standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

III. Regional Standards Definition

A NERC Reliability Standard defines certain obligations or requirements of entities that operate, plan, and use the BPS of North America. The obligations or requirements must be material to reliability and measurable. Each obligation and requirement shall support one or more of the stated reliability principles and shall be consistent with all of the stated reliability and market interface principles.

Texas RE may develop, through its own processes: (1) Regional Standards that go beyond, add detail to, or implement NERC Reliability Standards or that cover matters not addressed in NERC Reliability Standards, and (2) Regional Variances that allow an alternative approach to meeting the same reliability objective as the NERC Reliability Standard and are typically necessitated by physical differences.

IV. Roles in the Texas RE Regional Standards Development Process

Originator – Any person, acting as a representative of an organization that is directly and materially affected by the operation of the ERCOT region BPS is allowed to request that a Regional Standard be developed or an existing Regional Standard modified, or deleted, by creating a Regional Standards Authorization Request (SAR) as described in Appendix B to this document.

Texas RE Board of Directors (Texas RE BOD) – The Texas RE BOD shall act on any proposed Regional Standard that has gone through the process. Once the Regional Standard is approved by FERC, compliance with the Regional Standard will be enforced consistent with the terms of the Regional Standard.

Registered Ballot Body (RBB) – The Registered Ballot Body is comprised of all entities or individuals (whether or not they are Texas RE corporate members) that are ERCOT region BPS owners, operators, and users and qualify for one of the below-listed Texas RE Standards Development Sectors, and are registered with the Texas RE as potential ballot participants.

Registered Ballot Pool (RBP) – Each Regional Standard has its own ballot pool formed of interested members of the Registered Ballot Body. Through the voting process, the RBP will ensure that the need for and technical merits of a proposed Regional Standard are appropriately considered. The RBP will also ensure that appropriate consideration of views and objections are received during the development process.

Reliability Standards Committee (RSC) – A balanced committee comprised of entities representing the six Texas RE Standard Development Sectors. The RSC will consist of two representatives from each Sector (except that Sectors with only one member may only have one representative), as elected by the Sector, and the RSC requires a quorum of at least one representative from at least two-thirds (2/3) of the Sectors to take action. The RSC in coordination with the Reliability Standards Manager will review, participate in, and manage the Texas RE Regional Standards Development Process, and develop Texas RE Regional Standards on a schedule as directed by NERC and as needed per the reliability related needs of the ERCOT Region. Where necessary or appropriate, the RSC will coordinate the development of Texas RE Regional Standards and Regional Variances with the development of national standards appearing in the NERC work plan, and the RSC will coordinate and submit comments as a group, to the extent feasible. The RSC will also review FERC Orders pertaining to standards and standards development activities to ensure directives are addressed in regional standard development.

Reliability Standards Manager (RSM) – A Texas RE employee assigned the task of ensuring that the development, revision or deletion of Regional Standards is in accordance with this document. The RSM works with the RSC to ensure the integrity of the process and consistency of quality and completeness of the Regional Standards. The RSM manages the Regional Standards Development Process, and coordinates and facilitates all actions contained in all steps in the process including the management of the Standard Drafting Teams and the facilitation of RSC meetings.

Reliability Standards Staff – Employees of the Texas RE that work with or for the Reliability Standards Manager.

Standard Drafting Team (SDT) – A team of technical experts, assigned by the RSC, and typically includes a Texas RE employee and the Originator, assigned the task of developing a proposed Regional Standard based upon an approved SAR using the Regional Standard Development Process contained in this document.

Texas RE Standards Development Sectors (Sectors) – The six (6) Texas RE Standards Development Sectors are defined as follows:

- **System Coordination and Planning:** An entity that is registered with NERC as a Reliability Coordinator (RC), Balancing Authority (BA), Planning Authority (PA), Resource Planner (RP), or Interchange Authority (IA)
- **Transmission:** An entity that is registered with NERC as a Transmission Owner (TO), Transmission Planner (TP), Transmission Service Provider (TSP), and/or Transmission Operator (TOP).
- **Cooperative or Utility:** An entity that is (a) a corporation organized under Chapter 161 of the Texas Utilities Code or a predecessor statute to Chapter 161 and operating under that chapter; or (b) a corporation organized as an electric cooperative in a state other than Texas that has obtained a certificate of authority to conduct affairs in the State of Texas; or (c) a cooperative association organized under Tex. Rev. Civ. Stat. 1396-50.01 or a predecessor to that statute and operating under that statute.
- **Municipal Utility:** A municipally owned utility as defined in PURA §11.003 and is registered with NERC for at least one registered function.
- **Generation:** An entity that is registered with NERC as a Generator Owner (GO) or Generator Operator (GOP).
- **Load-Serving and Marketing:** An entity that is registered with NERC as a Load Serving Entity (LSE), a Purchasing-Selling Entity, or any newly defined NERC Function for demand response, and any entity with a direct and material interest in the ERCOT region BPS that is not eligible for membership in any other Sector.

V. Texas RE Regional Standards Development Process

A. Assumptions and Prerequisites

The process for developing and approving Standards is generally based on the procedures of the American National Standards Institute (ANSI) and other standards-setting organizations in the United States and Canada. The Regional Standards development process has the following characteristics:

- **Due process** – Any person representing an organization with a direct and material interest has a right to participate by:
 - a) Expressing an opinion and its basis,
 - b) Having that position considered, and
 - c) Appealing any negative decision
- **Openness** – Participation is open to all organizations that are directly and materially affected by ERCOT region's BPS reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in Texas RE, and shall not be unreasonably restricted on the basis of technical qualifications or other such

requirements. Meetings of SDTs are open to all interested parties. All proposed SARs and Regional Standards are posted for comment on the Texas RE Website.

- **Balance** – The Texas RE Standards Development Process strives to have an appropriate balance of interests and shall not be dominated by any single interest category.

B. Regional Standards Development Process Steps

Note: The term “days” below refers to calendar days.

Texas RE will coordinate with NERC such that the acknowledgement of receipt of a Regional Standard request identified in Step 1, notice of comment posting period identified in Step 4, and notice for vote identified in Step 5 below are concurrently posted on both the Texas RE and NERC websites.

Step 1 – Development of a Standards Authorization Request (SAR) to Develop, Revise, or Delete a Regional Standard

Any entity (Originator) that is directly or materially impacted by the operation of the BPS (including all users, owners, and operators of the BPS and regardless of whether the entity is a Texas RE member) within the geographical footprint of Texas RE may request, via a submittal of a Standard Authorization Request (SAR) form, the development, modification, or deletion of a Regional Standard or Regional Variance.

Any such request shall be submitted to the Texas RE RSM, or his or her designee in electronic format. The SAR form may be downloaded from the Texas RE Website.

An acceptable SAR contains a description of the proposed Regional Standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed Regional Standard.

The RSM will verify that the submitted SAR form has been adequately completed. The RSM may offer the Originator suggestions regarding changes and/or improvements to enhance clarity of the Originator’s intent and objectives. The Originator is free to accept or reject these suggestions. Within 15 days the RSM will electronically acknowledge receipt of the SAR.

The RSM will post all adequately completed SARs on the Texas RE Website for public viewing and comment. This initial SAR comment period shall be 15 days. After this initial comment period, the RSM will then forward the SAR to the RSC for its consideration at the next regularly scheduled meeting of the RSC. Within 60 days of receipt of an adequately completed SAR that has been through the initial 15-day comment period, the RSC shall determine the disposition of the SAR and, if the RSC deems necessary, direct the RSM to post the revised SAR again for review and comment for another 15-day period.

The disposition decision process shall use the normal “business rules and procedures” of the RSC then in effect. The RSC may vote to take one of the following actions:

- Accept the SAR as a candidate for development of a new Regional Standard, revision of an existing Regional Standard, or deletion of an existing Regional Standard. The RSC may, in its sole discretion, expand or narrow the scope of the SAR under consideration.

The RSC shall prioritize the development of SARs as may be required based on the number of SARs under development at any time.

- Reject the SAR. If the RSC rejects a SAR, a written explanation for rejection will be delivered to the Originator within 30 days of the decision, and the Texas RE BOD will also be notified with such explanation. The Texas RE BOD may, at its discretion, direct the RSC to reconsider any SAR that has been rejected.
- Remand the SAR back to the Originator for additional work. The RSM will make reasonable efforts to assist the Originator in addressing the deficiencies identified by the RSC. The Originator may then resubmit the modified SAR using the process above. The Originator may choose to withdraw the SAR from further consideration prior to re-submittal to the RSC.

Any SAR that is accepted by the RSC for development of a Regional Standard (or modification or deletion of an existing Regional Standard) shall be posted for public viewing on the Texas RE Website, and their status will be updated as appropriate.

Any documentation of the deliberations of the RSC concerning SARs shall be made available according to normal “business rules and procedures” of the RSC then in effect.

Texas RE Staff shall submit a written report to the Texas RE BOD on a periodic basis (at least quarterly at regularly scheduled Texas RE BOD Meetings) showing the status of all SARs that have been brought to the RSC for consideration.

Step 2 – Formation of the Standard Drafting Team and Declaration of Milestone Date

Upon acceptance by the RSC of a SAR for development of a new Regional Standard (or modification or deletion of an existing Regional Standard), the RSC shall direct the RSM to assemble a qualified balanced slate for the SDT. The RSM will solicit drafting team nominees by announcing the opening of nominations to the stakeholders in the region. The SDT shall consist of a group of people who collectively have the necessary technical expertise and work process skills to draft the standard being requested in the SAR. The RSM shall recommend to the RSC a slate of ad-hoc individuals or a pre-existing task force, work group, or similar group for the SDT. The membership of the SDT shall not include more than one individual from any one entity.

The RSM will manage the SDT to ensure that the Texas RE Standards Development Process is followed, and that the team membership receives all necessary administrative support. This support typically includes a Texas RE staff member and the Originator if he/she chooses to participate. The RSM may develop additional guidelines to assist the SDT, but as a general rule, the RSM will follow the then-current NERC SDT Guidelines and associated NERC SDT procedures in the management of the regional SDTs. The RSC shall appoint the SDT interim chair (should not be a Texas RE staff person). The SDT will elect the permanent Chair and Vice-chair at its first meeting.

The RSM shall submit the proposed list of names of the SDT to the RSC. The RSC will either accept the recommendations of the RSM or modify the SDT slate, as it deems appropriate within 60 days of accepting a SAR for development.

Step 3 – Work and Work Product of the Standard Drafting Team

The RSM will collaborate with the SDT to develop a work plan including the establishment of milestones for completing critical elements. This plan shall be delivered and reported to the RSC, and based upon this work plan, the RSC shall declare a preliminary date on which a completed draft Regional Standard and associated supporting documentation will be available for comment.

The SDT is to meet, either in person or via electronic means (such as Web Ex) as necessary, establish sub-work teams or groups (made up of members of the SDT) as necessary, and performs other activities to address the parameters of the SAR and the milestone date(s) established

The work product of the SDT will consist of the following:

- A draft Regional Standard consistent with the SAR on which it was based.
- An assessment of the impact of the SAR on neighboring regions, and appropriate input from the neighboring regions if the SAR is determined to impact any neighboring region.
- An implementation plan, including the nature, extent and duration of field-testing, if any.
- Identification of any existing Regional Standard (or other regional criteria, protocol, or rule) that may be deleted, in part or whole, or otherwise impacted by the implementation of the draft Regional Standard.
- Technical reports and/or work papers that provide technical support for the draft Regional Standard under consideration.
- The perceived reliability impact should the Regional Standard be approved.
- A draft of recommended Violation Risk Factors (VRFs) and Violation Severity Levels (VSLs), in coordination with Texas RE staff.

Upon completion of these tasks, the SDT shall submit these documents to the RSC, which will verify that the proposed Regional Standard is consistent with the SAR on which it was developed.

The SDT shall regularly (at least once each month) report to and inform the RSC of its progress in meeting the timely completion of the draft Regional Standard. The SDT may request of the RSC, at any point in the Regional Standard Development Process, and change in the scope of the SAR.

The RSC may, at any time, exercise its authority over the Regional Standards Development Process by directing the SDT to move to Step 4 (below) and post the current work product for comment. Any interested entity (including the Originator and the RSM) that contends that the SDT is not effectively progressing on a draft standard or variance may notify the RSC. If any entity contends that the RSC has not taken timely action regarding any requested standard, the entity may file a written complaint with the RSM, who will notify the RSC. If the RSC cannot resolve the complaint within sixty days, the complaining entity may request that its complaint be included on the RSM's report to the Texas RE BOD.

Step 4 – Comment Posting Period

At the direction from the RSC, the RSM shall post the draft Regional Standard, VRFs, and VSLs on the Texas RE Website, along with a draft implementation plan and supporting documents, for a 30-day public comment period. The posting of draft VRFs and VSLs for stakeholder comment can be deferred until a second or later posting of the draft standard as determined by the standard drafting team; however, it is recommended that the VRFs and VSLs be posted for comment with the entire draft Regional Standard as early in the standard development process as possible. The RSM shall also give notice of the posting to all potentially interested entities inside or outside of the ERCOT region of which Texas RE is aware. The RSM will give notice using the typical communication procedures in effect or other means as deemed appropriate.

Within 30 days of the conclusion of the 30-day comment posting period, the SDT shall convene and consider changes to the draft Regional Standard, the implementation plan, supporting technical documents, VRFs, and/or VSLs, based upon comments received. The SDT shall also prepare a formal written response to every comment received. The SDT may then elect to return to Step 3 to revise the draft Regional Standard, implementation plan, and/or supporting technical documentation. If the comments received indicate that the VRFs or VSLs should be changed to better conform to the criteria for establishing those elements, then the SDT, working with Texas RE staff, may make revisions.

The SDT shall prepare a “modification report” summarizing the comments received, the team’s responses to the comments, and the changes made to the draft standard as a result of these comments. The modification report shall also summarize comments that were rejected by the SDT and the reason(s) that these comments were rejected, in part or whole. The RSM shall post responses to all comments on the Texas RE Website no later than the next posting of the revised draft standard.

Step 5 – Posting for Voting by the Registered Ballot Pool

Upon recommendation of the SDT, and if the RSC concurs that all of the requirements for development of the standard have been met, the RSM shall post the proposed standard and implementation plan for ballot and the VRFs and VSLs for poll on the Texas RE Website. The RSM shall also announce the vote to approve the standard and the opportunity to provide input into the VRFs and VSLs, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

The RSM will schedule a vote among the Registered Ballot Pool, which is to be scheduled to commence no sooner than 15 days and no later than 30 days following this posting.

The RSM shall send a notice to every entity in the Registered Ballot Body (RBB) to notify them of an opportunity to become a part of the Registered Ballot Pool for this Regional Standard or Regional Variance. Each member of the RBB will be allowed the opportunity to join a single ballot pool to participate in the determination of the approval of the Regional Standard and to provide input to the “non-binding poll” on the VRFs and VSLs associated with the Regional Standard. This notice should precede the start of the ballot by at least 30 days. The purpose of this notice is to establish a ballot pool to participate in the consensus development process and ballot the proposed action. All members of the Registered Ballot Body are eligible to participate in voting on proposed new Regional Standards, Regional Standard revisions, or Regional

Standard deletions. There shall be one person designated as the primary RBB representative of each entity. Those members of the RBB that sign up for the Ballot Pool become that pool.

The Texas RE Registered Ballot Pool shall be able to vote on the proposed standard and participate in the non-binding poll on the VRFs and VSLs during a 15-day period. Votes shall be submitted electronically, or through other means as approved by the RSC.

Voting is an advisory to the Texas RE BOD. The voting results shall be composed of only the votes from the Registered Ballot Pool members who have responded within the 15-day voting period. Votes may be accompanied by comments explaining the vote, but are not required. All comments shall be responded to and posted to the Texas RE Website prior to going to the RSC or Texas RE BOD.

At least one (1) representative from four (4) of the six (6) Sectors must vote to constitute a quorum. Each Sector shall have two (2) Sector votes.

The “poll” taken on the violation risk factors and violation severity levels is “non-binding.” The results of this poll will be reported to the Texas RE BOD and considered by Texas RE staff in forming its recommendations. The results of the poll are one element for the Texas RE BOD to consider when making a determination of whether to approve the compliance elements of the standards. The results of the poll do not determine whether these compliance elements are “approved.” In addition, if stakeholder comments submitted with the non-binding poll indicate specific improvements that would improve consensus, then the SDT, working with Texas RE staff, will revise the VRFs and VSLs to reflect stakeholder comments before the VRFs and VSLs are submitted to the Texas RE BOD.

Step 6A – Registered Ballot Pool Voting Receives 2/3 or Greater Affirmative Votes of the Texas RE Sectors

If a draft Regional Standard receives 2/3 or greater affirmative votes during the 15-day voting period, the RSC will forward the Regional Standard to the Texas RE BOD for action (Step 7).

Step 6B – Membership Voting Does Not Receive 2/3 Affirmative Votes of the Texas RE Sectors

If a draft Regional Standard does not receive 2/3 or greater affirmative votes during the 15-day voting period, the RSC may:

- Revise the SAR on which the draft Regional Standard was based and remand the development work back to the original SDT or a newly appointed SDT. The resulting draft Regional Standard and/or implementation plan shall be posted for a second voting period. The RSC may require a second comment period prior to a second voting period. The second posting of the draft Regional Standard, implementation plan, and supporting documentation shall be within 60 days of the RSC action.
 - If a draft Regional Standard receives 2/3 or greater affirmative votes during the second voting period, the RSC will forward to the Texas RE BOD for action (Step 7).
 - If a draft Regional Standard does not receive 2/3 or greater affirmative votes during the second voting period, the RSC will refer the draft Regional Standard

and implementation plan to the Texas RE BOD. The RSC may also submit an assessment, opinion, and recommendations to the Texas RE BOD (Step 7).

- Direct the existing SDT to reconsider or modify certain aspects of the draft Regional Standard and/or implementation plan. The resulting draft Regional Standard and/or implementation plan shall be posted for a second voting period. The RSC may require a second comment period prior to the second voting period. The second posting of the draft Regional Standard, implementation plan, and supporting documentation shall be within 60 days of the RSC action.
 - If a draft Regional Standard receives 2/3 or greater affirmative votes on the second voting period, the RSC will forward it to the Texas RE BOD for action (Step 7).
 - If a draft Regional Standard does not receive 2/3 or greater affirmative votes on the second voting period, the RSC will refer the draft Regional Standard and implementation plan to the Texas RE BOD. The RSC may also submit an assessment, opinion, and recommendations to the Texas RE BOD (Step 7).

Step 7 – Action by the Texas RE Board of Directors

A proposed Regional Standard and VRFs and VSLs submitted to the Texas RE BOD for action shall be publicly posted at least 10 days prior to action by the Texas RE BOD. At a regular or special meeting, the Texas RE BOD shall consider adoption of the draft Regional Standard and shall approve the associated VRFs and VSLs for any approved Regional Standard. The Texas RE BOD shall be provided with an “informational package” which includes:

- The draft Regional Standard and any modification or deletion of other related existing Regional Standard(s)
- Implementation Plan (including recommending field testing and effective dates)
- Technical Documentation supporting the draft Regional Standard
- The VRFs and VSLs recommended by Texas RE staff
- A summary of the vote and summary of the comments and responses that accompanied the votes and the non-binding poll on the VRFs and VSLs.

The Texas RE BOD will consider the results of the voting and dissenting opinions. The Texas RE BOD will consider any advice offered by the RSC and may:

- Approve the proposed Regional Standard;
- Remand the proposed Regional Standard to the RSC with comments and instructions;
or
- Disapprove the proposed Regional Standard without recourse.

Under no circumstances may the Texas RE BOD substantively modify the proposed Regional Standard.

Separately, the Texas RE BOD shall consider approval of the VRFs and VSLs for the Regional Standard. In making its determination, the BOD shall consider the following:

-
- The RSC shall present the results of the non-binding poll conducted and a summary of industry comments received on the final posting of the proposed VRFs and VSLs.
 - Texas RE staff shall present a set of recommended VRFs and VSLs that considers the views of the standard drafting team, stakeholder comments received on the draft VRFs and VSLs during the posting for comment process, the non-binding poll results, appropriate governmental agency rules and directives, and VRF and VSL assignments for other Regional Standards to ensure consistency and relevance across the entire spectrum of Regional Standards.

Once a Regional Standard and the associated VRFs and VSLs are approved by the Texas RE BOD, the standard and its associated compliance elements will be submitted to NERC for approval and filing with FERC.

Step 8 – Implementation of a Regional Standard

Upon approval of a draft Regional Standard by the Texas RE BOD, the RSM will notify the membership of such action of the Texas RE BOD through the normal and customary membership communication procedures and processes then in effect. The RSM will take whatever steps are necessary to have a Regional Standard reviewed and/or approved by NERC or any successor organization.

C. Regional Standards Integration

Once the Regional Standard is approved by FERC, the RSM shall notify the stakeholders of the effective date. The RSM will also notify the Texas RE Compliance Staff for integration into the Texas RE Compliance Monitoring and Enforcement Program.

Appendix A – Stakeholder Representation

The Texas RE stakeholder representation for Regional Standards development is as follows:

I. Reliability Standards Committee (RSC)

The Reliability Standards Committee (RSC), comprised of two representatives (except for Sectors with only one member, which will have only one representative) from each of the six Texas RE Standards Development Sectors (System Coordination and Planning; Transmission; Generation; Cooperative Utility; Municipal Utility; Load-Serving and Marketing), is to provide balanced decision-making and due process for Regional Standards and Regional Variances. The RSC will receive, consider, and vote upon requests for new or revised Regional Standards and Regional Variances. The RSC requires a quorum of at least one representative from at least two-thirds of the Sectors.

The RSC will consider any requests for Regional Standards or Regional Variances from parties that are directly and materially affected by the operation of the ERCOT Region BPS that have first been submitted to the RSM for initial review.

II. Texas RE Board of Directors (BOD)

Texas RE is a Texas non-profit corporation that is governed by a combination independent and balanced stakeholder board. The Texas RE Board of Directors (BOD) includes the following directors:

- Four independent directors who are independent of any ERCOT region market participant and any NERC registered entity and are nominated and elected in accordance with the requirements and procedures specified in the Texas RE Bylaws;
- Two directors from different Sectors who are selected by the Texas RE Member Representatives Committee as its chair and vice chair;
- CEO of Texas RE;
- Chairman of the Public Utility Commission of Texas (PUCT) or another PUCT Commissioner designated by the Chairman (as *ex officio* non-voting Director); and
- Texas Public Counsel from the Office of Public Utility Counsel (OPUC) or another employee of OPUC designated by Public Counsel (as *ex officio* non-voting Director).

III. Registered Ballot Body (RBB)

A Registered Ballot Body (RBB) will be comprised of representatives from all the Sectors, to provide balanced decision-making on Regional Standards and Regional Variances. The RBB is eligible to vote on all proposed new or revised Regional Standards or Regional Variances. The RBB requires a quorum of at least one vote from at least two-thirds of the Sectors. At all meetings, each Sector shall have one (1) Sector vote, and each voting entity is entitled to only one vote. Each voting entity participating in the vote, shall receive an equal fraction of its Sector's vote. A Registered Ballot Pool (RBP) will be formed for each proposed Regional Standard or Regional Variance and will be a subset of the RBB. The RBP will vote on a particular standard action.

Appendix B – Principles, Characteristics, and Special Procedures

I. Principles

Due process is the key to ensuring that regional reliability standards are developed in an environment that is equitable, accessible and responsive to the requirements of all interested and affected parties. An open and fair process ensures that all interested and affected parties have an opportunity to participate in the development of a standard.

The Texas RE develops Regional Standards with due consideration of the following principles, in accordance with the steps outlined in this procedure. The process must ensure that any Regional Standard is technically sound and the technical specifications proposed would achieve a valuable reliability objective.

The standards development process has the following characteristics:

- **Open** – Participation in the development of a Regional Standard shall be open to all organizations that are directly and materially affected by ERCOT BPS reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in ERCOT, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to ERCOT members and others.
- **Balanced** – The Texas RE Standards Development Process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.
- **Inclusive** – Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the ERCOT BPS in the Texas RE area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.
- **Fair due process** – The Texas RE Standards Development Process shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.
- **Transparent** – All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the Texas RE Website.
- Does not unnecessarily delay development of the proposed Regional Standard.

NERC has adopted reliability principles and market interface principles to define the purpose, scope, and nature of reliability standards. These principles are to be used to guide the development of reliability standards, including regional reliability standards. The NERC Board of Trustees may modify these principles from time to time, as necessary, to adapt its vision for reliability standards.

Each Regional Standard shall enable or support one or more of the reliability principles, thereby ensuring that each Regional Standard serves a purpose in support of the reliability of the ERCOT BPS. Each Regional Standard shall also be consistent with all of the reliability principles, thereby ensuring that no Regional Standard undermines reliability through an unintended consequence.

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that BPS reliability and electricity markets are inseparable and mutually interdependent, all Regional Standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

II. Regional Standard Characteristics and Elements

a. Characteristics of a Regional Standard

The following characteristics describe objectives to be considered in the development of Regional Standards:

1. **Applicability** – Each Regional Standard clearly identifies the functional classes of entities responsible for complying with the standard, with any specific additions or exceptions noted. Such functional classes include: Reliability Coordinators, Balancing Authorities, Transmission Operators, Transmission Owners, Generator Operators, Generator Owners, Interchange Authorities, Transmission Service Providers, Planning Authorities, Transmission Planners, Resource Planners, Load-Serving Entities, Purchasing-Selling Entities, and Distribution Providers. Each Regional Standard identifies the geographic applicability of the standard. A standard may also identify any limitations on the applicability of the standard based on electric facility characteristics.
2. **Reliability Objectives** – Each Regional Standard has a clear statement of purpose that describes how the standard contributes to the reliability of the ERCOT BPS.
3. **Requirement or Outcome** – Each Regional Standard states one or more requirements, which if achieved by the applicable entities, will provide for a reliable BPS, consistent with good utility practices and the public interest.
4. **Measurability** – Each performance requirement is stated so as to be objectively measurable by a third party with knowledge or expertise in the area addressed by that requirement. Each performance requirement has one or more associated measures used to objectively evaluate compliance with the requirement. If performance can be practically measured quantitatively, metrics are provided to determine satisfactory performance.
5. **Technical Basis in Engineering and Operations** — Each Regional Standard is based upon sound engineering and operating judgment, analysis, or experience, as determined by expert practitioners in that particular field.

6. **Completeness** — Each Regional Standard is complete and self-contained. Supporting references may be provided with standards, but they are not part of the standard and do not impose mandatory requirements.
7. **Clear Language** — Each Regional Standard is stated using clear and unambiguous language. Responsible entities, using reasonable judgment and in keeping with good utility practice, are able to arrive at a consistent understanding of the required performance.
8. **Practicality** — Each Regional Standard establishes requirements that can be practically implemented by the assigned responsible entities within the specified effective date and thereafter.
9. **Consistent Terminology** — To the extent possible, Regional Standards use a set of standard terms and definitions that are approved through the regional standards development procedure.

Although Regional Standards have a common format and process, several types of standards may exist, each with a different approach to measurement:

- **Technical standards** are related to the provision, maintenance, operation, or state of electric systems, and will likely contain measures of physical parameters that are technical in nature.
- **Performance standards** are related to the actions of entities providing for or impacting the reliability of the BPS, and will likely contain measures of the results of such actions or qualities of performance of such actions.
- **Preparedness standards** are related to the actions of entities to be prepared for conditions that are unlikely to occur, but are nonetheless critical to reliability, and will likely contain measures of such preparations or the state of preparedness.

b. Elements of a Regional Standard

To ensure uniformity of regional reliability standards, a Regional Standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

Table 1 – Performance Elements of a Regional Standard

Identification Number	A unique identification number assigned in accordance with an administrative classification system to facilitate tracking and reference.
Title	A brief, descriptive phrase identifying the topic of the standard.
Applicability	Clear identification of the functional classes of entities responsible for

	complying with the standard, noting any specific additions or exceptions. If not applicable to the entire Texas RE area, then a clear identification of the portion of the BPS to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.
Effective Date and Status	The effective date of the standard or, prior to approval of the standard, the proposed effective date.
Purpose	The purpose of the standard. The purpose shall explicitly state what outcome will be achieved or is expected by this standard.
Requirement(s)	Explicitly stated technical, performance, and preparedness requirements. Each requirement identifies what entity is responsible and what action is to be performed or what outcome is to be achieved. Each statement in the requirements section shall be a statement for which compliance is mandatory.
Measure(s)	Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.

Table 2 – Compliance Elements of a Regional Standard

The following compliance elements are developed for each standard by the standard drafting team and are balloted with the regional standard:

Compliance Monitoring Process	<p>Defines for each measure:</p> <ul style="list-style-type: none"> • Compliance Enforcement Authority: The entity that is responsible for evaluating data or information to assess performance or outcomes. • Compliance Monitoring and Enforcement Processes: The processes that will be used to evaluate data or information for the purpose of assessing performance or outcomes. • Data Retention: Measurement data retention requirements and assignment of responsibility for data archiving. • Additional Compliance Information: Any other information related to assessing compliance such as the criteria or periodicity for filing specific reports.
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The following compliance elements are developed by the SDT, working with Texas RE staff, but are not considered to be part of the standard. These elements will be posted for stakeholder comment concurrent with the associated requirements as early in the standard development process as possible. The standard drafting team, working with Texas RE staff will respond to all

comments received. The drafting team, working with Texas RE staff may make modifications to the Violation Risk Factors (VRFs) and Violation Severity Levels (VSLs) based on stakeholder comments.

A non-binding poll will be conducted to assess stakeholders' agreement with VRFs and VSLs. If stakeholder comments submitted with the non-binding poll indicate specific improvements that would improve consensus, then the SDT, working with Texas RE staff, will revise the VRFs and VSLs to reflect stakeholder comments.

The RSC will report the results of the poll and a summary of industry comments received on the final posting of the proposed VRFs and VSLs to the Texas RE BOD. Texas RE staff will develop for BOD approval recommended assignments of VRFs and VSLs associated with Regional Standards being presented for approval by the BOD. In developing the recommended VRF and VSL assignments, Texas RE staff will take into consideration the views of the standard drafting team, stakeholder comments received on the draft VRFs and VSLs during the posting for comment process, the non-binding poll results, regulatory directives, and VRF and VSL assignments for other Regional Standards to ensure consistency and relevance across the entire spectrum of NERC Reliability Standards.

The Texas RE BOD has the authority to approve Violation Risk Factors and Violation Severity Levels and may modify the VRF or VSL proposed by Texas RE staff.

<p>Violation Risk Factors</p>	<p>The potential reliability significance of each requirement, designated as a High, Medium, or Lower Risk Factor in accordance with the criteria listed below:</p> <p>A High Risk Factor requirement (a) is one that, if violated, could directly cause or contribute to bulk power system instability, separation, or a cascading sequence of failures, or could place the bulk power system at an unacceptable risk of instability, separation, or cascading failures; or (b) is a requirement in a planning time frame that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly cause or contribute to bulk power system instability, separation, or a cascading sequence of failures, or could place the bulk power system at an unacceptable risk of instability, separation, or cascading failures, or could hinder restoration to a normal condition.</p> <p>A Medium Risk Factor requirement (a) is a requirement that, if violated, could directly affect the electrical state or the capability of the bulk power system, or the ability to effectively monitor and control the bulk power system, but is unlikely to lead to bulk power system instability, separation, or cascading failures; or (b) is a requirement in a planning time frame that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly affect the electrical state or capability of the bulk power system, or the ability to effectively monitor, control, or restore the bulk power system, but is unlikely, under emergency, abnormal, or restoration conditions anticipated by the preparations, to lead to bulk power system instability, separation, or cascading failures, nor to hinder restoration to a normal condition.</p>
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	<p>A Lower Risk Factor requirement is administrative in nature and (a) is a requirement that, if violated, would not be expected to affect the electrical state or capability of the bulk power system, or the ability to effectively monitor and control the bulk power system; or (b) is a requirement in a planning time frame that, if violated, would not, under the emergency, abnormal, or restorative conditions anticipated by the preparations, be expected to affect the electrical state or capability of the bulk power system, or the ability to effectively monitor, control, or restore the bulk power system.</p>
<p>Violation Severity Levels (VSLs)</p>	<p>Defines the degree to which compliance with a requirement was not achieved. Each requirement must have at least one VSL. While it is preferable to have four VSLs for each requirement, some requirements do not have multiple “degrees” of noncompliant performance and may have only one, two, or three VSLs.</p> <p>Lower Violation Severity Level:</p> <ul style="list-style-type: none"> • Missing a minor element (or a small percentage) of the required performance <p>Moderate Violation Severity Level:</p> <ul style="list-style-type: none"> • Missing at least one significant element (or a moderate percentage) of the required performance. <p>High Violation Severity Level:</p> <ul style="list-style-type: none"> • Missing more than one significant element (or is missing a high percentage) of the required performance or is missing a single vital component. <p>Severe Violation Severity Level:</p> <ul style="list-style-type: none"> • Missing most or all of the significant elements (or a significant percentage) of the required performance.

Table 3 – Supporting Information Elements

Interpretation	Any interpretation of regional reliability standard that is developed and approved in accordance with Section VI “Interpretation of Regional Standards” in Appendix B of this procedure, to expound on the application of the standard for unusual or unique situations or to provide clarifications.
Implementation Plan	Each regional reliability standard shall have an associated implementation plan describing the effective date of the standard or effective dates if there is a phased implementation. The implementation plan may also describe the implementation of the standard in the compliance program and other considerations in the initial use of the standard, such as necessary tools, training, etc. The implementation plan must be posted for at least one public comment period and is approved as part of the ballot of the standard.
Supporting References	<p>This section references related documents that support reasons for, or otherwise provide additional information related to the regional reliability standard. Examples include, but are not limited to:</p> <ul style="list-style-type: none"> • Glossary of terms • Developmental history of the standard and prior versions • Notes pertaining to implementation or compliance • Regional Standard references • Regional Standard supplements • Procedures • Practices • Training references • Technical references • White papers • Internet links to related information

III. Maintenance of the Texas RE Regional Standards Development Process

Significant changes to this process which are not made as part of a Texas RE request for an amendment to the Delegation Agreement shall begin with the preparation of a SAR and be addressed using the same procedure as a request to add, modify, or delete a Regional Standard.

The RSC has the authority to make ‘minor’ changes to this process as deemed appropriate by the RSC and subject to the RSC voting practices and procedures then in effect. The RSM, on behalf of the RSC, shall promptly notify the Texas RE BOD of such changes to this process for their review and concurrence at the next Texas RE BOD meeting.

IV. Maintenance of Regional Standards

The RSM shall ensure that each Regional Standard is reviewed at least once every five years from the effective date of the Standard or the latest revision to the Regional Standard, whichever is the later. The review process shall be conducted by soliciting comments from the stakeholders. If no changes are warranted, the RSM shall recommend to the Texas RE BOD that the Regional Standard be reaffirmed. If the review indicates a need to revise or delete a

Regional Standard, a SAR shall be prepared and submitted in accordance with the standards development process contained in this process.

V. Urgent Action

Under certain conditions, the RSC may designate a proposed Regional Standard or revision to a standard as requiring urgent action. Urgent action may be appropriate when a delay in implementing a proposed standard or revision could materially impact reliability of the BPS. The RSC must use its judgment carefully to ensure an urgent action is truly necessary and not simply an expedient way to change or implement a Regional Standard.

An originator shall prepare a SAR and a draft of the proposed standard and submit to the RSM. The standard request must include a justification for urgent action. The RSM submits the request to the RSC for its consideration. If the RSC designates the requested standard or revision as an urgent action item, then the RSM shall immediately post the draft for pre-ballot review. This posting requires a minimum 30-day posting period before the ballot and applies the same voting procedure as detailed in Step 6.

Any Regional Standard approved as an urgent action shall have a termination date specified that shall not exceed one year from the approval date. Should there be a need to make the standard permanent the standard would be required to go through the full Regional Standard Development Process. All urgent action standards require Texas RE BOD, NERC, and FERC approval, as outlined for standards in the regular process.

Urgent actions that expire may be renewed using the urgent action process again, in the event a permanent standard is not adopted. In determining whether to authorize an urgent action standard for a renewal ballot, the RSC shall consider the impact of the standard on the reliability of the BPS and whether expeditious progress is being made toward a permanent replacement standard. The RSC shall not authorize a renewal ballot if there is insufficient progress toward adopting a permanent replacement standard or if the RSC lacks confidence that a reasonable completion date is achievable. The intent is to ensure that an urgent action standard does not in effect take on a degree of permanence due to the lack of an expeditious effort to develop a permanent replacement standard. With these principles, there is no predetermined limit on the number of times an urgent action may be renewed. However, each urgent action standard renewal shall be effective only upon approval by the Texas RE BOD, and approval by applicable governmental authorities.

Any person or entity, including the drafting team working on a permanent replacement standard, may at any time submit a standard request proposing that an urgent action standard become a permanent standard by following the full standards process.

VI. Interpretations of Regional Standards

All persons who are directly and materially affected by ERCOT's BPS reliability shall be permitted to request an interpretation of a Regional Standard or Regional Variance (collectively referred to as Regional Standard). The person requesting an interpretation shall send a request to the RSM electronically using the Interpretation Request Form explaining the specific circumstances surrounding the request and what clarifications are required as applied to those circumstances. The request should indicate the material impact to the requesting party or others caused by the lack of clarity or a possibly incorrect interpretation of the standard.

The RSM shall assemble a team with the relevant expertise to address the clarification. The Interpretation Drafting Team (IDT) typically consists of members from the original SDT. The RSM shall submit the proposed list of names of the IDT to the RSC. The RSC will either accept the recommendations of the RSM or modify the IDT slate.

As soon as practical (not more than 45 days), the team will meet to draft a written interpretation to the Regional Standard addressing the issues raised. Once the IDT has completed a draft interpretation to the Regional Standard addressing only the issues raised, the team will forward the draft interpretation to the RSM. The RSM will forward the draft interpretation to the Texas RE Chief Executive Officer. The Chief Executive Officer shall assess if the inclusion of the interpretation lessens the measurability of the Regional Standard. Barring receipt of an opinion from the Chief Executive Officer within 21 days, that the interpretation lessens measurability or is not technically appropriate for the Regional Standard, the RSM shall forward the interpretation to the RSC. The RSC shall determine if the interpretation is consistent with the Regional Standard. The RSM, on behalf of the RSC, shall forward the interpretation to the Texas RE BOD for informational purposes as being appended to the approved Regional Standard.

Note: In the event that the Chief Executive Officer determines that measurability is lessened, the Chief Executive Officer shall provide an explanation of his/her reasoning to the RSM and IDT for inclusion in a subsequent reversion. In either case, the IDT and RSM will continue to re-circulate the interpretation as stated above.

The interpretation shall stand until such time as the Regional Standard is revised through the normal process, at which time the Regional Standard will be modified to incorporate the clarifications provided by the interpretation.

VII. Appeals

Persons who have directly and materially affected interests and who have been or will be adversely affected by any substantive or procedural action or inaction related to the development, approval, revision, reaffirmation, or withdrawal of a Regional Standard shall have the right to appeal. This Appeals Process applies only to this Regional Standards Process.

The burden of proof to show adverse effect shall be on the appellant. Appeals shall be made within 30 days of the date of the action purported to cause the adverse effect, except appeals for inaction, which may be made at any time. In all cases, the request for appeal must be made prior to the next step in the process.

The final decisions of any appeal shall be documented in writing and made public.

The Appeals Process provides two levels, with the goal of expeditiously resolving the issue to the satisfaction of the participants:

Level 1 Appeal

Level 1 is the required first step in the appeals process. The appellant submits a complaint in writing to the RSM that describes the substantive or procedural action or inaction associated with Regional Standard or the Regional Standards Process. The appellant describes in the complaint the actual or potential adverse impact to the appellant. Assisted by any necessary staff and committee resources, the RSM shall prepare a written response addressed to the appellant as soon as practical, but not more than 45 days after receipt of the complaint. If the appellant accepts the response as a satisfactory resolution of the issue, both the complaint and response will be made a part of the public record associated with the Regional Standard.

Level 2 Appeal

If after the Level 1 Appeal the appellant remains unsatisfied with the resolution, as indicated by the appellant in writing to the RSM, the RSM shall convene a Level 2 Appeals Panel. This panel shall consist of five members total appointed by the Texas RE BOD. In all cases, Level 2 Appeals Panel Members shall have no direct affiliation with the participants in the appeal.

The RSM shall post the complaint and other relevant materials and provide at least 30 days notice of the meeting of the Level 2 Appeals Panel. In addition to the appellant, any person that is directly and materially affected by the substantive or procedural action or inaction referenced in the complaint shall be heard by the panel. The panel shall not consider any expansion of the scope of the appeal that was not presented in the Level 1 Appeal. The panel may in its decision find for the appellant and remand the issue to the RSC with a statement of the issues and facts in regard to which fair and equitable action was not taken. The panel may find against the appellant with a specific statement of the facts that demonstrate fair and equitable treatment of the appellant and the appellant's objections. The panel may not, however, revise, approve, disapprove, or adopt a Regional Standard. The actions of the Level 2 Appeals Panel shall be publicly posted.

In addition to the foregoing, a procedural objection that has not been resolved may be submitted to Texas RE BOD for consideration at the time the Texas RE BOD decides whether to adopt a particular Regional Standard. The objection must be in writing, signed by an officer of the objecting entity, and contain a concise statement of the relief requested and a clear demonstration of the facts that justify that relief. The objection must be filed no later than 30 days after the announcement of the vote on the Regional Standard in question.

Appendix C – Regional Standard Authorization Request Form

The tables below provide a representative example of information in a Regional Standard Authorization Request (SAR). The RSM shall be responsible for implementing and maintaining the applicable form as needed to support the information requirements of the Texas RE Standards Process. The latest version of the form will be downloadable from the Texas RE's Standards Development Web page.

Standard Authorization Request

Texas RE to complete

ID
Authorized for Posting
Authorized for Development

Title of Proposed Regional Standard:
Request Date:

SAR Originator Information

Name:	SAR Type (Check one box.)
Company:	<input type="checkbox"/> New Regional Standard
Telephone:	<input type="checkbox"/> Revision to Existing Regional Standard
Fax:	<input type="checkbox"/> Withdrawal of Existing Regional Standard
Email:	<input type="checkbox"/> Urgent Action

Purpose (Describe the purpose of the proposed regional reliability standard – what the standard will achieve in support of reliability.)

Industry Need (Provide a detailed statement justifying the need for the proposed regional reliability standard, along with any supporting documentation.)
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Brief Description (Describe the proposed regional reliability standard in sufficient detail to clearly define the scope in a manner that can be easily understood by others.)

Reliability Functions

The Regional Standard will Apply to the Following Functions (Check all applicable boxes.)

<input type="checkbox"/>	Reliability Coordinator	The entity that is the highest level of authority who is responsible for the reliable operation of the BPS, has the Wide Area view of the BPS, and has the operating tools, processes and procedures, including the authority to prevent or mitigate emergency operating situations in both next-day analysis and real-time operations. The Reliability Coordinator has the purview that is broad enough to enable the calculation of Interconnection Reliability Operating Limits, which may be based on the operating parameters of transmission systems beyond any Transmission Operator's vision.
<input type="checkbox"/>	Balancing Authority	The responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area, and supports Interconnection frequency in real time.
<input type="checkbox"/>	Interchange Authority	Authorizes valid and balanced Interchange Schedules.
<input type="checkbox"/>	Planning Authority	The responsible entity that coordinates and integrates transmission facility and service plans, resource plans, and protection systems.
<input type="checkbox"/>	Transmission Service Provider	The entity that administers the transmission tariff and provides Transmission Service to Transmission Customers under applicable transmission service agreements.
<input type="checkbox"/>	Transmission Owner	The entity that owns and maintains transmission facilities.
<input type="checkbox"/>	Transmission Operator	The entity responsible for the reliability of its "local" transmission system, and that operates or directs the operations of the transmission facilities.
<input type="checkbox"/>	Transmission Planner	The entity that develops a long-term (generally one year and beyond) plan for the reliability (adequacy) of the interconnected bulk power transmission systems within its portion of the Planning Authority Area.
<input type="checkbox"/>	Resource Planner	The entity that develops a long-term (generally one year and beyond) plan for the resource adequacy of specific loads (customer demand and energy requirements) within a Planning Authority Area.
<input type="checkbox"/>	Generator Operator	The entity that operates generating unit(s) and performs the functions of supplying energy and Interconnected Operations Services.
<input type="checkbox"/>	Generator Owner	Entity that owns and maintains generating units.
<input type="checkbox"/>	Purchasing-Selling Entity	The entity that purchases or sells, and takes title to, energy, capacity, and Interconnected Operations Services. Purchasing-Selling Entities may be affiliated or unaffiliated merchants and may or may not own generating facilities.

<input type="checkbox"/>	Distribution Provider	Provides and operates the “wires” between the transmission system and the customer.
<input type="checkbox"/>	Load-Serving Entity	Secures energy and transmission service (and related Interconnected Operations Services) to serve the electrical demand and energy requirements of its end-use customers.

Reliability and Market Interface Principles

Applicable Reliability Principles <i>(Check all boxes that apply.)</i>	
<input type="checkbox"/>	1. Interconnected BPSs shall be planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions as defined in the NERC Standards.
<input type="checkbox"/>	2. The frequency and voltage of interconnected BPSs shall be controlled within defined limits through the balancing of real and reactive power supply and demand.
<input type="checkbox"/>	3. Information necessary for the planning and operation of interconnected BPSs shall be made available to those entities responsible for planning and operating the systems reliably.
<input type="checkbox"/>	4. Plans for emergency operation and system restoration of interconnected BPSs shall be developed, coordinated, maintained, and implemented.
<input type="checkbox"/>	5. Facilities for communication, monitoring, and control shall be provided, used, and maintained for the reliability of interconnected BPSs.
<input type="checkbox"/>	6. Personnel responsible for planning and operating interconnected BPSs shall be trained, qualified, and have the responsibility and authority to implement actions.
<input type="checkbox"/>	7. The security of the interconnected BPSs shall be assessed, monitored, and maintained on a wide-area basis.

Does the proposed Regional Standard comply with all of the following Market Interface Principles? *(Select ‘yes’ or ‘no’ from the drop-down box.)*

Recognizing that reliability is an Common Attribute of a robust North American economy:	
1.	A reliability standard shall not give any market participant an unfair competitive advantage. Yes
2.	A reliability standard shall neither mandate nor prohibit any specific market structure. Yes
3.	A reliability standard shall not preclude market solutions to achieving compliance with that standard. Yes
4.	A reliability standard shall not require the public disclosure of commercially sensitive information. All market participants shall have equal opportunity to access commercially non-sensitive information that is required for compliance with reliability standards. Yes

Detailed Description (Provide enough detail so that an independent entity familiar with the industry could draft a standard based on this description.)

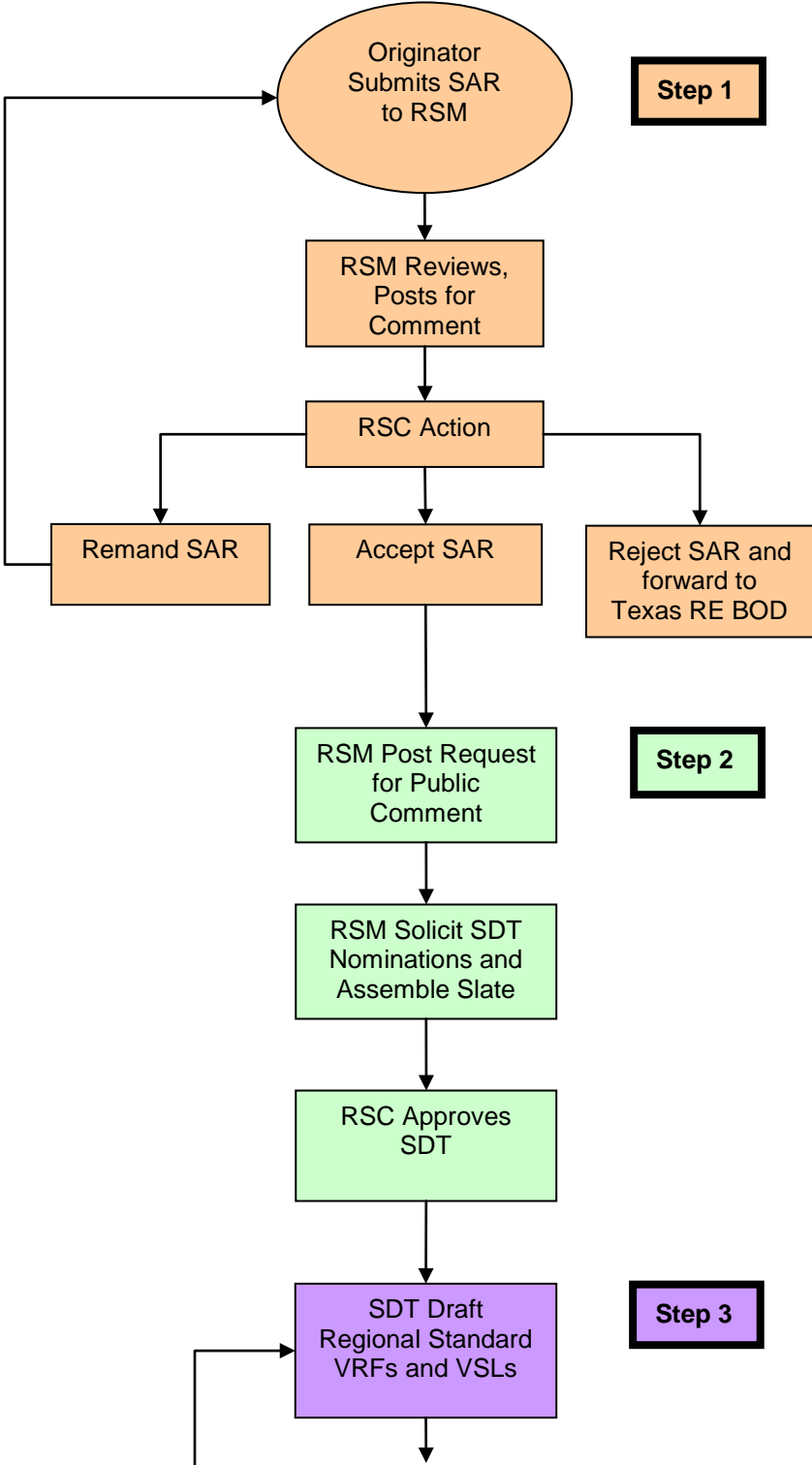
Related Standards

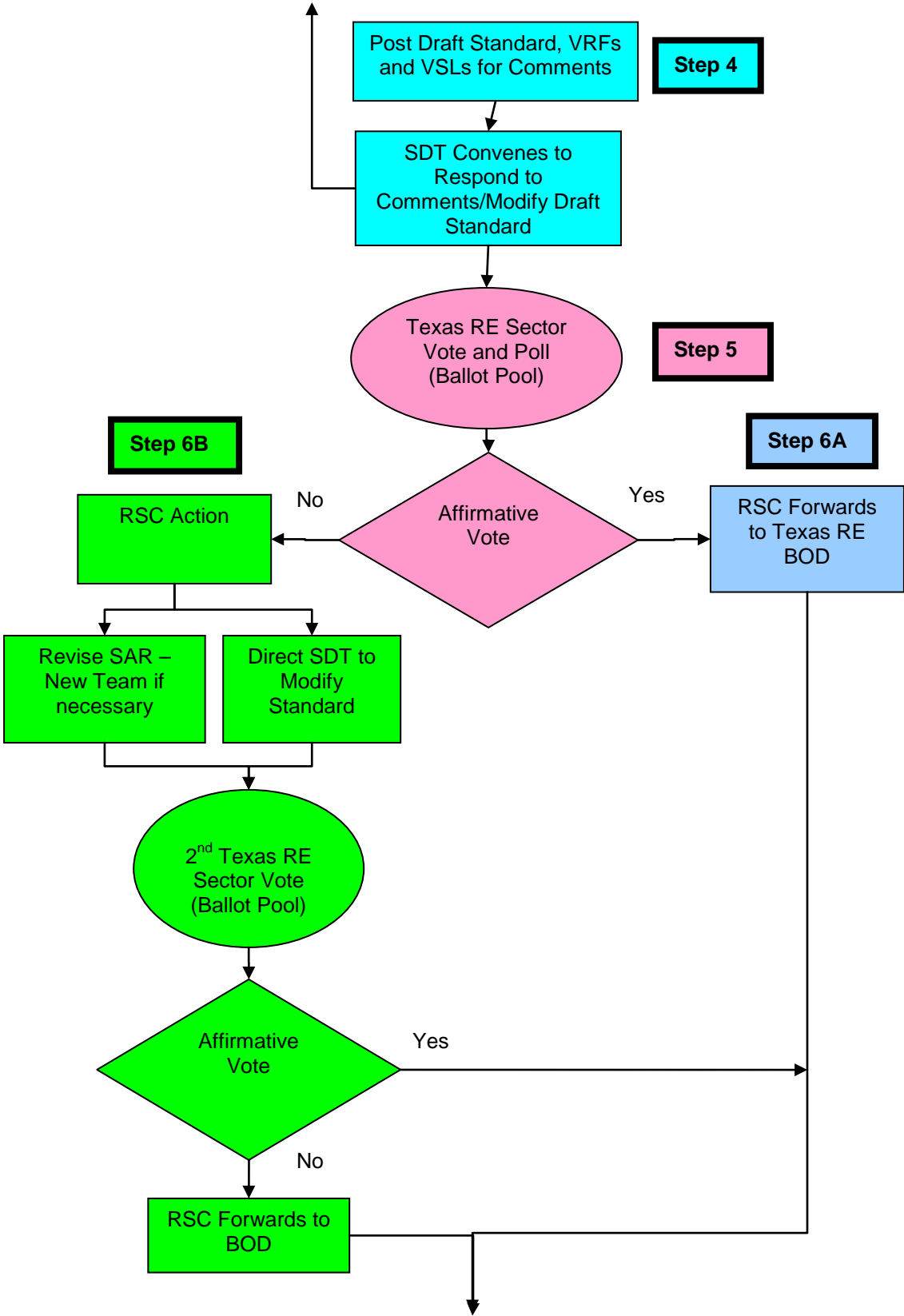
Standard No.	Explanation

Related SARs

SAR ID	Explanation

**Appendix D – Texas RE Standards Development Process
Diagram**





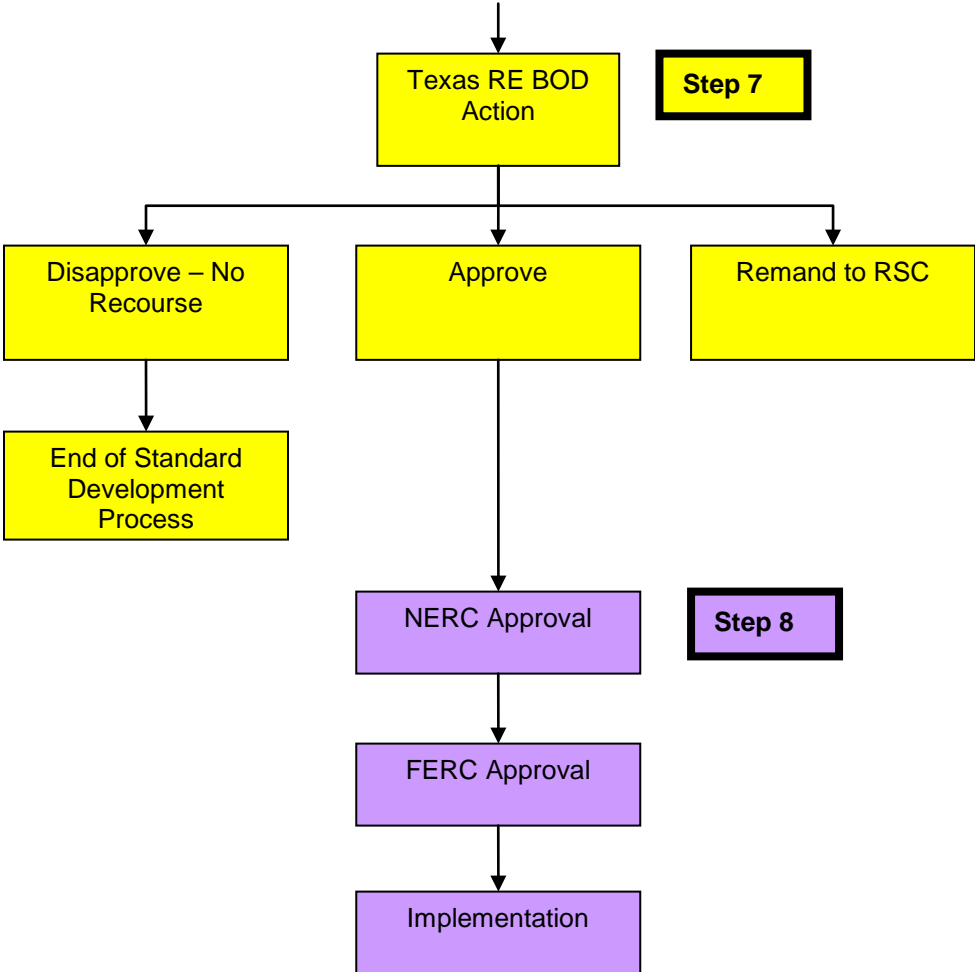


EXHIBIT D – COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

~~1.1 Obligations of Texas Reliability Entity~~

~~The Texas Reliability Entity, Inc. (Texas RE), will implement the NERC Compliance Monitoring and Enforcement Program (Appendix 4C to the NERC Rules of Procedure (NERC GMEP)) which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures, to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within Texas RE’s geographic or electrical boundaries, and such other scope, set forth on Exhibit A of this Agreement, subject to any deviations from the NERC Compliance Monitoring and Enforcement Program described in Section 1.2 below (the “Compliance Program”).~~

~~1.2 Deviations from the NERC Compliance Monitoring and Enforcement Program~~

~~2.0 A. Hearing Body. Texas RE will use the Public Utility Commission of Texas (PUCT) REGIONAL HEARING OF COMPLIANCE MATTERS~~

~~Texas RE shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either Texas RE’s board or a balanced compliance panel reporting directly to Texas RE’s board. Texas RE’s hearing body is the Public Utility Commission of Texas (PUCT).~~

- A. Hearing Body. Texas RE will use the PUCT as its Hearing Body, and the PUCT (as Hearing Body) will issue recommendations to the Texas RE Board of Directors (“Board”) which will make final decisions following regional hearings of compliance matters. The PUCT is comprised of three Commissioners who are appointed by the Governor of the State of Texas. The PUCT has extensive experience in conducting contested case hearings and other adjudicatory proceedings in a manner that assures due process of law to all participants. Texas RE intends to rely upon the PUCT’s experience and expertise in conducting the hearing process under the Delegation Agreement. Texas RE believes that it is more efficient and cost-effective to use existing PUCT procedures than to attempt to establish a redundant hearing process within Texas RE. The PUCT is uniquely well-positioned to perform this function for the ERCOT Region since electric utilities operating in the ERCOT Region do not synchronously interconnect with electric utilities operating outside of Texas, and ERCOT market participants have experience in participating in PUCT proceedings.
- B. ~~B. Public Hearings.~~ The PUCT as Hearing Body will hold public hearings on all matters referred to it by the Texas RE for hearing and recommendation. The PUCT’s performance of Hearing Body responsibilities is fully consistent with the NERC Rules of Procedure and with Section 39.7 of FERC Order 672, with the exception of Section 39.7(b)(4), which requires “[e]ach violation or alleged violation [to] be treated as

nonpublic until the matter is filed with [FERC] as a notice of penalty or resolved by an admission ... or by a settlement or other negotiated disposition.” Because the PUCT is a “governmental body” under the Texas Open Meetings Act (Texas Government Code § 551.002), the PUCT is required to conduct any deliberations and render a decision in a meeting that is open to the public. The Texas Open Meetings Act also requires that any evidence or other submissions concerning a PUCT hearing, except for information that is confidential or privileged under law, be publicly available. Texas Attorney General opinions have determined that the need to consider confidential information does not justify conducting a closed meeting or executive session. Although PUCT hearings, including those contemplated under this Exhibit D, are conducted as open meetings, steps are taken to prevent the disclosure of confidential information during the hearing process. Direct testimony in such cases is generally presented in written question and answer format, with any confidential information redacted, filed under seal and provided to parties pursuant to a protective order. In hearings conducted under these rules, the Hearing Body shall use best efforts to avoid the inadvertent disclosure of confidential information. The Presiding Officer may use the following methods to protect confidential information, in addition to the entry of an appropriate protective order: (1) Requiring the aggregation of confidential information aggregated to eliminate its confidentiality; (2) Permitting or requiring the redaction of testimony where the non-public information is not material to the merits; (3) Closing the public hearings on a temporary basis to those not bound under the terms of any case-specific protective order in place while the specific, confidential data is the subject of testimony or argument; and (4) other reasonable means in the discretion of the Presiding Officer.

Under the Texas Public Utility Regulatory Act (PURA) §39.151(j), market participants in the ERCOT market are required to comply with all scheduling, operating, planning, reliability, and settlement policies, rules, guidelines, and procedures ERCOT establishes. The PUCT is given authority to enforce this obligation through the imposition of penalties, revocation of certifications or other means. In any enforcement proceeding under PURA, PUCT deliberations are conducted in an open meeting in accordance with the procedures outlined above. ERCOT is thus unlike other power regions that may be implementing an enforcement mechanism for the first time. The history of public availability of this information in the ERCOT power region argues in favor of the continued public availability of information considered in enforcement hearings the PUCT conducts as Hearing Body for the Texas RE.

Moreover, elsewhere in Order No. 672, FERC stated that: “If the ERO or a Regional Entity wishes to conduct a public investigation, enforcement audit or permit interventions when determining whether to impose a penalty, the ERO or the Regional Entity must receive advance authorization from the Commission.”¹

In response to the request by Texas RE’s predecessor to be permitted to hold public hearings as outlined herein, FERC issued *In the matter of Delegation Agreement Between the North American Electric Reliability Corporation and Texas Regional Entity, a division of ERCOT*, Docket No. RR07-1-000, *Order Accepting ERO Compliance Filing, Accepting ERO/Regional Entity Delegation Agreements and*

¹ Order 672, ¶511.

Accepting Regional Entity 2007 Business Plans, 119 FERC 61,060 at ¶253 (Issued April 19, 2007)(Delegation Agreement Acceptance Order). The Delegation Agreement Acceptance Order provides for open hearings as requested.

- C. ~~C. **Hearing Administration.**~~ PUCT, as Hearing Body, is authorized to hear cases and render its recommendations through the PUCT Commissioners. The Hearing Body is authorized to use the PUCT staff of Administrative Law Judges (ALJs) and other trained employees to establish the procedures and timelines that will be followed in the regional hearings, including the conduct of hearings and the preparation of draft recommendations. These presiding officers will not, however, have any authority to issue a final recommendation on any alleged violation. The ALJs and staff may preside over hearings before the PUCT, may establish the procedural schedule for these proceedings, take evidence, prepare a draft recommendation, and perform all tasks delegated from the PUCT, except the final rendition and approval of the final recommendation to be provided to the ~~Chief Compliance Officer~~Board.
- D. **Regional Hearing of Compliance Matters.** Texas RE shall establish the PUCT as the hearing body, with authority to conduct compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan. The PUCT will issue a final recommendation to the Board rather than a final order.

~~D. Texas RE shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any:~~

Detailed Hearing Procedures. The details of the Texas ~~Reliability Entity~~RE Regional Hearing Process are attached hereto as *Attachment 1 and Attachment 2*. *Attachment 1* consists of a summary of the NERC CMEP procedures that must be altered to accommodate Texas RE's request to have the PUCT act as its Hearing Body. *Attachment 1* is a summary of necessary revisions to Attachment 2 of the CMEP, and together with *Attachment 2* hereto and the incorporated PUCT Chapter 22 Procedural Rules, provides the details of the regional hearing process Texas RE has adopted.

In addition to the requested modifications to procedures set forth in Attachment 2 of the CMEP, Texas RE also varies from Section 5.5 of the main body of the CMEP, allowing the Board's decision (instead of the hearing body's decision) to be appealed to NERC. This language is contained as subsection 9.2 of *Attachment 1*: "The Registered Entity may appeal the Board's decision to NERC, as provided for in NERC Rules of Procedure, Sections 407.3 and 410."

- E. ~~E. **Regional Hearing of Compliance Matters.**~~ Texas RE shall establish the PUCT as the hearing body, with authority to conduct compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan. The PUCT will issue a final recommendation to the Board rather than a final order.

~~1.3 Other Decision-Making Bodies.~~

3.0 OTHER DECISION-MAKING BODIES

Texas RE uses only its board as its decision-making body.

ATTACHMENT 1 TO EXHIBIT D – TEXAS RE REGIONAL HEARING PROCESS

1.0 Designation of Hearing Body

All formal compliance hearings shall be held before the Compliance Enforcement Authority's Hearing Body. The Hearing Body shall be the Public Utility Commission of Texas. All hearings shall be conducted under the hearing procedures set forth in Attachment 2 to Exhibit D ("Attachment 2—Rules of Procedure"), supplementing this Attachment 1. As set forth in Attachment 2— Rules of Procedure, the Hearing Body may delegate any hearing-related task to a Presiding Officer, except for the issuance of the final recommendation.

The Compliance Enforcement Authority shall initiate the hearing process following the completion of the Notice of Alleged Violation and proposed sanction and registered entity response processes in accordance with Section 5.1 of the North American Electric Reliability Corporation ("NERC") Compliance Monitoring and Enforcement Program ("NERC CMEP"), as set forth below.

Following the filing of a proceeding contesting an Alleged Violation or a Remedial Action Directive, no person shall engage in ex parte communications with the Hearing Body, including without limitation any appointed Presiding Officer, concerning the matter in dispute until the written decision of the Board of Directors or a compliance committee of the Board of Directors ("Board") is issued pursuant to Section 9.1 is appealed or the deadline for filing an appeal has passed; provided, however, that: (a) a member of the Hearing Body or the Presiding Officer may communicate ex parte with another member of the Hearing Body unless prohibited by other law, and (b) a member of the Hearing Body or the Presiding Officer may communicate ex parte with a Commission employee who has not participated in a hearing in the case for the purpose of using the special skills or knowledge of the agency and its staff in evaluating the evidence.

The Hearing Body may rule on all procedural and discovery matters pursuant to Attachment 2—Rules of Procedure.

The Hearing Body may delegate to a single commissioner, a hearings examiner, or an administrative law judge (a "Presiding Officer") the authority to establish the procedures and dates for the presentation of all materials concerning the alleged violation and the power to hear evidence and to issue a draft recommendation, but the Hearing Body may not delegate its authority to issue a final recommendation on the alleged violation to the Board of the Compliance Enforcement Authority.

In accordance with Attachment 2—Rules of Procedure, the Hearing Body may provide for additional procedures as it deems necessary to effectively carry out a compliance hearing. To the extent permitted by law, any provision in this Attachment 1 may be waived, suspended, or modified by the Presiding Officer or the Hearing Body, as defined in Attachment 2—Rules of Procedure §1.1.5, for good cause shown, either upon the Presiding Officer's or the Hearing Body's own motion or upon the motion of any Party.

2.0 Recusal of Member of Hearing Body

A Hearing Body member, Presiding Officer, or Technical Advisor shall recuse himself or herself if participation in the enforcement proceeding would violate the Compliance Enforcement Authority's Conflict of Interest or Code of Conduct policy.

The Registered Entity may raise an objection to any member of the Hearing Body, a Presiding Officer or Technical Advisor on grounds of a conflict of interest or the existence of other circumstances that could interfere with the that person's impartial performance of his or her duties. Such objections must be provided in writing and filed reasonably in advance of the start of the hearing and the Presiding Officer shall make a decision on the objection promptly. Upon request of the Registered Entity, the Hearing Body (without participation of the Hearing Body member, Presiding Officer, or Technical Advisor) may review the determination and, if so, shall issue a decision on the objection promptly.

3.0 Authorized Representatives

Both the Compliance Enforcement Authority and the Registered Entity shall submit to the Hearing Body the names of the persons authorized to represent them in the Hearing Process pursuant to Attachment 2—Rules of Procedure. Such persons shall be officers or equivalents of the Regional Entity and the Registered Entity that have the authority to act on behalf of the Regional Entity and the Registered Entity, respectively. In addition, a party shall advise the Hearing Body and the other party if the party will be represented by legal counsel.

4.0 Statement of Alleged Violation and Response by Registered Entity

The Registered Entity shall initiate the compliance hearing process in accordance with Section 5.1 of the NERC CMEP and Attachment 2—Rules of Procedure by filing with the Hearing Body Clerk a statement or complaint contesting the written Notice of Alleged Violation and proposed sanction and serving a copy upon the Compliance Enforcement Authority. Specifically, the Registered Entity shall file with the Hearing Body (with service of copies upon the Compliance Enforcement Authority) a written statement of reasons why the Alleged Violation is in error or a written statement of reasons why the proposed penalty or sanction is inappropriate (if applicable in the particular case), along with copies of all documents relied on by the Registered Entity to support its position. If the dispute involves a Registered Entity's proposed mitigation plan ("Registered Entity's Mitigation Proposal") that has not been accepted by the Compliance Enforcement Authority, the Registered Entity may initiate the hearing process by filing a request for hearing with the Hearing Body Clerk and serving a copy upon the Compliance Enforcement Authority.

Within five (5) business days after the request for review of the Alleged Violation, penalty, or mitigation plan or Remedial Action Directive is filed, the Compliance Enforcement Authority's designated representative shall file with the Hearing Body (with copies to the Registered Entity) a copy of the written Notice of the Alleged Violation and proposed sanction that was originally provided to the Registered Entity, along with copies of any non-privileged or non-exempt documents gathered and reviewed by the Compliance Enforcement Authority in the course of determining an Alleged Violation has occurred and in determining the proposed sanction or penalty.

If the hearing involves the question of whether a Registered Entity's Mitigation Proposal

should be accepted, within twenty (20) days after the request for review of the Alleged Violation, penalty, or mitigation plan or Remedial Action Directive is filed, the Compliance Enforcement Authority shall file a report stating why the Registered Entity's Mitigation Proposal was not accepted. If the hearing involves a Registered Entity's Mitigation Proposal, the Registered Entity shall file its proposed Mitigation Plan and supporting information stating why the Mitigation Plan should be accepted within thirty (30) days after the date the request for review of the Alleged Violation, penalty, or mitigation plan or Remedial Action Directive is filed.

5.0 Setting of Hearings and Conferences

The Hearing Body shall set a date for an initial conference within thirty (30) days after the date the request for review of the Alleged Violation, penalty, or mitigation plan or Remedial Action Directive is filed. At the initial conference, the Hearing Body shall establish specific procedures for the hearing including (1) any procedures for exchange of additional documents, (2) any written testimony, (3) the hearing date(s), and (4) dates for any briefs. Subject to Section 6.0 and the Attachment 2—Rules of Procedure, each party shall be entitled to (1) present the testimony of witnesses, (2) cross-examination of opposing witnesses, (3) make an oral presentation of position, and (4) file a written post-hearing brief.

The Hearing Body may hold additional conferences. All notices of conferences and hearings shall set forth the date, time and place of hearing. The Hearing Body shall issue a written order setting forth the agreements and rulings made at each conference.

By agreement of the parties or order of the Hearing Body, any conference or hearing may be conducted via teleconference, except that, subject to section 6.0 of this hearing process, witnesses shall personally appear at the hearing.

All prehearing conferences and hearings shall be open to the public, except when the use of a closed meeting is authorized by Texas law.

6.0 Conduct of Hearing

The hearing will be conducted under the provisions of this section 6.0 and the Attachment 2— Rules of Procedure.

The hearing need not be held on consecutive days, and shall be held at the offices of the Hearing Body unless the Hearing Body decides on a different location after consulting with the parties.

The party requesting transcription of the hearing, the Registered Entity or Compliance Enforcement Authority, will arrange and pay for transcription of the hearing.

The Hearing Body shall direct the direct testimony of any witnesses be in written form in accordance with Attachment 2— Rules of Procedure. All witnesses shall be required to appear in person, unless waived by the parties and the Hearing Body. Motions shall be made and decided, evidence shall be presented, and a record shall be made in accordance with Attachment 2— Rules of Procedure.

7.0 Submission of Post-Hearing Briefs

The parties may submit post-hearing briefs on a schedule established by the Hearing Body pursuant to Attachment 2— Rules of Procedure. The parties may, and on request of the Hearing Body shall, submit proposed findings of fact and conclusions of law.

8.0 Record of the Compliance Hearing

If applicable, copies of the following documents shall be maintained by the Hearing Body as the record of the hearing process:

- (1) The written notice that a request for review of the Alleged Violation, penalty, or mitigation plan or Remedial Action Directive has been filed with the Hearing Body Clerk;
- (2) The Notice of Alleged Violation and sanction issued by the Compliance Enforcement Authority and the response filed by the Registered Entity, including in each case all attachments thereto and documents provided therewith;
- (3) If the hearing involves a Registered Entity's Mitigation Proposal, (a) the Registered Entity's Mitigation Proposal and supporting information as to why the Registered Entity's Mitigation Proposal should be accepted and (b) the report of the Compliance Enforcement Authority stating why the Registrant's Mitigation Proposal was not accepted;
- (4) Any requests for recusal of a member of the Hearing Body, a Presiding Officer, or a Technical Advisor, and any responses to such requests;
- (5) All motions, notices and responses filed by the parties during the hearing process;
- (6) All documents that set forth or that summarize any ex parte communications;
- (7) All notices and rulings issued by the Hearing Body during the hearing process;
- (8) All interlocutory orders;
- (9) All written testimony and all exhibits received into evidence;
- (10) All written testimony and documentary exhibits that were proffered but not admitted into evidence;
- (11) Any transcript(s);
- (12) The parties' post-hearing briefs, any exceptions to the draft recommendation, any motions for reconsideration or rehearing, and any other post-decision briefing or motion;
- (13) The draft recommendation of the Presiding Officer, if any; and
- (14) The final recommendation of the Hearing Body.

9.0 Timing of Written Recommendation to the Board

The Hearing Body shall issue its written final recommendation to the Board within thirty (30) days following the submission of post-hearing briefs, or, if briefing is waived, following the conclusion of the hearing. The Hearing Body may in its discretion extend the time for the issuance of the written final recommendation to the Board for up to an additional sixty (60) days. The written final recommendation shall state the opinion of the Hearing Body with respect to Alleged Violations of Reliability Standards and proposed penalties or sanctions at issue in the hearing. If the hearing involves a Registered Entity's Mitigation Proposal, the written final recommendation shall either

propose acceptance or rejection of the Registered Entity's Mitigation Proposal. If the proposed Registered Entity's Mitigation Proposal is recommended for rejection, the Hearing Body may specify the provisions of an alternative plan of mitigation that the Registered Entity should be required to implement. The written final recommendation shall explain the reasons for the Hearing Body's conclusions and cite the testimony and exhibits relied on by the Hearing Body in reaching its opinions. Copies of the written final recommendation shall be served electronically and by certified mail on the Registered Entity and on the Compliance Enforcement Authority's designated representative at the time it is issued to the Board.

9.1 Written Decision by the Board

The Board shall issue its written decision accepting, rejecting or modifying the Hearing Body's recommendation, within twenty (20) business days following the issuance of the Hearing Body's written final recommendation. The Board may extend the date for issuance of its written decision for an additional twenty (20) business days in its sole discretion. The Board's written decision shall state the conclusion of the Board with respect to Alleged Violations of Reliability Standards and proposed penalties or sanctions at issue in the hearing. If the hearing involves a Registered Entity's Mitigation Proposal, the written decision shall either accept or reject the Registered Entity's Mitigation Proposal. If the proposed Registered Entity's Mitigation Proposal is rejected, the Board may specify the provisions of the Registered Entity's Mitigation Proposal that the Registered Entity should be required to implement, together with other mitigation measures the Board shall require. The written decision shall explain the reasons for the Board's conclusions and cite the testimony and exhibits relied on by the Board in reaching its conclusions. Copies of the written decision shall be served electronically and by certified mail on the Registered Entity, on the Compliance Enforcement Authority's designated representative, and on the Hearing Body.

9.2 NERC Appeal Process

The Registered Entity may appeal an adverse decision of the Board to NERC, as provided for in NERC Rules of Procedure, Sections 407.3 and 410.

10.0 Expedited Hearing Process for Disputes Concerning Remedial Action Directives

A Registered Entity that disputes a Remedial Action Directive issued by a Compliance Enforcement Authority may request an expedited hearing. To facilitate the expedited hearing, the Compliance Enforcement Authority may request that the Hearing Body convene for purposes of the expedited hearing process. The following expedited procedures shall be followed:

- (1) The Registered Entity shall file its written response the Remedial Action Directive and request for emergency hearing with the Hearing Body, with a copy to the Compliance Enforcement Authority's designated representative within two (2) business days after receipt of the Remedial Action Directive. The Hearing Body may appoint a Presiding Officer to conduct all proceedings under this Section 10.0, except for the issuance of a final recommendation to the Board.
- (2) The Hearing Body shall be convened for purposes of a prehearing, and if requested, for interim relief, not less than two (2) nor more than five (5) business days after receipt of the Registered Entity's request for a hearing.

- (3) The Hearing Body shall conduct a hearing on the matter, in person or by teleconference, within thirty (30) days after the Hearing Body is convened. At the hearing, the Compliance Enforcement Authority shall explain why the Remedial Action Directive should be complied with, and the Registered Entity shall explain why the Remedial Action Directive is not necessary or should be modified.
- (4) The Hearing Body shall issue a summary written recommendation to the Board within twenty (20) business days following the hearing, stating whether the Registered Entity should or should not be required to comply with the Remedial Action Directive and identifying any modifications to the directive that it finds appropriate.
- (5) The Board shall issue a summary written decision within ten (10) business days following the Hearing Body's issuance of its summary written recommendation, stating whether the Registered Entity shall or shall not be required to comply with the Remedial Action Directive and identifying any modifications to the directive that it finds appropriate.
- (6) If the Board's summary written decision concludes that the Registered Entity is required to comply with the Remedial Action Directive or any modification to such directive (including adjustments to the timetable for implementation), the Registered Entity shall be required to begin implementing the Remedial Action Directive upon receipt of the summary written decision, if it has not already implemented the Remedial Action Directive.
- (7) Within thirty (30) days following issuance of its summary written decision, the Board shall issue a full written decision regarding the Remedial Action Directive to the requirements of Section 9.0, above, that may be appealed consistent with Section 9.2.
- (8) This Section 10.0 provides procedures for the expeditious determination of the propriety of a contested Remedial Action Directive. Nothing in this Section shall be read to impair the Compliance Enforcement Authority's authority to issue a Notice of Alleged Violation and proposed sanction on alleged violations of standards addressed by a Remedial Action Directive or on other alleged violations occurring contemporaneously with the Remedial Action Directive or at any other time using the non-expedited procedures of this Attachment 1 or Attachment 2— Rules of Procedure.

ATTACHMENT 2 TO EXHIBIT D – TEXAS RE RULES OF PROCEDURE

1.1 Applicability, Definitions and Interpretation

1.1.1 Procedure Governed

The provisions set forth in this Attachment 2 to the Texas Reliability Entity, Inc. (“Texas RE” or “Compliance Enforcement Authority”) (“Rules of Procedure”) shall apply to and govern practice and procedure before the Compliance Enforcement Authority and Hearing Board, as defined herein, in hearings in the ERCOT region of the United States conducted into (a) whether Registered Entities within the Compliance Enforcement Authority’s area of responsibility have violated Reliability Standards, and (b) if so, to determine the appropriate Mitigation Plans as well as any remedial actions, penalties or sanctions in accordance with the NERC *ERO Sanction Guidelines* and other applicable penalty guidelines approved by FERC pursuant to 18 C.F.R. Section 39.7(g)(2). Any hearing conducted pursuant to these Rules of Procedure shall be conducted before the Public Utility Commission of Texas (“Commission”), as is further provided herein.

1.1.2 Deviations and Exceptions

- (a) To the extent permitted by law, any provision in these Rules of Procedure may be waived, suspended or modified by the Presiding Officer or the Hearing Body, as defined in Section 1.1.5, for good cause shown, either upon the Presiding Officer’s or the Hearing Body’s own motion or upon the motion of any Party.
- (b) Where an issue is not addressed by the terms of these Rules, the Hearing Body shall use the Chapter 22 Procedural Rules.
- (c) The following provisions of Chapter 22 shall not be applicable to proceedings brought under these Procedural Rules:
 - (1) P.U.C. PROC. R. § 22.32;
 - (2) P.U.C. PROC. R. § 22.33;
 - (3) P.U.C. PROC. R. § 22.35;
 - (4) P.U.C. PROC. R. §§ 22.51-22.54;
 - (5) P.U.C. PROC. R. § 22.56;
 - (6) P.U.C. PROC. R. § 22.71(j);
 - (7) P.U.C. PROC. R. §§ 22.102(a)(3), (4) and (c);
 - (8) P.U.C. PROC. R. §§ 22.103-22.105;
 - (9) P.U.C. PROC. R. §§ 22.125-22.126;
 - (10) P.U.C. PROC. R. § 22.202(e);
 - (11) P.U.C. PROC. R. §§ 22.206-22.207;
 - (12) P.U.C. PROC. R. §§ 22.241-22.246;
 - (13) P.U.C. PROC. R. §§ 22.251-22.252;
 - (14) P.U.C. PROC. R. § 22.263(d); and

(15) P.U.C. PROC. R. §§ 22.281-22.284.

(d) For purposes of this Attachment 2—Rules of Procedure, the following shall supplement the terms of a Chapter 22 Rule, as specified:

(1) P.U.C. PROC. R. § 22.31. The following subsection (d) shall be added:

“(d) The Hearing Body Clerk shall designate each proceeding brought under these rules as a docket.”

(2) P.U.C. PROC. R. § 22.72(e). The following sentence shall be added at the end of this subsection:

“A party or its authorized representative shall also provide in its signature block one or more electronic mail addresses to which service may be made.”

(3) P.U.C. PROC. R. § 22.74(b). The following sentence shall be added at the end of this subsection:

“(b) . . . Service may be made by electronic mail to the email address included in a signature block of a party or its authorized representative.

* * *

“(4) Service by email shall be complete upon transmission of the communication from the electronic mail server of the serving party.”

(e) All proceedings filed under these rules shall be conducted under the Commission’s Chapter 22 Procedural Rules, as modified herein, but may not be referred to the State Office of Administrative Hearings.

1.1.3 Standards for Discretion

The Hearing Body’s discretion under these Rules of Procedure shall be exercised to accomplish the following goals:

- (a) Integrity of the Fact-Finding Process - The principal goal of the hearing process is to assemble a complete factual record to serve as a basis for a correct and legally sustainable ruling, decision or order.
- (b) Fairness - Persons appearing in Compliance Enforcement Authority proceedings should be treated fairly. To this end, Parties should be given fair notice and opportunity to present explanations, factual information, documentation and legal argument. Action shall be taken as necessary to eliminate any disadvantage or prejudice to a Party that would otherwise result from another Party’s failure to act diligently and in good faith.
- (c) Independence - The hearing process should be tailored to protect against undue influence from any Person, Party or interest group.
- (d) Balanced Decision-Making - Decisions should be based solely on the facts and arguments of record in a proceeding and by individuals who satisfy the Compliance Enforcement Authority’s conflict of interest policy.

- (e) Impartiality - Persons appearing before the Hearing Body should not be subject to discriminatory or preferential treatment. Registered Entities should be treated consistently unless a reasonable basis is shown in any particular proceeding to depart from prior rulings, decisions or orders.
- (f) Expedition - Proceedings shall be brought to a conclusion as swiftly as is possible in keeping with the other goals of the hearing process.

1.1.4 Interpretation

- (a) These Rules of Procedure shall be interpreted in such a manner as will aid in effectuating the Standards for Discretion set forth in Section 1.1.3, and so as to require that all practices in connection with the hearings shall be just and reasonable.
- (b) Unless the context otherwise requires, the singular of a term used herein shall include the plural and the plural of a term shall include the singular.
- (c) To the extent that the text of a rule is inconsistent with its caption, the text of the rule shall control.

1.1.5 Definitions

- (a) Unless otherwise defined, as used in these Rules of Procedure (i) definitions in Section 1.1 of the NERC Compliance Monitoring and Enforcement Program shall apply, and (ii) the following terms shall have the following meanings:

“Board” means the Board of Directors of Texas Reliability Entity.

“Bulk-Power System,” for the purposes of these Rules of Procedure, has the meaning set forth in 16 U.S.C. §824o(a)(1).

“Chapter 22” or “Commission Procedural Rules” shall mean the Chapter 22 Procedural Rules of the Commission, 16 TEX. ADMIN. CODE ch. 22., and be cited as “P.U.C. PROC. R. § [].”

“Commission” means the Public Utility Commission of Texas.

“Compliance Enforcement Authority Clerk,” as designated by the Compliance Enforcement Authority.

“Compliance Enforcement Authority” means the Regional Entity, by and through its Chief Executive Officer.

“Compliance Enforcement Authority’s area of responsibility” means the Texas Reliability Entity’s corporate region.

“Critical Energy Infrastructure Information” means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (i) relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person in planning an attack on critical infrastructure; and (iii) does not simply give the location of the critical infrastructure.

“Critical infrastructure” means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.

“Cybersecurity Incident” means a malicious act or suspicious event that disrupts, or was an attempt to disrupt, the operation of those programmable electronic devices and communications networks including hardware, software, and data that are essential to the Reliable Operation of the Bulk-Power System.

“ERO” means the Electric Reliability Organization, currently the North American Electric Reliability Corporation, or any successor organization, certified by FERC pursuant to 18 C.F.R. §39.3.

“FERC” means the Federal Energy Regulatory Commission.

“Filing Clerk” or “Hearing Body Clerk” means the Central Records filing clerk of the Public Utility Commission of Texas.

“Hearing Body” means the Public Utility Commission of Texas.

“Mitigation Plan” means an action plan developed by a Registered Entity to (i) correct a violation of a Reliability Standard and (ii) prevent reoccurrence of the violation. A Mitigation Plan is required when a Registered Entity violates a Reliability Standard as determined by any means including Compliance Enforcement Authority Decision, settlement agreement, or otherwise.

“Party” means any Person who is allowed or required to participate in a proceeding conducted pursuant to these Rules of Procedure. The term “Party” as used herein shall include the members of the Compliance Staff of the Compliance Enforcement Authority that participate in a proceeding.

“Penalty” as used herein includes all penalties and sanctions that may be imposed pursuant to 16 U.S.C. §824o-1 and applicable regulations, including but not limited to a monetary or non-monetary penalty; a limitation on an activity, function, operation or other appropriate sanction; or the addition of the Registered Entity to a reliability watch list composed of major violators. Penalties must be within the range set forth in the NERC *ERO Sanction Guidelines* approved by FERC pursuant to 18 C.F.R. Section 39.7(g)(2), and shall bear a reasonable relation to the seriousness of a Registered Entity’s violation and take into consideration any timely efforts made by the Registered Entity to remedy the violation.

“Person” means any individual, partnership, corporation, limited liability company, governmental body, association, joint stock company, public trust, organized group of persons, whether incorporated or not, or any other legal entity.

“Presiding Officer” or “Hearing Examiner” means an individual employed or contracted by the Hearing Body and designated by the Hearing Body to preside over hearings conducted pursuant to these Rules of Procedure.

“North American Electric Reliability Council” or “NERC” means North American Electric Reliability Corporation.

“Registered Entity” means each user, owner and operator of the Bulk-Power System within the United States that is required to register with the Regional Entity pursuant to 18 C.F.R. § 39.2.

“Regional Entity” means Texas Reliability Entity or Texas RE.

“Reliable Operation” has the meaning set forth in Section 215 of the Federal Power Act.

“Reliability Standards” means standards approved by FERC pursuant to Section 215 of the Federal Power Act and 18 C.F.R. Section 39.5, as such standards are authorized and in effect from time to time.

“Remedial Action Directive” means an action (other than a penalty or sanction) required that (1) is to bring a Registered Entity into compliance with a Reliability Standard or to avoid a Reliability Standard violation, and (2) is immediately necessary to protect the reliability of the Bulk Power System from an imminent threat of harm.

“Respondent” means the Registered Entity who is the subject of the Notice of Alleged Violation or contested Mitigation Plan that is the basis for the proceeding, whichever is applicable.

“Staff” or “Compliance Staff” means individuals employed or contracted by the Compliance Enforcement Authority who have the authority to make initial determinations of Registered Entities’ compliance with or violation of the Reliability Standards and associated Penalties and Mitigation Plans.

“Technical Advisor” means any Staff member, Hearing Body employee, third-party contractor, or industry stakeholder who satisfies the Compliance Enforcement Authority’s conflict of interest policy and is selected to assist in a proceeding by providing technical advice to the Presiding Officer and/or the Hearing Body.

- (b) For purposes of this Attachment 2--Rules of Procedure and in application to any proceeding brought under these rules, the following terms shall be substituted for the term used in a Chapter 22 rule:

“Administrative law judge” shall mean and refer to the defined term “Presiding Officer.”

“Central records” shall mean “Hearing Body Clerk.”

“Final order” shall mean “final recommendation.”

“Proposal for decision” shall mean “draft recommendation.”

“Public utility” shall mean “party.”

- (c) If a term is defined in this Attachment 2—Rules of Procedure and in Chapter 22, the meaning expressed herein shall prevail.

1.1.6 Interventions Are Not Permitted

The Respondent(s) and Compliance Staff shall be Parties to the proceeding. Unless otherwise authorized by FERC, no other Persons shall be permitted to intervene or otherwise become a Party to the proceeding.

1.1.7. Proceedings Open to the Public

All hearings, oral arguments, and meetings of the Hearing Body shall be open to the public, and every notice, ruling, order or any other issuance of the Presiding Officer or Hearing Body, and any transcript, made in any proceeding shall be publicly released unless a Party has requested that it be kept confidential in accordance with Texas law, and the Presiding Officer or Hearing Body determines that the information should not be released publicly.

1.1.8 Numbering and Docketing System

The Staff of the Compliance Enforcement Authority shall maintain a system of numbering proceedings before they are sent to the Hearing Body for a hearing under these procedures. A numbered proceeding shall be created within the Compliance Enforcement Authority upon the issuance of a notice of Alleged Violation. Unless NERC provides a different docketing system that will be used uniformly by the Compliance Enforcement Authority, proceeding numbers shall be assigned sequentially beginning with a two digit number that relates to the last two digits of the year in which the docket is initiated, followed by a dash ("-"), followed by the letters "[RE]", followed by a dash ("-"), followed by a four digit number that will be "0001" on January 1 of each calendar year and ascend sequentially until December 31 of the same calendar year. If the proceeding is not settled and becomes a contested matter before the Hearing Body, the Hearing Body's numbering and docketing system shall govern the tracking of such filings while under the Hearing Body's administration.

1.2 Hold Harmless

A condition of a Party invoking these Rules of Procedure and participating in a hearing is that the Party agrees that the Compliance Enforcement Authority, including without limitation its members, board of directors or trustees, compliance committee, any other committees or subcommittees, Staff, contracted employees, attorneys and experts (outside or in-house), Hearing Body members, Presiding Officers and Technical Advisors, shall not be liable, and shall be held harmless against the consequences of, or any action or inaction arising out of, the hearing process, or of any agreement reached in resolution of a dispute or any failure to reach agreement as a result of a proceeding. This "hold harmless" provision does not extend to matters constituting gross negligence, intentional misconduct, or breach of confidentiality.

1.3 Initiation of the Hearing Process

Except when contesting a Remedial Action Directive pursuant to section 1.5 of these Rules of Procedure, a Registered Entity may file a response or complaint with the Compliance Enforcement Authority and the Filing Clerk requesting a hearing if:

- (a) The Registered Entity contests a Notice of Alleged Violation as to the existence or scope of the alleged violation, the proposed Penalty, or both; or
- (b) The Registered Entity contests the Compliance Enforcement Authority's rejection of Registered Entity's Mitigation Proposal in whole or in part.

A Registered Entity must file its hearing request within forty (40) days after (i) the Registered Entity files its response to the notice of Alleged Violation; or (ii) the Compliance Staff submits to the Registered Entity its statement identifying a disagreement with the Registered Entity's Mitigation Proposal, whichever is applicable. If the Registered Entity does not file a hearing request within the time period set forth in this Section, then the Registered Entity will be deemed to have agreed and waived any objection to the proposed Penalty, the Alleged Violation or the Compliance Staff's stated position on the Registered Entity's Mitigation Proposal, whichever is applicable.

Either a notice of Alleged Violation issued to a Registered Entity or a Staff statement setting forth its disagreement with a Registered Entity's Mitigation Proposal shall clearly state that the Registered Entity has the option to contest the Alleged Violation, proposed Penalty, or both, or the Compliance Staff's position on the Registered Entity's Mitigation Proposal.

A Registered Entity shall attach to a request for hearing whichever of the following are applicable:

- (a) The Registered Entity's Self-Reporting of a violation;
- (b) The Notice of Alleged Violation and the Registered Entity's response thereto; or
- (c) The Registered Entity's Mitigation Proposal and the Compliance Staff's statement identifying its disagreement with the Registered Entity's Mitigation Proposal.

1.4 General Hearing Procedure

Except as otherwise specified in this Attachment 2—Rules of Procedure, the procedures and timelines set forth in Chapter 22 shall govern the conduct of a hearing arising under these rules.

1.4.1 Hearing Body

The Hearing Body, consisting of a quorum of the Commission, shall hear all proceedings brought under these Rules of Procedure, unless the Commission elects to delegate all or part of the proceeding to a Presiding Officer who is a member of the Commission Staff. The Hearing Body is vested with the exclusive authority to issue a final recommendation to the Board for the resolution of the issue(s) presented. The following procedures shall also apply:

- (a) The Hearing Body or any individual member thereof may, but is not required to, attend any prehearing conference, status hearing or evidentiary hearing, or to submit questions to the Presiding Officer to submit to a Party or any witness at any such hearing. No more than one member of the Hearing Body may be present for any prehearing conference, status hearing, or evidentiary hearing unless the Hearing Body has complied with the Open Meetings requirements of Texas law.
- (b) The Hearing Body shall resolve the issue(s) in every hearing through the issuance of a final recommendation to the Board. In issuing a final recommendation to the Board, the Hearing Body shall consider the Presiding Officer's draft recommendation but shall have the authority to

reject, modify or approve the draft recommendation in whole or in part in issuing its final recommendation.

1.4.2 Technical Advisor

The Presiding Officer or the Hearing Body may elect to use one or more Technical Advisors to assist in any proceeding. Such an election may be made at any time during the course of a proceeding. Any Staff member who serves as a Technical Advisor shall not have been involved in or consulted at any time in regard to any Compliance Staff investigation, initial determination of Alleged Violation or Penalty, or assessment of a Registered Entity's proposed Mitigation Plan that resulted in the proceeding in which technical advice would be rendered, and shall not otherwise participate in the proceeding on which such technical advice would be rendered.

If the Presiding Officer or Hearing Body uses a Technical Advisor to assist in any hearing, the Presiding Officer or Hearing Body shall disclose the identity, employment history and professional affiliations of the Technical Advisor within two (2) days of the Technical Advisor's assignment to the proceeding, and Parties to the hearing may raise objections to the Technical Advisor's participation within 10 business days of disclosure.

1.5 Initiation of Remedial Action Directive Hearing

Staff may issue a Remedial Action Directive to a Registered Entity at any time, including during any proceeding related to an alleged violation of a Reliability Standard. The Compliance Enforcement Authority will notify NERC within two (2) days after its Staff issues a Remedial Action Directive.

The Registered Entity may contest the Remedial Action Directive in accordance with these Rules of Procedure and Delegation Agreement, Exhibit D, Attachment 1, §10, by filing a written notice with the Compliance Enforcement Authority that states that the Registered Entity contests the Remedial Action Directive and that the Registered Entity requests a Remedial Action Directive hearing. The Registered Entity shall attach a copy of the Remedial Action Directive to its written notice. The Registered Entity must provide such notice within two (2) business days following issuance of the Remedial Action Directive. If the Registered Entity does not give written notice to the Compliance Enforcement Authority within the required time period, the Registered Entity shall be deemed to have waived its right to contest the Remedial Action Directive.

The Registered Entity shall simultaneously file with the Hearing Body Clerk a copy of the notice that it is contesting the Remedial Action Directive.

The Hearing Body Clerk shall assign a docket number, and issue a Notice of Hearing that sets forth the date, time and place at which the hearing will convene.

Exhibit E — Funding

1. Scope of activities funded through the ERO funding mechanism

~~{Regional Entity}~~Texas RE shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and ~~{Regional Entity}~~Texas RE, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of ~~{Regional Entity}'s~~Texas RE's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require ~~{Regional Entity}~~Texas RE (i) to submit to NERC draft(s) of ~~{Regional Entity}'s~~Texas RE's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by ~~{Regional Entity}~~Texas RE Board of ~~Trustees~~Directors to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of ~~{Regional Entity}'s~~Texas RE's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The ~~{Regional Entity}~~Texas RE business plan and budget submission shall include supporting materials, including ~~{Regional Entity}'s~~Texas RE's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. ~~{Regional Entity}'s~~Texas RE's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve ~~{Regional Entity}'s~~Texas RE's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct ~~{Regional Entity}~~Texas RE to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~{Regional Entity}'s~~Texas RE's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of ~~{REGIONAL ENTITY}'s~~Texas RE's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. ~~{Regional Entity}~~Texas RE shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying ~~{Regional Entity}'s~~Texas RE's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of ~~{Regional Entity}'s~~Texas RE's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.— NERC and Texas RE agree that for purposes of Section 3 and 4 of this Exhibit E, Electric Reliability Council of Texas (ERCOT ISO), as the sole independent system operator and Balancing Authority, is the only load-serving entity or designee in Texas RE's region and shall be invoiced for the entire NERC and Texas RE assessments approved for collection.

4. Collection of Funding

~~{IF NERC WILL BILL AND COLLECT ASSESSMENTS DIRECTLY FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):}~~

(a) NERC shall submit invoices to the load-serving entities or designees identified by ~~{Regional Entity}~~Texas RE covering the NERC and ~~{Regional Entity}~~Texas RE assessments approved for collection.

~~{IF THE REGIONAL ENTITY WILL ACT AS THE BILLING AND COLLECTION AGENT ON BEHALF OF NERC TO BILL AND COLLECT ASSESSMENTS FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):}~~

~~(a) NERC and {Regional Entity} agree that {Regional Entity} shall act as the billing and collection agent on behalf of NERC to bill and collect {Regional Entity}'s assessments from load-serving entities and designees (or such other entities as agreed by NERC and {Regional Entity}). {Regional Entity} agrees that it shall (i) issue all invoices to load-serving entities and other entities in a prompt and timely manner after receipt from NERC of the information needed to issue the invoices; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC in a timely manner, as follows: Prior to the start of each calendar quarter, and once per week thereafter until all billings for the quarter are collected, {Regional Entity} will electronically transfer to NERC, in immediately available funds, all payments received by {Regional Entity} from load-serving entities or other entities for payment of invoices.— On the same day that {Regional Entity} makes each electronic transfer of funds to NERC,~~

~~{Regional Entity} shall send an e-mail to the Chief Financial Officer or Controller of NERC detailing the collections being transmitted, including a listing of the load-serving entities or other entities from which payments were collected and the amount collected from each entity. [Note: If NERC and Regional Entity have a different collection and payment arrangement, the preceding two sentences will be modified accordingly to describe it.]~~

~~{Regional Entity} agrees that it shall not in any way use its position as billing and collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of Reliability Standards (including Regional Reliability Standards and Regional Variances), administration of the compliance monitoring and enforcement program and other compliance and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of {Regional Entity}'s budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this Agreement.~~

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from ERO Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, ~~{Regional Entity}~~Texas RE shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, ~~{Regional Entity}~~Texas RE is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within ~~{REGIONAL ENTITY}'s~~Texas RE's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within ~~{Regional Entity}'s~~Texas RE's region.

(c) Upon approval by ERO Governmental Authorities of ~~{Regional Entity}'s~~Texas RE's annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay ~~{Regional Entity}'s~~Texas RE's annual assessment to Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by ~~{Regional Entity}~~Texas RE, other than penalty monies received from an operational function or division or affiliated entity of ~~{Regional Entity}~~Texas RE, shall be applied as a general offset to ~~{Regional Entity}'s~~Texas RE's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of ~~{Regional Entity}~~Texas RE shall be transmitted to

or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for ~~{Regional Entity's}~~Texas RE's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), ~~{Regional Entity}~~Texas RE performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): ~~{List and describe all non-statutory activities performed by Regional Entity, or state "None".}~~

~~{Regional Entity}~~Texas RE does not anticipate auditing or investigating market participants' compliance with ERCOT Protocols and Operating Guides in 2011. Texas RE will, however, need to respond to subpoenas and provide testimony and support to the Public Utility Commission of Texas (PUCT) regarding Texas RE's ERCOT Protocol and Operating Guide compliance and enforcement audits, investigations, and reports from the period in which Texas RE conducted the compliance investigations.

Texas RE shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: ~~{List and describe the methods and procedures Regional Entity employs to keep costs and funding of statutory activities separate from costs and funding of non-statutory activities, including at a minimum a description of how Regional Entity's bank accounts and receivables/payables procedures are set up for both statutory and non-statutory functions, a description of how Regional Entity ensures each employee involved in both statutory and non-statutory functions keeps accurate time records reflecting his/her activities, and a description of how Regional Entity's general and administrative costs are allocated between statutory activities and non-statutory activities. If the necessary descriptions are lengthy they may be provided in a separate attachment labeled "Attachment E-1", and state here "See Attachment E-1." If Regional Entity has listed no non-statutory functions in the preceding paragraph, state here "Not applicable."}~~

~~{Regional Entity}~~A. Texas RE segregates the funding for its statutory activities and non-statutory activities by recording the funding transactions in separate and distinct general ledger accounts, in accordance with Generally Accepted Accounting Principles.

B. Texas RE utilizes and must maintain a time recording and expense management system under which employee time and expenses incurred in the conduct of non-statutory activities will be tracked to ensure that they are not funded by NERC remittances intended for the funding of statutory activities.

C. Texas RE has adopted a detailed system of Account Codes, Department Codes and Activity Codes which are used in recording expenses. The Activity Codes are specific to statutory activities and non-statutory activities. The Texas RE

Activity Codes are modeled on the NERC Functional Categories. Texas RE shall use Department Codes that are unique to Texas RE to record all costs and expenses incurred by Texas RE for statutory activities and non-statutory activities.

D. Texas RE shall use Activity Codes to appropriately track its costs for statutory activities separately from its costs for non-statutory activities.

E. Where employee time or an expense affects multiple activities, Texas RE will use an accurate basis of allocation of the time or expense between the activities being performed based on specific metrics, such as time tracking, data observations or total cost input. Total cost input relates the portion of the expense to the total expense to establish an appropriate method to allocate.

Texas RE shall provide its budget for such non-statutory activities to NERC at the same time that ~~{Regional Entity}~~Texas RE submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. ~~{Regional Entity's}~~Texas RE's budget for non-statutory activities that is provided to NERC shall contain a detailed list of ~~{Regional Entity's}~~Texas RE's non-statutory activities and a description of the funding sources for the non-statutory activities. ~~{Regional Entity}~~Texas RE agrees that no costs (which shall include a reasonable allocation of ~~{Regional Entity's}~~Texas RE's general and administrative costs) of non-statutory activities are to be included in the calculation of ~~{Regional Entity's}~~Texas RE's assessments, dues, fees, and other charges for its statutory activities.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if ~~{Regional Entity}~~Texas RE determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, ~~{Regional Entity}~~Texas RE shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in ~~{Regional Entity's}~~Texas RE's approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct ~~{Regional Entity}~~Texas RE to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~{Regional Entity's}~~Texas RE's approved amended or supplemental business plan and budget and proposed supplemental- assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Statements

NERC shall conduct reviews of the quarterly and annual financial statements submitted by ~~{Regional Entity}~~Texas RE pursuant to Section 9(h) and (i) of the Agreement. ~~{Regional Entity}~~Texas RE shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC based on its reviews.

ATTACHMENT 9A

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED DELEGATION AGREEMENT

WITH

WESTERN ELECTRICITY COORDINATING COUNCIL

CLEAN VERSION



Louise McCarren
Chief Executive Officer

801.582.0353
lmccarren@wecc.biz

April 30, 2010

Mr. David Cook
Vice President and General Counsel
NERC
1120 G Street NW, Suite 990
Washington, DC 20005

RE: REVISED WECC REGIONAL DELEGATION AGREEMENT

Dear David:

The Western Electricity Coordinating Council (WECC) Board of Directors (Board) passed the motion below for the Revised Regional Delegation Agreement at the WECC Board meeting on April 30, 2010.

BE IT RESOLVED: The Western Electricity Coordinating Council (WECC) Board of Directors (1) approves the proposed AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION AND WESTERN ELECTRICITY COORDINATING COUNCIL (the "Agreement") and revised WECC Compliance Monitoring and Enforcement Program (the "WECC CMEP"); (2) directs the Chief Executive Officer (CEO) to execute the Agreement on behalf of WECC and to coordinate with the North American Electric Reliability Corporation the filing of said Agreement and WECC CMEP for Federal Energy Regulatory Commission approval; and (3) authorizes the CEO to make minor, non-substantive edits and corrections to the Agreement and WECC CMEP as necessary.

Please find attached the approved revised WECC Regional Delegation Agreement and revised WECC Compliance Monitoring and Enforcement Program, in clean and redlined versions, for your review and presentation to the NERC Board of Trustees.

Sincerely,

Louise McCarren
Chief Executive Officer

cc: Owen MacBride
Regional Entity Management Group

Attachments

1. Revised WECC Regional Delegation Agreement
2. Revised WECC Compliance Monitoring and Enforcement Program

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

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”) made as of January 1, 2011, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and the Western Electricity Coordinating Council (“WECC”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified on **Exhibit A** to this Agreement, and for other purposes. NERC and WECC may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824n) (hereafter “the Act”), which, among other things, provides for the establishment of an electric reliability organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as WECC provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, WECC is organized on an Interconnection-wide basis and therefore is entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through WECC to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that WECC meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and WECC, having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and WECC agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to WECC to propose and enforce Reliability Standards pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, WECC hereby represents and warrants to NERC that:

(i) WECC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. WECC is governed in accordance with its bylaws by a combination independent and balanced stakeholder board. Pursuant to these bylaws, no two industry sectors can control any WECC decision and no single industry sector can veto any WECC decision. The relevant portions of such bylaws are attached hereto in **Exhibit B**¹, and as so attached are in full force and effect. No other such corporate governance documents are binding upon WECC.

(ii) As set forth in **Exhibit C** hereto², WECC has developed a standards development procedure, which provides the process that WECC may use to develop Regional Reliability Standards and Regional Variances that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, WECC has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within WECC's geographic boundaries as shown on **Exhibit A**.

(b) NERC hereby represents and warrants to WECC that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

3. Covenants.

¹ The **Exhibit B** from WECC shall meet the requirements contained in **Exhibit B** to this Agreement.

² The **Exhibit C** from WECC shall meet the requirements contained in **Exhibit C** to this Agreement.

(a) During the term of this Agreement, WECC shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC's approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of WECC under this Agreement without first obtaining the consent of WECC, which consent shall not be unreasonably withheld or delayed.

(c) During the term of this Agreement, NERC and WECC shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of WECC in Sections 2 and 3 above, the corporate governance documents set forth in **Exhibit B**, the standards development process set forth in **Exhibit C**, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to WECC for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth on **Exhibit A**, *provided*, that WECC shall not monitor and enforce compliance with Reliability Standards for WECC or an affiliated entity with respect to reliability functions for which WECC or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to WECC within, or additions to this delegation of authority to WECC beyond, the geographic boundaries set forth on **Exhibit A** are stated on **Exhibit A**.

(b) In circumstances where WECC or an affiliated entity is a Registered Entity, WECC shall enter into an agreement with another Regional Entity or NERC for the other

Regional Entity or NERC to monitor and enforce WECC's or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit WECC from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified on **Exhibit A** that is within the United States. Any delegation of authority by ERO Governmental Authorities in Canada or Mexico shall be governed by a separate agreement and is outside the scope of this Agreement; provided, however, that both WECC and NERC shall endeavor to ensure that this Agreement and such separate agreements are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, WECC shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, WECC shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords WECC reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards and Regional Variances through WECC's process as set forth in **Exhibit C**. Proposals approved through WECC's process shall be reviewed by the NERC Board after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying

the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. WECC may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, WECC shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the geographic boundaries set forth, or as otherwise specified, in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and WECC agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, *inter alia*, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. WECC may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, WECC agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued

by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) WECC shall report promptly to NERC any Possible Violation, Alleged Violation, or Confirmed Violation of a Reliability Standard, and its eventual disposition by WECC. Such report shall include the owner's, operator's, or user's name, which Reliability Standard or Reliability Standards were the subject of the Possible Violation, Alleged Violation, or Confirmed Violation, when the Possible Violation, Alleged Violation, or Confirmed Violation occurred, other pertinent facts including circumstances surrounding the Possible Violation, Alleged Violation, or Confirmed Violation with any known risk to the Bulk-Power System, when the Possible Violation, Alleged Violation, or Confirmed Violation was or will be mitigated, the name of a person knowledgeable about the Possible Violation, Alleged Violation, or Confirmed Violation to serve as a point of contact with the Commission, and any other information required by NERC compliance program procedures. NERC shall promptly forward such report to the Commission. NERC and WECC shall cooperate in filing such periodic summary reports as the Commission shall from time to time direct on Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards and summary analyses of such Possible Violations, Alleged Violations, and Confirmed Violations.

(c) Each Possible Violation, Alleged Violation, or Confirmed Violation shall be treated as nonpublic unless the matter is filed with the Commission as a Notice of Penalty, or, if disclosure is required, dismissed. The disposition of each Possible Violation, Alleged Violation, or Confirmed Violation that relates to a Cybersecurity Incident or that would jeopardize the security of the Bulk-Power System if publicly disclosed shall remain nonpublic unless the Commission directs otherwise.

(d) All dispositions by WECC of Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards shall be reported to NERC for review and, in the case of Confirmed Violations, penalties or sanctions, and settlements, for approval. Following approval of a disposition by NERC, NERC shall file the disposition with the Commission, if required by, and in accordance with, Section 215(e) of the Act and Section 39.7 of the ERO Regulations. NERC shall review WECC's dispositions based on the following criteria:

(i) whether the disposition is supported by a sufficient record compiled by WECC in accordance with the NERC Rules of Procedure, NERC directives and

Commission requirements, taking into account the nature of the Possible Violation, Alleged Violation, or Confirmed Violation,

(ii) whether the disposition is consistent with any applicable directives issued pursuant to Section 8(c) of this Agreement, any applicable directions or guidance issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, or other applicable NERC guidance, concerning the Reliability Standards to which the Possible Violation, Alleged Violation, or Confirmed Violation relates,

(iii) if the disposition is a Confirmed Violation or settlement, whether it provides for a penalty or sanction, or a determination of no penalty or sanction, determined in accordance with the NERC Sanction Guidelines, Appendix 4B to the NERC Rules of Procedure, and

(iv) whether the disposition is reasonably consistent with other dispositions by WECC and by other Regional Entities of Possible Violations, Alleged Violations, and Confirmed Violations involving the same or similar facts and circumstances.

NERC may reject any disposition, with an explanation of why NERC believes the disposition does not meet the above criteria. WECC may submit a disposition requiring NERC approval that has been rejected by NERC, or a revised disposition following a rejection, directly to the NERC Board Compliance Committee for approval without revising the disposition to address all the grounds on which NERC originally rejected the disposition. The final approval of WECC's disposition of a Possible Violation, Alleged Violation, or Confirmed Violation shall be made by the NERC Board Compliance Committee, provided, that the NERC Board or NERC Board Compliance Committee may, by appropriate resolution, delegate authority for final approval of dispositions of specified categories of Possible Violations, Alleged Violations, or Confirmed Violations to the NERC President.

(e) All appeals of penalties imposed by WECC as a result of a decision by WECC's Hearing Body shall be filed with, heard by and disposed of by, NERC in accordance with the NERC Rules of Procedure.

(f) WECC shall maintain the capability to conduct investigations of Possible Violations and Alleged Violations of Reliability Standards and to conduct such investigations in a confidential manner.

(g) WECC shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan.

(h) As part of its compliance monitoring and enforcement program, WECC shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. WECC may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(i) As often as NERC deems necessary, but no less than every five years, NERC shall review WECC's compliance monitoring and enforcement program to determine that: (i) the program meets all applicable legal requirements; (ii) actual practices reflect the requirements; and (iii) the program administered pursuant to the Delegated Authority promotes consistent interpretations across North America of Reliability Standards and comparable levels of sanctions and penalties for violations of Reliability Standards constituting comparable levels of threat to reliability of the Bulk-Power System.

7. Delegation-Related Activities.

NERC will engage WECC on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed on **Exhibit E**. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (f), each of which shall be considered a statutory activity:

(a) Certification of Bulk-Power System Entities. The NERC Board shall set criteria for certification in accordance with the NERC Rules of Procedure. WECC shall issue certifications in accordance with the NERC Rules of Procedure.

(b) Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.

(i) The NERC Board shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by WECC and other Regional Entities. WECC shall provide timely and accurate information relating to registrations to NERC, on at least a monthly basis, to enable NERC to maintain a registration database that is accurate and up-to-date.

(iii) The NERC Board Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) Reliability Assessment and Performance Analysis. WECC shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. WECC shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives. NERC shall develop data-gathering quality control procedures, forms and reporting mechanisms, which shall be used by WECC and other Regional Entities in carrying out their responsibilities under this subsection (c).

(d) Event Analysis and Reliability Improvement. WECC shall conduct event analysis pursuant to the NERC Rules of Procedure and applicable governmental regulations. NERC and WECC shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, WECC shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) Training and Education. WECC may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related

activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) Situation Awareness and Infrastructure Security.

(i) WECC shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure and applicable governmental regulations, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System

(ii) WECC shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of WECC's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and WECC that matters relating to NERC's oversight of WECC's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and WECC and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with WECC and other Regional Entities, performance goals, measures and other parameters (including, without limiting the scope of such goals, measures and parameters, financial performance goals, measures and parameters), and performance reports, which shall be used to measure NERC's and WECC's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. WECC shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate WECC's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters and performance reports to evaluate WECC's performance of its delegated functions and related activities and to provide advice and direction to WECC on performance improvements. The performance goals, measures and other parameters and the values of such goals, measures and parameters, shall be reviewed by NERC, WECC and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, WECC shall be required to develop, submit for NERC approval, and implement action plans to address areas of its performance that are reasonably determined by NERC, based on analysis of WECC's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring WECC to adopt and implement an action plan or other remedial action, NERC shall issue a notice to WECC of the need and basis for an action plan or other remedial action and provide an opportunity for WECC to submit a written response contesting NERC's evaluation of WECC's performance and the need for an action plan. WECC may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board review and reconsider the request. NERC and WECC shall work collaboratively as needed in the development and implementation of WECC's action plan. A final action plan submitted by WECC to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to WECC standardized training and education programs, which shall be designed taking into account input from WECC and other Regional Entities, for WECC personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to WECC concerning the manner in which WECC shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with WECC and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and WECC and, if applicable, other Regional Entities are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President; *provided*, that before the NERC President issues a directive pursuant to this paragraph (ii), WECC and, if applicable, other Regional Entities, shall be given a reasonable opportunity to present their positions on, and a suggested alternative version or versions of, the proposed directive to the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, WECC, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by WECC, the NERC Board (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without WECC's agreement, *provided*, that WECC shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and WECC and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which WECC, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The Board or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the Board or Board committee makes a written determination stating a

specific reason for maintaining particular guidance or directions as non-public. WECC, either individually or in conjunction with other Regional Entities, may request that the NERC Board or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with WECC, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) Any audits of WECC performed by NERC shall be limited to an examination of WECC's compliance with this Agreement, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c)

9. Funding. WECC and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed on **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) WECC shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. WECC's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, WECC to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E**. WECC's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) WECC and NERC agree that the portion of WECC's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by WECC and approved by NERC and the Commission. If WECC proposes to use a formula other than Net Energy for Load beginning in

the following year, WECC shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and WECC to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide WECC with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) WECC shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed on Exhibit E, as well as for all other activities of WECC, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund WECC's performance of its Delegated Authority and related activities in accordance with WECC's Commission-approved business plan and budget, in the amount of WECC's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting WECC's approved assessments from end users and other entities and payment of the approved assessment amount to WECC, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon WECC that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without WECC's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and WECC fiscal year budget with the actual results at the NERC and Regional Entity levels. WECC shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) WECC shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) WECC shall submit audited financial statements annually, including supporting materials, in a form provided by NERC no later than May 1 of the following year.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which WECC shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of WECC) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which WECC shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of WECC. *Provided*, that, subject to approval by NERC and the Commission, WECC may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. WECC may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit WECC from contracting with other entities to assist it in carrying out its Delegated Authority, provided WECC retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the “Default Notice”). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on January 1, 2011 (the “Effective Date”).

(b) The term of the Agreement shall be five (5) years from the Effective Date, prior to which time NERC shall conduct an audit pursuant to subsection 6(i) to ensure that WECC continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. If WECC meets such requirements, this Agreement may be renewed for another five (5) year term. This Agreement may be renewed for successive additional five (5) year renewal terms provided that prior to the end of each renewal term, NERC shall conduct an audit pursuant to subsection 6(i) to ensure that WECC continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. Provided, that either Party may terminate this Agreement as of the end of a term by giving written notice to terminate at least one (1) year prior to the end of the term. If this Agreement is

not renewed or becomes subject to termination for any reason, the Parties shall work to provide for a transition of WECC's Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement. The termination of this Agreement shall not take effect until such transition has been effected, unless the transition period exceeds one year, at which time WECC may unilaterally terminate.

(c) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by WECC and NERC.

(d) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. WECC and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and WECC shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of the WECC's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that the

WECC or NERC is found liable for gross negligence or intentional misconduct, in which case WECC or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party.

15. Confidentiality. During the course of the Parties' performance under this Agreement, a Party may receive Confidential Information, as defined in Section 1500 of NERC's Rules of Procedure. Except as set forth herein, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information. In addition, each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein. This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of WECC under this Agreement without first obtaining the consent of WECC, which consent shall not be unreasonably withheld or delayed. To the extent WECC does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of WECC under this Agreement, WECC shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by WECC to NERC and the Commission, or at such other time as may be mutually agreed by WECC and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and WECC (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to WECC's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. WECC shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative

for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, *provided*, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), *provided*, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. *Provided, however*, that: (i) it is the intent of the Parties that unresolved disputes shall be

presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. Whether expressly so stated or not, all notices, demands, requests, and other communications required or permitted by or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand or reputable overnight courier:

If to NERC:

North American Electric
Reliability Corporation
116-390 Village Blvd.
Princeton, NJ 08540-5721
Attn: General Counsel
Facsimile: (609) 452-9550

If to WECC:

Western Electricity Coordinating Council
155 North 400 West, Suite 200
Salt Lake City, Utah 84103
Attn: Louise McCarren
Facsimile: (801) 582-3918

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of New Jersey without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in New Jersey. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in New Jersey for the purpose of hearing and determining any action not heard and determined by the Commission.

21. **Headings.** The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. **Savings Clause.** Nothing in this Agreement shall be construed to preempt or limit any authority that WECC may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. **Entire Agreement.** This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. **Execution of Counterparts.** This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN
ELECTRIC RELIABILITY CORPORATION

WECC

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

EXHIBIT A

Exhibit A — Regional Boundaries

WECC's physical boundaries coincide with the boundaries of the Western Interconnection. The Western Interconnection consists of the synchronously operated electric transmission grid in the western part of North America, which includes parts of Montana, Nebraska, New Mexico, South Dakota, Texas, Wyoming, and Mexico and all of Arizona, California, Colorado, Idaho, Nevada, Oregon, Utah, Washington and the Canadian Provinces of British Columbia and Alberta. The WECC region encompasses approximately 1.8 million square miles.

WECC's northern border runs along the northern border of British Columbia and Alberta. The western border extends along the western coast of North America from British Columbia into northern Baja California, Mexico. The southern border traverses northern Baja and extends along the southern United States border to Texas. The eastern border bisects North America from Alberta, Canada through the states of Montana, South Dakota, Wyoming, Nebraska, Texas and New Mexico to the southern United States border.

EXHIBIT B

Exhibit B – Governance

Exhibit B shall set forth the Regional Entity’s bylaws, which NERC agrees demonstrate that the Regional Entity meets the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence of the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

BYLAWS
OF
THE
WESTERN ELECTRICITY COORDINATING COUNCIL

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BYLAWS
Of
The
WESTERN ELECTRICITY COORDINATING COUNCIL

1. Mission.

The Western Interconnection is the geographic area containing the synchronously operated electric grid in the western part of North America, which includes parts of Montana, Nebraska, New Mexico, South Dakota, Texas, Wyoming, and Mexico and all of Arizona, California, Colorado, Idaho, Nevada, Oregon, Utah, Washington and the Canadian provinces of British Columbia and Alberta.

The Western Electricity Coordinating Council (“WECC”) is a Utah nonprofit corporation with the mission to do the following consistent with these Bylaws: 1) maintain a reliable electric power system in the Western Interconnection that supports efficient competitive power markets (“Reliability Mission”); and 2) assure open and non-discriminatory transmission access among Members and provide a forum for resolving transmission access disputes between Members consistent with FERC policies where alternative forums are unavailable or where the Members agree to resolve a dispute using the mechanism provided in Section 11 (“Transmission Access Mission”).

2. Furtherance of the WECC’s Mission

2.1 Activities to Carry Out WECC’s Reliability Mission.

- 2.1.1 Compliance with the Federal Power Act. The WECC will carry out responsibilities and exercise rights of a Regional Entity organized on an interconnection-wide basis pursuant to Section 215 of the Federal Power Act, including any responsibilities and rights delegated to it by the ERO pursuant to a Delegation Agreement.
- 2.1.2 Agreements with Canada and Mexico. The WECC will carry out responsibilities and exercise rights pursuant to International Reliability Agreements with Canadian or Mexican authorities.
- 2.1.3 Regional Coordination. The WECC will act as a coordinating entity for the entire Western Interconnection for activities of regional organizations with responsibilities for reliability and market functions.
- 2.1.4 Standard Setting. The WECC will develop and adopt reliability, operating, and planning standards, criteria and guidelines necessary to maintain the reliable operation of the Western Interconnection’s interconnected bulk power system, including seeking, as appropriate, variances from standards of the ERO (or any

successor organization which may be created by legislation or otherwise), as well as providing a process for regional variances.

- 2.1.5 Certification of Grid Operating Entities. The WECC will certify Grid Operating Entities in the Western Interconnection.
- 2.1.6 Reliability Assessment. The WECC will ensure that interconnected bulk electric system reliability assessments are conducted as needed. The WECC will do this work in conjunction with the Regional Entities to the greatest extent possible. The WECC will also facilitate coordinated reliability assessments among Regional Entities.
- 2.1.7 Compliance Activities. With respect to enforcement of reliability standards, the WECC will:
 - 2.1.7.1 implement the Reliability Management System in effect as of the WECC's formation and as the Reliability Management System may be subsequently modified in accordance with its terms;
 - 2.1.7.2 implement any enforcement mechanisms delegated to it pursuant to Section 215 of the Federal Power Act and any Delegation Agreement with the ERO, or required by any International Reliability Agreement with a Canadian or Mexican authority; and
 - 2.1.7.3 administer any other enforcement mechanisms developed through voluntary processes after the WECC's formation, where the WECC is designated to perform administration.
- 2.1.8 Coordinated Regional Planning. With respect to the coordination of regional planning activities, the WECC:
 - 2.1.8.1 will develop coordinated planning policies and procedures for the Western Interconnection, including facilitation of market-based solutions, consistent with WECC/ERO standards and FERC policy.
 - 2.1.8.2 will review and assess Local Regional Entity planning processes to determine whether WECC planning procedures have been satisfied;
 - 2.1.8.3 will refer planning matters back to the originating Local Regional Entity for revision or other corrective actions when the WECC Board determines that WECC planning procedures have not been satisfied; and
 - 2.1.8.4 may perform other interconnection-wide studies as needed.
- 2.1.9 Coordinated Operations. With respect to coordinating reliable operating activities within the Western Interconnection, the WECC will develop, coordinate and promote

consistent interregional operating policies and procedures for the Western Interconnection, consistent with WECC/ERO standards and FERC policy.

2.1.10 Market Interface Issues. With respect to Market Interface issues the WECC will:

2.1.10.1 facilitate development of compatible and efficient practices across the Western Interconnection; and

2.1.10.2 exercise Backstop Authority where an unresolved Market Interface issue will cause Material External Impacts by taking some or all of the following actions: 1) providing a forum for and coordinating voluntary solutions among Members; 2) recommending specific solutions for voluntary adoption by Members; and 3) if necessary, proposing solutions to an Applicable Regulatory Authority.

2.1.11 Dispute Resolution. The WECC will provide a process for the timely resolution of disputes between WECC Members as set forth in Section 11.

2.2 Activities to Carry Out WECC's Non-Discriminatory Access Mission.

2.2.1 In accordance with Section 10 of these Bylaws, the WECC will ensure the provision of non-discriminatory transmission access between Members.

2.2.2 In accordance with Section 10 of these Bylaws, the WECC will provide for the submission of Open Access Transmission Tariffs (or petitions for exemption) by all Members that own or operate Transmission Facilities.

2.3 Organizational Characteristics.

As the WECC carries out activities to fulfill its mission, it will seek to develop and maintain the following characteristics:

2.3.1 dedication to serving the individuals, businesses, and other organizations that generate, transmit, distribute, market, and use electrical energy in the Western Interconnection;

2.3.2 efficiency in its administration, decision-making, policy and standards development, and dispute resolution processes;

2.3.3 the ability to maintain status as an Interconnection-wide regional reliability entity and be afforded deference and delegation by ERO (or successor organization); and

2.3.4 fair and open processes through which practices, policies, and standards are developed and implemented based on sound technical and policy analysis.

2.3.5 Promote an efficient western electric market by reducing or eliminating conflict, duplication and overlap among electric organizations in the Western Interconnection.

3. Definitions.

3.1 Affiliate.

An Entity that directly or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with, another Entity. An Entity “controls” any Entity in which it has the power to vote, directly or indirectly, 5% or more of the voting interests in such entity or, in the case of a partnership, if it is a general partner. Notwithstanding the foregoing definition, for purposes of these Bylaws: 1) electric distribution cooperatives that are member-owners of a generation and transmission cooperative are not Affiliates of the generation and transmission cooperative or of each other; 2) an entity controlled by or operating as a unit, agency, or subdivision of a local, state, provincial, or U.S. federal or Canadian or Mexican national government will not be considered an Affiliate of any other entity controlled by or operating as a unit, agency, or subdivision of a local, state, provincial, or federal government; 3) separate agencies of a single state or province, or of the U.S. federal or Canadian or Mexican national government will not be considered Affiliates of each other, regardless of any commonality of political control; 4) members of any joint powers authority, and such joint powers authority, will not be considered Affiliates of each other; and 5) members of an RTO will not be considered Affiliates of such RTO or of each other solely as a result of such membership.

3.2 Annual Meeting.

The annual membership meeting of WECC, as described in Section 5.3.

3.3 Applicable Regulatory Authority.

The FERC or any state or provincial government agency with jurisdiction to regulate or directly affect the transmission of electricity within the Western Interconnection.

3.4 Backstop Authority.

The ability, obligation, or responsibility of the WECC to address an issue when the WECC Board determines that a Local Regional Entity(ies) holding Primary Authority has not resolved an issue, has created incompatible resolutions or has not acted. In each case where these Bylaws authorize the WECC to exercise Backstop Authority, the provisions that authorize Backstop Authority will also specify the conditions necessary to trigger Backstop Authority and the actions that fall within the WECC’s exercise of Backstop Authority.

3.5 Board of Directors (Board).

WECC Board of Directors, collectively, as described in Section 6.

3.6 Canadian Delegation.

Canadian WECC Members.

- 3.7 Canadian Director.**
A member of the WECC Board of Directors that is either a representative from a Canadian Member of WECC or an individual currently residing in Canada and qualified to provide expertise on Canadian interests on the WECC Board of Directors.
- 3.8 Class.**
A grouping of Members described in Sections 4.2.1 through 4.2.7 and 4.3.
- 3.9 Commercial Practices.**
The products and practices involved in trading electricity. The term “Commercial Practices” only refers to an interaction among market entities that does not affect or require assistance from Grid Operating Entities that have grid reliability responsibilities.
- 3.10 Compliance Hearing Body.**
The hearing body formed in accordance with procedures established in the WECC Delegation Agreement with the ERO for the purpose of providing a balanced compliance panel to conduct hearings for the resolution of disputes concerning compliance with or enforcement of Reliability Standards that may arise between WECC (acting as Compliance Enforcement Authority for the Western Interconnection) and a Registered Entity.
- 3.11 Control Area.**
An electric power system (or combination of electric power systems) to which a common automatic generation control scheme is applied in order to: 1) match, at all times, the power output of the generating units within the electric power system(s), plus the energy purchased from entities outside the electric system(s), minus energy sold to entities outside the electric system(s), with the demand within the electric power system(s); 2) maintain scheduled interchange with other Control Areas, within the limits of Good Utility Practice; 3) maintain the frequency of the electric power system(s) within reasonable limits in accordance with Good Utility Practice; and 4) provide sufficient generating capacity to maintain operating reserves in accordance with Good Utility Practice.
- 3.12 Cross-Border Regional Entity.**
A Regional Entity that encompasses a part of the United States and a part of Canada or Mexico, and may therefore be delegated authority to propose and enforce Reliability Standards in Canada or Mexico by virtue of applicable contractual or regulatory mechanisms.
- 3.13 Delegation Agreement.**
An agreement between the ERO and the WECC pursuant to Section 215 of the Federal Power Act by which the ERO delegates to the WECC designated powers, rights and responsibilities regarding the administration within the Western Interconnection of electric Reliability Standards adopted or approved by the ERO and the FERC.
- 3.14 Director.**
An individual member of the WECC’s Board of Directors.

- 3.15 Electric Line of Business.**
The generation, transmission, distribution, or trading of electricity or the provision of related energy services in the Western Interconnection.
- 3.16 Electric Reliability Organization (ERO).**
The organization certified by FERC under 18 C.F.R. §39.3, the purpose of which is to establish and enforce Reliability Standards for the bulk-power system in the United States, subject to FERC review.
- 3.17 Entity.**
Any individual, person, corporation, partnership, association, governmental body or organization of any kind.
- 3.18 FERC.**
The Federal Energy Regulatory Commission or any successor.
- 3.19 Good Utility Practice.**
Any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.
- 3.20 Grid Operating Entity.**
Any operating entity, such as a control area operator, that is certified pursuant to Section 2.1.5 of these Bylaws to be responsible for reliable operation of a portion of the Western Interconnection.
- 3.21 Participating Stakeholder.**
Any person or entity that is not a WECC Member, but is an interested stakeholder and has applied and been granted, pursuant to Section 8.6.2, the participation and voting rights set forth in Section 8.6.1.
- 3.22 International Reliability Agreement.**
An agreement between the WECC and any appropriate Canadian or Mexican authority related to WECC's powers, rights and responsibilities regarding the administration within the Western Interconnection of electric Reliability Standards.
- 3.23 Local Regional Entity.**
A regional transmission organization or some other formally or informally constituted regional organization or group within the Western Interconnection, including but not limited to a Control Area, a group of Control Areas acting in concert, or a group of Entities that own or operate Transmission Facilities acting in concert. These Local

Regional Entity boundaries can be reevaluated or modified over time.

3.24 Market Interface.

Market Interface involves all interactions among market entities and Grid Operating Entities related to transmission service and physical delivery.

3.25 Material External Impacts (MEI).

Significant effects on another Local Regional Entity or market within the Western Interconnection but outside of the Local Regional Entity or market adopting a policy, standard, practice or procedure, or implementing an action.

3.26 Member.

Any entity that has applied and been accepted for membership in the WECC and is current in the payment of dues.

3.27 Member Class Director.

A Director elected by a Class in accordance with Section 6.4 of these Bylaws.

3.28 Mexican Delegation.

Mexican WECC Members.

3.29 Mexican Director.

A member of the WECC Board of Directors that is either a representative from a Mexican Member of WECC or an individual currently residing in Mexico and qualified to represent Mexican interests on the WECC Board of Directors.

3.30 Non-Affiliated Director.

A Director elected by the Members who satisfies the requirements of Section 6.5.1 of these Bylaws.

3.31 Open Access Tariff.

A tariff offering transmission service which meets the requirements applicable to FERC orders regarding open access.

3.32 Organizing Meeting.

The first formal membership meeting of the WECC.

3.33 Primary Authority.

The ability, obligation, or responsibility of an entity to address an issue in the first instance.

3.34 Regional Entity (RE).

An entity having enforcement authority pursuant to 18 C.F.R. §39.8.

- 3.35 Regional Transmission Organization (RTO).**
An entity approved by the Federal Energy Regulatory Commission as meeting the requirements and performing the functions of a regional transmission organization pursuant to FERC Order 2000 and subsequent related orders.
- 3.36 Registered Entity.**
An owner, operator, or user of the bulk-power system or the entities registered as their delegates for the purpose of compliance in the North American Electric Reliability Corporation Regional Compliance Registry.
- 3.37 Reliability Management System**
The contracts, separate from these Bylaws, by which Members and other parties agree to certain procedures and sanctions intended to enforce specified Reliability Practices to maintain reliable electric service throughout the Western Interconnection.
- 3.38 Reliability Practices.**
Policies, practices and standards designed to ensure the adequacy and security of the Western Interconnection in accordance with applicable reliability criteria (e.g. ERO, WECC, Local Regional Entity criteria).
- 3.39 Reliability Standard.**
A requirement approved by FERC under section 215 of the Federal Power Act, to provide for reliable operation of the bulk-power system in the United States. 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. A Reliability Standard for the Western Interconnection may also be approved by Canadian and Mexican regulatory authorities.
- 3.40 Reliability Standards Development Procedures.**
The Process for Developing and Approving WECC Standards (or its successor) attached as Exhibit C to the Delegation Agreement between WECC and North American Electric Reliability Corporation.
- 3.41 Transmission Facilities.**
Those facilities that are defined as “transmission facilities” by FERC for purposes of the open access requirements of Section 210 and 211 of the Federal Power Act or any facilities which would be so defined if the Member were subject to FERC jurisdiction.
- 3.42 Western Interconnection.**
The geographic area containing the synchronously operated electric transmission grid in the western part of North America, which includes parts of Montana, Nebraska, New Mexico, South Dakota, Texas, Wyoming, and Mexico and all of Arizona, California, Colorado,

Idaho, Nevada, Oregon, Utah, Washington and the Canadian Provinces of British Columbia and Alberta.

4. Members and Membership.

4.1 Voluntary Membership.

Except as otherwise may be required by applicable authority, membership in the WECC is voluntary. A Member may withdraw upon giving the Secretary thirty (30) days' advance written notice. Notwithstanding such notice of withdrawal, all contracts (including any Reliability Management System Agreement), FERC orders, unpaid Member costs, decisions of arbitration and requests for transmission service made to the withdrawing Member in effect or pending as of the date of the written notice of withdrawal will be followed through to completion, pursuant to these Bylaws, by the withdrawing Member; however, pending requests for transmission service to be provided to such withdrawing Member will be void for the purposes of these Bylaws. Nothing herein will relieve any Member withdrawing from the WECC from any obligation it may have under applicable law including, but not limited to, Section 215 of the Federal Power Act. A Member that withdraws is obligated to pay any unpaid dues owed through the remainder of the fiscal year in which its resignation becomes effective. Any Director employed by a withdrawing Member will be deemed to have resigned pursuant to Section 6.8.

4.2 Eligibility for Membership.

Subject to Section 4.5, any Entity that is an interested stakeholder or that meets the criteria for membership in the membership classes described in Sections 4.2.1 through 4.2.7 may be a Member of the WECC:

- 4.2.1 Class 1. Electric Line of Business Entities owning, controlling or operating more than 1000 circuit miles of transmission lines of 115 kV and higher voltages within the Western Interconnection.
- 4.2.2 Class 2. Electric Line of Business Entities owning, controlling or operating transmission or distribution lines, but not more than 1,000 circuit miles of transmission lines of 115 kV or greater, within the Western Interconnection.
- 4.2.3 Class 3. Electric Line of Business Entities doing business in the Western Interconnection that do not own, control or operate transmission or distribution lines in the Western Interconnection, including power marketers, independent power producers, load serving entities and any other Entity whose primary business is the provision of energy services.
- 4.2.4 Class 4. End users of significant amounts of electricity in the Western Interconnection, including industrial, agricultural, commercial and retail entities as well as organizations in the Western Interconnection that represent the interests of a substantial number of end users or a substantial number of persons interested in the impacts of electric systems on the public or the environment.

4.2.5 Class 5. Representatives of states and provinces in the Western Interconnection, provided that such representatives will have policy or regulatory roles and do not represent state or provincial agencies and departments whose function involves significant direct participation in the market as end users or in Electric Line of Business activities.

4.2.6 Class 6. Canadian members of other classes pursuant to Section 4.3.

4.2.7 Class 7. Members at large, that is, entities that are not eligible for membership in the other Member Classes and who have a substantial interest in the purposes of the WECC.

4.3 Designation of Membership Class.

A Member of WECC may not belong to more than one Class except that for purposes of electing Canadian Directors and for populating the Governance and Nominating Committee, there shall be a Class 6 composed of all Canadian Members from any of the Member Classes defined in Section 4.2 except Class 7. An applicant for membership will designate the Class for which it qualifies based upon the criteria for membership set forth in Section 4.2 and these additional requirements: 1) all Members that are Electric Line of Business Entities must belong to Classes 1, 2 or 3; and 2) any Member owning, controlling or operating Transmission Facilities or distribution facilities must belong to Class 1 or 2 unless the Board grants the Member's petition for a change in Member Class pursuant to the provisions of Section 4.4 of these Bylaws. Applications for membership will be submitted to the WECC. WECC staff will review the application to verify eligibility for membership and Member Class designation. An applicant whose application has been rejected or any Member who disputes the WECC staff's determination regarding the appropriate Member Class designation may request review by the Governance and Nominating Committee. If the applicant or any Member disagrees with the Governance and Nominating Committee's decision, the applicant or such Member may appeal this decision to the Board.

4.4 Changes in Membership Class.

Notwithstanding any other provision of these Bylaws, upon a petition from a Member, the WECC staff (subject to review by the Governance and Nominating Committee and appeal to the Board) may allow the Member to change Member Class if the interest of the Member is more closely aligned with the proposed Class than the Member's current Class.

4.5 Affiliates and Distinct Business Entities.

An Affiliate of a Member that satisfies the membership qualifications may also become a Member provided:

4.5.1 The Affiliate applying for membership and the Member disclose to the Chief Executive Officer all Affiliates that are WECC Members and the Classes to which the Affiliates belong. Every Member will promptly notify the Chief Executive Officer whenever it becomes, or ceases to be, an Affiliate of any other Member.

- 4.5.2 Affiliates may be members of the same Class; provided, however, a group of Affiliates within a single Class may only have one vote in any WECC forum. A group of Affiliates within a single Class may, by providing written notice to the Chief Executive Officer, split their single vote pro rata or designate a single Affiliate as the group's voting Member.
- 4.5.3 For good cause shown and with the express approval of the Board, a company or organization containing functionally distinct entities within it may obtain separate memberships for such entities; provided that such entities will be considered Affiliates.
- 4.5.4 The Board may adopt a policy regarding whether Members may share the benefits of membership (including the right to receive information that is only available to Members) with a non-member Affiliate.

4.6

Rights and Obligations of Membership.

Except as otherwise provided in these Bylaws or other applicable authority, Members of the WECC have the following general rights and obligations:

- 4.6.1 The right to elect and remove Directors as described in Sections 6.4, 6.5 and 6.7;
- 4.6.2 The right to amend these Bylaws, and to review and rescind any Board amendment of these Bylaws, in accordance with Section 13;
- 4.6.3 The right to receive appropriate meeting notices, as well as reports and information produced by the WECC;
- 4.6.4 The right to attend, participate and vote in all WECC Member meetings and the right to attend Board meetings (other than closed sessions of Board meetings) and to comment upon all matters considered in such meetings;
- 4.6.5 The right to be a member of, attend meetings of, and to introduce motions, debate and to vote in the deliberations of WECC committees, subject to the limitations of these Bylaws and such other reasonable limitations as the Board may adopt from time to time;
- 4.6.6 The right to obtain non-discriminatory transmission access from other Members in accordance with applicable law and Section 10 of these Bylaws;
- 4.6.7 The right to invoke the dispute resolution provisions of these Bylaws;
- 4.6.8 The right to petition the Board to take any action consistent with applicable law (including Section 215 of the Federal Power Act and implementing orders and regulations), these Bylaws and the articles of incorporation and to have such petition voted upon in a reasonable and timely manner;

- 4.6.9 The obligation to abide by these Bylaws, decisions resulting from the dispute resolution process, and all standards or decisions of the WECC, subject to the exceptions set forth in Section 4.7 and the enforcement provisions of Section 4.8.
- 4.6.10 For Members owning or operating Transmission Facilities, or possessing transmission capacity rights by contract, the obligation to provide non-discriminatory transmission access to other Members through a regional transmission organization, the submittal of an Open Access Tariff with the FERC or in accordance with Section 10 of these Bylaws;
- 4.6.11 The obligation to notify the Chief Executive Officer promptly of changes with respect to Affiliates as provided in Section 4.5.1 of these Bylaws; and
- 4.6.12 The obligation to pay in a timely manner the membership dues pursuant to Section 12.
- 4.6.13 The obligation to provide system data that the Board has determined is necessary for WECC functions and does not impose an undue burden on the Members; provided, however, that the Board shall adopt appropriate limitations on this obligation or procedures that protect, and avoid the unnecessary collection of, confidential, privileged, trade secret, cybersecurity or critical energy infrastructure information or other information that the Board determines merits such protection consistent with applicable law.

4.7

Limitations on Member Obligations.

The obligation of Members pursuant to Section 4.6.9 will not require any Member to take any action which the Member in good faith determines: 1) would exceed the physical capabilities of the Member's electric system (or any part of another's electric system that the Member has the legal right to cause to comply with a WECC action governed by Section 4.6.9); 2) would create serious and immediate risks to public health or safety (provided, however, that the shedding of load shall not in and of itself be deemed a serious and immediate risk to public health and safety for the purpose of this section); 3) would create an immediate risk of serious damage to facilities or equipment within its electric system or cause it to operate any of its electric facilities or equipment in an unsafe manner; 4) would cause the Member to violate or improperly implement an applicable law, regulation, rule, order, FERC license provision or other legal obligation; or 5) would conflict with any non-power requirement applicable to the Member (including without limitation any obligation under environmental laws, regulations, court and administrative decisions or biological opinions).

Each Member shall retain sole control of its facilities and the use thereof, and a Member shall not be required to construct or dedicate facilities for the benefit of any other Member, or be required to take action, or refrain from action, as may be deemed necessary to maintain reliable service to its own customers and/or to fulfill its obligations to third parties; provided, that a Member shall comply with duly-adopted reliability standards applicable to its system and shall comply with any directives under existing security coordination agreements.

Nothing in these Bylaws is intended to preclude application of Section 210 or 211 of the Federal Power Act and Section 10 of these Bylaws. The above limitations shall not be construed as altering a Member's obligation to comply with applicable Reliability Standards or enforcement orders, or any other obligation arising under 18 C.F.R. Part 39.

4.8

Compliance and Enforcement.

The power of the WECC to enforce Member obligations other than compliance with Reliability Standards and other obligations arising under 18 C.F.R. Part 39 and applicable Canadian and Mexican regulatory requirements is limited to suspension or termination of membership as set forth in this Section; provided, however, that: 1) nothing in this Section will limit the power of Members to agree to additional enforcement provisions in separate contracts (such as contracts pursuant to the Reliability Management System); 2) nothing in this Section will limit the power of the WECC to propose solutions regarding Market Interface issues to any Applicable Regulatory Authority as described in Section 2.1.10; and 3) nothing in this Section will limit WECC's delegated authority under Section 215 of the Federal Power Act and 18 C.F.R. Part 39 and applicable Canadian and Mexican regulatory requirements to enforce Reliability Standards and perform other delegated functions within the Western Interconnection. The Board may suspend or, to the extent consistent with applicable law, terminate the membership of any Member for a material failure to meet any obligation of membership set forth in these Bylaws, including, but not limited to: 1) non-payment of dues sixty (60) days after the dues become delinquent; 2) intentionally or repeatedly violating any WECC Bylaw; 3) materially breaching or intentionally violating any FERC order or arbitration decision issued pursuant to these Bylaws; or 4) willfully obstructing any lawful purpose or activity of the WECC. The Board will give the affected Member not less than twenty-one (21) days prior written notice of any proposed suspension or termination, which will include the specific basis for the proposed action and, if applicable, instructions on curing the problem.

4.8.1 Suspension. The suspension of a Member will not affect the Member's rights and obligations other than that the Member, and any Director employed by or affiliated with the Member, will not be entitled to vote at any meeting of the Members, Classes, Directors, or any committee until the suspension is removed except that a suspended Member may vote in WECC committee and subcommittee meetings on proposed Reliability Standards or revisions to Reliability Standards.

4.8.2 Termination. The termination of membership will have the same effect, and be subject to the same continuing obligations, as such Member's withdrawal pursuant to Section 4.1 (including the provision therein regarding resignation of any Director employed by such Member), except that it will be effective immediately upon the noticed date pursuant to Section 4.8.

4.9 **WECC Structure and Governance Review Related to Regional Transmission Organizations.**

At least each five years, the Board of Directors will conduct a thorough assessment of whether the WECC is fulfilling its purposes in a manner that is consistent with: 1) the provisions of Section 2.3 of these Bylaws; and 2) the then-current state and the expected future evolution of the electric power industry within the Western Interconnection. In

particular, the Board will focus on whether the standards, obligations, processes, and decisions the WECC imposes on its Members are timely, fair, effective, and reasonable in view of the commercial, legal, regulatory, and economic needs and objectives of the affected Members. The Board will evaluate the WECC's Board composition, Member Class structure, committee structure and activities, and staff responsibilities as they relate to the foregoing considerations. The assessment required by this Section 4.9 will be accompanied by Board recommendations for any changes the Board determines are warranted by the assessment. The assessment and recommendations prepared by the Board in accordance with this Section 4.9 will be submitted in writing to the Members at the first annual Member meeting held after they are completed.

5. Procedures for Member Decisions.

5.1 Quorum.

Members may conduct business and take votes only at duly noticed Member meetings. Members may not conduct any business of the membership as a whole at any meeting unless a quorum is first established. A majority of all Members, including a majority in at least three (3) Classes, will constitute a quorum for all meetings of the membership as a whole. A majority of the members of a Class will constitute a quorum for all Member Class meetings. Inactive Members, as defined in Section 5.9 of these Bylaws, will not be counted in determining a quorum at membership or Member Class meetings. A quorum, once established, will be deemed to continue for the balance of any Member or Member Class meeting, except that no election of Directors may occur without a quorum being present. Members may designate an alternate representative or submit an absentee ballot in a form consistent with Section 6.6 for any Member or Member Class meeting. No Class may elect Member Class Directors without a majority of the members of the class being present either in person, or by designation of an alternate representative, or by the submission of an absentee vote. At a duly noticed meeting of the membership as a whole where a quorum of the membership has not been established, or at any duly noticed meeting of a Class meeting on its own, a Class may elect Member Class Directors notwithstanding the lack of quorum for action by the membership as a whole, provided a majority of the Members of a Class are present in person, or by designation of an alternate representative, or have submitted an absentee vote.

5.2 General Membership Meetings.

All business of the Members acting as a whole will be conducted at meetings called by advance notice to all WECC Members provided in accordance with Section 5.5. Unless stated otherwise in these Bylaws, decisions at all meetings of the Members or of Member Classes will be by simple majority vote of the Members present or otherwise represented in accordance with these Bylaws, with each Member having one vote. The Chair of the Board will preside over all Member meetings.

5.3 Annual Member Meetings.

The WECC will hold an Annual Meeting of all Members at a time and place determined by the Board. At the Annual Meeting, in addition to such other actions the Members may take, all Member Classes together will elect Non-Affiliated Directors and each Class eligible to do so will elect Member Class Directors.

5.4 Special Member Meetings.

Members may hold special meetings whenever called by the Board. The Board will call special Member meetings whenever a majority of the Members of any Class request a special meeting or at such other times as it deems appropriate. The Chair of the Board will preside over all special Member meetings.

5.5 Member Class Meetings

An individual WECC Member Class, including Class 6 consisting of the Canadian Delegation, may hold a meeting for any purpose relevant to the interests of Class Members, including the election of Member Class Directors by Classes eligible to do so. Such meeting will be initiated by request by one or more Class Member(s), and agreement by at least fifty percent (50%) of Class Members.

5.6 Notice of Member Meetings.

5.6.1 Annual Meeting. The Chief Executive Officer will provide at least thirty (30) days' advance notice to all Members and the Board of the date, place and time of the Annual Meeting of the Members and an agenda of the business to be conducted at such meeting.

5.6.2 Other Member Meetings. The Chief Executive Officer will provide notice of regularly scheduled and special meetings of the Members to the Members not less than fifteen (15) days before the meeting if delivered by first-class mail, or not less than ten (10) days before the meeting if the notice is delivered personally, by telephone, by facsimile, electronic mail or express mail. Notice of meetings may not be sent solely by electronic mail. If mailed, such notice will be deemed given when deposited in the United States mail, with first-class postage thereon prepaid, addressed to a Member. Such notice will state the date, time and place of the meeting and the meeting agenda.

5.6.3 Public and Web Site Notice. Public notice of each meeting of the Members will be placed on WECC's Web site at least ten (10) days before such meeting. In addition, the Chief Executive Officer will provide notice in the same manner and time as set forth in Section 5.6.2 of each meeting to each member of the public who so requests and who has provided appropriate information regarding delivery of notice.

5.7 Open Meetings.

All Membership meetings are open to observation by the public.

5.8 Policymaking Authority.

The Board of Directors may adopt policies for the interpretation and implementation of the meeting and voting procedures established in this Section 5.

5.9 Minimum Participation Requirement.

In order to be counted for quorum purposes at a meeting of the membership as a whole or Class meeting, a WECC Member must actively participate (by attending in person, sending

an alternate, or voting absentee) in at least one WECC meeting (including meetings of the Board, committees and subcommittees) each year. At least two weeks prior to the WECC Annual Meeting, WECC staff will send a notice to any Member that has, according to organizational records, not satisfied this minimum participation requirement within the previous year. The notice will inform the Member that in order to be counted as an active Member of WECC for voting and quorum purposes, the Member must at a minimum either register for an attend the Annual Meeting and associated Class meetings or participate in the Annual Meeting and associated Class meetings by casting an absentee ballot. If the Member does not meet this minimum participate requirement, the Member will be considered an "inactive" Member until its active status is restored by participation in a WECC Annual Meeting. An inactive Member will not be counted toward establishing a quorum of the membership as a whole or of a Class, and an inactive Member will not be entitled to vote at WECC meetings until the Member is reinstated to "active" status by attending in person, sending an alternate or voting absentee at an Annual Meeting and associated Class meetings. An applicant for WECC membership or a WECC Member may at any time self-designate itself an inactive Member. Such designation will be effective until the Member is reinstated to "active" status.

6. Governance.

6.1 Board of Directors.

Subject to those matters expressly requiring approval of the Membership, a Board of Directors elected by the Members will govern the WECC.

6.2 Composition of the Board.

Except as provided in Sections 6.2.1 and 6.2.2, the Board consists of thirty-two Directors as follows: 1) twenty-four (24) Member Class Directors elected by the Member Classes eligible to do so, including Class 6 as defined in Section 6.2.1, (four from Classes 1 through 6); 2) seven (7) Non-Affiliated Directors elected by the WECC Members as a whole (which may include the Chief Executive Officer), and 3) one Mexican Director elected according to Section 6.2.2. As indicated in Section 6.2.1, if there is no Non-affiliated Director whose background and experience would provide the Board expertise on Canadian interests, then the Board size would be increased by one more Director elected by Class 6.

6.2.1 Canadian Interests. For purposes of providing fair and adequate representation of Canadian Interests in numbers that are approximately proportionate to the contribution of net energy for load in that portion of the Western Interconnection located in Canada, the Canadian Delegation shall constitute Class 6 and shall elect four (4) Canadian Directors, provided that at least one of these Canadian Directors must be affiliated with each of Member Classes 1, 3, and 5. Members of the Canadian Delegation shall vote for Directors in this Class 6 and shall not vote in other Member Class elections. In the initial election of these four Class 6 Directors, one shall have a term of four years, one shall have a term of three years, one shall have a term of two years, and one shall have a term of one year. Thereafter all Canadian Directors will serve a term of three years. Class 6 will also elect a fifth Canadian Director if, following the election of Non-Affiliated Directors at the

Annual Meeting, there is no Non-Affiliated Director qualified by virtue of background and experience in Canadian industry or government to provide Board expertise on Canadian interests. This fifth Canadian Director shall serve until the earlier of: 1) the end of a three-year term (provided that this provision will remain in effect and may continue to cause the election of an additional Director); or 2) the election by the Members of a Non-Affiliated Director with the background and experience described in this Section.

6.2.2 Mexican Interests. Whenever there are at least two (2) Members whose head offices and principal place of business are in Mexico or there is one such Member that operates a portion of the Western Interconnection and has signed the Reliability Management System agreement or has agreed to abide by any successor standards compliance system and no person has been elected to the Board by the Classes or Members whose experience or affiliation reflects Mexican interests, the number of Class Member Directors will be expanded by one (1) and the additional Member Class Director will be elected by the Mexican Delegation. This Mexican Director will serve until the earlier of: 1) the end of a three-year term (provided that this provision will remain in effect and may continue to cause the election of an additional Director); or 2) the election by the Members or a Member Class of a person with the experience or affiliation described in this Section.

6.3

Term of Office.

Each Director will hold office for three (3) years. For Directors elected at the Annual Membership Meeting, each three (3) year term shall commence upon the adjournment of the portion of the Annual Member Meeting provided for in Section 5.3, in which all Members are counted for purposes of determining a quorum. Similarly, the three year terms of outgoing Directors shall end upon the adjournment of that portion of the Annual Member Meeting in which all Members are counted for purposes of determining a quorum, whether that results in a longer or shorter term than exactly three years.

6.4

Selection and Compensation of Member Class Directors.

6.4.1 Selection of Member Class Directors. With the exception of Class 7, each Member Class shall be eligible to elect Member Class Directors. Member Class Directors will be elected by Members of their respective Classes of Membership. Each Member Class eligible to elect Member Class Directors may develop its own list of Director candidates or it may ask the Governance and Nominating Committee to develop a list of candidates. If the Governance Nominating Committee is used, it will select at least two (2) candidates for each vacancy for Member Class Director. In addition, in identifying candidates for Member Class Director positions, the Governance and Nominating Committee will seek to produce a slate of candidates who, together with the Directors from all Member Classes standing for election and continuing in office, will reflect the diversity of regional interests and characteristics within the Western Interconnection. The proposed slate of candidates will be mailed to the Members of the Class at least sixty (60) days before each Member Class Meeting at which the elections are to be held. Additional candidates may be added to the slate upon the

submittal of a nomination to the Chief Executive Officer signed by three (3) Members of the Class, or ten percent (10%) of the total number of Members of the Class, whichever is greater. The Chief Executive Officer must receive such nominations at least thirty (30) days before the Member Class Meeting. All candidates identified by the Class (as provided above) or by the Governance and Nominating Committee will be submitted to the Class for election at the Member Class Meeting. Candidates will provide reasonable background information regarding their qualifications and a disclosure statement regarding any affiliations with Electric Line of Business Entities in the Western Interconnection to the Members before each election. The Director candidate(s) receiving the highest number of votes cast by Members of the Class will be elected to the position of Director.

- 6.4.2 Member Class Director Qualifications. Member Classes eligible to elect Member Class Directors may elect any person as a Member Class Director, provided that no Member or group of Affiliated Members may have more than one Director associated with them. Nothing in this Section regarding the election of Directors by Classes of Members is intended to limit, qualify or alter in any manner the fiduciary obligation of Directors to the WECC set forth in Section 6.10.1. A Member Class Director shall notify all Members of the Class from which the Director was elected of any significant change in employment or other significant change in circumstances relevant to the Director's qualifications. Such notice shall be provided in writing as soon as possible and not later than sixty (60) days following the change.
- 6.4.3 Minimum Number of Class Members. Each Class eligible to elect Member Class Directors must have at least four (4) Members to be qualified to nominate and elect representatives to the Board of Directors. If a Class eligible to elect Member Class Directors contains less than four (4) members, then the Director positions for that Class will remain vacant until the first Annual Meeting at which the Class has the minimum number of members, at which time two of the vacant positions will be filled by election to three year terms and two by election to two year terms. If a Class eligible to elect Member Class Directors falls below the minimum number of members after having elected Directors, such Directors will continue to serve out their terms. However, upon expiration of their terms, the Director positions will remain vacant until such time as the Class contains sufficient members.
- 6.4.4 Member Class Director Compensation. Member Class Directors will not be compensated for their service by the WECC. The WECC will reimburse Member Class Directors for reasonable and actual out-of-pocket expenses (such as travel and lodging) that are not subject to reimbursement from any Member or other source.

6.5 Selection and Compensation of Non-Affiliated Directors.

- 6.5.1 Non-Affiliated Director Qualifications.

6.5.1.1 Non-Affiliation. The Non-Affiliated Directors of the Board may not be affiliated with any Entity that is a Member of the WECC or is eligible for membership in Classes 1 through 3 of the WECC, provided that status as a residential electricity customer will not disqualify a person from sitting as a Director. A candidate will not be qualified to serve as a Director if the candidate, or the spouse or a minor child of the candidate, derives any of his or her annual income from a Member of WECC, an Entity that is eligible for membership in Classes 1 through 3, or a bulk power user in the Western Interconnection. The WECC shall maintain a list of such Members and Entities which shall be updated periodically. Non-Affiliated Directors, candidates and others shall be entitled to rely upon the list to determine compliance with these requirements.

6.5.1.1.1 Notwithstanding the provisions of Section 6.5.1.1, a candidate for Non-Affiliated Director will not be disqualified for owning shares in a mutual fund that owns an interest in a Member or an Affiliate of a Member as long as the mutual fund does not specialize exclusively or predominantly in the energy sector. The disqualification standards described in Section 6.5.1.1 will not disqualify a candidate who is receiving payments from a pension plan of a Member or an Affiliate of a Member in a form other than securities of such Member or Affiliate and the pension plan payments bear no relationship to the economic performance of the Member or Affiliate.

6.5.1.1.2 The disqualification standards described in Section 6.5.1.1 will not apply to disqualify a candidate solely by virtue of an employment or contractual relationship with a state that has one or more agencies that are eligible to be Members of Class 5 of WECC, provided that:

1. In the case of a candidate's employment relationship, the employer is not a member of WECC;
2. In the case of a candidate's contractual relationship with a state agency, no member or employee of the state agency is a member of the WECC Board;
3. In the case of a candidate's employment relationship with a contractor to a state agency, no member or employee of the state agency is a member of the WECC Board; and
4. In the case of a candidate's employment or contractual relationship with a state agency which is a WECC Member or employs a WECC Board member, if the Governance and Nominating Committee determines that

the candidate's employment duties do not include significant work for or representation of that state agency.

6.5.1.1.3 Notwithstanding the provisions of this Section 6.5.1.1, a candidate for Non-Affiliated Director will not be disqualified for being affiliated with an organization that represents a substantial number of end users or a substantial number of persons interested in the impacts of electric systems on the public interest or the environment.

6.5.1.2 Expertise. The Governance and Nominating Committee will nominate Non-Affiliated Director candidates with the objective of having at least one Non-Affiliated Director with expertise in electric transmission operations and planning. The Governance and Nominating Committee will also have the objective of nominating persons with: 1) experience in corporate leadership at the senior management or board of directors level; 2) leadership experience in law, finance, economics, accounting, engineering, regulation, natural resources or commercial commodity markets and associated risk management; 3) experience representing a substantial number of end users or a substantial number of persons interested in the impacts of electric systems on the public or the environment; 4) a well-developed understanding of the distinct operational, resource, political, and interest-based characteristics of various regions within the Western Interconnection; and 5) a well-developed understanding of Canadian power systems or Canadian regulatory issues.

6.5.2 Selection of Non-Affiliated Directors.

6.5.2.1 Selection of Non-Affiliated Directors. After the initial election of Non-Affiliated Directors, the Governance and Nominating Committee will make nominations. Before the end of each Non-Affiliated Director's term, the Governance and Nominating Committee may select an independent search firm to provide the Governance and Nominating Committee with a list of qualified candidates for each vacant position. Incumbent Directors, if qualified and willing to serve, may be considered for nomination by the Governance and Nominating Committee. The Governance and Nominating Committee will consider each candidate for Non-Affiliated Director to determine whether that candidate is qualified to stand for election to the Board. From the list of candidates accepted by the Governance and Nominating Committee to stand for election, the Governance and Nominating Committee will select a slate of candidates for the vacant Non-Affiliated Director positions. The Governance and Nominating Committee's slate of candidates will be e-mailed to the Members no later than sixty (60) days prior to the Annual Meeting. Additional candidates may be added to the slate upon the submittal of a nomination to the Chief Executive Officer signed by three (3) Members of any Class, or ten percent

(10%) of the total number of Members of any Class, whichever is greater. The Chief Executive Officer must receive such nomination at least thirty (30) days before the Annual Meeting. The Chief Executive Officer will place such nominations before the Members for possible election unless he or she determines in writing that a proposed nominee does not meet the criteria for eligibility to be a Non-Affiliated Director in these Bylaws.

6.5.2.2 Disclosure Statement. Candidates for Non-Affiliated Director will provide to the Governance and Nominating Committee and, if nominated, to the Members, a statement describing their expertise and disclosing any present or past affiliations, relationships or associations relevant to their qualification to serve as a Non-Affiliated Director. A candidate for Non-Affiliated Director will be required to disclose any economic interest in any Member of the WECC or any Entity eligible for membership in Classes 1 through 3 of the WECC held by themselves, their spouse or their children as well as any such interest known to the candidate held by the candidate's parents, siblings, aunts, uncles, or first cousins.

6.5.2.3 Election. The number of Non-Affiliated Director candidate(s) corresponding to the number of vacant positions receiving the highest number of votes cast at the Annual Meetings of the Members will be elected to the position of Non-Affiliated Director.

6.5.3 Non-Affiliated Director Compensation. The Non-Affiliated Directors will receive a level of compensation as determined from time to time by the Member Class Directors.

6.6 Tie Vote.

In the event of an inability to select Directors due to a tie vote, a second vote will be taken to determine the placement of the tied candidates. The second vote will be limited to the tied candidates, with the candidate(s) receiving the highest number of votes being selected. If another tie vote results, additional votes will be taken (after the elimination of any candidate receiving fewer votes than the tied candidates) until a candidate can be selected. If a tie cannot be resolved pursuant to the foregoing procedures, it will be resolved by lot. For the purpose of such second (and subsequent) votes, absentee ballots shall allow voters to list all candidates in order of preference such that absentee ballots may be counted by striking those candidates not participating in the run-off. Absentee ballots that express an order of preference for fewer than all candidates will be counted if the ballot demonstrates clear preference among the runoff candidates.

6.7 Removal of Directors.

The Members or the Board may remove a Director before completion of the Director's term of office pursuant to the following provisions.

6.7.1 Removal by the Members. Member Class Directors may be removed at will by a vote of at least sixty percent (60%) of the Members of the Class that elected that Director. Non-Affiliated Directors may be removed only for gross negligence,

violation of local, state, provincial, or federal laws, gross misconduct, or failure to meet the fiduciary obligations of Directors. Removal of a Non-Affiliated Director will be by a vote of at least fifty percent (50%) of the entire WECC membership, including a vote of at least fifty percent (50%) of each Class.

6.7.2 Removal by the Board. The Board may remove any Director for gross negligence, violation of local, state, provincial, or federal laws, gross misconduct, or failure to meet the fiduciary obligations of Directors. Such removal will only occur upon the affirmative vote of not less than twenty-one (21) Directors.

6.8 Resignation.

Any Director may resign from his or her office or position at any time by written notice to the Board by delivery to the Chair. Pursuant to Sections 4.1 and 4.8.2, a Director employed by a withdrawing or expelled Member will be deemed to have resigned. The acceptance of a resignation will not be required to make it effective.

6.9 Procedures for Filling Vacant Director Positions.

6.9.1 Member Class Director Vacancies. If the position of any Director elected by a Member Class becomes vacant, the remaining Directors elected by the same Class will promptly choose a successor to that position who will serve until the next Annual Meeting.

6.9.2 Non-Affiliated Director Vacancies. If the position of any Non-Affiliated Director becomes vacant, the remaining Directors may charge the Governance and Nominating Committee with selecting a successor immediately. The Governance and Nominating Committee will follow the requirements set out in Section 6.5.2.1 in its selection of any successor Non-Affiliated Director. Alternatively, if less than one (1) year remains in the term of that Director, the remaining Directors may choose to leave the position vacant for the remainder of the term.

6.9.3 Holdover to Cure Procedural Vacancies. Whenever a vacancy in any Member Class or Non-Affiliated Director position would be created due to expiration of a Director's term combined with a lack of a quorum or other procedural inability to elect a new Director, the expired Director's term shall be extended until such time as a proper election of a new Director can be conducted.

6.10 Duties of Directors.

The Directors will have the following duties:

6.10.1 Fiduciary Obligation to the WECC: All Directors, including Member Class Directors, will have a fiduciary obligation to the WECC consistent with the requirements for Directors of Utah non-profit corporations. Notwithstanding any affiliation with individual Members or Class of membership, Members of the Board will at all times act in conformance with such requirements, these Bylaws and the Standards of Conduct set forth in Appendix A.

6.10.2 Preserve Non-Affiliated Status: Throughout their terms, Non-Affiliated Directors will have a duty to avoid any affiliation that is inconsistent with the standards for Non-Affiliated Directors in Section 6.5.1.1 of these Bylaws. If a Non-Affiliated Director becomes aware of any such affiliation, he/she must either resign or eliminate the affiliation (e.g., dispose of securities) within six (6) months.

6.11 Powers of Directors.

The management of all the property and affairs of the WECC will be vested in the Board of Directors. The Board will hold annual elections to select a Board Chair and to fill any other Board officer positions that may be created by the Board or required by applicable law. The Board may exercise all the powers of the WECC and do all lawful acts and things (including the adoption of such rules and regulations for the conduct of its meetings, the exercise of its powers and the management of the WECC) as are consistent with these Bylaws and the Articles of Incorporation.

6.12 Delegation of Board Authority.

The Board may delegate to the Chief Executive Officer or to any Board Committee formed pursuant to Section 7.7 any or all of its powers and authority except: 1) any power which it may not delegate pursuant to applicable Utah law; 2) the power to adopt any reliability standard; 3) the power to determine when to exercise the Backstop Authority of the WECC; 4) the power to approve budgets; 5) the power to form committees; 6) the power to amend the Bylaws; 7) the power to elect the Chair and other officers of the Board; 8) the power to enter into contracts obligating the WECC to pay an amount exceeding \$50,000; and 9) the power to hire, fire or set the terms of employment of the Chief Executive Officer. The Board may also delegate to any Member committee the power to make specific decisions, subject to the right of any Member to appeal any of such decisions to the Board within 30 days of the committee vote on the decision by writing a letter to the Chief Executive Officer that describes in reasonable detail the grounds for appeal, and requests that the appeal be considered by the Board at its next regularly scheduled meeting, subject to applicable notice requirements. Delegation will be by express decision and will require the affirmative vote of not less than twenty (20) Directors. Any Director may call for a vote to rescind such delegation at any time and such delegation will be rescinded if eight (8) or more Directors vote to do so.

6.12.1 Notice to Members. Within seven (7) days of any decision delegated pursuant to Section 6.12, except for routine decisions of the Chief Executive Officer, Members will be notified of the decision by electronic mail, posting on the WECC Web site and any other means determined appropriate by the Board. Routine decisions of the Chief Executive Officer will be noticed in periodic reports to the Board and Members as determined by the Board, which will be sent to Members by electronic mail and posted on the WECC Web site.

6.12.2 Board Review of Delegated Decisions. Decisions delegated pursuant to Section 6.12 will be reviewed by the Board at the request of any Director, provided such request is lodged with the Secretary within thirty (30) days of the notice. Whenever it determines that a matter requires an urgent decision, the Board may shorten the

deadline for requests for review, provided that: 1) the notice and opportunity for review will be reasonable under the circumstances; and 2) notices to Members will always contain clear notification of the procedures and deadlines for Board review. A request for review of a decision will stay the effect of the decision pending review unless the Board in making the delegation expressly determines otherwise.

7. Procedures for Board Decisions.

7.1 Quorum.

No business will be conducted by the Board unless at least seventeen (17) Directors are present, including at least three (3) Non-Affiliated Directors and at least one Director elected by each of not less than four (4) of the Member Classes; provided, that if all Member Class Director positions for a Class are vacant, or if a Class is not entitled to elect Member Class Directors, then no Director elected by such Class will be required to be present for the Board to conduct business.

7.2 Majority Vote.

A decision of the Board will require an affirmative vote of a majority of Directors present. Directors may not vote by proxy or by absentee ballot, but Directors may participate in Board meetings by telephone as provided in Section 7.3 of these Bylaws.

7.3 Attendance at Board Meetings by Teleconference.

Any or all of the WECC's Directors may participate in any meeting of the Board by telephone conference or any other means of communication that enable all Directors participating in the meeting to simultaneously hear one another. Every Director participating in a meeting in the manner described in the preceding sentence will be deemed to be present in person at that meeting.

7.4 Board Action by Unanimous Consent.

7.4.1 Action Without a Meeting. Unless the WECC's Articles of Incorporation or applicable law provides otherwise, action required or permitted to be taken at a meeting of the Board may be taken without a meeting through one or more written consents describing the action taken. Any Board action taken by written consent must be signed by all Directors in office at the time the action is taken. Such actions must be noticed to Members in accordance with Section 7.5 and Members must be given an opportunity to comment prior to the Board taking such actions through electronic mail, comments on the Web site or other appropriate means. The required notice of such meeting may generally describe the arrangements (rather than the place) for the holding of the meeting. All other provisions herein contained or referred to will apply to such meeting as though it were physically held at a single place. All Board actions by written consent must be filed with the WECC's Board meeting minutes. Action taken under this Section is effective when the last Director signs the consent, unless the consent specifies an earlier or later effective date. Any action by written consent has the same effect as a meeting vote and may be described as such in any document.

7.4.2 **Waiver of Procedures.** For any specific action at any noticed meeting of the Board, and under exigent or unusual circumstances, the Board by unanimous vote of those present may waive any procedural requirement applicable to Board decision-making, including any requirement for notice of a specific potential action, except for the following: 1) the requirement for notice of the time and place of the meeting pursuant to Section 7.5; 2) the quorum and voting requirements of Sections 7.1 and 7.2; and 3) any non-procedural limitation on the power of the Board to make a decision, including, but not limited to, those restrictions in Sections 6.12 (limiting the power to delegate) and 13.1 (limiting the power to amend the Bylaws). Whenever such action is taken, a statement describing the action, the exigent or unusual circumstances, the specific procedure waived, the basis for the waiver and the votes of all Directors present shall be posted on the web site and communicated in writing or by email to all Members within five (5) days.

7.5 Notice of Board Meetings.

- 7.5.1 **Regular Meetings.** Except as set forth in Section 7.5.2 regarding urgent business, all regular business of the Board will occur at the Board meetings, at least twenty-one (21) days' advance notice of which has been provided by the Chief Executive Officer to all Directors and all Members. Notice will include an agenda that will identify those matters on which a vote will be taken at the meeting. The foregoing requirement shall not preclude the Board from taking an action that is different from the specific proposed action identified in the agenda, as long as the relevant subject matter has been reasonably identified in the agenda. The Directors will establish a regular meeting schedule that will be made available to the Members. The schedule will include not less than two meetings of the Board annually.
- 7.5.2 **Special Meetings.** Whenever the Chair of the Board or any three (3) Directors find that there is urgent business requiring Board action before the next regular Board meeting, a special meeting of the Board may be called. Such special meetings will be held upon as much written notice to each Board Member and all Members as is possible under the circumstances, which will not be less than three (3) days. However, this notice of special meetings may be waived if: 1) the waiver is by a writing signed by a quorum of Board members; and 2) as much notice of the meeting as practicable has been given to WECC Members via e-mail and posting on the WECC Web site.
- 7.5.3 **Public and Web Site Notice.** Public notice of each meeting of the Board will be placed on WECC's Web site at least ten (10) days before such meeting (or such lesser time as provided pursuant to Section 7.5.2). In addition, the Chief Executive Officer will provide notice of each meeting by first-class mail, facsimile or electronic mail to each member of the public who so requests and who has provided appropriate information regarding delivery of notice.

7.6 Open Meetings.

Except as provided in Section 7.6.1, all regular and special meetings of the Board will be open to observation by any Member and any member of the public.

7.6.1 Closed Session. Notwithstanding the provisions of Section 7.6, upon an affirmative vote of two-thirds (2/3) of the Directors present, the Board may meet in closed session: 1) to consider the employment, evaluation of performance, or dismissal of an employee of WECC and to deliberate regarding decisions the Board may be called upon to make regarding the nomination, qualification, appointment, or removal of a member of the Board of Directors; 2) to discuss pending or proposed litigation and to receive confidential attorney-client communications from legal counsel; and 3) to receive and discuss any information that is privileged, trade secret, cybersecurity, critical energy infrastructure information (as defined by the FERC), protected from public disclosure by law or that the Board determines should be confidential in order to protect a legitimate public interest.

7.6.1.1 Attendance by an Affected Director. Closed sessions of the Board may not be attended by a Director under the following circumstances: 1) where the qualifications or performance of the Director or the Director's spouse or children are being discussed; 2) where the Director is employed by an entity that is or is likely to become a party to the litigation being discussed; and 3) where the Director or the Board determines that the Director would have a serious and substantial conflict of interest by becoming privy to confidential attorney-client or trade secret information that is to be presented to the Board in closed session.

7.6.1.2 Announcement of Closed Session. Before adjourning into closed session, the Chair of the Board will announce the purpose of the closed session in a manner that provides the public an understanding of the general subject matter to be discussed but which does not reveal sensitive or personal information. The Board will not discuss additional items outside the scope of this description.

7.6.1.3 Confidentiality of Closed Session. All Directors and others present will maintain the confidentiality of discussions and decisions made in closed session. The Board will appoint a secretary for closed session to keep a minute book for the purpose of recording the subject matter discussed in closed session and any actions taken in closed session.

7.7 Board Committees.

7.7.1 Governance and Nominating Committee. The Chair will appoint a Governance and Nominating Committee that shall: 1) return slates of candidates as required by these Bylaws; 2) oversee implementation and amendment of these Bylaws; and 3) address such other issues pertinent to Governance as the Board may choose to delegate to it. The Governance and Nominating Committee will consist of one Director from each

of the six Member Classes eligible to elect such Directors and one Non-Affiliated Director. The Chair will designate one of the appointed Directors to be the Chair of the Governance and Nominating Committee.

7.7.2 Other Board Committees. The Board may appoint such Board committees as it deems necessary from time to time to carry out its business affairs. In appointing such committees, the Board will specify their purpose, membership, voting, notice and meeting procedures and such other direction as the Board may deem appropriate. The Board may appoint one or more Members or other persons to participate in Board committees as full voting members or as non-voting advisory members.

7.7.3 Standards of Conduct for Board Committee Members. Members of Board committees shall comply with the Board Member Standards of Conduct set forth in Appendix A.

8. Member Committees.

8.1 Purpose.

The WECC will have committees composed of its Members to advise and make recommendations to the Board. Such committees will include both standing committees required by these Bylaws and such other committees as the Board may choose to create.

8.2 Standing Committees.

WECC will have the following standing committees:

8.2.1 Planning Coordination Committee. This committee will advise and make recommendations to the Board on all matters within the jurisdiction of the WECC pertaining to maintaining reliability through evaluating generation and load balance and the adequacy of the physical infrastructure of interconnected bulk electric systems within the Western Interconnection.

8.2.2 Operating Committee. This committee will advise and make recommendations to the Board on all matters within the jurisdiction of the WECC pertaining to maintaining reliability through the operation and security of the interconnected bulk western electric systems in the Western Interconnection.

8.2.3 Market Interface Committee. This committee will advise and make recommendations to the Board on the development of consistent Market Interface practices and compatible commercial practices within the Western Interconnection. It will consider matters pertaining to the impact of WECC's reliability standards, practices, and procedures on the commercial electricity market in the Western Interconnection, and facilitate analysis of the impact of electricity market practices on electric system reliability.

8.3 Other Committees.

The Board may create such other committees as it may desire from time to time. The Board will specify the functions, duties and responsibilities of any such committee at the time of its creation. The Board will also specify the membership rules, quorum requirements, voting levels and meeting and notice requirements at the time of creation. Any changes in the membership rules, quorum requirements, or voting levels of a committee, once established by the Board, will require a seventy-five percent (75%) vote of the Board to alter. The specific function or sunset date for a committee will be designated by the Board at the time of the committee's creation. The committee will terminate its activities upon the completion of its function or the expiration of the date set by the Board.

8.4 Committee Assessment and Streamlining.

8.4.1 **Assessment of Standing Committee Activities.** No later than three (3) years following the Organizing Meeting of the WECC, the Board of Directors will conduct a thorough review of the activities of each of the WECC's standing committees (as defined in Section 8.2 of these Bylaws) to assess whether they are effectively furthering the WECC's purposes in a manner that is consistent with: 1) the provisions of Section 2.3 of these Bylaws; and 2) the then-current state and the expected future evolution of the electric power industry within the Western Interconnection. The Board's review will assess whether there are any aspects of the standing committees' functions or procedures that impede development of WECC standards, obligations, processes, and decisions that are timely, fair, effective, and reasonable in view of the commercial, legal, regulatory, and economic needs and objectives of the affected Members. The Board will propose to the membership, at the first annual Member meeting held after completion of the review required by this Section 8.4.1, any changes to standing committee structures, functions, or procedures that the Board determines are warranted by its review.

8.4.2 Dissolution of Additional Member Groups.

8.4.2.1 Except as otherwise provided in Section 8.4.2.2 below, no later than three (3) years following the Organizing Meeting of the WECC, all WECC Member groups other than the WECC's standing committees (as defined in Section 8.2 of these Bylaws) will dissolve automatically. The Member groups to automatically dissolve under this Section 8.4.2.1 will include, without limitation, all WECC Member subcommittees, work groups, and task forces. There will thereafter be no committees, subcommittees, or other groups of WECC Members other than: 1) the WECC's standing committees (as defined in Section 8.2 of these Bylaws); and 2) any established by the Board after it determines that the committee, subcommittee, or other group, when established, will satisfy the terms of assessment for standing committees set forth in Section 8.4.1 above.

8.4.2.2 If, at the time specified for dissolution of Member groups that are not standing committees in accordance with Section 8.4.2.1 above, FERC-

approved Regional Transmission organizations carrying on commercial operations within the Western Interconnection do not cover at least one-half the load in the Western Interconnection, the Board may delay the implementation of the actions specified in Section 8.4.2.1 until no later than six (6) months after FERC-approved regional transmission organizations covering at least one-half the load within the Western Interconnection are in place and carrying on commercial operations.

8.5 Procedures for Committee Decision-Making.

- 8.5.1 Reports to Board of Directors. Action by a committee will be in the form of a recommendation for Board action except in those instances in which the Board has, by resolution, specifically delegated to a committee the power to take action subject to an appeal to the Board by any Member. The recommendation of a committee must be forwarded to the Board for its action along with any minority or dissenting reports filed with the committee Chair or Vice-Chair.
- 8.5.2 Subcommittees, Task Forces and Ad Hoc Groups. Any Board or member committee may create such subcommittees, task forces or other ad hoc groups ("subcommittee") as it deems appropriate to carry out the committee's responsibilities consistent with these Bylaws and the direction of the Board. The composition, responsibilities and procedures of such groups shall be specified by the committee as appropriate; provided, however that: 1) the committee may only delegate to such subcommittee responsibilities that are within the scope of the committee's responsibilities pursuant to these Bylaws and direction of the Board; and 2) the subcommittee may only make recommendations to the committee. A committee may create a subcommittee without prior approval of the Board; provided, however, that the committee shall promptly inform the Board in writing and at the next Board meeting regarding the creation of the subcommittee. The notification to the Board shall include a charter for the subcommittee that describes how members of the subcommittee will be selected, the duties of the subcommittee, and whether the committee has established a sunset date for review of (1) the need for the subcommittee and (2) the charter of the subcommittee.
- 8.5.3 Committee Officers. The Board will appoint the Chair and Vice-Chair of each committee. The Committee Chair or Vice-Chair will preside over all meetings of the committee and will report recommendations of the committee to the Board of Directors. The Chair and Vice-Chair will be responsible for informing the Board regarding minority opinions and other information required by the Board along with overall committee recommendations. Whenever the committee elects to form a subcommittee to represent regions or address specific tasks, the Chair (or in the absence of the Chair, the Vice-Chair) will have the power to appoint the members of such subcommittee from both members of the committees and non-members. Upon resignation of the Committee Chair, the Vice Chair shall serve as Chair until the Board appoints a replacement. Upon resignation of the Vice Chair, the Chair may appoint a temporary Vice Chair to serve until the Board appoints a replacement. Upon resignation of both the Chair and Vice Chair, the Chair of the Board may

appoint one or more temporary replacements to serve until the Board appoints permanent replacements.

8.5.4 Committee Membership. Except as provided in Section 8.5.4.1, any Member of WECC may designate one representative as its committee member to any standing committee or other committee. The WECC Member will have one vote at any committee meeting through that committee member. Any number of other persons may attend a committee meeting, but such persons will have no right to vote without a prior designation of representation by a WECC Member, except that interested stakeholders may, under Section 8.6, vote on proposed Reliability Standards or revisions to Reliability Standards.

8.5.4.1 Dual Representation for Functionally-Separated Members. A Member which has distinct and functionally-separated interests as both a transmission provider and a transmission customer may designate two representatives as committee members to any standing committee, one to represent each functionally separate interest. Each such committee member will have one vote. The privilege granted by this Section is subject to revocation by the Board on a case-by-case basis or generally whenever the Board finds, upon petition from any Member or its own motion, that such dual representation creates unfairness or imbalance within a committee.

8.5.5 Committee Voting and Classes.

8.5.5.1 Classes. For purposes of voting, committees will have three classes of membership:

8.5.5.1.1 Transmission Provider Members or Participating Stakeholders;

8.5.5.1.2 Transmission Customer Members or Participating Stakeholders;
and

8.5.5.1.3 States and Provincial Members (Member Class 5).

8.5.5.2 Voting. Except as provided in Section 4.5.2, each committee member and Participating Stakeholder (if any) will have one vote. In order for a recommendation to be made to the Board, such recommendation must receive a simple majority vote of both: 1) committee members and Participating Stakeholders (if any) present and voting from the Transmission Provider Class; and 2) committee members and Participating Stakeholders (if any) present and voting from Transmission Customer Class. Committees will adopt voting and record-keeping procedures to ensure that committee voting is conducted consistent with these Bylaws. This requirement will also apply where decision making power has been delegated to a committee pursuant to Section 6.12.

8.5.5.2.1 State and Provincial Votes. The position of the state and provincial Class committee members must be recorded, but the failure of a proposed recommendation or decision to obtain a simple majority vote of the state and provincial committee members will not prevent the recommendation or decision from being posted for due process comment or sent to the Board of Directors.

8.5.6 Notice and Review of Committee Recommendations and Decisions (Due Process). Committee recommendations or decisions delegated to a committee pursuant to Section 6.12 will be subject to the due process provisions of this Section. Committee recommendations or decisions related to the development or approval of Reliability Standards will be subject to the provisions of this Section 8.5.6 and Section 8.6. Following a committee's development of a proposed recommendation or decision, the committee will post the proposed recommendation or decision on the WECC Web site for review and comment by other WECC Members, interested stakeholders (if the recommendation or decision concerns a Reliability Standard or revision), and other interested parties. The committee will provide all Members and Participating Stakeholders (if the recommendation or decision concerns a Reliability Standard or revision) e-mail notification of the posting and will allow at least thirty (30) days for comment on the proposal. The committee will consider all such additional input before reaching its final recommendation or decision. If the committee's recommendation or decision changes significantly as a result of comment received, the committee will post the revised recommendation or decision on the Web site, provide e-mail notification to Members and Participating Stakeholders (if the recommendation or decision concerns a Reliability Standard or revision), and provide no less than ten (10) days for additional comment before reaching its final recommendation or decision. Upon reaching its final recommendation or decision, the committee will forward it to the Board. Whenever it determines that a matter requires an urgent decision, the Board may shorten any time period set forth in this Section, provided that: 1) notice and opportunity for comment on recommendations or decisions will be reasonable under the circumstances; and 2) notices to Members will always contain clear notification of the procedures and deadlines for comment.

8.6 Procedures for Developing and Voting on Reliability Standards.

8.6.1 Rights and Obligations of WECC Members and Participating Stakeholders. All WECC Members and interested stakeholders are entitled to participate in the development of and to vote on Reliability Standards or revisions to Reliability Standards, subject to any applicable obligations, limitations and conditions set forth in these Bylaws, and in accordance with the WECC Reliability Standards Development Procedures.

8.6.1.1 Participation. The right to participate in Reliability Standards development and voting includes the right to request the development or revision of a Reliability Standard, the right to receive notice of, attend and participate in

related WECC committee and subcommittee discussions, the right to review information relevant to a Reliability Standard or revision, the right to provide written comments on a proposed Reliability Standard or revision, the right to participate in committee or subcommittee voting on a Reliability Standard or revision and the right to file an appeal requesting review of any committee or subcommittee decision on a Reliability Standard or revision.

8.6.1.2 Voting. The procedures and conditions for voting by WECC Members and Participating Stakeholders are set forth in the Reliability Standards Development Procedures and in Section 8.5.5 and 8.5.5.2 of these Bylaws. A Participating Stakeholder may only vote on a proposed Reliability Standard or revision if they have applied for and been granted Participating Stakeholder status in accordance with Section 8.6.2 below. A Participating Stakeholder is only entitled to vote on Reliability Standards and revisions. A Participating Stakeholder is not entitled to vote in any other WECC committee balloting process or in elections for WECC Directors.

8.6.2 Participating Stakeholder Application Process. Any person or entity that is an interested stakeholder may apply to WECC for Participating Stakeholder status and, upon WECC's acceptance of such application, acquire the participation and voting rights set forth above in Section 8.6.1. WECC staff, under the direction of the CEO, will process applications and make the initial determination of eligibility for Participating Stakeholder status. Denial of Participating Stakeholder status may be appealed to the WECC Governance and Nominating Committee and, if denied by the Governance and Nominating Committee, to the WECC Board. A person or entity's Participating Stakeholder status will be maintained so long as the Participating Stakeholder continues to meet the requirements set forth in Section 3.21 and participates in at least one WECC meeting per year at which a Reliability Standard or revision is discussed and/or voted on. In the event a person or entity's Participating Stakeholder status lapses due to failure to meet the above minimum participation requirement, the person or entity may restore Participating Stakeholder status by re-applying for Participating Stakeholder status and attending a WECC meeting at which a Reliability Standard is discussed and/or voted on.

8.7 Notice of Committee Meetings.

8.7.1 Standing Committees. The committee Chair, with the assistance of the Chief Executive Officer, will ensure that not less than ten (10) days' notice of all standing committee meetings is posted on the WECC Web site and is also provided to: 1) members of the committee; 2) Participating Stakeholders (if the meeting concerns development or approval of a Reliability Standard or revision); and 3) any WECC Member or member of the public requesting notice. A committee may take up any matter at a duly noticed meeting including matters not expressly identified in the notice; provided, however, that a final recommendation to the Board must be made in accordance with Section 8.5.6.

8.7.2 Other Committees. Notice of other committee meetings will be provided in the manner adopted for such notice by the affected Members and in accordance with the requirements of Section 8.6.1.

8.8 Open Meetings.

All committee meetings of the WECC (including Board committees) will be open to any WECC Member and for observation by any member of the public, except as set forth in policies on closed sessions that the Board may adopt for the purpose of preventing public disclosure of information that the Board might consider in closed session pursuant to Section 7.6.1.

9. The Chief Executive Officer, Officers, and Employees.

9.1 Designation of Officers and Terms of Office.

The WECC will have a Chief Executive Officer, a Secretary, and any other officers specified by the Board from time to time. The Chief Executive Officer will also hold the title of President of the WECC if applicable law requires the WECC to have a President. Each officer will be appointed by the Board and will serve for the term of office specified in the Board action appointing the officer and until his or her successor is appointed. Any two or more offices may be held by the same person except the offices of Chief Executive Officer and Secretary.

9.2 Chief Executive Officer Qualifications.

The Chief Executive Officer will be a person with senior management level experience and knowledge of bulk power electric transmission systems reliability, planning and operations.

9.3 Standards Applicable to All Employees.

A person may not be an officer or employee of WECC if: 1) the person is also the employee of or has a contractual relationship with any Entity, or any Affiliate of any Entity, that is eligible for membership in the WECC; or 2) the person has a financial interest that, in the judgment of the Board or the Chief Executive Officer, creates the fact or appearance of bias, undue influence or lack of objectivity regarding any action or decision of the WECC. The Board will adopt Standards of Conduct for officers and employees setting forth their duty of care, duty of loyalty, duty to avoid conflicts of interest and related matters intended to promote their neutrality, objectivity and professionalism. Upon adoption, such standards shall be attached hereto as Appendix B.

9.3.1 Exemptions from the disqualification criteria found in Section 9.3 are as follows:

9.3.1.1 Status as a residential electricity customer will not disqualify a person from employment with WECC.

9.3.1.2 A candidate for Chief Executive Officer or employee of WECC will not be disqualified for owning shares in a mutual fund because the mutual fund owns an interest in a Member or an Affiliate of a Member.

9.3.1.3 The disqualification standards described in Section 9.3 will not apply to disqualify a candidate who is receiving payments from a pension plan of a Member or an Affiliate of a Member in a form other than securities of such Member or Affiliate if the pension plan payments bear no relationship to the economic performance of the Member or Affiliate.

9.3.2 If an officer or employee receives a gift or inheritance of securities in any Member or Affiliate, he/she must resign or dispose of such securities within six (6) months of the date of receipt. Within six (6) months of the time a new Member is added in which an officer or employee owns securities, the officer or employee will resign or dispose of those securities.

9.4 Employment.

The Chief Executive Officer will be employed by the Board of Directors and will serve at the Board's pleasure. Any contract of employment with a Chief Executive Officer will permit the Board to dismiss the officer with or without cause.

9.5 Chief Executive Officer's Duties.

Subject to the Board's direction, the Chief Executive Officer or his/her designees will have the following duties, among others:

9.5.1 Execute policies at the direction of the Board and be responsible to the Board for the performance of the WECC functions described in Section 2;

9.5.2 Hire and fire staff within the constraints of the annual budget;

9.5.3 Perform administrative duties, such as preparing annual budgets for the approval of the Board, making employment decisions and ensuring conformance with regulatory requirements;

9.5.4 Develop and implement employment policies and standards of conduct; and

9.5.5 Accept or reject membership applications in accordance with the criteria of these Bylaws.

9.6 Secretary's Duties.

9.6.1 Maintain Member and Affiliates Lists. The Secretary will maintain continuously updated lists of all Members and Affiliates.

9.6.2 Maintain Official Records. The Secretary will keep minutes of all WECC Board and Member meetings and will receive and maintain minutes of committee meetings and all other official records of the WECC. Within five (5) business days after any vote taken by Members, the Board, a Class or any committee, the Secretary will provide notice to all Members and Interested Stakeholders (if applicable) of the results of

such a vote through postings on the website, email and/or other means of communication.

9.6.3 Maintain Web Site. The Secretary will oversee the creation, maintenance, and updating of the WECC's Web site and the information published through it.

10. Transmission Service Obligations.

10.1 Non-Discriminatory Transmission Access.

All Members owning, controlling or operating Transmission Facilities, or possessing rights to transmission capacity through contract, will provide interconnection and access to available transmission capacity to all other Members in a non-discriminatory manner through one of the following mechanisms: 1) a Regional Transmission Organization approved by the FERC in accordance with FERC Order 2000 and any successor order(s); 2) submission of an Open Access Tariff to the FERC; or 3) provision of non-discriminatory service in accordance with this Section 10.

10.1.1 Regional Transmission Organizations. A Member that is a Regional Transmission Organization approved by the FERC in accordance with FERC Order 2000 and any successor order(s), or a Member whose transmission capacity is controlled or operated by such a Regional Transmission Organization, will be deemed to be in compliance with Section 10 by virtue of its compliance with FERC Order 2000 and any successor order(s) and is exempt from Sections 10.2 through 10.4. Such a member will use the dispute resolution process specified in the bylaws, contracts, or tariffs of the applicable Regional Transmission Organization or other Local Regional Entity, provided that nothing in these Bylaws will prevent such a Member from using the dispute resolution process set forth in Section 11 where authorized or required by the bylaws, contracts, or tariffs of the applicable Regional Transmission Organization.

10.1.2 Members with Open Access Tariffs Filed with FERC. A Member which is not exempt pursuant to Section 10.1.1, but which has an Open Access Tariff which has been accepted for filing by the FERC, will be deemed to be in compliance with this Section 10 by virtue of its compliance with applicable FERC requirements governing its Open Access Tariff. Such Member is exempt from Sections 10.2 and 10.3; provided, however, that such Member must resolve transmission access disputes with other Member(s) in accordance with Sections 10.4, 10.5.2 and 11 of these Bylaws.

10.1.3 Other Members. Any Member subject to Section 10.1, but not eligible for exemption pursuant to Sections 10.1.1 or 10.1.2, will provide non-discriminatory interconnection and transmission access to other Members in accordance with Sections 10.2 through 10.5 of these Bylaws.

10.1.4 Canadian and Mexican Members. At the request of any Canadian or Mexican Member, the Board may adopt alternative provisions to this Section 10 applicable to the requesting Member provided that: 1) the alternative provisions differ from this

Section 10 to the minimum extent necessary to respect the laws and regulatory authorities governing the requesting Member; and 2) the alternative provisions require the requesting Member to provide interconnection and transmission service to other Members that is substantively equivalent to that required by this Section 10.

10.2 Service to be Provided.

Members described in Section 10.1.3 will provide non-discriminatory interconnection and transmission service to other Members comparable to that which would be required of an entity subject to Sections 210 through 213 of the Federal Power Act. The provision of service may be pursuant to an agreement negotiated between such Members, or, if applicable, pursuant to a service agreement under a tariff filed in accordance with Section 10.3. In no event will these Bylaws require a Member to provide transmission service that FERC is precluded from ordering under Sections 212(g) and 212(h) of the Federal Power Act. However, nothing in these Bylaws will be construed as prohibiting any Member from providing retail wheeling voluntarily or pursuant to a state statute or a lawful decision of a regulatory agency or court of law. Nothing in this section is intended to imply that any non-jurisdictional entity Member is subject to FERC jurisdiction.

10.3 Open Access Tariffs.

Except as provided in Section 10.3.1, Members described in Section 10.1.3 will file an Open Access Tariff or Tariffs consistent with Section 10.2 with the Secretary within sixty (60) days of becoming a Member. Upon the request of any Member, a Member subject to this Section 10.3 will provide a copy of its Open Access Tariff or Tariffs. Additionally, any change in any Open Access Tariff or Tariffs previously filed with the Secretary will be promptly filed with the Secretary after its adoption.

10.3.1 Petition for Exemption. Any Member described in Section 10.1.3 may petition the Board for an exemption from Section 10.3. The Board may grant such petition only if it finds that such Member is unlikely to receive a transmission service request. The granting of such a petition will not relieve the Member from the requirement to provide non-discriminatory access pursuant to Section 10.2 if the Member receives a transmission service request. If a Member has been granted an exemption from the filing of an Open Access Tariff by a Local Regional Entity based on criteria equivalent to this Section, such Member will be exempt from Section 10.3 of these Bylaws without the filing of a petition unless the Board determines otherwise.

10.4 Requests Involving Members of Regional Entities.

If a request for transmission service involves only Members who are also members of the same Local Regional Entity and the tariffs or governing documents of such Local Regional Entity provide for a process for requesting interconnection or transmission service, the process of the Local Regional Entity, as opposed to that set forth in this Section 10, will be followed. To the extent the governing documents of the Local Regional Entity establish different principles regarding the provision of interconnection or transmission service than those of the WECC, the principles of the Local Regional Entity will govern as among members of the Local Regional Entity; provided, however, that Members who are members of Regional Entities who receive requests for interconnection or transmission service from

Members who are not members of the same Local Regional Entity will not be precluded from substantively responding to such requests in a manner consistent with the tariffs or governing documents of such Local Regional Entity, provided that such responses will be subject to the dispute resolution provisions of Section 11.

10.5 Request Process and Dispute Resolution.

Members requesting interconnection or transmission service from Members described in Section 10.1.1 or 10.1.2 will do so in accordance with the applicable tariffs of the Member receiving the request. Members requesting such service from Members described in Section 10.1.3 will do so in accordance with this Section 10.5 in lieu of filing for such service pursuant to Sections 210 through 213 of the Federal Power Act.

10.5.1 Request Process and Interpretation of FERC Policy. Members described in Section 10.1.3 receiving requests from another Member for interconnection or transmission service pursuant to these Bylaws will respond to such requests in an expeditious and good faith manner. The Board may adopt procedural requirements regarding the processing of such requests to the extent it deems necessary and appropriate; provided, however, that the Board may not impose substantive obligations for the provision of interconnection or transmission service that are different from the substantive policies of the FERC applicable to such Members pursuant to Section 10.2. For the general guidance of arbitrators and Members and as it deems necessary, the Board may either request statements of policy from the FERC or adopt its own interpretations of FERC policy which will be subject to appeal to the FERC.

10.5.2 Dispute Resolution. Except as otherwise provided in Section 10.4, Members described in Sections 10.1.2 and 10.1.3, and any Member requesting interconnection or transmission service from such a Member, will resolve disputes regarding such requests in accordance with Section 11.

11. Dispute Resolution.

Except as may be otherwise provided herein, and subject to the conditions set forth in Appendix C, Section A.1, disputes between Members and/or the WECC will be resolved pursuant to the WECC Dispute Resolution Procedures set forth in Appendix C. Matters subject to the jurisdiction of the WECC Compliance Hearing Body are not subject to the procedures in Appendix C.

12. Costs and Finances.

12.1 Funding of Reliability Activities.

12.1.1 U.S. Statutory Funding. The WECC shall fund all activities undertaken pursuant to Section 215 of the Federal Power Act in accordance with the funding provisions and procedures of that law and related FERC regulations and orders. The Board shall approve a budget for such activities in time for submission to the ERO and to the FERC for approval of such funding in accordance with applicable requirements.

12.1.2 International Funding. The WECC shall fund reliability activities undertaken pursuant to any agreements with appropriate Canadian or Mexican authorities in accordance with the provisions of those agreements.

12.1.3 Equitable Allocation of Funding. In adopting budgets for the costs of reliability activities, the Board shall endeavor to achieve an equitable allocation as between funding through Sections 12.1.1 and 12.1.2 based upon the net energy to load and other relevant factors consistent with applicable law, the Delegation Agreement and any International Reliability Agreements.

12.2 Dues.

The Board may require Members and Participating Stakeholders to pay nominal annual dues consistent with applicable FERC requirements (or those of International Reliability Agreements as applicable) to cover reasonable costs of membership and/or participation in standards development that are not funded through Sections 12.1.1 or 12.1.2. Initial dues of a Member or Participating Stakeholder will be submitted with a completed application for membership or Participating Stakeholder status and will be for the prorated share of the full annual amount based on the Member's or Participating Stakeholder's actual months of membership or participation in the calendar year. In determining nominal dues, the Board may consider all relevant factors including, but not limited to, the ability of different classes of membership or Participating Stakeholders to pay such dues. The Board may also reduce, defer or eliminate the dues obligation of an individual Member or Participating Stakeholder for good cause shown.

12.3 Funding of Non-Statutory Activities.

To the extent that the WECC elects to fund any activities not eligible for funding pursuant to Sections 12.1.1 and 12.1.2, it shall do so through the use of service fees, charges or dues applicable to the persons or entities that voluntarily participate in such activities. Participation in or funding of such activities shall not be a condition of membership in the WECC.

13. Amendments to these Bylaws.

These Bylaws may be amended by either the Board or by the Members in accordance with the following procedures.

13.1 Amendment by the Board.

Except for those provisions described below, the Board may approve an amendment of the Bylaws after providing not less than thirty (30) days' notice of the proposed amendment to all Members. Approval of such an amendment requires the affirmative votes of not less than two-thirds (2/3) of the Directors in office. Such amendment will become effective sixty (60) days after its approval by the Board unless the vote is appealed to the Members prior to that time. Such an appeal will occur whenever a majority of any Class files a petition with the Secretary seeking such amendment. A vote on the appeal will occur at the next Annual Meeting unless the Board calls a special meeting of the Members beforehand. Upon appeal, the amendment will be deemed approved unless a majority of all Members vote to rescind the amendment. Notwithstanding the foregoing, the Board may not amend Sections 6.2 through 6.10 of the Bylaws, Section 8.4, Appendix C or this Section 13.1 without submitting such amendment to the Members for their prior approval.

13.2 Amendment by the Members.

Upon petition filed with the Secretary by any Member or Director, at any Annual Meeting the Members may amend any provision of these Bylaws; provided: 1) the proposed amendment has first been presented to the Board and not adopted (this provision will not apply to amendments which the Board is prohibited from adopting); 2) Members have received not less than sixty (60) days' notice of the proposed amendment, the reasons there for and a statement of the Board's position regarding it; and 3) the amendment receives the affirmative votes of not less than two-thirds (2/3) of all Members.

13.3 Amendments in Response to Mandatory Membership.

If at any time, pursuant to legislation or otherwise, membership becomes mandatory for some or all Members, upon the request of the affected Member(s) the Board will consider amendments to these Bylaws appropriate to such mandatory membership.

13.4 Amendments proposed by FERC.

FERC, upon its own motion or upon complaint, may propose an amendment to these Bylaws pursuant to 18 C.F.R. § 39.10(b).

14. Termination of Organization.

The WECC may be terminated upon a vote of a majority of the Members in accordance with the provisions of Utah law, the Federal Power Act and the requirements of the Delegation Agreement and applicable International Reliability Agreements. Immediately upon such a vote, the Board will, after paying all debts of the WECC, distribute any remaining assets in accordance with the requirements of Utah law, the Internal Revenue Code and these Bylaws.

15. Miscellaneous Provisions.

15.1 Limitation on Liability.

It is the express intent, understanding and agreement of the Members that the remedies for nonperformance expressly included in Section 4.8 hereof shall be the sole and exclusive remedies available hereunder for any nonperformance of obligations under these Bylaws. Subject to any applicable state or federal law which may specifically limit a Member's ability to limit its liability, no Member, its directors, members of its governing bodies, officers or employees shall be liable to any other Member or Members or to third parties for any loss or damage to property, loss of earnings or revenues, personal injury, or any other direct, indirect, or consequential damages or injury which may occur or result from the performance or nonperformance of these Bylaws, including any negligence, gross negligence, or willful misconduct arising hereunder. This Section 15.1 of these Bylaws applies to such liability as might arise between Members under these Bylaws. This Section 15.1 does not apply to parties to the Agreement Limiting Liability Among Western Interconnected Systems ("WIS Agreement") with respect to matters covered by the WIS Agreement and does not apply to any liability provision in any other agreement.

15.2 Indemnification.

WECC shall indemnify and hold harmless its Directors, officers, employees, agents and advisors against any and all damages, losses, fines, costs and expenses (including attorneys'

fees and disbursements), resulting from or relating to, in any way, any claim, action, proceeding or investigation, instituted or threatened, arising out of or in any way relating to any action taken or omitted to have been taken (or alleged to have been taken or omitted to have been taken) by such person in connection with actions on behalf of WECC, and against any and all damages, losses, fines, costs and expenses (including attorneys' fees and disbursements) incurred in connection with any settlement of any such claim, action, proceeding or investigation unless such action of such person is determined to constitute fraud, gross negligence, bad faith or willful misconduct with respect to the matter or matters as to which indemnity is sought.

15.3 No Third Party Beneficiaries.

Nothing in these Bylaws shall be construed to create any duty to, any standard of care with reference to or any liability to any third party.

15.4 Informal Inquiries for Information.

Nothing in these Bylaws shall preclude: 1) a Member from making an informal inquiry for information outside of the procedures outlined in Section 4.6.13 hereof to another Member and 2) that other Member from responding voluntarily to that informal inquiry, provided, however, that any such response to an informal inquiry for information shall not be binding upon that other Member and shall be used by the Member making the informal inquiry for informational purposes only.

16. Incorporation.

WECC shall organize itself as a non-profit corporation pursuant to the laws of the state of Utah regarding non-profit corporations under the name "Western Electricity Coordinating Council." All Members agree to take no actions that would contravene the ability of the WECC to maintain its status as a non-profit corporation existing pursuant to the Utah Act. The Board shall adopt these Bylaws as the Bylaws of the WECC as a non-profit corporation.

WECC is intended to qualify as an organization described in Section 501(c)(6) of the Internal Revenue Code. No part of any net earnings of the WECC shall inure to the benefit of any Member or individual. Upon liquidation, to the extent consistent with the Internal Revenue Code and Utah law, any monies remaining from assessments paid by Members for the costs of the WECC shall be rebated to Members in proportion to their payments. Any remaining assets of the WECC shall be transferred to another organization exempt from tax under Section 501(a) of the Internal Revenue Code, or government agency, promoting the same purposes as the WECC, as designated by the Board.

17. Governing Law.

Unless otherwise agreed, if any conflict of law arises under these Bylaws among the Members, the laws of the United States of America shall govern, as applicable. The venue for any legal action initiated under these Bylaws which concerns a specific request for transmission service shall be the city and state (or province) in which the headquarters of the Member providing the service is located. The venue for any other legal action initiated under these Bylaws shall be the city and state (or province) in which the headquarters of the WECC is located.

APPENDICES

- A. Board Member Standards of Conduct
- B. Officers and Employees Standards of Conduct
- C. WECC Dispute Resolution Procedures

Appendix A
Standards of Conduct for
Members of the WECC Board of Directors

By accepting appointment to the Board of Directors (the "Board") of the Western Electricity Coordinating Council (the "WECC"), a Director agrees to abide by the duties required of corporate directors and trustees. Utah law (and similar law in other states) imposes quasi-fiduciary duties of care and loyalty on all corporate directors or trustees, including directors and trustees of nonprofit corporations. For as long as he or she remains a member of the Board of Directors of the WECC, a Director will abide by the following standards of conduct.

- I. Duty of care. The Directors of a corporation are bound to use due care and to be diligent in respect to the management and administration of the affairs of the corporation. This duty of care is generally thought to have two components: the time and attention devoted to corporate affairs and the skill and judgment reflected in business decisions.
 - A. Each Director will regularly attend Board of Directors meetings, digest the materials sent to him or her, participate in Board discussions and make independent inquiries as needed.
 - B. In voting on any matter before the Board or otherwise acting in his or her capacity as a Director, each Director will:
 1. make reasonable inquiry to inform himself or herself of the nature and consequences of the matter or action at issue;
 2. exercise, at a minimum, the degree of care, skill, and diligence that an ordinarily prudent business person would exercise under similar circumstances; and
 3. act in a manner the Director, in the exercise of his or her independent judgment, believes to be in the best interests of the WECC and the membership of the WECC, taken as a whole.
 - C. In exercising the duty of care described in paragraphs IA and B above, a Director has the right to rely on statements by the persons immediately in charge of business areas of the WECC, to rely on professionals and experts (such as engineers, accountants and lawyers) and to rely on committees of the WECC, unless facts or circumstances appear which would prompt further concerns of the ordinarily prudent person.
- II. Duty of loyalty. The duty of loyalty imposes on a Director the obligation to remain loyal to the WECC, acting at all times in the best interests of WECC and its Members as a whole and unhampered by any personal pecuniary gain. This duty does not preclude a Director from being employed in a competing or related business so long as the Director acts in good faith and does not interfere with the business of the WECC.
 - A. Each Director will carry out his or her duties as a Director in good faith.

- B. Each Director will refrain from using any influence, access, or information gained through his or her service as a Director to confer any improper personal benefit (financial or otherwise) upon himself or herself, any family member, or any person living in the Director's household.
- C. Each Director will refrain from using any influence, access, or information gained through his or her service as a Director to confer an improper benefit (financial or otherwise) on any organization:
 - 1. for which the Director serves as an officer, director, employee, consultant, or in any other compensated or management position; or
 - 2. in which the Director or any family member or person living in the Director's household has a material financial interest (whether as a shareholder, partner, or otherwise).
- D. To the extent permitted by law, each Director will maintain the confidentiality of:
 - 1. any confidential or proprietary information of the WECC disclosed or available to the Director;
 - 2. any confidential or proprietary information of WECC Member(s) to which the Director has access by virtue of his or her status as Director; and
 - 3. any confidential or proprietary information of third parties that has been provided to the WECC or the Board on condition of confidentiality.
- E. **Conflicts of Interest.** Because conflicts of interest may arise from time to time, specific guidelines are provided. In general, conflicts of interest involving a Director are not inherently illegal nor are they to be regarded as a reflection on the integrity of the Board or of the Director. It is the manner in which the Director and the Board deal with a disclosed conflict that determines the propriety of the transaction.

Directors of nonprofit corporations may have interests in conflict with those of the corporation. The duty of loyalty requires that a Director be conscious of the potential for such conflicts and act with candor and care in dealing with these situations.

The following are guidelines for Directors with actual or potential conflicts of interest:

- 1. Each Director has a responsibility to recognize potential conflicts of interest and to be guided when acting as a Director by his or her independent judgment of what is in the best interests of the WECC and the membership of the WECC, taken as a whole. If any Director has questions about whether a conflict of interest exists, he or she may make inquiry to the Chief Executive Officer of the WECC for advice.

2. Potential conflicts of interest may arise because of a Director's private, individual interests (personal conflicts of interest) or because of relationships the Director may have with other organizations or interest groups (organizational conflicts of interest). Current or past employment or other compensation-based relationships with one or more WECC Members are examples of potential organizational conflicts of interest. Whether a potential conflict of interest is personal or organizational, in all cases involving WECC affairs a Director's conflicting interests are subordinate to those of the WECC and the membership of the WECC, taken as a whole.
3. Personal conflicts of interest.
 - a. Personal conflicts of interest exist if a Director, a member of the Director's family, or a person sharing the Director's household: 1) has a material financial interest in a matter or transaction that comes before the Board for action; or 2) stands to receive a benefit (in money, property, or services) from a transaction involving the WECC to which the person is not legally entitled.
 - b. In cases of personal conflicts of interest, the affected Director's obligations are to:
 - (1) disclose to the Board, before the Board acts with respect to that matter, the material facts concerning the Director's personal conflict of interest; and
 - (2) refrain from voting, and from attempting to influence the vote of any other Director(s), in those matters in which the Director has a personal conflict of interest.
4. Organizational conflicts of interest.
 - a. An organization has a "direct" conflict of interest if a decision by the Board would confer material benefits on that organization that other WECC Members would not share, or impose material detriments or costs on that organization that other WECC Members would not share. The fact that many if not all Members are affected to some extent by Board decisions on core issues such as standards, new transmission lines and their ratings, does not create or constitute a "direct" conflict of interest.
 - b. It is not a "direct" conflict of interest for a Director to be associated with an organization or an interest group that may stand to benefit from decisions made or actions taken by the Board, so long as the Director does not attempt to use his or her position as a Director to confer special benefits on associated organizations or interest groups when other WECC Members would not share in those benefits.

- c. In cases of potential “direct” organizational conflicts of interest, the affected Director’s obligations are to:
- (1) disclose to the Board, before the Board acts with respect to the matter, the material facts concerning the organizational conflict of interest; and
 - (2) refrain from voting and from attempting to influence the vote of any other Director(s) with respect to the proposed action or decision.

Appendix B
Officers and Employee
Standards of Conduct

By accepting employment with the Western Electricity Coordinating Council (the "WECC"), an Employee agrees to abide by these Standards of Conduct. For the purpose of these Standards, an Employee includes each and all officers, employees and substantially full-time consultants and contractors of the WECC.

- I. Duty of care. The Employees of the WECC are bound to use due care and to be diligent in respect to the management and administration of the affairs of the corporation. This duty of care is generally thought to have two components: the time and attention devoted to corporate affairs and the skill and judgment reflected in business decisions.

Employees shall not have any outside employment that limits in any way their ability to fulfill their employment responsibilities to WECC. If an Employee has any question about whether outside employment is consistent with this standard, they should consult with their supervisor.

- II. Duty of loyalty. The duty of loyalty imposes on an Employee the obligation to remain loyal to the WECC, acting at all times in the best interests of WECC and its Members as a whole and unhampered by any personal pecuniary gain. The WECC expects all Employees to avoid adversely affecting the public's confidence in the integrity and reputation of the WECC. Any conduct or activities of any Employee should be capable of being justified and withstanding public scrutiny.

- A. Each Employee will carry out his or her duties as an Employee in good faith, with integrity and in a manner consistent with these Standards and all applicable laws governing the WECC.
- B. Each Employee will refrain from using, or creating the appearance of using, any influence, access, or information gained through his or her service as an Employee to confer any improper personal benefit (financial or otherwise) upon himself or herself, or Family Member.¹ Employees shall not accept gifts or entertainment that would tend to affect, or give the appearance of affecting, the performance of their duties; provided, however, that Employees may accept de minimus food or entertainment or non-cash gifts received as part of a social or special occasion in amounts not to exceed \$1000 per source per year.
- C. Each Employee will refrain from using, or creating the appearance of using, any influence, access, funds or information gained through his or her service as an Employee to confer an improper benefit (financial or otherwise) on any organization. The

¹ For purposes of these Standards, a Family Member includes a spouse, domestic partner, child of the Employee, or a relative living in the same home as the Employee.

obligation to avoid the appearance of impropriety shall apply in particular to any organization:

1. for which the Employee is serving or has in the past served as an officer, director, employee, consultant, or in any other compensated or management position; or
 2. in which the Employee, or Family Member has a material financial interest known to the Employee (whether as a shareholder, partner, or otherwise).
- D. Employees shall not use their WECC position, WECC funds or WECC resources to support any political party, candidate or proposition except as expressly authorized by the Board.
- E. To the extent permitted by law, each Employee shall maintain the confidentiality of:
1. any confidential or proprietary information of the WECC disclosed or available to the Employee;
 2. any confidential or proprietary information of WECC Member(s) to which the Employee has access by virtue of his or her status as Employee; and
 3. any confidential or proprietary information of third parties that has been provided to the WECC or the Board on condition of confidentiality.
- F. Conflicts of Interest. The following conflicts of interest policy shall apply to all WECC Employees. Conflicts of interest may arise from time to time. In general, conflicts of interest involving an Employee are not inherently illegal, nor are they to be regarded as a reflection on the integrity of the WECC or of the Employee. It is the manner in which the Employee and the WECC deal with a disclosed conflict that determines the propriety of the transaction. The following are guidelines for Employees with actual or potential conflicts of interest:
1. In general, personal conflicts of interest exist if an Employee, or a Family Member, has a material financial interest in a matter or transaction that comes before WECC for action, or stands to receive a benefit (in money, property, or services) from a transaction involving WECC to which the person is not legally entitled. For purposes of determining whether stock constitutes a material financial interest, see Paragraph F(6) below.
 2. Organizational conflicts of interest exist if an Employee, or a Family Member, has a relationship with an organization or interest group that would cause a reasonable person to believe such Employee's judgment, loyalty, or objectivity might be influenced in a way that is adverse to the interests of WECC.
 3. Where there is any question about potential conflicts of interest, the Employee shall disclose to the Chief Executive Officer as soon as possible and prior to when

WECC takes action with respect to that matter, the material facts concerning the Employee's personal conflict of interest, and refrain from participating in, or from attempting to influence the action of any Directors or Employee(s) of WECC regarding those matters in which the Employee has a conflict of interest.

4. No Employee may be an employee, director of, or consultant to or provide services to or be associated in any way with any WECC Member without full disclosure to, and written consent of, the Chief Executive Officer. To the extent that an Employee becomes aware that a Family Member is or will in the future be engaged in activity described in this Paragraph F(4), the Employee shall promptly notify the Chief Executive Officer, who shall review all the material facts and determine whether they constitute a conflict of interest pursuant to Paragraphs F(1) and F(2), above.
5. No Employee shall participate in any electric energy transaction other than for ordinary personal use except to the extent necessary to, and consistent with, the functions of WECC. Participation in an energy transaction includes, but is not limited to, purchasing, selling, marketing, or brokering of electricity, ancillary services, electricity transmission or electricity distribution. To the extent that an Employee becomes aware that a Family Member is or will in the future be engaged in activity described in this Paragraph F(5), the Employee shall promptly notify the Chief Executive Officer who shall review all the material facts and determine whether they constitute a conflict of interest pursuant to Paragraphs F(1) and F(2), above.
6. All Employees shall promptly disclose to the CEO and the Chair of the Board any direct or indirect financial interest in excess of \$5,000 (including the direct or indirect ownership of securities) held by the Employee or a Family Member living with the Employee² in any Electric Line of Business entity as defined in Section 3.15 of the Bylaws doing business in the Western Interconnection. Upon such disclosure, the CEO and the Chair of the Board shall determine whether such financial interest constitutes a conflict of interest, or the appearance thereof, in light of the duties of the Employee, the ability to divest such financial interest without undue hardship and the totality of the circumstances. In response to such disclosure, the CEO and the Chair may impose such remedies as are reasonable under the circumstances and consistent with section 9.3 of the Bylaws. Such remedies may include, but are not limited to, restrictions on the Employee's duties or involvement in certain matters, transfer of the Employee to another position, broader disclosure of the financial interest, voluntary or mandatory divestiture of the interest (in whole or in part) or other remedies. Pursuant to section 9.3.2 of the Bylaws, if an Employee (not a Family Member) receives a gift or inheritance of securities

² Nothing in this section shall require an Employee to investigate the financial interests of Family Members not living with the Employee. However, to the extent known to the Employee, the financial interests of a Family Member not living with the Employee may create a potential conflict of interest (or appearance thereof) subject to Sections II(B) and/or II(F)(1) of these standards, in which case disclosure pursuant to Section II(F)(3) is appropriate.

of a Member of the WECC, or if a new Member joins the WECC in which the Employee (not a Family Member) holds securities, the Employee must resign or divest such securities within six months thereafter. For the purposes of this section, none of the following shall constitute a direct or indirect financial interest:

- a. An interest that exists through diversified mutual funds;
- b. An interest that exists for six months following receipt of a gift or inheritance of securities of a Market Participant or acceptance of employment with the WECC, whichever is later (provided that employees of the WSCC shall have two years from the WECC organizational meeting to divest securities in their possession as of that date);
- c. An interest that exists through a pre-existing participation in a qualified defined benefits pension plan or health benefits plan of a Market Participant so long as the benefits under such plan do not vary with the economic performance or value of the securities of such Market Participant.

Appendix C

WECC Dispute Resolution Procedures

C. DISPUTE RESOLUTION.

C.1 Obligation To Comply with Dispute Resolution Procedures. If any dispute concerning one or more issues identified in Section C.2 below arises between a Member and one or more other Members, or between one or more Members and WECC, all of the parties to the dispute shall, to the extent permitted by law, be obligated to comply with the dispute resolution procedures specified in these Bylaws (except to the extent all of the parties to the dispute may agree otherwise as provided in Section C.4 below). Only Members and WECC have the right to invoke the provisions of this Appendix C and, except where all affected parties have separately agreed otherwise with respect to a particular dispute, only Members and WECC are obligated to carry out the dispute resolution procedures set forth herein. Any dispute subject to the provisions of this Appendix C to which WECC is made a party shall be subject to the additional requirements specified in Section C.3 below if the dispute is initiated by a party other than WECC. To the extent permitted by law (and except as otherwise permitted by the provisions of Section C.6.3), no party to a dispute subject to the provisions of this Appendix C may pursue any other available remedy with respect to the dispute until all of the parties to the dispute have fully complied with the dispute resolution procedures specified herein, *provided, however*, that if any party to a dispute subject to the provisions of this Appendix C refuses to comply with the dispute resolution procedures specified herein, all other parties to the dispute shall subsequently be relieved of any further obligation to comply with these dispute resolution procedures before pursuing other remedies in connection with that dispute.

C.2 Issues Subject to Dispute Resolution Procedures. Any dispute between or among the parties identified in Section C.1 above (that the parties to the dispute do not resolve through negotiations between or among themselves) shall be subject to the dispute resolution procedures set forth in this Appendix C if the dispute concerns: (i) the application, implementation, interpretation, or fulfillment of any guidelines, criteria, policies, procedures, or Bylaws of WECC or the North American Electric Reliability Council (or any successor organization); or (ii) any matter specified in Section C.6.2 below; except that any matter that is subject to the jurisdiction of the WECC Compliance Hearing Body is not subject to the requirements of this Appendix C. Notwithstanding the foregoing provisions of this Section C.2, however, neither WECC nor any Member shall be obligated to comply with the dispute resolution procedures of these Bylaws if: (a) the matter in dispute falls within the scope of the dispute resolution procedures set forth in the governing agreements of the Western Regional Transmission Association, the Southwest Regional Transmission Association, or the Northwest Regional Transmission Association to the extent that such organizations continue to exist; (b) the dispute is between two or more Members (or WECC), all of which, at the time of the dispute, are parties to the WECC Reliability Management System Agreement and the matter is within the scope of the dispute resolution procedures set forth in that agreement; or (c) the dispute is between two or more Members, all of which, at the time of the dispute, are parties to a separate agreement or treaty or where an applicable tariff, rate schedule, or other legal obligation of one of the parties provides for the parties to resolve the dispute in a manner other than in accordance with the provisions of this Appendix C of the Bylaws. With regard to a transmission access matter pursuant to Sections 10.1.2, 10.1.3, 10.5 and C.6.2.3, however, members agree that their rights and obligations pursuant to

Sections 210 and 211 of the FPA shall not by themselves supersede or relieve them of their obligation, if any, to participate in the procedures set forth in this Appendix C.

C.3 Limitations on Members' Rights To Make WECC a Party to a Dispute. In addition to the other provisions of this Appendix C of the Bylaws, any dispute (other than a dispute initiated by WECC) to which WECC is made a party shall be subject to the limitations set forth in Sections C.3.1 and C.3.2 below.

C.3.1 Bases for Using Dispute Resolution Procedures To Challenge WECC Action.

Subject to any limitation set forth in these Bylaws or in applicable statute, regulation or FERC order, one or more Members may use the dispute resolution procedures specified in this Appendix C to challenge any final action of WECC only on one or more of the following bases: (i) the action is contrary to applicable law or regulation; (ii) the action is contrary to WECC's Articles of Incorporation or these Bylaws (including WECC's purposes as set forth in those documents); (iii) the action was taken in violation of applicable procedures of WECC governing that action; or (iv) the action encompasses a decision in which there was plain error material to the decision. For purposes of this Appendix C, action taken by WECC shall be deemed final if: (a) the action has been taken or adopted or approved or accepted by WECC's Board of Directors (other than by a motion specifically providing that the action is conditional or will have temporary application not to exceed six months); (b) all conditions specified to make any conditional action of WECC's Board of Directors effective have been fulfilled; or (c) the action has been taken or adopted or approved or accepted by a committee, subcommittee, task force, or other group or person acting under authority of WECC without any provision making the action

subject to further approval or adoption or acceptance by the Board of Directors. Nothing contained in this Appendix C shall limit any rights any Member (or any other party) may have under applicable law or regulation to initiate or participate in an administrative or legal action to which WECC is made a party in accordance with applicable provisions of law or regulation.

C.3.2 Obligation to Bear WECC's Share of Facilitator Costs. If one or more Members initiate a dispute under this Appendix C to challenge an action of WECC, the Member(s) initiating the challenge shall be obligated to bear all of the costs of facilitators' services incurred to comply with the requirement of Section C.5 below, except to the extent WECC agrees to pay a share of the costs of facilitators' services.

C.4 Ability to Modify Dispute Resolution Procedures by Agreement. Any provision of the dispute resolution procedures set forth in this Appendix C may be modified, waived, or omitted by agreement of all of the parties to the dispute. Parties to a dispute subject to these provisions are obligated to comply with its procedures unless all of the parties to the dispute agree to do otherwise. The manner in which the dispute resolution procedures set forth in this Appendix C may be varied include (by way of example and not as limitation): the manner of selecting a facilitator or arbitrator; the procedures or time lines to be followed during mediation or arbitration; the grounds or forum or right to appeal an arbitrator's decision; the manner of allocating fees and costs associated with the dispute; whether the parties are obligated to proceed to arbitration if the dispute is not resolved through mediation; and whether a decision rendered through arbitration is binding on the parties. In addition, any dispute that does not fall within the scope specified in Section C.2 above may

be resolved according to the procedures set forth in Appendix C of these Bylaws if all of the parties to the dispute agree to do so.

C.5 Mediation.

C.5.1 Notice to Other Parties and WECC's Chief Executive Officer. To initiate the dispute resolution process with respect to a dispute governed by the provisions of this Appendix C, the Member or WECC that has elected to initiate the dispute shall deliver to all other parties to the dispute and to WECC's Chief Executive Officer (whether or not WECC is a party to the dispute) written notice invoking the dispute resolution procedures set forth in this Appendix C (a "Dispute Notice").

C.5.1.1 The Dispute Notice shall: (i) include a brief, general description of the matter(s) in dispute; (ii) include a complete list of all other Members the party submitting the Dispute Notice intends to make a party to the dispute; and (iii) state whether or not WECC is to be made a party to the dispute.

C.5.1.2 Within five business days of receiving a Dispute Notice, any party to the dispute may elect to deliver a brief supplemental description of the dispute to WECC's Chief Executive Officer.

C.5.1.3 Within 10 business days of receiving an initial Dispute Notice, WECC's Chief Executive Officer shall: (a) publish (or cause to be published) in WECC's newsletter or on its electronic bulletin board a notice containing a list of the parties to the dispute and a summary of the descriptions of the matter(s) in dispute provided by the parties to the dispute; and (b) deliver to each party to the dispute a copy of WECC's then-current standing list of

qualified facilitators, knowledgeable in the matters addressed by WECC (as approved by the Board of Directors).

C.5.1.4 No person may be listed on WECC's standing list of qualified facilitators unless the person has agreed to: (i) disclose, at any time the person is selected to serve as a facilitator under this Appendix C, any personal or financial interest the facilitator may have with respect to the matter(s) in dispute (including any indirect personal or financial interest that could arise because of interests or relationships affecting any of the facilitator's immediate family members); (ii) disclose any relationship the facilitator may have with any party to the dispute that is not permitted under Section C.5.2 below; and (iii) abide by all applicable provisions of these Bylaws, including restrictions on disclosure of matters discussed and information exchanged during mediation as provided in Section C.5.3 below.

C.5.2 Selection of a Facilitator. Within 10 calendar days after the delivery of a Dispute Notice, the parties to the dispute shall select a neutral facilitator by mutual agreement. If the parties to the dispute cannot agree on a facilitator within 10 calendar days after delivery of a Dispute Notice, the facilitator shall be selected from WECC's standing list of qualified facilitators as follows: The parties to the dispute shall take turns striking names from WECC's standing list of qualified facilitators until there is only one name remaining. (The parties to the dispute shall draw lots to determine the order in which they take turns striking names.) The last person whose name remains on the list shall serve as the facilitator. No facilitator other than a facilitator chosen by agreement of all the parties to the dispute may (i) have a

personal or financial interest in the matter(s) in dispute (including any indirect personal or financial interest that could arise because of interests or relationships affecting any of the facilitator's immediate family members); or (ii) be (or have an immediate family member who is) a past or present director, commissioner, officer, employee, consultant, agent, or other representative of any of the parties to the dispute. If the facilitator selected through the process of striking names specified above is disqualified under the preceding sentence, the facilitator whose name was stricken last shall serve in his or her place. In addition, if WECC is a party to a dispute initiated by one or more Members, turns striking names from the standing list of qualified facilitators shall alternate between WECC on the one hand and all other parties to the dispute on the other.

C.5.3 Mediation Process. The facilitator and representatives of all of the parties to the dispute shall meet within 14 calendar days after the facilitator has been selected and attempt in good faith to negotiate a resolution to the dispute. Each party's representative designated to participate in the mediation process must have the authority to settle the dispute (or, at a minimum, be authorized to negotiate on behalf of the party and make recommendations with respect to settlement of the dispute if final authority to approve a settlement is reserved to a party's board, executive committee, commission, or other governing body). At the parties' initial meeting with the facilitator, the facilitator shall, after soliciting input from the parties to the dispute, set the schedule for further meetings among the parties to the dispute (subject to the 60-day maximum mediation period specified in Section C.5.6 below). The parties to the dispute shall comply with the schedule set by the facilitator and attempt in good faith at every meeting to negotiate a resolution to the dispute. To the

extent permitted by law, neither the facilitator nor any party to the dispute may publicly disclose, rely on, or introduce as evidence in any subsequent arbitration, FERC proceeding, Canadian Regulatory Authority proceeding, proceeding before a Mexican Regulatory Authority, appeal, or litigation concerning the same or any related dispute: (i) any views expressed or suggestions made by another party to the dispute with respect to a possible settlement of the dispute; (ii) admissions made by another party to the dispute in the course of the mediation proceedings; (iii) proposals made or views expressed by the facilitator; or (iv) the fact that another party to the dispute has or has not indicated willingness to accept a proposal for settlement made by the facilitator. In those cases in which a party to a dispute subject to the provisions of this Appendix C of the Bylaws is a membership organization (including WECC, if applicable), nothing in the preceding sentence shall prohibit that organization from reasonably communicating with its members and governing body to share general information about the dispute, such as the parties, status, disputed issues, and positions of each of the parties with respect to the disputed issues.

C.5.4 Referral for Resolution. With the consent of all parties to the dispute, a resolution may include referring the matter to a technical body (such as a technical advisory panel of WECC) for resolution or an advisory opinion, to arbitration, directly to FERC or, in a dispute involving a Canadian Member, directly to the appropriate Canadian Regulatory Authority, or, in a dispute involving a Mexican Member, directly to the appropriate Mexican Regulatory Authority.

C.5.5 Mediation Participation by WECC Staff When WECC Not a Party. If, during the course of mediation to which WECC is not a party, the facilitator or any party to the dispute wishes to solicit the views of WECC concerning the application,

implementation, interpretation, or fulfillment of any guidelines, criteria, standards, policies, or procedures of WECC, the facilitator may request or permit the submission of WECC staff views only if: (i) any participation by WECC staff takes place exclusively in the presence of all parties to the dispute; (ii) participating WECC staff members agree to be equally available upon request to all parties to the dispute; and (iii) participating WECC staff members agree to comply with the restrictions on disclosure contained in Section C.5.3.

C.5.6 Mediation Deemed at Impasse After 60 Days. If the parties to the dispute have met and negotiated in good faith in accordance with the schedule set by the facilitator but have not succeeded in negotiating a resolution of the dispute within 60 calendar days after the first meeting with the facilitator pursuant to Section C.5.3 above, the parties to the dispute shall be deemed to be at impasse and, except as otherwise provided in Section C.5.6.2 below, shall also be deemed to have fulfilled their obligations under Section C.1 of these Bylaws to fully comply with the dispute resolution provisions before pursuing any other available remedy. If any party participating in the mediation process is subject to a contractual or statutory limitations period with respect to the matter in dispute, and the limitations period will expire before the 60-day period for mediation under this Section C.5.6 is completed, then the parties shall be deemed at impasse on the seventh calendar day preceding the expiration of the shortest applicable limitations period.

C.5.6.1 Disputes Not Subject to Provisions of Section C.6.2. Unless the matter in dispute is subject to the provisions of Section C.6.2 below, at any time after the parties to the dispute are deemed at impasse, the dispute may be submitted to binding arbitration in accordance with the procedures set forth in Section C.7 of these Bylaws (but only by agreement of all of the parties to the dispute). If the matter in dispute is subject to the provisions of

Section C.6.2 below, the parties' obligations with respect to submitting the matter to binding arbitration under Sections C.6 and C.7 of these Bylaws shall be as specified in Section C.5.6.2 below. In all other cases, if the parties to the dispute do not agree to submit the dispute to binding arbitration in accordance with the procedures set forth in Section C.7 of these Bylaws, any party to the dispute may at any time thereafter pursue any other remedy available under regulation, law, or equity (subject to the restrictions on disclosure set forth in Section C.5.3 above).

C.5.6.2 Disputes Covered by Section C.6.2. If the parties to a dispute concerning a matter subject to the provisions of Section C.6.2 either: (i) are deemed at impasse after attempting to resolve the matter through mediation as provided in Sections C.5.1 through C.5.6 above; or (ii) have agreed to submit the matter directly to binding arbitration without attempting to resolve the matter through mediation as provided in Sections C.5.1 through C.5.6 above, the parties to the dispute shall submit the matter to binding arbitration in accordance with the procedures set forth in Sections C.6 and C.7 of these Bylaws.

C.5.7 Costs of Facilitator's Services. Except as otherwise provided under Section C.3.2, the costs of the facilitator's services shall be born equally by all parties to the dispute unless the parties to the dispute agree otherwise, but the parties also intend that the costs of mediation should be taken into account in any resolution proposed through the mediation process.

C.5.8 Notice to WECC of Completion of Mediation. Within 10 calendar days after either: (i) reaching a negotiated resolution through the mediation process set forth in Section C.5; or (ii) reaching deemed impasse in accordance with Section C.5.6 above, the parties to the dispute shall jointly deliver to WECC's Chief Executive Officer a written notice briefly describing the outcome of the mediation process. Promptly

after receiving written notice describing the outcome of a mediation conducted in accordance with Section C.5, WECC's Chief Executive Officer shall publish (or cause to be published) in WECC's newsletter or on its electronic bulletin board a brief description of the outcome of the mediation, together with a list of all of the parties to the dispute.

C.6 General Provisions Relating to Binding Arbitration.

C.6.1 Matters for Which Binding Arbitration is Elective. Except with respect to any dispute that concerns one or more matters specified in Section C.6.2 below, the binding arbitration procedures set forth in Section C.7 may be invoked only by agreement of all of the parties to the dispute to be arbitrated and are solely for the convenience of WECC and its Members. If a dispute governed by this Appendix C does not concern a matter specified in Section C.6.2 below, a party to the dispute shall be deemed to have fulfilled its obligations to comply with Appendix C of these Bylaws (irrespective of whether the parties to the dispute agree to proceed with binding arbitration) to the extent that either: (i) that party has fully performed the obligations set forth in Sections C.1 through C.5.8; or (ii) all of the parties to the dispute have agreed to a different process for resolving the dispute and the agreed-upon process has been fully carried out.

C.6.2 Matters for Which Binding Arbitration Is Obligatory. If a dispute is governed by Appendix C of these Bylaws and is not resolved through the process of mediation in accordance with Sections C.5.1 through C.5.6 above, the parties shall be obligated to submit the matter to binding arbitration in accordance with the procedures set forth in Section C.7 (subject to the limitations on the arbitrator's authority set forth in Section C.6.3 below) if the dispute concerns one or more of the following matters:

- C.6.2.1 a decision of WECC's Board of Directors or a Committee of the Board acting on the recommendation of, or on a matter within the jurisdiction of, the Operating Transfer Capability Policy Group ("OTCPG") or successor;
- C.6.2.2 a transmission path rating, or a modification to a transmission path rating, assigned to one or more transmission paths operated by a Member (or jointly operated by more than one Member);
- C.6.2.3 transmission access, pursuant to Sections 10.1.2, 10.1.3, and 10.5; or
- C.6.2.4 any matter that, by vote of both WECC's Board of Directors and WECC's Membership, is designated as a matter to be subject to the provisions of Section C.6.2 of these Bylaws, provided that any matter submitted to WECC's Membership pursuant to this provision must be approved by at least the number of votes required to amend these Bylaws under Section 13.2.

C.6.3 Limitations on Arbitrator's Authority with Respect to Matters Specified in Section C.6.2. Unless all of the parties to a dispute agree otherwise, an arbitrator rendering a decision with respect to any matter specified in Section C.6.2 above shall have no authority to consider or award remedies for past economic harm or damages of any kind, including without limitation actual or direct damages; indirect, consequential, or incidental damages; or exemplary or punitive damages. Nothing in this Section C.6.3 shall: (i) limit any rights that a party to a dispute concerning a matter specified in Section C.6.2 above may have to pursue legal claims for damages or other economic remedies after the arbitrator has rendered his or her decision on that matter (within the scope of his or her authority under this Section C.6.3); or (ii) limit an

arbitrator's authority under Section C.8 below to shift costs or impose monetary sanctions for "good cause" (as that term is defined in Section C.8).

C.6.4 Arbitration Decisions Not To Modify Underlying Rights and Obligations. Unless all of the parties to a dispute agree otherwise, the resolution through binding arbitration of any dispute governed by this Appendix C shall not have the effect of increasing, decreasing, or otherwise modifying WECC's or any Member's obligation to abide by, or ability to enforce or impose penalties or sanctions with respect to, any guidelines, criteria, standards, policies, procedures, decisions, or Bylaws of WECC or any limitation on the foregoing, whether established by law; regulation; judicial, executive, or administrative order, decree, or decision; tariff; contract; course of performance; treaty; or otherwise.

C.6.5 Laws Relating to Binding Arbitration. WECC and its Members recognize that some Members may be subject to laws (including without limitation United States federal or state laws, Canadian or provincial laws, or Mexican laws) that limit or define those Members' ability to agree in advance to be subject to binding arbitration. If a Member has the right or obligation under applicable law to refuse to submit to binding arbitration in connection with any dispute that would otherwise be subject to binding arbitration under Section C.6.2 of these Bylaws, that Member shall not be obligated to comply with the binding arbitration procedures set forth in Sections C.6 and C.7. Any Member subject to any law or other legally binding authority that may limit (or permit the Member to limit) its obligation to comply with the provisions requiring binding arbitration under Sections C.6 and C.7 or to fully comply with a valid arbitrator's decision rendered in accordance with this Appendix C shall provide

notice to this effect to all other disputing parties and WECC's Chief Executive Officer upon initiation of any dispute involving that Member if the dispute is subject to Section C.6.2. Upon receiving a notice under Section C.6.5, any other party to the dispute shall thereafter be relieved of any obligation to comply with the provisions Sections C.6 and C.7 in connection with that dispute, except to the extent that the Member giving notice agrees to be fully bound by procedures governing and results of any arbitration proceeding. If there are more than two parties to a dispute covered by the preceding sentence, however, then all parties to the dispute other than the party giving notice under Section C.6.5 shall make good faith efforts to establish a mutually acceptable approach for resolving among themselves whatever aspects of the dispute can reasonably be resolved through the procedures set forth in this Appendix C without the participation of the party giving notice under Section C.6.5. If any Member fails to submit to binding arbitration, or fails to abide by a valid arbitrator's decision rendered in accordance with this Appendix C, that Member shall thereafter have no right to enforce any of the provisions of Section C.6.2 (concerning obligations to submit specified disputes to binding arbitration) against any other Member or WECC until such time as the WECC Board of Directors, or a delegate designated by the Board, determines that it is appropriate to restore the Member's ability to enforce the provisions of Section C.6.2.

C.6.6 Consistency with Laws, Regulatory Jurisdiction and Orders, Etc. Nothing contained in this Appendix C and no arbitrator's decision rendered in accordance with Section C.7 shall be construed to require or shall otherwise operate to cause any Member or WECC to incur any obligation or take any action that is contrary to: (i) any

applicable law or regulation; (ii) any applicable authority, order, decree, rule, or decision of a regulatory, judicial, administrative, executive, or other governmental body having jurisdiction over one or more of the matters or parties subject to this Appendix C or covered by an arbitrator's decision; or (iii) any applicable rate schedule, tariff, treaty, or valid, pre-existing contractual obligation with which any party subject to this Appendix C or covered by an arbitrator's decision is legally obligated to comply.

C.7 Arbitration Procedures.

C.7.1 Notice to WECC of Initiation of Binding Arbitration. Within 10 calendar days after all of the parties to a dispute have agreed (or become obligated under Section C.6.2 above) to submit the dispute to binding arbitration under Sections C.6 and C.7, the parties to the dispute shall deliver written notice to WECC's Chief Executive Officer (an "Arbitration Notice").

C.7.1.1 The Arbitration Notice shall: (i) include a brief, general description of the issues to be arbitrated; and (ii) identify all parties who have agreed (or become obligated) to submit the dispute to binding arbitration under Sections C.6 and C.7.

C.7.1.2 Within five business days of receiving an Arbitration Notice, WECC's Chief Executive Officer shall: (a) publish (or cause to be published) in WECC's newsletter or on its electronic bulletin board a notice containing a list of the parties to the arbitration and the parties' brief, general description of the issues to be arbitrated; and (b) deliver to each party to the dispute a copy of

WECC's then-current standing list of qualified arbitrators, knowledgeable in matters addressed by WECC (as approved by the Board of Directors).

C.7.1.3 No person may be listed on WECC's standing list of qualified arbitrators unless the person has agreed to: (a) disclose, at any time the person is selected to serve as a arbitrator under this Appendix C, any personal or financial interest the arbitrator may have with respect to the matter(s) in dispute (including any indirect personal or financial interest that could arise because of interests or relationships affecting any of the arbitrator's immediate family members); (b) disclose any relationship the arbitrator may have with any party to the dispute that is not permitted under Section C.7.2 below; (c) assemble a complete record of the arbitration process and the materials received as evidence by the arbitrator if any of the parties to the dispute elect to appeal or contest the arbitrator's decision; and (d) abide by all applicable provisions of and procedures specified by Sections C.6 and C.7.

C.7.2 Selection of an Arbitrator. Within 10 calendar days after all of the parties to a dispute have agreed (or become obligated) to submit the dispute to binding arbitration under Sections C.6 and C.7, the parties to the dispute shall select an arbitrator by mutual agreement. If the parties cannot agree on an arbitrator within 10 calendar days after agreeing to arbitrate their dispute, the arbitrator shall be selected from WECC's standing list of qualified arbitrators as follows: The parties to the dispute shall take turns striking names from WECC's standing list of qualified arbitrators until there is only one name remaining. (The parties to the dispute shall draw lots to determine the order in which they take turns striking names.) The last

person whose name remains on the list shall serve as the arbitrator. No arbitrator other than an arbitrator chosen by agreement of all the parties to the dispute may (i) have a personal or financial interest in the matter(s) in dispute (including any indirect personal or financial interest that could arise because of interests or relationships affecting any of the arbitrator's immediate family members); or (ii) be (or have an immediate family member who is) a past or present director, commissioner, officer, employee, consultant, agent, or other representative of any of the parties to the dispute. If the arbitrator selected through the process of striking names specified above is disqualified under the preceding sentence, the arbitrator whose name was stricken last shall serve in his or her place.

C.7.3 Initial Statements and Proposed Arbitration Decisions. Within 10 calendar days after the selection of an arbitrator under Section C.7.2 above, each party to the dispute shall submit a statement in writing to all other parties to the dispute and to the arbitrator. Each disputing party's statement shall set forth in reasonable detail the nature of the dispute, the issues to be arbitrated, and the party's reasonable, good faith proposal for resolving the dispute. As provided in Section C.5.3 above, to the extent permitted by law, no party to an arbitration conducted under Sections C.6 and C.7 shall publicly disclose, rely on, or introduce as evidence in any arbitration, FERC proceeding, Canadian Regulatory Authority proceeding, proceeding before a Mexican Regulatory Authority, appeal, or litigation concerning the same or any related dispute any information required to be kept confidential by the terms of Section C.5.3.

C.7.4 Procedural Matters. The arbitrator shall determine discovery procedures, how evidence shall be taken, what written submittals may be made, and other such procedural matters, taking into account the complexity of the issues involved, the extent to which factual matters are disputed and the extent to which the credibility of witnesses is relevant to a resolution. Each party to the dispute shall produce all evidence determined by the arbitrator to be relevant and material to the issues presented. If such evidence involves proprietary or confidential information, the party submitting the evidence shall petition the arbitrator for a protective order, and to the extent the arbitrator determines there is good cause the arbitrator shall issue an appropriate protective order and all parties to the dispute shall comply with the protective order. The arbitrator may elect to resolve the arbitration matter solely on the basis of written evidence and arguments.

C.7.5 Out-of-Court Sworn Testimony. At the request of any disputing party, the arbitrator shall have the discretion to allow that party to examine witnesses through sworn out-of-court testimony (referred to in the United States as “deposition” and in Canada as “discovery”) to the extent the arbitrator deems the evidence sought to be relevant and appropriate. In general, out-of-court witness examinations shall be limited to a maximum of three per party and shall be held within 30 calendar days after the making of a request. Each witness examination shall be limited to a maximum of three hours’ duration. The arbitrator shall have the discretion to permit the number and duration of examination sessions allowed under this Section C.7.5 to be increased, and to extend the 30-day time limit, upon request for good cause shown.

All objections are reserved for the arbitration hearing except for objections based on privilege and proprietary or confidential information.

C.7.6 Intervention by Other Parties. Unless all of the parties to the dispute agree otherwise, no one (whether a Member, WECC, or any other entity or person) that is not a party to a dispute at the initiation of arbitration under Sections C.6 and C.7 shall have the right to intervene in the arbitration. Any party wishing to intervene in an arbitration under Sections C.6 and C.7 may petition the arbitrator for permission to intervene, provided that the petition is submitted to the arbitrator not more than 30 calendar days after notice of the arbitration is posted by WECC's Chief Executive Officer in accordance with Section C.7.1. The arbitrator shall have the discretion to permit a party to intervene if the arbitrator determines that the party petitioning to intervene has a direct and substantial interest in the outcome of the arbitration. In exercising his or her discretion concerning a requested intervention, the arbitrator shall also consider any additional complexity or delay that may be caused by allowing the intervention and also any other remedies available to the party requesting intervention. Any party that is granted the privilege of intervening in an arbitration under Sections C.6 and C.7 shall be permitted to intervene subject to the same terms, conditions, limitations, rights, and obligations of all other parties to the dispute, including without limitation the binding effect of arbitrator's decision, limitations on rights of appeal, the obligation to share equally in the costs of the arbitrator, and the obligation to be subject to the provisions of Section C.8.

C.7.7 Consideration of WECC Criteria, Etc. The Arbitrator shall give due consideration to the reliability criteria, standards, guidelines, policies, and procedures of WECC and

the North American Electric Reliability Council (or any successor organization) to the extent they are relevant to resolution of the matter(s) in dispute. If the arbitrator's decision will include interpretation of any of WECC's reliability criteria, standards, guidelines, policies, and procedures, (and WECC is not a party to the arbitration), the arbitrator shall, before rendering his or her decision, consult with WECC (subject to the provisions of Section C.7.10 below) concerning the interpretation of WECC's applicable reliability criteria, standards, guidelines, policies, and procedures.

C.7.8 Evidence and Rebuttal. The arbitrator shall consider all issues material to the matter(s) in dispute. The arbitrator shall take evidence submitted by the parties to the dispute in accordance with procedures established by the arbitrator and may request additional information the arbitrator deems material to the resolution of the dispute. With the consent of all parties to the dispute, the arbitrator's request for additional information may include the opinion of any individual or organization with recognized expertise in the matter(s) in dispute, subject to the following conditions: (i) any verbal communication with an expert consulted by the arbitrator must take place exclusively in the presence of all parties to the dispute and copies of any written communications must be provided to all parties to the dispute; (ii) any expert consulted by the arbitrator must agree to be equally available upon request to all of the parties to the dispute; (iii) any expert consulted by the arbitrator must agree to comply with the restrictions on disclosure contained in Section C.5.3; and (iv) all parties to the dispute shall be afforded a reasonable opportunity to question the expert and to rebut any additional information submitted by the expert at the request of the arbitrator.

C.7.9 Arbitrator's Decision. The arbitrator shall make all reasonable efforts to complete hearings (if applicable) and submissions of written evidence not more than 90 calendar days after receiving initial statements submitted under Section C.7.3 above. As soon as practicable, but in no event more than 30 calendar days after the completion of hearings and evidence submittals, the arbitrator shall render his or her final decision for resolving the dispute. By agreement of all of the parties to the dispute or at the discretion of the arbitrator for good cause, the foregoing deadline for delivery of the arbitrator's decision may be extended. The arbitrator's decision shall be based on the arbitrator's good faith determination of a resolution that will: (i) be consistent with any laws, rules, and regulations applicable to the matter(s) in dispute; (ii) be consistent with any valid pre-existing agreements among the parties to the dispute that bear on the matter(s) in dispute; (iii) not require any party to the dispute to take action that is not in compliance with any of WECC's reliability criteria, standards, guidelines, policies, and procedures; and (iv) best serve to promote or maintain reliable operation of the interconnected bulk power systems of the Western Interconnection, without imposing inequitable burdens or benefits on any of the parties to the dispute or others that may be affected by implementation of the arbitrator's decision. The arbitrator shall deliver to each of the parties to the dispute, along with his or her decision, a written statement including specific findings of fact, conclusions of law (if applicable), and an explanation of the arbitrator's basis for rendering his or her decision. Subject to any protective order that may have been issued under Section C.7.4 above, WECC's Chief Executive Officer shall publish (or cause to be published) in WECC's newsletter or electronic bulletin board a brief

summary of the arbitrator's decision. An arbitrator's decision that is not appealed shall not be deemed to be precedential in any other arbitration related to a different dispute.

C.7.10 WECC Staff Participation in Arbitration When WECC Not a Party. If, during the course of binding arbitration conducted under Sections C.6 and C.7 (in which WECC is not a party) the arbitrator or any party to the dispute wishes to solicit the views of WECC staff concerning the application, implementation, interpretation, or fulfillment of any guidelines, criteria, standards, policies, or procedures of WECC, the arbitrator may request or permit the submission of WECC staff views only with the consent of all of the parties to the dispute and only if: (i) any participation by WECC staff takes place exclusively in the presence of all parties to the dispute; (ii) participating WECC staff members agree to be equally available upon request to all parties to the dispute; and (iii) participating WECC staff members agree to comply with the restrictions on disclosure contained in Section C.5.3.

C.7.11 Compliance and Costs. Unless one or more of the parties to the dispute initiates and notifies all other parties to the dispute that it has initiated a process to contest or appeal the arbitrator's decision under Sections C.9 through C.13, upon the decision by the arbitrator, the parties to the dispute shall, within the time frame specified by the arbitrator, and, subject to Section C.6.6 above, take whatever action is required to comply with the arbitrator's decision to the extent the arbitrator's decision does not require regulatory action. To the extent the arbitrator's decision affects jurisdictional rates, terms and conditions of service, or facilities or otherwise requires local, state, federal, or provincial approval or regulatory action, or a FERC filing or a Canadian

Regulatory Authority filing by a Canadian Member or a Mexican Regulatory Authority filing by a Mexican Member, the affected Member (or WECC, if WECC is the party with the obligation to seek regulatory action) shall, within the time frame specified by the arbitrator, submit the arbitrator's decision or an appropriate filing to implement the arbitrator's decision and support the appropriate authority's acceptance or approval of the arbitrator's decision or implementation filing, except in cases where any party to the dispute has given notice of its intent to contest or appeal the arbitrator's decision. All costs associated with the arbitration (not including costs associated with attorney and expert witness fees incurred by the parties to the dispute) shall be divided equally among the parties to the dispute unless: (i) all of the parties to the dispute agree to an alternate method of allocating costs; or (ii) in rendering his or her decision, the arbitrator exercises his or her discretion under Section C.8 below to assess fees, costs, or other monetary sanctions against one or more of the parties to the dispute for good cause.

C.7.12 Entry of Judgment. At any time after an arbitrator has rendered his or her decision in an arbitration conducted under Sections C.6 and C.7 (provided that the time provided for initiating an appeal under Sections C.11.1 and C.12 below has expired and no appeal or other means of contesting the arbitrator's decision has been initiated), judgment on the decision rendered by the arbitrator may be entered by any court of competent jurisdiction (subject to the provisions of Sections C.6.3, C.6.4, and C.6.6 above). If the award is against the United States, a party to the arbitration may apply to the United States District Court for the district in which the principal office of the

applicable United States department or agency is located for an order confirming the award pursuant to 5 U.S.C. § 580.

C.8 Arbitrator's Discretion to Shift Costs or Impose Sanctions for Cause. Each party to any dispute submitted to arbitration under Sections C.6 and C.7 shall bear its own costs and fees associated with representation and participation in the arbitration process, and shall share equally in the arbitrator's fees except that the arbitrator shall have the discretion, to the extent permitted by law, to require one or more of the parties to the dispute to pay part or all of the costs and fees (including without limitation attorneys' and arbitrator's fees) of one or more other parties to the dispute, or to impose monetary sanctions on some other basis that is reasonable under the circumstances, for good cause. As used in this Section C.8, "good cause" means conduct involving serious abuse of or failure to comply with the dispute resolution process set forth in this Appendix C, willfully undertaken to harass or delay other parties to the dispute or to substantially impede the arbitrator's ability to render a decision consistent with the provisions set forth in Section C.7.9.

C.9 Rights to Appeal Arbitration Decisions. Except to the extent otherwise provided by applicable United States state or federal law, applicable Canadian or provincial law, or applicable Mexican law, a party to a dispute resolved by arbitration under Sections C.6 and C.7 may appeal or contest the arbitrator's decision only on one or more of the bases specified in Section C.9.1 below and only in accordance with the procedures set forth in Sections C.9.2 through C.13.

C.9.1 Grounds for Appealing Arbitration Decisions. A party to a dispute resolved by arbitration under Sections C.6 and C.7 may contest or appeal the arbitrator's decision only on the basis that: (i) the arbitrator's decision is contrary to applicable law or

regulation (including without limitation the FPA or FERC's then-applicable standards or policies, or comparable types of provisions that may apply under applicable Canadian, provincial, Mexican, or other laws and regulations); (ii) the arbitrator's decision is demonstrably arbitrary and capricious and without support in the record assembled during the arbitration; (iii) the arbitrator failed to afford one or more parties to the dispute an opportunity for a fair and meaningful hearing; (iv) the arbitrator engaged in serious misconduct in connection with the arbitration; (v) the arbitrator exceeded the authority conferred upon him or her under this Appendix C or as otherwise established by agreement of all the parties to the dispute; or (vi) the arbitrator's decision is contrary to the provisions of Section C.6.6.

C.9.2 Matter and One or More Parties to Dispute Subject to FERC Jurisdiction. If (i) the subject matter of a dispute arbitrated under Sections C.6 and C.7 is within the jurisdiction of FERC, and (ii) the conditions specified in Section C.12.1 or C.12.2 are satisfied, the rights of the parties to contest or appeal the arbitrator's decision shall be as set forth in Sections C.10 and C.12 below (subject also to the provisions of Section C.9.1 above). Notwithstanding the foregoing, nothing herein shall be construed or operate to require any Canadian or Mexican party or any other party that is not a "public utility" within the meaning of the FPA to make any filing with FERC under Sections 205 or 206 of the FPA.

C.9.3 All Parties and Matters in Dispute Subject to Jurisdiction of a Canadian Regulatory Authority. If all of the parties to an arbitrated dispute are subject to the jurisdiction of a particular Canadian Regulatory Authority, and if all matters in dispute are also subject to the jurisdiction of the same Canadian Regulatory Authority, any disputing

party may appeal an arbitrator's decision to that Canadian Regulatory Authority, where such Canadian Regulatory Authority has jurisdiction to hear the appeal, or to the appropriate Canadian court. Any appeal to a Canadian Regulatory Authority or Canadian court shall be subject to the provisions set forth in Sections C.10 and C.11 below.

C.9.4 All Parties and the Matter in Dispute Subject to Jurisdiction of a Mexican Regulatory Authority. If all of the parties to an arbitrated dispute are subject to the jurisdiction of a particular Mexican Regulatory Authority, and if all matters in dispute are also subject to the jurisdiction of the same Mexican Regulatory Authority, any disputing party may appeal an arbitrator's decision to the appropriate Mexican Regulatory Authority, subject to the provisions set forth in Sections C.10 and C.11 below.

C.9.5 Appeal to Court. If none of the preceding provisions concerning appealing or contesting an arbitrator's decision before FERC, a Canadian Regulatory Authority, or a Mexican Regulatory Authority apply to an arbitrated dispute, any party to an arbitrator's decision rendered in accordance with the provisions of Sections C.6 and C.7 may appeal the arbitrator's decision to a court of competent jurisdiction as provided under Section C.13 below.

C.10 Appealing or Contesting Arbitrator's Decision to FERC or a Presiding Authority. Subject to the conditions specified in Sections C.9.1 through C.9.5 above, any disputing party may appeal or contest an arbitrator's decision to FERC or an appropriate Presiding Authority as follows:

C.10.1 Record on Appeal. Except as otherwise provided in Section C.10.3 below, any appeal or action to contest an arbitrator's decision to FERC or a Presiding Authority

shall be based solely upon the record assembled by the arbitrator. All parties to arbitrations conducted under Sections C.6 and C.7 intend that: (i) the FERC or other Presiding Authority should afford substantial deference to the factual findings of the arbitrator; (ii) the portion, if any, of the arbitrator's decision relating to issues not of first impression (i.e., matters previously decided by the FERC or other Presiding Authority or a court of competent jurisdiction in cases involving comparable facts and circumstances) should be afforded appropriate deference by the FERC or other Presiding Authority; and (iii) the portion, if any, of the arbitrator's decision relating to issues of first impression should be afforded no deference by the FERC or other Presiding Authority.

C.10.2 No Expansion of Record on Appeal. Except as otherwise provided in Section C.10.3 below, no Member, non-Member, or WECC that has been a party to an arbitration under Sections C.6 and C.7 shall seek to expand the factual record before FERC or a Presiding Authority beyond that assembled by the arbitrator.

C.10.3 Exceptions to Limitations on Record on Appeal. If the arbitrator fails to assemble a complete record of the evidence submitted with respect to an arbitrated decision that is appealed pursuant to Sections C.9 through C.13, the parties to the appeal shall, notwithstanding the provisions of Sections C.10.1 and C.10.2 above, have the right to supplement the arbitrator's record before FERC or the Presiding Authority with any materials received into evidence by the arbitrator but omitted from the record assembled by the arbitrator. If an arbitrator's decision is appealed under Section C.9.1(iii) or (iv) above on the grounds that the arbitrator improperly excluded evidence so as to materially prejudice the outcome of the arbitration with respect to

one or more of the parties to the dispute, any party to the appeal may submit the evidence asserted to be improperly excluded, but only as a basis to request that FERC or the Presiding Authority vacate the arbitrator's decision and remand the matter to the arbitrator (or, if FERC or the Presiding Authority determines that the arbitrator engaged in serious misconduct, to a newly selected arbitrator) for reconsideration of the matter with inclusion of the improperly excluded evidence. If an arbitrator's decision is appealed under Section C.9.1(iv) above on the grounds of serious misconduct by the arbitrator, any party to the appeal may offer new evidence relating to the arbitrator's alleged misconduct.

C.11 Procedures for Appeals to Presiding Authority. If any party to an arbitration under Sections C.6 and C.7 desires to appeal an arbitrator's decision to an appropriate Presiding Authority, it shall provide written notice to that effect to all other parties to the arbitration, the arbitrator, and WECC's Chief Executive Officer within 14 calendar days following the date of the arbitrator's decision. If notice of appeal is timely provided:

C.11.1 Within 30 calendar days after the date of the appealing party's first notice of appeal, the party providing notice of appeal shall file its statement of position regarding the appeal with the Presiding Authority, together with the complete evidentiary record of the arbitration and a copy of the arbitrator's decision. The statement of position shall state that the appeal requested has been the subject of an arbitration pursuant to this Agreement.

C.11.2 Within 30 calendar days after the date of the appealing party's first notice of appeal, any other party that was a party to the arbitration may file its statement of position regarding the appeal with the Presiding Authority.

C.11.3 Copies of all materials filed with the Presiding Authority by any party during the course of an appeal shall be delivered to all other parties to the arbitration and to WECC's Chief Executive Officer.

C.11.4 Implementation of the arbitrator's decision shall be deemed stayed pending an appeal unless and until, at the request of a disputing party, the Presiding Authority issues an order shortening or extending the stay of implementation.

C.11.5 WECC's Chief Executive Officer shall publish (or cause to be published) a summary of each appeal in WECC's newsletter or electronic bulletin board.

C.11.6 The Members and WECC intend that any Presiding Authority's order resulting from an appeal under Sections C.9 and C.11 shall be subject to judicial review pursuant to laws governing the Presiding Authority and the matter in dispute that provide for judicial review of Presiding Authority action.

C.12 Procedures for Contesting or Appealing Arbitrator's Decision Before FERC. If any party to a dispute arbitrated under Sections C.6 and C.7 elects, subject to the limitations set forth in Sections C.9.1 through C.9.5 above, to contest or appeal an arbitrator's decision before FERC, the party so electing shall provide written notice to that effect to all other parties to the arbitration, the arbitrator, and WECC's Chief Executive Officer within 14 calendar days following the date of the arbitrator's decision. The provisions contained in Sections C.10.1, C.10.2, and C.10.3 above shall apply with respect to the record of the arbitration submitted to FERC. In addition, the following provisions shall apply:

C.12.1 FERC Filing by Prevailing Party. If the arbitrator's decision requires the prevailing party to take action that must have FERC approval or involves the provision of FERC-jurisdictional service by the prevailing party, the prevailing party shall file the

arbitrator's decision or make an appropriate filing with FERC to implement the arbitrator's decision. Provided that it has given notice as required under Section C.12 above, any non-prevailing party may contest the prevailing party's filing in accordance's with FERC's applicable rules and regulations.

C.12.2 Complaint to FERC by Prevailing Party. If the arbitrator's decision requires a non-prevailing party to take action that must have FERC approval or involves the provision of FERC-jurisdictional service by any non-prevailing party, then, if the non-prevailing party has given notice as required under Section C.12 above, the prevailing party may submit the arbitrator's decision to FERC in the form of a complaint.

C.13 Appeal to Court. If none of the provisions that govern appealing or contesting an arbitrator's decision before FERC, a Canadian Regulatory Authority, or a Mexican Regulatory Authority as set forth in Sections C.9.2, C.9.3, or C.9.4 above apply, any disputing party may appeal an arbitrator's decision to any court of competent jurisdiction, subject to the conditions specified in Section C.9.1 above. Except as otherwise provided in Section C.10.3 above (substituting the words "court of competent jurisdiction" for "FERC or the Presiding Authority"), any appeal to a court shall be based solely upon the record assembled by the arbitrator, and no Member, non-Member, or WECC who is a party to an arbitration under Sections C.6 and C.7 shall seek to expand the factual record before the court beyond that assembled by the arbitrator.

Appendix of Additional Definitions Relating to Alternative Dispute Resolution Provisions

Arbitration Notice has the meaning specified in Section C.7.1 of these Bylaws.

Canadian Regulatory Authority. The agency or agencies established under the laws of Canada or the applicable Provinces of Canada and having jurisdiction over facilities, interconnections, transmission rates, charges, terms, and conditions of service of a Canadian Member.

Dispute Notice has the meaning specified in Section C.5.1 of these Bylaws.

FERC. The Federal Energy Regulatory Commission or a successor agency.

FPA. The Federal Power Act (16 U.S.C. §§ 824 *et. seq.*), as it may be amended from time to time.

Mexican Regulatory Authority. The agency or agencies established under the laws of Mexico or the applicable states of Mexico and having jurisdiction over facilities, interconnections, transmission rates, charges, terms, and conditions of service of a Mexican Member.

Presiding Authority. As used in Sections C.10 and C.11, the term “Presiding Authority” has the following meanings: with respect to an appeal to an appropriate Canadian Regulatory Authority, “Presiding Authority” means the presiding Canadian Regulatory Authority or Canadian court with jurisdiction to hear the appeal; and with respect to an appeal to an appropriate Mexican Regulatory Authority, “Presiding Authority” means the presiding Mexican Regulatory Authority or Mexican court with jurisdiction to hear the appeal.

EXHIBIT C

Exhibit C – Regional Standard Development Procedure

Exhibit C shall set forth WECC’s standards development procedure, which NERC agrees meets the following common attributes:

COMMON ATTRIBUTE 1

Proposed regional reliability standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA in the United States. In Canada and Mexico, regional standards must be approved by applicable governmental authorities before becoming mandatory in those respective jurisdictions. No regional reliability standard shall be effective within the WECC area unless filed by NERC with FERC, and any applicable authorities in Canada and Mexico, and approved by FERC and any applicable authorities in Canada and Mexico.

COMMON ATTRIBUTE 2

WECC regional reliability standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. A WECC reliability standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. A regional reliability standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

COMMON ATTRIBUTE 3

WECC regional reliability standards, when approved by FERC and applicable authorities in Canada and Mexico, shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the WECC area, regardless of membership in the region.

COMMON ATTRIBUTE 4

Requester — The requester is the sponsor of the regional reliability standard request and may assist in the development of the standard. Any member of WECC, or group within WECC, shall be allowed to request that a regional reliability standard be developed, modified, or withdrawn. Additionally, any entity (person, organization, company, government agency, individual, etc.) that is directly and materially affected by the

reliability of the bulk power system in the WECC area shall be allowed to request a regional reliability standard be developed, modified, or withdrawn.

COMMON ATTRIBUTE 5

Standards Request Routing Committee and Lead Standing Committees — The WECC Standards Request Routing Committee (SRRC) manages the standards development process. The SRRC will consider which requests for new or revised standards shall be assigned for development (or existing standards considered for deletion). The lead standing committee will advise the WECC board on standards presented for adoption.

COMMON ATTRIBUTE 6

Registered ballot body — The registered ballot body comprises all entities or individuals that qualify for one of the stakeholder segments; are registered with WECC as potential ballot participants in the voting on standards; and are current with any designated fees. Each member of the registered ballot body is eligible to vote on standards. Each standard action is balloted by the lead standing committee and any registered Participating Stakeholders. The representation model of the registered ballot body is provided in Appendix A.

COMMON ATTRIBUTE 7

WECC will coordinate with NERC such that the acknowledgement of receipt of a standard request identified in step 2, notice of comment posting period identified in step 4, and notice for vote identified in step 6 below are concurrently posted on both the WECC and NERC websites.

COMMON ATTRIBUTE 8

An acceptable standard request shall contain a description of the proposed regional reliability standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed standard.

COMMON ATTRIBUTE 9

Within 14 days of receipt of a completed standard request, the SRRC shall determine the disposition of the standard request.

COMMON ATTRIBUTE 10

The SRRC may take one of the following actions:

- Accept the standard request as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The SRRC may, at its discretion, expand or narrow the scope of the standard request under consideration. The lead standing committee shall prioritize the development of standard in relation to other proposed standards, as may be required based on the volume of requests and resources.
- Reject the standard request. If the SRRC rejects a standard request, a written explanation for rejection will be delivered to the requester within 14 days of the decision.
- Remand the standard request back to the requester for additional work. The standards process manager will make reasonable efforts to assist the requester in addressing the deficiencies identified by the SRRC. The requester may then resubmit the modified standard request using the process above. The requester may choose to withdraw the standard request from further consideration prior to acceptance by the SRRC.

COMMON ATTRIBUTE 11

Any standard request that is accepted by the SRRC for development of a standard (or modification or deletion of an existing standard) shall be posted for public viewing on the WECC website within 30 days of acceptance by the committee.

COMMON ATTRIBUTE 12

The standards process manager shall submit the proposed members of the drafting team to the lead standing committee and the SRRC. The lead standing committee and the SRRC shall approve the drafting team membership within 60 days of accepting a standard request for development, modifying the recommendations of the standards process manager as the committee deems appropriate, and assign development of the proposed standard to the drafting team.

COMMON ATTRIBUTE 13

At the direction from the lead standing committee, the standards process manager shall facilitate the posting of the draft standard on the WECC website, along with a draft implementation plan and supporting documents, for a no less than a 30-day comment

period. The standards process manager shall provide notice to WECC stakeholders and other potentially interested entities, both within and outside of the WECC area, of the posting using communication procedures then currently in effect or by other means as deemed appropriate.

COMMON ATTRIBUTE 14

The drafting team shall prepare a summary of the comments received and the changes made to the proposed standard as a result of these comments. The drafting team shall summarize comments that were rejected by the drafting team and the reason(s) that these comments were rejected, in part or whole. The summary, along with a response to each comment received will be posted on the WECC website no later than the next posting of the proposed standard.

COMMON ATTRIBUTE 15

Upon recommendation of the drafting team, and if the lead standing committee concurs that all of the requirements for development of the standard have been met, the standards process manager shall post the proposed standard and implementation plan for ballot and shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

COMMON ATTRIBUTE 16

The standards process manager shall schedule a vote by the WECC lead standing committee]. The vote shall commence no sooner than [15] days and no later than [30] days following the issuance of the notice for the vote.

COMMON ATTRIBUTE 17

The WECC registered ballot body shall be able to vote on the proposed standard during a period of not less than 10 days.

COMMON ATTRIBUTE 18

All lead standing committee members of WECC and Participating Stakeholders are eligible to participate in voting on proposed new standards, standard revisions or standard deletions.

COMMON ATTRIBUTE 19

Approval of the proposed regional reliability standard shall require a majority in the affirmative (affirmative votes divided by the sum of affirmative and negative votes) by both voting classes of the lead standing committee. Abstentions and non-responses shall not count toward the results.

COMMON ATTRIBUTE 20

Under no circumstances may the board substantively modify the proposed regional reliability standard.

COMMON ATTRIBUTE 21

Once a regional reliability standard is approved by the board, the standard will be submitted to NERC for approval and filing with FERC and applicable authorities in Canada and Mexico.

COMMON ATTRIBUTE 22

- **Open** - Participation in the development of a regional reliability standard shall be open to all organizations that are directly and materially affected by the WECC bulk power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in WECC, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to the WECC members and others.

COMMON ATTRIBUTE 23

- **Balanced** - The WECC standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.

COMMON ATTRIBUTE 24

- **Inclusive** — Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the

WECC area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.

COMMON ATTRIBUTE 25

- **Fair due process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of Participating Stakeholders.

COMMON ATTRIBUTE 26

- **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity’s Web site.

COMMON ATTRIBUTE 27

- Does not unnecessarily delay development of the proposed reliability standard.

COMMON ATTRIBUTE 28

Each standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

COMMON ATTRIBUTE 29

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all regional reliability standards shall be consistent with NERC’s market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

COMMON ATTRIBUTE 30

To ensure uniformity of regional reliability standards, a regional reliability standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

COMMON ATTRIBUTE 31

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

COMMON ATTRIBUTE 32

Applicability	Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions. If not applicable to the entire WECC area, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.
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COMMON ATTRIBUTE 33

Measure(s)	Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.
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COMMON ATTRIBUTE 34

Compliance Monitoring Process	Defines for each measure: <ul style="list-style-type: none">• The specific data or information that is required to measure performance or outcomes.• The entity that is responsible for providing the data or information for measuring performance or outcomes.• The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes.• The entity that is responsible for evaluating data or information to assess performance or outcomes.• The time period in which performance or outcomes is measured, evaluated, and then reset.• Measurement data retention requirements and assignment of responsibility for data archiving.
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PROCESS FOR DEVELOPING AND APPROVING WECC STANDARDS

Introduction

This document explains the WECC process for requesting, announcing, developing, revising, withdrawing and approving WECC Standards as defined below (“WECC Standards Process”). The process involves several steps:

- A request to develop a new Standard or revise an existing Standard
- Decision to proceed with development or revision of a Standard and assignment to a Standing Committee and Subgroup
- Public (including members) notification of intent to develop or revise a Standard
- Drafting stage
- Posting of draft for public comment
- Review of all comments and public posting of decisions reached on each comment
- WECC Standing Committee/Participating Stakeholder balloting of proposed Standard
- Consideration of any appeals
- WECC Board of Directors (Board) decision regarding approval, disapproval or remand of proposed Standard
- Forwarding proposed WECC Reliability Standards to ERO

The process for developing and approving WECC Standards includes:

1. Notification of pending Standard change before a wide audience of all “interested and affected parties”
2. Posting Standard change drafts for all parties to review
3. Provision for gathering and posting comments from all parties
4. Provision for an appeals process – both “due process” and “technical” appeals

WECC Standing Committees have the responsibility for developing and balloting WECC Standards. Standing Committee chairs are responsible for ensuring administration of the process and completion of all Standing Committee responsibilities. Standing Committees are assisted by a Standards Request Routing Committee and supported by Subgroups that draft the Standards, ensure the draft Standard is properly reviewed consistent with WECC due process requirements, respond to comments on the draft Standard, and revise the draft Standard in response to these comments. Board approval signifies that WECC has adopted the Standard. WECC staff has the role of tracking the Standard as it moves through the process and facilitating resolution of issues. In accordance with Section 8.6 of the WECC Bylaws, interested stakeholders may participate in Reliability Standard development and vote at the Standing Committee level on Reliability Standards or revisions to Reliability Standards.

WECC Bylaws Controlling

It is the intention of the drafters of the WECC Standards Process that the procedures described herein be interpreted and applied in a manner that is consistent with the WECC Bylaws. Should

any conflict between this WECC Standards Process and the WECC Bylaws arise, the WECC Bylaws will control.

Terms

Days. All references to days in this document refer to calendar days.

Due Process Appeals Committee. The committee that receives all appeals alleging that WECC's due process procedure was not properly followed during the development or revision of a Standard. The Due Process Appeals Committee consists of three Directors appointed by the Board Chair. The WECC Chief Executive Officer or his/her designee will be the staff coordinator for the Due Process Appeals Committee.

Participating Stakeholder. A Participating Stakeholder as defined in Section 3.21 of the WECC Bylaws.

Standard. In the context of this document, the term Standard refers to a Reliability Standard or a commercial Business Practice.

Standard Request Form. The form titled WECC Standards/Business Practice Request Form approved by WECC for the purpose of requesting a new Standard or a revision to an existing Standard.

Standards Request Routing Committee. This committee consists of the chairs of the three Standing Committees or their designees. This Committee is responsible for determining if a Standard Request is within the scope of WECC's activities, and assigning the request to the appropriate Standing Committee(s).

Standing Committee. The Market Interface Committee (MIC), Operating Committee (OC) or Planning Coordination Committee (PCC).¹ MIC, OC, and PCC will coordinate their responsibilities for those Standards that have a combination of market, operating, and planning implications.

Subgroup. A subcommittee, work group, or task force of the MIC, OC, PCC, or a combination of representatives from these committees that is responsible for developing a draft WECC Standard, posting it for review, and addressing public comments on the draft.² Voting members of a Subgroup are the individuals appointed to the group. In addition, one representative of the entity requesting a Standard has the option of joining the Subgroup as a voting member.

Technical Appeals Committee. The committee that receives appeals alleging that a party's technical comments were not properly addressed during the development of a Standard. The Technical Appeals Committee consists of the Vice Chairs of the Market Interface Committee, Operating Committee, Planning Coordination Committee, and a Director appointed by the Board Chair. The WECC Chief Executive Officer or his/her designee will be the staff coordinator for the Technical Appeals Committee. The Director appointed to the committee will act as chair. Replacement of a Technical Appeals Committee member in the event of a

¹ In accordance with WECC Bylaws Section 8.5.4, Membership in WECC's Standing Committees is open to all WECC members.

² Formation of Subgroups is in accordance with the Market Interface Committee's, Planning Coordination Committee's, and Operating Committee's Organizational Guidelines.

conflict of interest will be at the discretion of the Technical Appeals Committee Chair. If the chair has a conflict of interest, the WECC Board Chair will appoint another Director to serve as chair for the duration of the appeal in question.

Normal Process for Standards

Step 1 – Request To Revise or Develop a Standard

Requests to develop or revise a Standard will be submitted to the WECC staff through the use of the WECC Standard Request Form. Requesters may be any individual or organization. WECC membership is not a requirement as long as the requester has an interest in electric system reliability or commercial business practices in the Western Interconnection.

Step 2 – Request Validation and Routing

The Standard Request Form will be reviewed for completeness and assigned a tracking number by the WECC staff. Staff may assist with completing the request, or report to the Standards Request Routing Committee that the request is incomplete and request guidance. When complete, the WECC staff will forward the request to the Standards Request Routing Committee. This committee will confer either in person or via conference call within two weeks of receipt of a completed request to determine whether the request is within WECC's scope.

The WECC staff will maintain a web-based form that tracks all requests through the standard development process, as well as a standards development tracking log that is posted on the WECC website.

Upon ascertaining that a request is within the scope of WECC's activities, the Standards Request Routing Committee will assign the request to the chair of the appropriate Standing Committee(s), who will in turn assign it to a Subgroup. One Standing Committee will be designated as the lead Standing Committee. If the request has implications for any combination of planning, operations, or market issues, the chair of the lead Standing Committee, in consultation with the Standards Request Routing Committee, will evaluate the technical expertise of the Subgroup and may augment membership in the Subgroup for the purpose of drafting the proposed Standard or revision(s) to ensure that the Subgroup includes a composite of individuals having the appropriate planning, operations, and market expertise. Notification of such assignments will be posted on the WECC website and sent to all parties that subscribe to the WECC standards e-mail list. In addition, such assignments will be simultaneously noticed to NERC. The Subgroup will act in accordance with duly approved Subgroup guidelines. Any other interested parties may participate in the deliberations of the Subgroup.

Step 3 – Subgroup Begins Drafting Phase and Announces on WECC Web Site

The Subgroup will begin working on the request at the Subgroup's next scheduled meeting, or no later than a designated number of days following assignment from the Routing Committee, as directed by the lead Standing Committee chair. Notification of Subgroup meetings will be posted on the WECC website and sent to all parties that subscribe to the WECC standards e-mail list at least 30 days prior to the meeting. In addition notification of all Subgroup meetings will be simultaneously noticed to NERC. These meetings will be open to interested

stakeholders. The Subgroup chair will facilitate interested stakeholder participation in the discussion in order to encourage Subgroup understanding of the issues and consensus among the meeting participants. The Subgroup will work to achieve a consensus recommendation.

Standard requesters have the right, and are encouraged to participate in the Subgroup drafting process. Requesters may be called on to provide additional information, supporting studies, and other information to support the requirements of the proposed Standard or revision(s).

All WECC Standards will follow a standard format that refers to the Responsible Entities included in the NERC Functional Model and includes compliance measures according to the WECC standard template. The drafting group will include definitions for any terms included in the Standard or revision(s) that need to be added to the WECC glossary.

In the course of its review, the Subgroup:

- will review the preliminary technical assessment provided by the requester.
- will compare with existing standards to determine whether a the request is better served by drafting a new standard or modifying an existing standard.
- may perform or request additional technical studies, if necessary.
- will complete an impact assessment report as part of its evaluation to assess the potential effects of the request.
- may request from the Board or Standing Committee additional time to study the proposed request if the Subgroup believes it necessary to fully assess the proposed change.

Upon reaching a determination, by majority vote, that the requested Standard or revision to an existing Standard is needed, the Subgroup will announce the proposed Standard or proposed revision(s) in an existing Standard by posting on the WECC website a summary of the Standard or revision(s) it expects to draft, and an explanation as to why the new Standard or revision(s) in an existing Standard is needed. Notice of this posting, and its location on the WECC website, will be sent to all parties that subscribe to the WECC standards e-mail list. In addition these notifications will be simultaneously noticed to NERC.

If the Subgroup determines, by majority vote, that a new or revised Standard is not needed, it will prepare an explanation in consultation with the Standards Request Routing Committee and post it on the WECC website for a specified comment period. The party that submitted the request, parties subscribing to the WECC standards email list, the Standing Committees, and Board will all be notified of the posting and its location on the WECC website.

Step 4 – Draft Standard Posted for Comment

The Subgroup will post the first draft of the new or revised Standard on the WECC website and provide 45 days for comments. Along with the draft, the Subgroup will prepare and post an impact assessment report. Alternatively, the Subgroup may request input from affected parties regarding their estimated cost to implement the draft Standard and will use that data to prepare an impact assessment report, which will be posted for comment when it becomes available. The draft will include all mandatory requirements. In addition, it will include measurements, Violation Risk Factors, and Violation Severity Levels. Notice of this posting and a solicitation for comments on the draft will be sent to all WECC members and all individuals who subscribe

to the WECC standards e-mail list. In addition the notification of posting and solicitation for comments will be simultaneously noticed to NERC. Members of electric industry organizations may respond through their organizations, or directly, or both. All comments will be supplied electronically and will be posted on the WECC website.

Step 5 – Subgroup Deliberates on Comments

Subgroup chairs are responsible for ensuring that comments are addressed in a timely manner. The Subgroup will post its response to comments on the WECC website within 30 days of the close of the comment period. All parties that submit comments are strongly encouraged to participate in Subgroup deliberations.

If the Subgroup determines, by majority vote, any technical comments including those on the draft or the impact assessment report are significant, it will repeat Steps 3 and 4 as many times as considered necessary by the Subgroup to ensure adequate opportunity for interested stakeholder input. All interested stakeholders are strongly encouraged to submit their comments as early in the process as possible. The number of days for comment on each subsequent revision to the draft of the proposed Standard or revision(s) will be 30 days. Parties whose comments have been rejected by a Subgroup may request review of such comments by the Standing Committee and Participating Stakeholders when the proposed Standard or revision(s) is brought before the Standing Committee for a vote (in Step 7).

The Subgroup will attempt to achieve a consensus recommendation on a final draft. A majority vote of the Subgroup is required to approve submitting the recommended Standard or revision(s) to the Standing Committee and Participating Stakeholders. Voting will be conducted in accordance with this WECC Standards Process, the WECC Bylaws, and any other applicable regulatory requirements. Balloting results will be documented. All dissenting voters, as well as others participating in the Subgroup deliberations, will be encouraged to provide dissenting comments and, if possible, specific language that would make the Standard acceptable. If the Subgroup vote fails to capture a simple majority to approve the submittal to the Standing Committee and Participating Stakeholders, and there is no apparent way to reach a majority agreement, the Subgroup will report to and seek guidance from the Standing Committee Chair.

Step 6 – Subgroup Submits Draft for Standing Committee/Participating Stakeholder Vote

The Subgroup's final draft Standard or revision(s) will be posted on the WECC website and the appropriate Standing Committees and Participating Stakeholders will be notified of the Subgroup's recommendation. The posting will include the final Subgroup vote, all comments that were not incorporated into the draft Standard, the impact assessment report and the date on which the Standing Committee and Participating Stakeholders are scheduled to vote on the Subgroup's recommendation. Notice of the posting will be sent to the Standing Committees, all Participating Stakeholders, and the standards e-mail list. In addition the notification of posting for ballot will be simultaneously noticed to NERC.

Step 7 – Standing Committee/Participating Stakeholders Vote on Recommendation to Board

In accordance with Sections 8.5 and 8.6 of the WECC Bylaws, the Standing Committee and Participating Stakeholders will vote on the draft Standard, revision(s) or withdrawal no later than at the next Standing Committee meeting, subject to applicable notice requirements. A minimum of 30 days notice will be provided prior to all Standing Committee meetings at which new or revised Standards will be considered for approval.³ Notification of such meetings will be posted on the WECC website and sent to all parties that subscribe to the WECC standards e-mail list. Whenever it determines that a matter requires an urgent decision, the Board may shorten the time period set forth in this section in accordance with the requirements in the WECC Bylaws.⁴

The Standing Committee and Participating Stakeholders may vote to amend or modify a proposed Standard or revision(s) or remand it back to the Subgroup to propose needed modifications. The reasons for the modification(s) will be documented, posted, and provided to the Board. If any changes are made at the Standing Committee meeting, the roll call of votes for and against the proposal and abstentions will be recorded at the meeting, and the revised proposal will be posted for 10 days for comments.³ The comments will be posted and distributed to the Standing Committee and Participating Stakeholders. All Standing Committee members and Participating Stakeholders, including those who did not vote at the meeting, will be allowed 10 days from the time comments are posted to submit or change their votes, and the Standing Committee/Participating Stakeholder votes will be recounted based on these new and revised votes to determine whether a majority has voted for the proposal. Any parties that object to the modifications may appeal to the appropriate appeals committee as provided in Step 8.

A majority vote of the Standing Committee and Participating Stakeholders, as specified in Section 8.5.5.2 of the WECC Bylaws, is required to approve submitting the recommended Standard or revision(s) to the Board for a vote. In accordance with Section 8.5.5.2 only Standing Committee members and Participating Stakeholders who are present at a meeting of the Standing Committee may vote on a Standard.

Although any of the three Standing Committees (together with Participating Stakeholders) may vote on submitting the recommended Standard or revision(s) to the Board, only the vote of the lead Standing Committee and Participating Stakeholders will determine the course of action. If the Standing Committees do not agree, the lead Standing Committee and Participating Stakeholders will decide whether to return the draft to the Subgroup for further work, to submit the recommended Standard or revision(s) to the Board, or terminate the Standard development activity with the posting of an appropriate notice to the Standards requester, the Subgroup, and the Board (if appropriate). The Standing Committee chairs will coordinate input from their respective Committees and Participating Stakeholders to the lead Standing Committee so that the lead Standing Committee and Participating Stakeholders will have all relevant information when

³ WECC Bylaws, Section 8.5.6 – “If the committee’s recommendation or decision changes significantly as a result of comment received, the committee will post the revised recommendation or decision on the Web site, provide e-mail notification to Members and Participating Stakeholders (if the recommendation or decision concerns a Reliability Standard or revision), and provide no less than ten (10) days for additional comment before reaching its final recommendation or decision.”

voting. Relevant voting information from all Standing Committees will be submitted to the Board for its consideration in determining whether or not to approve the Standard.

If the Standing Committee and Participating Stakeholders approve the Standard or revision(s), the Standing Committee sends its recommendation, together with the proposed Standard or revision(s), and any comments on which the Standing Committee and Participating Stakeholders did not agree, plus minority opinions, to the Board for final approval. To be considered by the Board, any “no” votes on a proposed Standard or revision(s) should be accompanied by a text explaining the “no” vote and if possible specific language that would make the Standard or revision(s) acceptable. Proposed Standards or revision(s) will be posted no less than 30 days prior to the Board vote.⁴ The date of the expected Board vote will also be posted.

Step 8 – Appeals Process

Appeals are available at various levels of the Standards Development Process as follows:

Rejection of a Standards Request by the Standards Request Routing Committee may be appealed to a Standing Committee and Participating Stakeholders, and if necessary, to either a Due Process or Technical Appeal Committee, as appropriate.

Appeals of Subgroup decisions, including Routing Committee decisions, may be made to a Standing Committee and Participating Stakeholders. The Standing Committee will post its findings. The subsequent rejection of such an appeal by a Standing Committee and Participating Stakeholders may be further appealed to an appeals committee. The appeals committee will post and submit its findings and recommendations to the Standing Committee chair who will determine the appropriate course of action. Any submittal to the Board of Directors for approval will include any findings and recommendations of the appeals committee.

A new Standard or revision(s) to an existing Standard recommended by a Standing Committee and Participating Stakeholders may be appealed on either technical or due process grounds. Any due process or technical appeals must be submitted, in writing, to the WECC staff within 15 days of the date the Standing Committee posts a recommendation.

The WECC staff will conduct an investigation and issue a written report of its findings and recommendations to the appealing party and Standing Committee. If the appealing party does not agree with the staff report, it can request that the appeal be referred to the Technical or Due Process Appeals Committee, which will conduct an investigation and issue a report including findings and recommendations. The Technical Appeals Committee will make assignments as necessary to existing WECC technical work groups and task forces, form new technical groups if necessary, and use other technical resources as required to address technical appeals. The appealing party has the burden of proof and must demonstrate that the decision will adversely impact it. The Technical or Due Process Appeals Committee will issue a majority decision.

Each level of appeal will be completed within 30 days. The Board of Directors, at its discretion, may implement the Standard or revision(s) on an interim or emergency basis during the appeals process using the Urgent Action interim Standard Process set forth below.

⁴ WECC Bylaws, Section 7.5.1 – “Except as set forth in Section 7.5.2 regarding urgent business, all regular business of the Board will occur at the Board meetings, at least twenty-one (21) days’ advance notice of which has been provided...”

Step 9 – Board Approval

The WECC Board of Directors will consider the proposed Standard or revision(s) no later than at its next meeting occurring at least 30 days after the lead Standing Committee vote. The Board will consider the Standing Committee’s recommendations and minority opinions, all comments that were not incorporated into the draft Standard or revision(s), the impact assessment report, and inputs from the Due Process and Technical Appeals Committees. The Board will not amend or modify a proposed Standard, except to make nonmaterial changes to the language of a Standard or revision thereto. If approved, the Standard will be posted on the WECC website and all parties notified.

If the new or modified Standard is not approved, the Board may return the Standard to the Standing Committee and Participating Stakeholders for further work, or the Board may terminate the Standard activity with an appropriate notice and explanation to the Standard requester, Standing Committee, and Participating Stakeholders. These Board actions will also be posted.

A majority vote of the Directors present at a Board meeting, as specified in Section 7.2 of the WECC Bylaws, is required to approve the recommended Standard or revision(s).

Step 10 – ERO Review, FERC Approval and Implementation of Reliability Standards

To the extent required under Section 215 of the Federal Power Act, 18 C.F.R. Part 39, and according to procedures established in the delegation agreement between WECC and the Electric Reliability Organization (“ERO”), the Board shall submit new Reliability Standards and revisions to existing Reliability Standards for review by the ERO and approval by FERC. Upon approval by FERC, the Reliability Standards will be made part of the body of NERC reliability standards and enforced upon all applicable bulk power system owners, operators, and users within the WECC region. Parties’ right to participate in the ERO and FERC review processes shall be as established in the applicable regulations and the ERO/WECC delegation agreement. Reliability Standards subject to ERO review shall become effective as approved by FERC or applicable Canadian or Mexican authorities.

Step 11 – Implementation of Standards Not Subject to ERO/FERC/Other Approval

All new and modified Standards not subject to ERO review and FERC, Canadian or Mexican approval as provided in Step 10 shall become effective as ordered by the WECC Board. As of the effective date of such new or modified Standard, all industry participants in the Western Interconnection that such Standard is applicable to are expected to implement and abide by the Standard. Any and all parties to this Process retain the right of appeal to other authorities as the law allows.

Special Procedures

Expedited Process for Urgent Action Interim Standards

In cases requiring urgent action, such as in the development of emergency operating procedures, the Standing Committees and Participating Stakeholders may propose a new or modified interim Standard for approval by the WECC Board through a process that eliminates any or all of the steps outlined above, but only to the extent necessary, and only in a manner that is consistent with the WECC Bylaws. Such interim Standard shall be replaced by a Board-approved permanent Standard, developed using all the steps identified in this document within one year (or such additional time as may reasonably be required to complete all steps) from the date on which the WECC Board approved the interim standard. An interim Standard may be converted to a successor permanent Standard as long as any procedural steps bypassed in developing the interim Standard are completed with respect to the permanent Standard. If necessary, the Board may renew an interim Standard to allow additional time for the development of a successor permanent Standard. Renewal may occur more than once, but a good faith effort must be made to develop a successor permanent Standard.

Interpretation of Regional Standards

Any entity may request an interpretation of a Regional Standard by sending a request through the WECC web portal identifying the standard and requirement or requirements for which additional clarity is sought. The request shall indicate the material impact to the requesting entity or others caused by the actual or potential lack of clarity. An interpretation is limited to clarifying existing requirements in approved reliability standards. Interpretations may not be developed that expand upon a requirement or that provide guidance on how to apply a requirement.

The Director of Standards shall review the request for clarity and completeness and shall work with the requestor to clarify the request or complete any missing elements of the request if needed. The Director of Standards shall forward the request to the Standards Request Routing Committee (SRRC). If the Director believes that the request is intended to change a requirement or is seeking feedback on how to apply a requirement, rather than interpret the requirement, the Director shall note that to the SRRC. If the SRRC agrees by majority vote, the request shall be denied and returned to the requestor with an explanation. If denied, the requestor shall be advised of the appeals process.

Within 10 calendar days after receipt of the request, the SRRC shall assign the interpretation request to the Standing Committee (SC) responsible for creating the Standard. Within 21 days of receiving the request, the SC Chair shall assemble an Interpretation Drafting Team (IDT) with the relevant expertise to address the clarification. The IDT should include members from the original Standard Drafting Team to the extent possible, and may be supplemented as deemed appropriate by the SC Chair, but shall not contain any members representing the entity that submitted the request.

As soon as practicable, but not more than 45 calendar days after the SC assembles the IDT, the IDT shall draft a written interpretation to the Standard providing the requested clarity. The

interpretation shall be posted for a 30-day formal comment period. The IDT shall then have 15 days to respond to the comments and to make any changes to the interpretation. The IDT shall then return the interpretation to the SC which shall then post the interpretation for another 30 days to give entities time to review the interpretation prior to the SC vote. The SC shall vote on the interpretation as soon as practicable after the posting period consistent with the Voting Procedure for WECC Standing Committees. Use of a conference call or web meeting and electronic or e-mail balloting is encouraged to shorten the interpretation process. If the interpretation is approved, the SC shall forward the interpretation to the WECC Board of Directors for approval. If the SC rejects the interpretation, the Director of Standards shall notify the requestor.

The interpretation shall be submitted to NERC for processing with a request that the interpretation be adopted by the NERC Board of Trustees and then filed for approval with FERC and applicable Governmental Authorities in British Columbia, Alberta and Mexico.

Once the interpretation is approved by FERC and applicable Governmental Authorities in British Columbia, Alberta and Mexico, the interpretation shall become effective and shall be appended to the Standard. The interpretation will remain appended to the Standard until such time as the Standard is revised through the normal process incorporating the clarifications provided by the interpretation.

Approved by the WECC Board April 28, 2010

Process for Developing and Approving WECC Standards

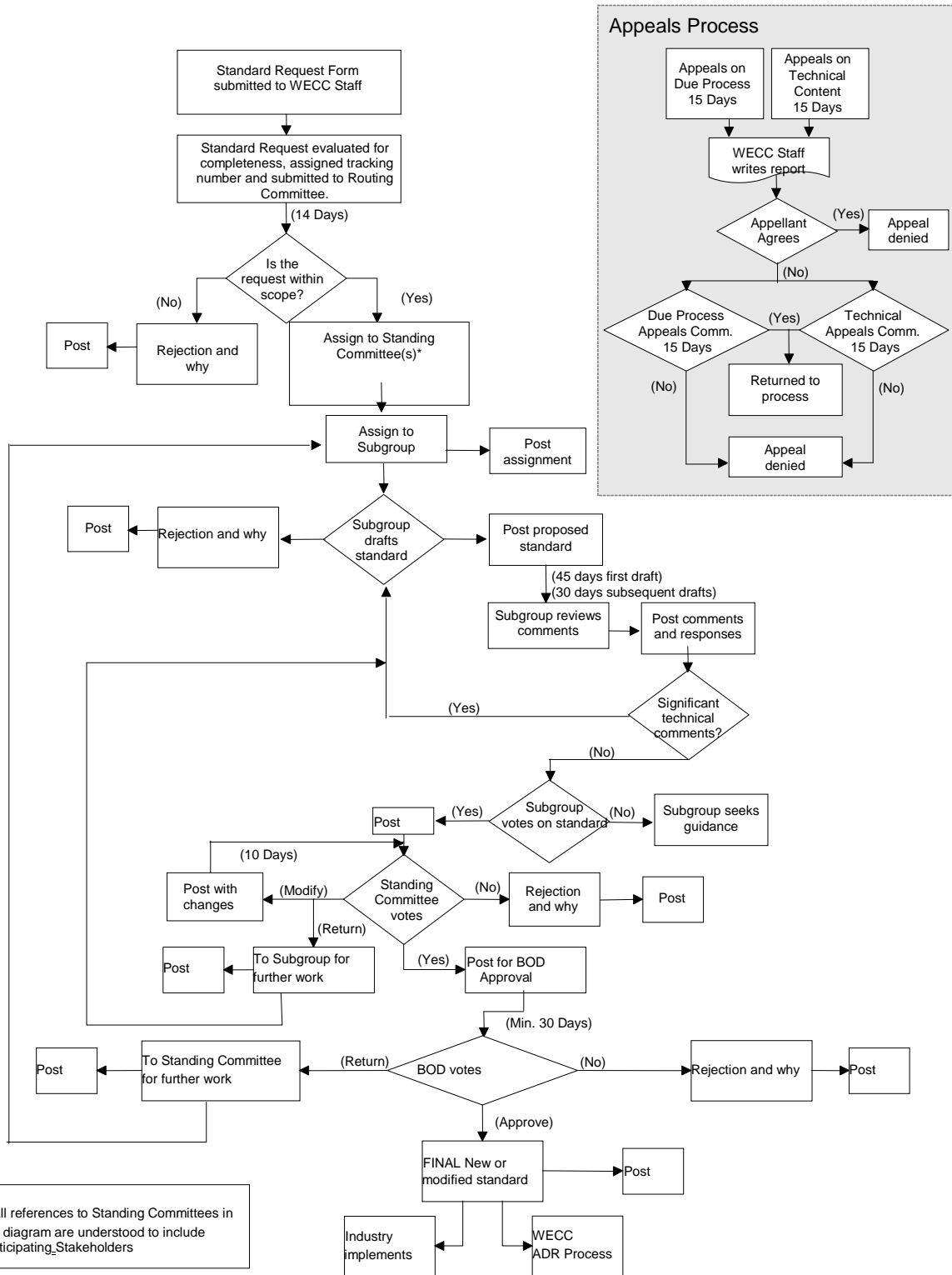


EXHIBIT D

EXHIBIT D – COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

WECC will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within **WECC's** geographic or electrical boundaries, and such other scope, set forth on **Exhibit A** of this Agreement ; provided, however, that Section 5.3(vii) of the WECC Compliance Monitoring and Enforcement Program does not refer to shortened hearing procedures.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

WECC shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either **WECC's** board or a balanced compliance panel reporting directly to **WECC's** board. **WECC's** hearing body is the Compliance Hearing Body, as established under the WECC Compliance Hearing Body Charter.

Under the Compliance Hearing Body Charter, the Compliance Hearing Body consists of Class A and Class B members. Class A members are WECC non-affiliated directors, personnel employed by WECC Members who are not engaged in the Electric Line of Business, and consultants who meet the same standards of independence required by the WECC Bylaws for non-affiliated directors. Class B members are personnel employed by WECC Members engaged in the Electric Line of Business or who are otherwise affiliated with such Members. For each hearing, the Chair of the Compliance Hearing Body selects a five-member Hearing Panel (or a three-member Hearing Panel if the parties to the hearing agree) with a majority consisting of Class A members, with at least two members (one member of a three-member Hearing Panel) having technical knowledge of electric industry systems.

WECC shall conduct all compliance hearings in which a Registered Entity may contest a proposed registration, finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with the Attachment to this Exhibit D.

3.0 OTHER DECISION-MAKING BODIES

None. The WECC Compliance Committee provides general oversight and policy guidance but does not have decision-making authority with respect to compliance matters.

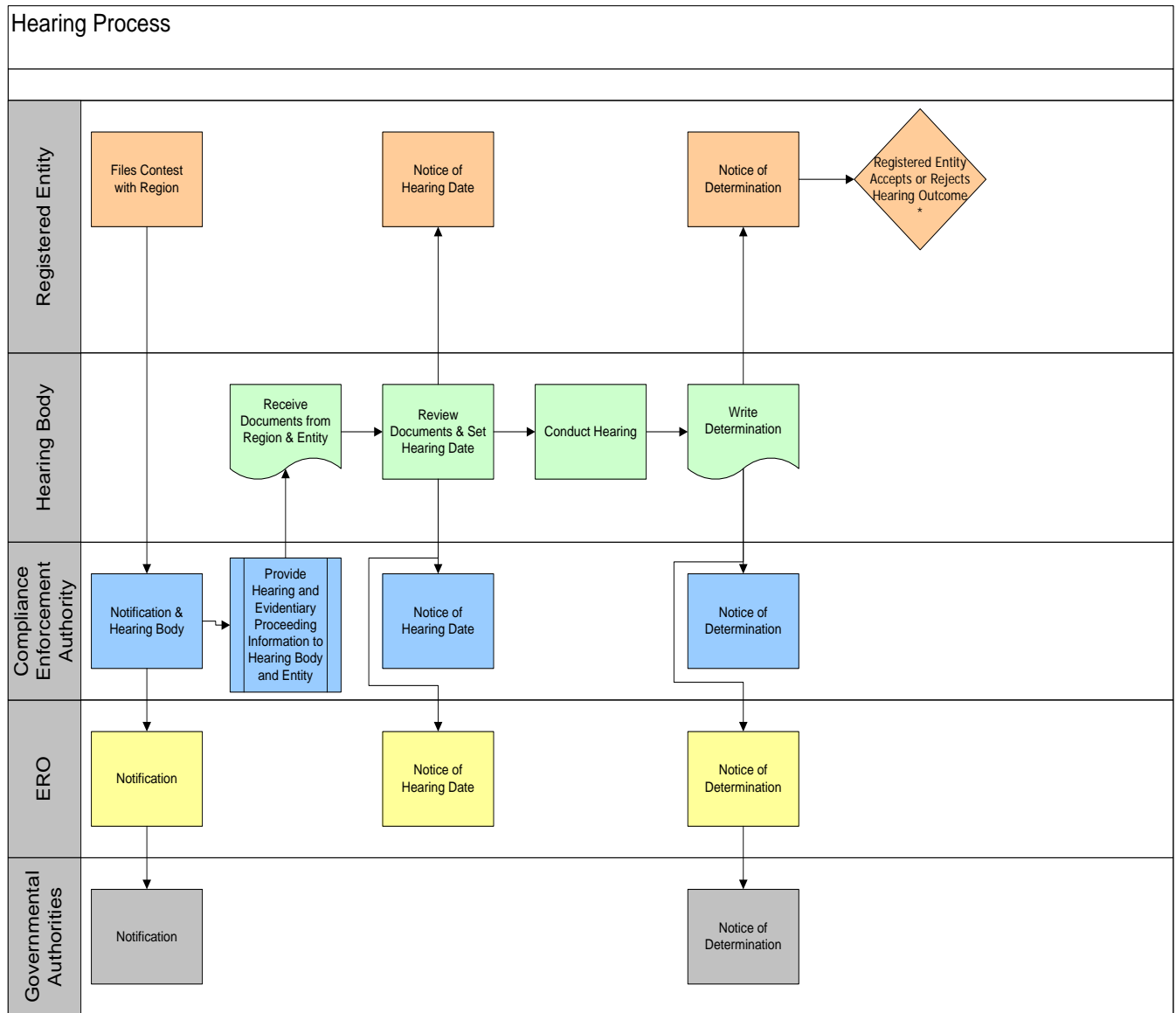
ATTACHMENT 2

COMPLIANCE ENFORCEMENT AUTHORITY HEARING PROCEDURES

This **Attachment 2** sets forth the procedures to be followed to conduct compliance hearings. In this **Attachment 2**, the Compliance Enforcement Authority and the Registered Entity are sometimes referred to as the “parties.” Subject to the authority of the hearing body to alter or extend any time periods or deadlines specified in this **Attachment 2** and to hold such numbers of conferences and hearings as are necessary, it shall be the objective of the hearing process to complete the steps specified herein for formal compliance hearings within ninety (90) days following the issuance of written notice that the hearing body is convened.

Figure ATT-2 shows the hearing process steps.

Figure ATT-2 –Hearing Process



*This merges with the Compliance Monitoring & Enforcement Program flow diagram at the Registered Entity Accepts or Rejects Hearing Outcome decision box

1.0 HEARING PROCEDURES

1.1 APPLICABILITY, DEFINITIONS AND INTERPRETATION

1.1.1 Procedure Governed

These Hearing Procedures shall govern the procedure before the Western Electricity Coordinating Council (“WECC”) in proceedings concerning (i) disputes regarding whether any entity should be or has been properly registered or certified, (ii) whether Registered Entities within WECC’s area of responsibility have violated Reliability Standards, (iii) if so, to determine the appropriate Mitigation Plans as well as any remedial actions, penalties or sanctions in accordance with the NERC *Sanction Guidelines* and other applicable penalty guidelines

approved by FERC pursuant to 18 C.F.R. Section 39.7(g)(2), or (iv) any other dispute that relates to enforcement of reliability standards properly before the WECC.

The standard of proof in any proceeding under these Hearing Procedures shall be by a preponderance of the evidence. The burden of persuasion on the merits of the proceedings shall rest upon the Compliance Staff alleging noncompliance with a Reliability Standard, proposing a penalty, opposing a Registered Entity's Mitigation Plan, or requiring compliance with a Remedial Action Directive.

1.1.2 Deviation

To the extent permitted by law, any provision in these Hearing Procedures may be waived, suspended or modified by the Hearing Officer or the Hearing Panel for good cause shown, either upon the Hearing Officer's or the Hearing Panel's own motion or upon the motion of any Party.

1.1.3 Standards for Discretion

These Hearing Procedures, and any discretion exercised hereunder, shall be interpreted in a manner intended to ensure just and reasonable proceedings and to effectuate the following Standards for Discretion:

- a) Integrity of the Fact-Finding Process - The principal goal of the hearing process is to assemble a complete factual record to serve as a basis for a correct and legally sustainable ruling, decision or order.
- b) Fairness - Persons appearing in WECC proceedings should be treated fairly. To this end, Parties should be given fair notice and opportunity to present explanations, factual information, documentation and legal argument. Action shall be taken as necessary to eliminate any disadvantage or prejudice to a Party that would otherwise result from another Party's failure to act diligently and in good faith.
- c) Independence - The hearing process should be tailored to protect against undue influence from any Person, Party or interest group.
- d) Balanced Decision-Making - Decisions should be based solely on the facts and arguments of record in a proceeding and by individuals who satisfy the conflict of interest provisions of section 1.8.4 of these Hearing Procedures.
- e) Impartiality - Persons appearing before the Hearing Panel should not be subject to discriminatory or preferential treatment. Registered Entities should be treated consistently unless a reasonable basis is shown in any particular proceeding to depart from prior rulings, decisions or orders.
- f) Administrative Efficiency and Expedition - Proceedings shall be brought to a conclusion as swiftly as is possible in keeping with the other goals of the hearing process.

1.1.4 Definitions and Interpretation

Unless otherwise defined, capitalized terms shall have the meanings described in the WECC Compliance Monitoring and Enforcement Program. Unless the context otherwise requires, the singular of a term used herein shall include the plural and the plural of a term shall include the singular. To the extent the text of a rule is inconsistent with its caption, the text of the rule shall control.

The following terms shall have the following meanings:

“Adjudicatory Officer,” means any person serving as a member of the Hearing Panel, Hearing Officer or Technical Advisor with respect to any proceeding.

“Clerk” means the person designated by WECC to receive filings and serve documents issued by or on behalf of, and otherwise provide support for, the Hearing Panel and Hearing Officer.

“Compliance Hearing Body,” is as defined in the WECC Compliance Hearing Body Charter.

“Critical Energy Infrastructure Information,” as defined in Section 1501 of the NERC Rules of Procedure.

“Critical Energy Infrastructure Information,” as defined in Section 1501 of the NERC Rules of Procedure, means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (1) relates to details about the production, generation, transportation, transmission, or distribution of energy; (2) could be useful to a person in planning an attack on critical infrastructure; (3) is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552 (2000); and (4) does not simply give the general location of the critical infrastructure.

“Cybersecurity Incident,” as defined in 18 C.F.R. § 39.1.

“Director of Compliance” means the Director of Compliance of WECC, who is responsible for the management and supervision of Staff.

“Document” means, in addition to the commonly understood meaning of the term as information written or printed on paper, any electronically stored information, including writings, drawings, graphs, charts, photographs, sound recordings, images and other data or data compilations stored in any medium from which information can be obtained, and shall be translated by the producing party into reasonably usable form.

“ERO” means the Electric Reliability Organization, currently the North American Electric Reliability Corporation, or any successor organization, certified by FERC pursuant to 18 C.F.R. Section 39.3.

“FERC” means the Federal Energy Regulatory Commission.

“Hearing Panel” means the persons assigned to render a final decision in matters requiring a determination under these Hearing Procedures.

“NERC” means North American Electric Reliability Corporation.

“Notice of Proceeding” means (1) a request for a hearing by a Registered Entity to contest an Alleged Violation, a proposed Penalty or a Remedial Action Directive, (2) a request for hearing by a Registered Entity or the Staff concerning a dispute as to whether the entity should be registered or certified, (3) a request for hearing by a Registered Entity in response to a Staff rejection of a proposed revised Mitigation Plan submitted after Compliance Staff rejected the Registered Entity’s initial proposed Mitigation Plan, or (4) any other notice that a proceeding has been properly commenced.

“Penalty” as used herein includes all penalties and sanctions, including but not limited to a monetary or non-monetary penalty; a limitation on an activity, function, operation or other appropriate sanction; or the addition of the Registered Entity to a reliability watch list composed of major violators.

“Person” means any individual, partnership, corporation, limited liability company, governmental body, association, joint stock company, public trust, organized group of persons, whether incorporated or not, or any other legal entity.

“Service List,” means the list maintained by the Clerk identifying the name, address, telephone number, and facsimile number and email address, if available, of each Party, the Hearing Officer, the Director of Compliance, the Registered Entity’s designated agent for service and any other individuals designated for service by a Party.

“Staff” means individuals employed or contracted by WECC who have the authority, among other things, to make initial determinations as to need for registration, compliance or violation with Reliability Standards by Registered Entities and associated Penalties, Mitigation Plans, and Remedial Action Directives.

“WECC’s area of responsibility” means WECC’s corporate region.

1.2 FILING AND SERVICE

1.2.1 Form and Content of Filings

All filings shall include (1) a caption that sets forth the title and docket number (if any) of the proceeding, (2) a heading that describes the filing and the Party on whose behalf the filing is made, (3) the name, address, telephone number and email address of the Party’s representative of the making, and (4) the service list. All filings shall be signed by an authorized representative of the Party on whose behalf the filing is made. The signature constitutes a certificate that the signer has read the filing, that the contents are true to the best of the signer’s knowledge and belief, and that service required by these Hearing Procedures has been made. Each filing shall include a service list identifying the Parties and authorized representatives served.

All filings shall be typewritten, printed, reproduced or prepared using a computer or other word or data processing equipment on white paper 8½ inches by 11 inches with inside text margins of not less than one inch. Page numbers shall be centered and have a bottom margin of not less than ½ inch. Line numbers, if any, shall have a left-hand margin of not less than ½ inch. Typeface shall be either Arial or Times New Roman font, black type on white background, and at least 12-point (at least 10-point for footnotes). Written testimony shall include continuous line numbers on the left-hand side of each page of text. Attachments shall, whenever practical,

conform to these requirements, except that any typeface shall be at least 8-point. Confidential documents shall comply with the requirements of any Protective Order issued under Section 1.10.

1.2.2 Submission of Filings

The original and five copies of any filing shall be made with the Clerk of WECC during WECC business hours (0800-1630 Mountain Time) each day except Saturday, Sunday, legal holidays and any other day declared by the WECC. Filing is complete when date stamped by the Clerk or received in the electronic mail by the Clerk.

Unless as otherwise provided, a filing may be effected by electronic mail if the filed documents are in pdf format and the requisite number of copies are delivered to the Clerk's office within seven business days thereafter.

1.2.3 Service

A copy of each filing must served on each person listed on the service list, by personal delivery, email (with paper copy to follow), United States mail (first class or registered) mail or deposit with an express courier service. The Clerk shall provide copies of all issuances of the Hearing Officer and Hearing Panel by similar means to each person listed on the service list and each member of the Hearing Panel, provided that the Initial and Final Decisions shall be served electronically and by certified mail on the Registered Entity and the Staff. Service is effective immediately if by personal delivery or email, upon deposit in the U.S. mail, or upon delivery to an express courier service.

1.2.4 Time

The time in which any action is required to be done shall be computed by excluding the day of the act or event from which the time period begins to run, and by including the last day of the time period, unless the last day is a Saturday, Sunday, legal holiday or any other day upon which the Office of WECC is closed, in which event the last day shall be the first succeeding day that is not such a day. Any Party requesting an extension of time after the expiration of the period prescribed shall demonstrate circumstances sufficient to justify the failure to act in a timely manner. Unless otherwise provided, whenever a Party has the right or is required to do some act within a prescribed period after the service, four days shall be added to the prescribed period when served by mail and the period until the next business day shall be added if served by courier.

1.3 PLEADINGS, MOTIONS AND OTHER FILINGS

1.3.1 Initiation of a Proceeding

A proceeding is initiated by a Notice of Proceeding. Any Notice of Alleged Violation or other action triggering a right to a hearing shall clearly state (as applicable) that the Registered Entity has the right to contest proposed registration or certification, that the Registered Entity has a right to a hearing, and shall describe or include (as applicable) the alleged violation, the proposed Penalty, the Staff's rejection of the proposed Mitigation Plan, or the issuance of a Remedial Action Directive. Upon receipt of a Notice of Proceeding, the Clerk shall issue a notice of

hearing, which identifies the Hearing Panel and, if applicable, the Hearing Officer assigned to the proceeding, and assigns a docket number that includes (separated by dashes) (1) the last two digits of the month and year, (2) the letters “[Regional Entity designation]”, and (3) a four digit number that is assigned sequentially beginning January 1 of each year (*e.g.*, 0707-WECC-0001).

Within five business days after the issuance of a Notice of Proceeding, WECC staff shall file and serve the notice of the Alleged Violation, the sanction originally provided to the Registered Entity and copies of any documents gathered and reviewed by WECC in the course of determining an Alleged Violation has occurred and in determining the proposed sanction or penalty. Within twenty days after the issuance of the Notice of Proceeding, (1) the Registered Entity shall file (as applicable) an explanation of why the Alleged Violation is in error, why the registration determination is in error, why the proposed penalty or sanction is inappropriate and/or the Registered Entity’s proposed Mitigation Plan, together with copies of all documents relied on by the Registered Entity to support its position, and (2) (if applicable) the Staff shall file its explanation why the Registered Entity’s proposed Mitigation Plan was not accepted, and copies of all documents relied on by the Registered Entity to support its position.

1.3.2 Amendments

Amendments to any filings initiating a proceeding or requesting a hearing may be allowed by the Hearing Officer or the Hearing Panel upon motion made within a reasonable time after the basis for the amendment became apparent, on such terms and conditions as are deemed to be just and reasonable.

1.3.3 Requirements for Motions

Unless otherwise provided, a Party may at any time seek any relief provided for under these Hearing Procedures or otherwise applicable authority by filing a motion in writing (or orally if during a hearing). All motions shall include a plain and concise statement of any facts upon which the motion is based, citations to the record or other sources, if available, any required verification under oath by a person having knowledge of the matters set forth in the filing, a description of the specific relief sought, and the authority that supports the request for relief. Unless otherwise provided, any responses to motions shall be filed within 14 business days after service of the motion, and replies to responses shall be filed within seven business days after service of the responses.

The Hearing Panel or Hearing Officer, in their discretion, may elect to hold oral argument on any matters in dispute.

1.3.4 Intervention; Consolidation of Related Proceedings

No interventions shall be permitted except upon approval of FERC. The Hearing Panel or Hearing Officer may, upon motion or their own initiative, order two or more matters partially or fully consolidated for any or all purposes if (1) events giving rise to the proceeding are the subject of another proceeding involving another Registered Entity, (2) it appears likely that consolidation is necessary to obtain all information necessary for decision and (3) reasonable procedures can be developed to prevent inappropriate disclosure of confidential information. Consolidation shall not be ordered unless all Parties in all proceedings have been provided notice and opportunity to be heard

1.3.5 Summary Disposition

The Hearing Panel or Hearing Officer may, upon motion or their own initiative, order summary disposition, in whole or in part, if there are no genuine issues of material fact with respect to the matters subject to summary disposition and the Party is entitled to summary disposition as a matter of law. Any factual allegations contained in a motion for Summary Disposition shall be supported by affidavit.

1.3.6 Interlocutory Review

Where the ruling for which interlocutory review is sought (1) presents an extraordinary circumstance which makes prompt review necessary to prevent prejudice to a Participant's ability to present its position in the proceeding or (2) involves a requirement that a non-Party produce information or testimony, a Party or person subject to the ruling may seek interlocutory review of any Hearing Officer ruling within 14 business days after the ruling. The Hearing Panel may affirm, reverse, remand, decline to act or take any other action on the Hearing Officer's ruling.

1.3.7 Pre-Evidentiary Hearing Submission of Testimony and Evidence

With the exception of examination of an adverse witness and of testimony and documents of a non-Party subject to an order to compel, all witness testimony, exhibits, and any documents intended to be introduced in connection with cross-examination, shall be filed at least five business days in advance of the evidentiary hearing pursuant to a schedule adopted for the proceeding.

1.3.8 Pre-Evidentiary Hearing Memorandum

Upon request of the Hearing Officer or the Hearing Panel, the Parties may be required to submit a memorandum prior to hearing describing the Party's position on the issue(s) in dispute, the key facts and arguments, and the applicable Reliability Standard, rules, orders or other authority. A Party will not be deemed to have waived any issue, fact or argument that is not set forth in a pre-evidentiary hearing memorandum.

1.4. DOCUMENT PRODUCTION

1.4.1 Inspection and Copying of Documents in Possession of Staff

(a) Documents to be Available for Inspection and Copying

Within five (5) business days of the initiation of the proceeding, the Staff shall make available to the Registered Entity for inspection and copying, all documents prepared by the Staff or obtained from the WECC, the Registered Entity or other sources, through or in connection with any compliance process that led to the institution of proceedings and not previously made available, including but not limited to all requests for information and responses, transcripts and transcript exhibits. Documents shall be made available during normal business hours at the WECC office where the documents are ordinarily maintained, or at such other office as the Hearing Panel or Hearing Officer, in his or her discretion, shall designate, or the Parties otherwise agree. The Registered Entity shall be responsible for the cost of photocopying, which shall be at a

reasonable rate. Documents received by the Staff thereafter shall be made available to the Registered Entity within 14 business days after receipt or as soon as possible if within 14 business days of the evidentiary hearing. In cases involving more than one Party other than the Staff, the Hearing Officer or Hearing Panel shall determine the extent to the extent to which, and conditions governing the provision of, documents relating to one Party shall be made available to another Party.

(b) Documents That May Be Withheld

The following documents are not subject to disclosure:

(1) Documents subject to a privilege available to the Staff or constituting attorney work-product of Staff's counsel (in applying this provision, the attorney-client privilege shall be recognized as absolute and any demand for production of attorney work product shall be granted only after a showing of substantial need by the Respondent);

(2) Documents that would disclose (i) an examination, investigatory or enforcement technique or guideline of WECC, a federal, state, or foreign regulatory authority, or a self-regulatory organization; (ii) the identity of a source, including a federal, state, or foreign regulatory authority or a self-regulatory organization that furnished information or was furnished information on a confidential basis regarding an investigation, an examination, an enforcement proceeding, or any other type of civil or criminal enforcement action; or (iii) an examination, an investigation, an enforcement proceeding, or any other type of civil or criminal enforcement action under consideration by, or initiated by, WECC, a federal, state, or foreign regulatory authority, or a self-regulatory organization;

(3) Documents containing confidential information, to the extent that disclosure would violate any applicable confidentiality requirement; or

(4) Documents not relevant to the subject matter of the proceeding or, upon order of the Adjudicatory Officer, for other good cause shown.

Provided, however, that nothing in Subparagraphs 1.4.1(b)(2), (3), (4) authorizes Staff to withhold a document, or part thereof, that contains exculpatory evidence, and nothing in Subparagraph (b)(1) requires Staff to withhold a document from disclosure.

The Staff shall provide to the Registered Entity, at the time the documents are provided, a list of documents withheld. Upon motion based on reasonable belief of a violation of these provisions or on their own motion, the Hearing Panel or Hearing Officer may require Staff (1) to submit any withheld document and (2) disclose to Registered Entity any document not meeting the standards of this subsection.

1.4.2 Other Discovery Procedures

In addition to the production of documents by Staff for inspection and copying by Registered Entity pursuant to Subparagraph 1.4.1(a), the Parties shall be entitled to utilize all other methods for obtaining information provided for in Rules 402 through 409 of the FERC Rules of Practice and Procedure, 18 C.F.R. §385.402 through 385.409, including data requests, written interrogatories and requests for production of documents or things, depositions by oral examination, requests for inspection of documents and other property, requests for admission and orders to compel (with respect to references to subpoenas, and which may be directed to non-

Party Registered Entities as well as Parties). Unless otherwise directed by the Hearing Officer or Hearing Panel upon motion by a Party or by the Hearing Officer, or by the Hearing Panel on its own motion, such discovery, and the resolution of any disputes concerning such discovery, shall be conducted in accordance with the provisions of Rules 402 through 410 and 510(e) of the FERC Rules of Practice and Procedure, 18 C.F.R. §385.402 through 385.410 and 510(e), which are hereby incorporated by reference into these Hearing Procedures, subject to the following limitations and modifications to such Rules:

- 1) The provisions of Subparagraph 1.4.1(b) shall apply to any such discovery.
- 2) Rule 403(b)(2) (18 C.F.R. §385.403(b)(2)) and Rule 410(d)(2) (18 C.F.R. §385.410(b)(2)) shall not be applicable.
- 3) The Hearing Officer and the Hearing Panel have the authority to issue orders to compel the appearance by, or production of documents or information by, only a Person that is a Party or a Registered Entity that is not a Party. The Hearing Officer and the Hearing Panel do not have authority to require a United States marshal or deputy marshal to serve any order to compel.
- 4) A list of documents withheld shall be provided, by the deadline for production of the documents, to the Adjudicatory Officer and each Party entitled to receive the documents.
- 5) References to the “Commission” in Rules 402 through 408 and 410 and 510(e) shall be to FERC except as follows: (i) the references in Rules 402(a), 404(b)(1) and 405(b), the second reference in Rule 410(d) and the references in Rule 510(e)(1) and (2) shall be deemed to be to the Hearing Panel, and (ii) the reference in Rule 385.406(b)(4) to “Commission trial staff” shall be deemed to be to Staff, and the reference in Rule 510(e)(3) shall be deemed to be to the Adjudicatory Officer.
- 6) Unless otherwise ordered by the Hearing Officer or Hearing Panel, a data request, set of interrogatories, request for production of documents or things, request for inspection of documents or other property, request for admissions, or order to produce or provide documents, information or testimony, shall not specify a due date or response date that is fewer than 21 days from the date of service of the request or the date of the order.
- 6) Unless otherwise ordered by the Hearing Officer or Hearing Panel, all such discovery shall be requested, scheduled and conducted so as to be completed within six (6) months following the date of the initial prehearing conference held pursuant to Paragraph 1.5.2.

The Hearing Officer’s ruling on all motions relating to disputes concerning such discovery shall consider the following objectives: (i) full disclosure of all relevant documents and information; (ii) the exercise of due diligence in the conduct of discovery by a Participant; and (iii) disallowing use of discovery as a means to delay the proceeding or to harass or burden any other Participant.

1.5 HEARINGS AND CONFERENCES

1.5.1 General

The Clerk shall issue a notice for each conference and hearing, which shall identify the matter(s) to be considered, the person(s) comprising the Hearing Panel or Hearing Officer, and the date, time and place of the hearing or conference. Unless otherwise ordered, all hearings and conferences shall be held during normal business hours at the principal office of WECC. Hearings need not be held on consecutive days.

All hearings, conferences, and other meetings shall be closed to the public, and all notices, rulings, orders or any other issuances of the Hearing Officer or Hearing Panel shall be nonpublic and held in confidence by the Parties unless the ERO (within the U.S., in accordance with the authorization previously granted by FERC to release information about a non-public proceeding) or FERC (in the case of U.S.-related information) or another Applicable Governmental Authority (in the case of non-U.S.-related information) determines that public release is appropriate. Only the Adjudicatory Officers, representatives of the Parties, and other necessary personnel (such as court reporters) shall be allowed to participate in or obtain information relating to the proceeding.

Upon a request, the Hearing Panel or Hearing Officer may permit Parties to appear and witnesses to testify via videoconference or teleconference at any conference or hearing if necessary to avoid undue expense or undue delay in the proceeding.

All hearings and (at the discretion of the Hearing Panel or Hearing Officer) all conferences shall be transcribed verbatim by a certified court reporter. A Party may request corrections to the transcript within 35 days after receipt of the transcript and any responses shall be filed within ten business days thereafter. Each Party is responsible for the costs of a copy of any transcript ordered by it.

1.5.2 Prehearing and Status Conferences

A prehearing conference shall be held within a thirty days after initiation of a proceeding, to identify issues then known to the Parties, establish a schedule and to address any other relevant matter. Any Party may request, and the Hearing Panel or Hearing Officer may call, a status conference at any time subsequent to the Prehearing Conference to address any issues that have arisen. The Hearing Panel or Hearing Officer may summarize actions taken in a memorandum.

1.5.3 Evidentiary Hearings

A Party has the right to present such evidence, to make such objections and arguments, and to conduct such cross-examination as may be necessary to assure the true and full disclosure of the facts. All testimony shall be under oath.

Evidence is admissible if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs, but may be excluded if immaterial or unduly repetitious or

prejudicial. The Hearing Panel or Hearing Officer may exclude material from the record only in response to a motion or objection by a Party.

Upon 14 business days' advance notice and subject to the objection by another Party, any Party may call and cross-examine as an adverse witness, any other Party, or any employee or agent thereof or Registered Entity that has been subject to an order to compel.

Upon motion, the Hearing Panel or Hearing Officer may take official notice of and the type of information any of the following:

- 1) Rules, regulations, administrative rulings and orders, and written policies of governmental bodies and Regional Entities, including WECC;
- 2) Municipal and other ordinances;
- 5) Generally recognized scientific or technical facts within the specialized knowledge of WECC;
- 4) Other facts not reasonably subject to dispute; and
- 6) All other matters of which the courts of the United States may take judicial notice.

Any document, and any item officially noticed that exists in document form, shall be introduced into the record in the form of an exhibit.

The Hearing Panel or (prior to issuance of an Initial Decision) the Hearing Officer may allow oral argument, and also may reopen the evidentiary record and hold additional hearings if warranted by any changes in fact or law since the hearing.

1.5.4 The Record

The record shall include the following:

- 1) The filing(s) that initiated the proceeding, responsive documents, and a list of all documents comprising the record;
- 2) Notices, rulings, orders, decisions and other issuances of the Hearing Officer and Hearing Panel;
- 3) All motions, briefs and other filings;
- 4) All prefiled testimony, exhibits, other evidence, information excluded from evidence, transcripts and matters officially noticed;
- 5) All Notices of *ex parte* communications and any notifications of recusal and motions for disqualification of any Adjudicatory Officer and any responses or replies thereto;
- 6) The Hearing Officer's Initial Decision, and exceptions thereto; and

- 7) The Hearing Panel's Final Decision and any Notice of Penalty therewith.

1.5.5 Briefs and Other Post-Hearing Pleadings

At the close of the evidentiary hearing, Parties may file initial briefs, proposed findings of fact and reply briefs. Absent good cause shown, post-hearing pleadings shall not seek to introduce additional evidence into the record after the hearing has ended.

1.6 DECISIONS

1.6.1 Initial Decisions

The Hearing Officer shall issue an Initial Decision that shall include (1) a statement of each finding and conclusion, and the reasons or basis therefore, for all material issues of fact, law or discretion presented on the record, and (2) appropriate proposed orders to dispose of the proceeding, including any Penalty, sanction, remedial action or Mitigation Plan required. Any proposal for a Penalty shall include a proposed Notice of Penalty. The Initial Decision shall note if the subject of the proceeding has been deemed to involve a Cybersecurity Incident or if any information in the proceeding was deemed to be Critical Energy Infrastructure Information protected pursuant to Paragraph 1.10. The Initial Decision shall normally be issued within thirty days following the submission of post-hearing briefs, or, if waived, following the conclusion of the hearing.

Any Party may file exceptions to the Initial Decision and replies consistent with any deadlines established in the proceeding.

1.6.2 Hearing Panel Final Decision

The Hearing Panel shall issue a Final Decision following the receipt of (1) the Initial Decision, any exceptions and replies thereto, and oral argument, if any, (where a Hearing Officer has been appointed) or (2) the briefs and reply briefs (where no Hearing Officer was appointed). The Hearing Panel shall strive, but shall not be required, to issue its Final Decision within thirty (30) days after the matter is ready for decision.

In cases where a Hearing Officer is appointed, the Final Decision may adopt, modify, amend or reject the initial opinion in its entirety or in part. The Final Decision shall include (1) a statement of each finding and conclusion, and the reasons or basis therefore, for all material issues of fact, law or discretion presented on the record, and (2) appropriate orders to dispose of the proceeding, including any Penalty, sanction, remedial action or Mitigation Plan required. If the Final Decision imposes a Penalty, it shall be entitled Final Order and Notice of Penalty. The Final Order shall note if the subject of the proceeding has been deemed to involve a Cybersecurity Incident or if any information in the proceeding was deemed to be critical energy infrastructure information protected pursuant to Paragraph 1.5.9.

When the Hearing Panel serves the Final Decision, it will inform the Parties of their appeal rights. The Clerk shall transmit the documents identified in Section 1.5.4, which shall constitute the record for purposes of 18 C.F.R. § 39.7(d)(5), to the ERO at the time it serves the ERO with the Final Decision.

1.6.3 Appeal

A Final Decision of the Hearing Panel may be appealed to NERC in accordance with NERC's Rules of Procedure, Section 410. The Clerk shall transmit the record of any docket to NERC that is the subject of an appealed Final Order.

1.6.4 Settlement

Settlement Agreements may be entered into at any time including prior to the issuance of a Notice of Proceeding or during an appeal at the ERO, until a Notice of Confirmed Violation, Notice of Penalty, Notice of Mitigation Plan or Remedial Action Directive, whichever is applicable, is filed with the appropriate regulatory authority. All Settlement Agreements entered into prior to the issuance of a Final Decision shall be subject to approval of the Hearing Panel. Any rejected Settlement Agreement shall not be admissible into evidence and the proceedings shall continue as if the Settlement Agreement had not been filed.

1.7 PARTIES AND APPEARANCES

1.7.1 Parties

The Parties shall include: the Registered Entity who is subject of the Notice of Alleged Violation, contested Mitigation Plan or contested Remedial Action Directive that is the basis for the proceeding, whichever is applicable; the Staff and any other person allowed or required by FERC to participate as an intervenor in a proceeding conducted pursuant to these Hearing Procedures.

1.7.2 Appearances

Parties shall file written appearances within seven (7) business days after service of the filing initiating the proceeding. A Party's written appearance shall identify the name(s) of each individual authorized to represent the Party in the proceeding exclusive of witnesses. An individual may appear on his or her own behalf. A corporation, association, partnership or governmental body may appear by an attorney or any *bona fide* officer or designee who has the authority to act on behalf of the Party.

A Party's written appearance shall state, with respect to each individual that the Party identifies for service, the individual's name, address, telephone number, and facsimile number and email address, if available, where service shall be made.

A Party may withdraw any individual from the Party's representation or otherwise change the identity of individuals authorized to represent the Party in a proceeding by filing a notice of a change in service list.

Any attorney appearing on behalf of a Party shall be licensed to practice and in good standing before the Supreme Court of the United States or the highest court of any State, territory of the United States or the District of Columbia.

1.7.3 Confidentiality

All participants in any proceeding before the Hearing Panel shall be take all actions necessary to be bound by confidentiality obligations consistent with NERC Rule of Procedure 1504.

1.8 RESPONSIBILITIES OF ADJUDICATORY OFFICERS

1.8.1 Hearing Panel

The Hearing Panel shall be selected from the Compliance Hearing Body, as provided in the WECC Compliance Hearing Body Charter, and the composition of the Hearing Panel shall assure that no two industry segments may control, and no single industry segment may veto, any decision by the Hearing Panel. The Hearing Panel is vested with all necessary the authority to preside over all matters relating to a proceeding, including the following:

1. To establish the scope of the proceeding, including segregation of issues into separate phases of the proceeding and consolidation of related proceedings;
2. Take such action as necessary to assure the confidentiality of the proceeding and documents produced in connection with the proceeding;
3. Establish and modify the schedule for the proceeding, and modify any deadline or required interval;
4. Supervise discovery and rule on any disputes relating thereto;
5. Preside over prehearing conferences, status hearings, oral arguments and evidentiary hearings, including administering oaths and affirmations, ruling on evidentiary matters, requiring the introduction of additional evidence;
6. Issue a Final Decision and rule upon all motions and all other requests for relief;
7. Take other actions necessary and appropriate for the adjudication of the proceeding.

All actions (including all rulings, orders and determinations) of the Hearing Panel shall require a quorum consisting of a majority of the persons assigned to the Hearing Panel, unless waived by the Parties in a particular circumstance, subject in all events to the requirement that no two industry segments may control, and no single industry segment may veto, Hearing Panel actions. All rulings, orders and determinations of the Hearing Panel shall require the vote of a majority of the persons constituting a quorum. Where necessary, one or more persons assigned to the Hearing Panel may participate by teleconference as long as a majority are present in person; provided that all persons assigned to the Hearing Panel may participate by teleconference with respect to a Remedial Action Directive hearing. All rulings, orders and determinations shall be recorded in a written ruling or in a transcript and shall be designed to promote the conduct of a full, fair and impartial proceeding and to effectuate the standards of discretion.

1.8.2 Hearing Officer

WECC may designate one or more Staff members, third-party contractors, or industry stakeholders to serve as Hearing Officers and may thereby preside over any aspect of the proceeding to the same extent as the Hearing Panel, except that the Hearing Officer will issue an

Initial Decision and the Final Decision or other order finally disposing of the proceeding or issues within the proceeding must be issued by the Hearing Panel.

1.8.3 Technical Advisor

The Hearing Officer and/or the Hearing Panel may designate one or more Staff members, third-party contractors, or industry stakeholders to serve as Technical Advisors to assist in any proceeding by providing technical advice.

1.8.4 Conflict of Interest

A person shall be disqualified from serving as an Adjudicatory Officer in any proceeding if (1) he or she has been involved in or consulted at any time in regard to any Staff investigation, initial determination of violation or Penalty, or assessment of a Registered Entity's proposed Mitigation Plan relating to the proceeding or (2) his or her participation would violate WECC's applicable conflict of interest policies. An Adjudicatory Officer shall recuse himself or herself from serving in proceeding if disqualified.

Any Adjudicatory Officer shall disclose to the Service List his or her identity, employment history and professional affiliations within two business days of assignment to the proceeding.

1.8.5 Ex Parte Communications

No Adjudicatory Officer assigned to a proceeding may communicate concerning any matter relating to the proceeding, directly or indirectly with any Person who is not an Adjudicatory Officer with respect to a proceeding, except after reasonable notice to all Parties and opportunity to participate.

Any Adjudicatory Officer who makes or receives an *ex parte* communication shall, within seven (7) business days, file and serve on the Parties a description of the date, time, place, substance of and a list of each person making or receiving the *ex parte* communication, and include any written *ex parte* communication.

1.8.6 Motion for Disqualification

Any Party may move to disqualify an Adjudicatory Officer on the basis of conflict of interest, or on the basis of a prohibited *ex parte* communication or other circumstances that could interfere with the impartial performance of his or her duties. The motion shall describe the underlying facts by affidavit and shall be filed within fifteen days after the Party learns of the facts believed to constitute the basis for disqualification or reasonably in advance of any hearing, whichever is earlier. The ruling on a motion to disqualify an Adjudicatory Officer shall be made by the Hearing Panel, provided that the ruling on a motion to disqualify a Hearing Panel member shall be made by the Hearing Panel without participation by the member subject to the motion. Any challenge to a disqualification ruling by a Hearing Officer is waived if no interlocutory appeal has been filed within five business days of the ruling. Any disqualified Adjudicatory Officer shall be replaced as soon as practicable.

1.9 REMEDIAL ACTION DIRECTIVES

1.9.1 Initiation of Remedial Action Directive Hearing

Staff may issue a Remedial Action Directive to a Registered Entity at any time, including during any proceeding related to an alleged violation of a Reliability Standard. Notice of the Remedial Action Directive shall not be effective until actual receipt by the Registered Entity, as provided in Section 7.0 of the Compliance Monitoring and Enforcement Program. WECC will notify NERC within two (2) business days after its Staff issues a Remedial Action Directive.

The Registered Entity may contest the Remedial Action Directive by filing a written notice with the Clerk of the WECC that states that the Registered Entity contests the Remedial Action Directive and that the Registered Entity requests a Remedial Action Directive hearing. The Registered Entity shall attach a copy of the Remedial Action Directive to its written notice. The Registered Entity must provide such notice within two (2) business days following actual receipt of the Remedial Action Directive. If the Registered Entity does not give written notice to WECC within the required time period, the Registered Entity shall be deemed to have waived its right to contest the Remedial Action Directive.

The Clerk shall assign a docket number, and issue a Notice of Hearing.

1.9.2 Remedial Action Directive Procedure

Proceedings to address Remedial Action Directives shall be conducted only under the expedited hearing process set forth in this Paragraph 1.9.2. All other provisions of the Hearing Procedures shall apply to the Remedial Action Directive hearing unless inconsistent with or inapplicable to the procedures set forth in this paragraph.

The Remedial Action Directive hearing will be conducted according to the following guidelines:

- a) The Hearing Panel or Hearing Officer will hold a prehearing conference within two (2) business days after receipt of the Registered Entity's request for a hearing.
- b) An evidentiary hearing will be conducted on the matter, in person or by teleconference, within seven (7) business days after the prehearing conference. The provisions in Section 1.4 concerning document production shall not apply.
- c) At the evidentiary hearing, Staff and the Registered Entity shall have the opportunity to present oral witness testimony and evidence, which shall be rendered under oath, and to conduct cross-examination.
- d) At the evidentiary hearing, the Parties shall have the opportunity to make opening and closing statements, but shall not file any briefs or draft opinions, and oral argument shall not be held.
- e) The Hearing Panel shall issue a summary written decision within ten (10) business days following the hearing, stating whether the Registered Entity shall (upon receipt of the decision) or shall not be required to comply with the Remedial Action Directive and identifying any modifications to the Remedial Action Directive that it finds appropriate. In the event a Hearing Officer has been appointed, the Initial Decision will be issued within a timeframe that permits review and comment by the Parties and issuance of a summary written decision within the ten-day deadline.

- f) Within thirty (30) days following issuance of its summary written decision, the Hearing Panel shall issue a full written decision. The written decision shall state the conclusions of the Hearing Panel with respect to the Remedial Action Directive, and shall explain the reasons for the Hearing Panel's conclusions.
- g) The Final Decision may be appealed to NERC pursuant to section 1.6.3.

1.10. PROTECTIVE ORDERS

- a) At any time during a proceeding, including in connection with document production under section 1.4, on the Hearing Officer's or the Hearing Panel's own motion or on the motion of any Party, an order may be entered to designate as proprietary and protect the confidential, proprietary or trade secret nature of any data, information or studies, or any other information the public release of which may cause a security risk or harm to a Party.
- b) The following types of information will be considered entitled to protection through a Protective Order: (i) confidential business and market information, including information that is proprietary, commercially valuable, or competitively sensitive; (ii) critical energy infrastructure information; (iii) information related to a Cybersecurity Incident; (iv) personnel information that identifies or could be used to identify a specific individual, or that reveals personnel, financial, medical or other personal information; (v) audit work papers; or (vi) investigative files that would disclose investigative techniques. Nothing in this Subparagraph shall require Staff to produce any documents it is entitled to withhold under Subparagraph 1.4.1(b)
- c) A Party submitting a motion for a protective order shall specify the proposed expiration date for the proprietary status of the data, information or studies, if any, and shall propose requirements or safeguards to be met for individuals participating in the proceeding to review the protected information.
- d) A document submitted and marked as proprietary, or a statement made at a hearing and identified as proprietary, shall be afforded proprietary treatment pending the timely submission of a motion to protect the confidential, proprietary or trade secret nature of that document or statement and a ruling on such a motion by the Hearing Officer or Hearing Panel.
- e) The protective order shall identify the data, information or studies that will be accorded proprietary treatment; the individuals participating in the proceeding, by category or otherwise, entitled to view the proprietary information; and the requirements, conditions or safeguards that must be met before an individual may view the information. The order shall also specify any required indications of confidentiality, such as colored paper or notation.
- f) A public redacted version of each document and transcript that contains information that is protected pursuant to this Paragraph must be filed with the proprietary version and must be served on each Party for distribution to those individuals participating in the proceeding who are not entitled to view the proprietary information.

- g) Should it be necessary to address proprietary information during a hearing, the Hearing Officer or Hearing Panel shall exclude from the hearing all individuals other than those entitled to access to the proprietary information in accordance with the protective order.

EXHIBIT E

Exhibit E — Funding

1. Scope of activities funded through the ERO funding mechanism

WECC shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standards Development

- Compliance Monitoring and Enforcement

This category encompasses WECC's Compliance Monitoring and Enforcement Program, including activities under the WECC Reliability Management System

- Organization Registration and Certification

- Reliability Assessment and Performance Analysis (including necessary data gathering activities)

This category includes WECC's Transmission Expansion Planning Program, Loads and Resources Activities, and all necessary supporting activities

- Event Analysis and Reliability Improvement

- Training and Education

This category includes WECC's Training Programs

- Situation Awareness

This category includes WECC's Reliability Coordinator Functions, Western Interconnection Synchrophasor Program, WECC Interchange Tool, and all necessary supporting activities

- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and WECC, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of WECC's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require WECC (i) to submit to NERC draft(s) of WECC's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been

approved by WECC Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of WECC's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The WECC business plan and budget submission shall include supporting materials, including WECC's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. WECC's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve WECC's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct WECC to make such revisions as NERC deems appropriate prior to approval. NERC shall submit WECC's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of WECC's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. WECC shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying WECC's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of the assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

Entities on the list of LSEs or Balancing Authorities will be responsible for collection and/or payment of charges through the mechanism described in either Option 1 or 2 below. Each Balancing Authority will inform WECC by June 1st of each year of its choice of Option 1 or 2, and will give WECC at least 90 days notice of its intention to change from one option to the other.

a. OPTION 1 -- The Balancing Authority will provide WECC a list of all LSEs located within its area, including each LSE's name, contact information, and Net Energy for Load. This information will be updated annually and provided to WECC no later than June 1st of each year. WECC will use this list to bill each LSE for all costs on an annual basis.

b. OPTION 2 -- WECC will bill the Balancing Authority for all costs on an annual basis. The Balancing Authority will be responsible for equitably allocating WECC costs among the LSEs in its area (if applicable) on the basis of Net Energy for Load, collecting the funds, and ensuring that WECC receives full payment on an annual basis.

4. Collection of Funding

(a) NERC and WECC agree that WECC shall act as the billing and collection agent on behalf of NERC to bill and collect WECC's assessments from load-serving entities and designees (or such other entities as agreed by NERC and WECC). WECC agrees that it shall (i) issue all invoices to each LSE or Balancing Authority (depending on the Balancing Authority's choice of Option 1 or 2 above) in a prompt and timely manner after receipt from NERC of the information needed to issue invoices, but no later than November 15th each year; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC in a timely manner, as follows: Once per week until all billings are collected, WECC will electronically transfer to NERC, in immediately available funds, all payments received by WECC from load-serving entities or other entities for the payment of annual invoices. On the same day that WECC makes each electronic transfer of funds to NERC, WECC shall send an e-mail to the Chief Financial Officer or Controller of NERC detailing the collections being transmitted, including a listing of the load-serving entities or other entities from which payments were collected and the amount collected from each entity

and the breakdown of the total payments collected among NERC statutory funding, WECC statutory funding and WIRAB statutory funding.

WECC agrees that it shall not in any way use its position as billing and collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of Reliability Standards (including Regional Reliability Standards and Regional Variances), administration of the Compliance Monitoring and Enforcement program and other compliance and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of WECC's budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this Agreement. To the extent WECC uses another entity as collection agent, it will incorporate these safeguards in the arrangements with the collection agent.

Within three (3) business days following receipt of an electronic transfer of collected assessments from WECC in accordance with Section 4(a) of this Exhibit E, NERC will electronically transfer (i) to WECC, in immediately available funds, the portion of the payment received from WECC constituting WECC statutory funding, and (ii) to WIRAB, in immediately available funds, the portion of the payment received from WECC constituting WIRAB statutory funding.

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from ERO Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, WECC shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, WECC is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within WECC's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within WECC's region.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by WECC, other than penalty monies received from an operational function or division or affiliated entity of WECC, shall be applied as a general offset to WECC's budget requirements for U.S.-related activities under this Agreement for a subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received by NERC from an operational function or division or affiliated entity of WECC shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for WECC's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), WECC performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): Western Renewable Generation Information System ("WREGIS").

WECC shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: WECC utilizes a fund accounting system with capabilities to segregate receipts and expenses based on function or activity. WECC has segregated non-statutory activities by assigning a separate fund code to those receipts and expenses. All expenditures or receipts that are entered into WECC's accounting system must include a fund code identifying whether the transaction is related to statutory or non-statutory activities. General and administrative costs are allocated to non-statutory activities based on an FTE ratio that is consistent with NERC's accounting methodology for allocation of overhead to

statutory activities. For these reasons, time records are not necessary for WECC to properly allocate costs between statutory and non-statutory activities.

WECC shall provide its budget for such non-statutory activities to NERC at the same time that WECC submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. WECC's budget for non-statutory activities that is provided to NERC shall contain a detailed list of WECC's non-statutory activities and a description of the funding sources for the non-statutory activities. WECC agrees that no costs (which shall include a reasonable allocation of WECC's general and administrative costs) of non-statutory activities are to be included in the calculation of WECC's assessments, dues, fees, and other charges for its statutory activities.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if WECC determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, WECC shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in WECC's approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct WECC to make such revisions as NERC deems appropriate prior to approval. NERC shall submit WECC's approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Statements

NERC shall conduct reviews of the quarterly and annual financial statements submitted by WECC pursuant to Section 9(h) and (i) of the Agreement. WECC shall provide supporting documentation for the quarterly and annual audited financial statements as reasonably requested by NERC based on its reviews.

ATTACHMENT 9B

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED DELEGATION AGREEMENT

WITH

WESTERN ELECTRICITY COORDINATING COUNCIL

REDLINED AGAINST

REVISED PRO FORMA DELEGATION AGREEMENT

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND ~~REGIONAL ENTITY~~**

AND WESTERN ELECTRICITY COORDINATING COUNCIL

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”) made as of ~~January 1, 2011~~, 2011, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and ~~REGIONAL ENTITY~~ the Western Electricity Coordinating Council (“WECC”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified on **Exhibit A** to this Agreement, and for other purposes. NERC and ~~REGIONAL ENTITY~~ WECC may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824n) (hereafter “the Act”), which, among other things, provides for the establishment of an electric reliability organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as ~~[REGIONAL ENTITY]~~WECC provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, ~~[REGIONAL ENTITY]~~ ~~[is/is not]~~WECC is organized on an Interconnection-wide basis and therefore ~~[is/is not]~~ entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through ~~{REGIONAL ENTITY}~~WECC to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that ~~{REGIONAL ENTITY}~~WECC meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and ~~{REGIONAL ENTITY}~~WECC, having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and ~~{REGIONAL ENTITY}~~WECC agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to ~~{REGIONAL ENTITY}~~WECC to propose and enforce Reliability Standards pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of

these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, ~~{REGIONAL ENTITY}~~WECC hereby represents and warrants to NERC that:

(i) ~~{REGIONAL ENTITY}~~WECC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder.

~~{REGIONAL ENTITY}~~WECC is governed in accordance with its bylaws by ~~{select appropriate: an independent board/a balanced stakeholder board/}~~a combination independent and balanced stakeholder board~~}~~. Pursuant to these bylaws, no two industry sectors can control any ~~{REGIONAL ENTITY}~~WECC decision and no single industry sector can veto any ~~{REGIONAL ENTITY}~~WECC decision. The relevant portions of such bylaws are attached hereto in **Exhibit B**¹, and as so attached are in full force and effect. No other such corporate governance documents are binding upon ~~{REGIONAL ENTITY}~~WECC.

(ii) As set forth in **Exhibit C** hereto², ~~{REGIONAL ENTITY}~~WECC has developed a standards development procedure, which provides the process that ~~{REGIONAL ENTITY}~~WECC may use to develop Regional Reliability Standards ~~{and Regional Variances, if the regional entity is organized on an Interconnection-wide basis}~~ that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, ~~{REGIONAL ENTITY}~~WECC has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability

¹ The **Exhibit B** from ~~{REGIONAL ENTITY}~~WECC shall meet the requirements contained in **Exhibit B** to this Agreement.

² The **Exhibit C** from ~~{REGIONAL ENTITY}~~WECC shall meet the requirements contained in **Exhibit C** to this Agreement.

Standards within ~~[REGIONAL ENTITY]~~WECC's geographic boundaries as shown on **Exhibit A.**

(b) NERC hereby represents and warrants to ~~[REGIONAL ENTITY]~~WECC that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

3. Covenants.

(a) During the term of this Agreement, ~~[REGIONAL ENTITY]~~WECC shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC's approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of ~~[REGIONAL ENTITY]~~WECC under this Agreement without first obtaining the consent of ~~[REGIONAL ENTITY]~~WECC, which consent shall not be unreasonably withheld or delayed.

(c) During the term of this Agreement, NERC and ~~[REGIONAL ENTITY]~~WECC shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

4. **Delegation of Authority.**

(a) Based upon the representations, warranties and covenants of ~~{REGIONAL ENTITY}~~WECC in Sections 2 and 3 above, the corporate governance documents set forth in **Exhibit B**, the standards development process set forth in **Exhibit C**, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to ~~{REGIONAL ENTITY}~~WECC for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth on **Exhibit A**, *provided*, that ~~{REGIONAL ENTITY}~~ WECC shall not monitor and enforce compliance with Reliability Standards for ~~{REGIONAL ENTITY}~~WECC or an affiliated entity with respect to reliability functions for which ~~{REGIONAL ENTITY}~~WECC or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to ~~{REGIONAL ENTITY}~~WECC within, or additions to this delegation of authority to ~~{REGIONAL ENTITY}~~WECC beyond, the geographic boundaries set forth on **Exhibit A** are stated on **Exhibit A**.

(b) In circumstances where ~~{REGIONAL ENTITY}~~WECC or an affiliated entity is a Registered Entity, ~~{REGIONAL ENTITY}~~WECC shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce ~~{REGIONAL ENTITY}~~WECC's or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit ~~{REGIONAL ENTITY}~~WECC from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified on **Exhibit A** that is within the United States. Any delegation of authority by ERO Governmental Authorities

in Canada or Mexico shall be governed by a separate agreement and is outside the scope of this Agreement; provided, however, that both ~~{REGIONAL ENTITY}~~WECC and NERC shall endeavor to ensure that this Agreement and such separate agreements are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, ~~{REGIONAL ENTITY}~~WECC shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, ~~{REGIONAL ENTITY}~~WECC shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords ~~{REGIONAL ENTITY}~~WECC reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards ~~{and Regional Variances, if Regional Entity is organized on an Interconnection-wide basis}~~ through ~~{REGIONAL ENTITY}~~WECC's process as set forth in **Exhibit C**. Proposals approved through ~~{REGIONAL ENTITY}~~WECC's process shall be reviewed by the NERC Board after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. ~~{REGIONAL ENTITY}~~WECC may

appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, ~~REGIONAL ENTITY~~WECC shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the geographic boundaries set forth, or as otherwise specified, in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and ~~REGIONAL ENTITY~~WECC agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, *inter alia*, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. ~~REGIONAL ENTITY~~WECC may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, ~~REGIONAL ENTITY~~WECC agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) ~~REGIONAL ENTITY~~WECC shall report promptly to NERC any Possible Violation, Alleged Violation, or Confirmed Violation of a Reliability Standard, and its eventual disposition by ~~REGIONAL ENTITY~~WECC. Such report shall include the owner's, operator's, or user's name, which Reliability Standard or Reliability Standards were the subject of the Possible Violation, Alleged Violation, or Confirmed Violation, when the Possible Violation, Alleged Violation, or Confirmed Violation occurred, other pertinent facts including circumstances surrounding the Possible Violation, Alleged Violation, or Confirmed Violation with any known risk to the Bulk-Power System, when the Possible Violation, Alleged Violation, or Confirmed Violation was or will be mitigated, the name of a person knowledgeable about the Possible Violation, Alleged Violation, or Confirmed Violation to serve as a point of contact with the Commission, and any other information required by NERC compliance program procedures. NERC shall promptly forward such report to the Commission. NERC and ~~REGIONAL ENTITY~~WECC shall cooperate in filing such periodic summary reports as the Commission shall from time to time direct on Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards and summary analyses of such Possible Violations, Alleged Violations, and Confirmed Violations.

(c) Each Possible Violation, Alleged Violation, or Confirmed Violation shall be treated as nonpublic unless the matter is filed with the Commission as a Notice of Penalty, or, if disclosure is required, dismissed. The disposition of each Possible Violation, Alleged Violation, or Confirmed Violation that relates to a Cybersecurity Incident or that would jeopardize the security of the Bulk-Power System if publicly disclosed shall remain nonpublic unless the Commission directs otherwise.

(d) All dispositions by ~~REGIONAL ENTITY~~WECC of Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards shall be reported to NERC for review and, in the case of Confirmed Violations, penalties or sanctions, and settlements, for approval. Following approval of a disposition by NERC, NERC shall file the disposition with the Commission, if required by, and in accordance with, Section 215(e) of the Act and Section 39.7 of the ERO Regulations. NERC shall review ~~REGIONAL ENTITY~~WECC's dispositions based on the following criteria:

(i) whether the disposition is supported by a sufficient record compiled by ~~REGIONAL ENTITY~~WECC in accordance with the NERC Rules of Procedure, NERC directives and Commission requirements, taking into account the nature of the Possible Violation, Alleged Violation, or Confirmed Violation,

(ii) whether the disposition is consistent with any applicable directives issued pursuant to Section 8(c) of this Agreement, any applicable directions or guidance issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, or other applicable NERC guidance, concerning the Reliability Standards to which the Possible Violation, Alleged Violation, or Confirmed Violation relates,

(iii) if the disposition is a Confirmed Violation or settlement, whether it provides for a penalty or sanction, or a determination of no penalty or sanction, determined in accordance with the NERC Sanction Guidelines, Appendix 4B to the NERC Rules of Procedure, and

(iv) whether the disposition is reasonably consistent with other dispositions by ~~REGIONAL ENTITY~~WECC and by other Regional Entities of Possible Violations, Alleged Violations, and Confirmed Violations involving the same or similar facts and circumstances.

NERC may reject any disposition, with an explanation of why NERC believes the disposition does not meet the above criteria. ~~REGIONAL ENTITY~~WECC may submit a disposition requiring NERC approval that has been rejected by NERC, or a revised disposition following a rejection, directly to the NERC Board Compliance Committee for approval without revising the disposition to address all the grounds on which NERC originally rejected the disposition. The final approval of ~~REGIONAL ENTITY~~WECC's disposition of a Possible Violation, Alleged Violation, or Confirmed Violation shall be made by the NERC Board Compliance Committee, provided, that the NERC Board or NERC Board Compliance Committee may, by appropriate resolution, delegate authority for final approval of dispositions of specified categories of Possible Violations, Alleged Violations, or Confirmed Violations to the NERC President.

(e) All appeals of penalties imposed by ~~[REGIONAL ENTITY]~~WECC as a result of a decision by ~~[REGIONAL ENTITY]~~WECC's Hearing Body shall be filed with, heard by and disposed of by, NERC in accordance with the NERC Rules of Procedure.

(f) ~~[REGIONAL ENTITY]~~WECC shall maintain the capability to conduct investigations of Possible Violations and Alleged Violations of Reliability Standards and to conduct such investigations in a confidential manner.

(g) ~~[REGIONAL ENTITY]~~WECC shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan.

(h) As part of its compliance monitoring and enforcement program, ~~[REGIONAL ENTITY]~~WECC shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. ~~A Regional Entity~~WECC may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(i) As often as NERC deems necessary, but no less than every five years, NERC shall review ~~[REGIONAL ENTITY]~~WECC's compliance monitoring and enforcement program to determine that: (i) the program meets all applicable legal requirements; (ii) actual practices reflect the requirements; and (iii) the program administered pursuant to the Delegated Authority promotes consistent interpretations across North America of Reliability Standards and comparable levels of sanctions and penalties for violations of Reliability Standards constituting comparable levels of threat to reliability of the Bulk-Power System.

7. Delegation-Related Activities.

NERC will engage ~~[REGIONAL ENTITY]~~WECC on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed on **Exhibit E**. These

delegation-related activities shall include, but are not limited to, those described in subsections (a) through (f), each of which shall be considered a statutory activity:

(a) Certification of Bulk-Power System Entities. The NERC Board shall set criteria for certification in accordance with the NERC Rules of Procedure. ~~REGIONAL ENTITY~~WECC shall issue certifications in accordance with the NERC Rules of Procedure.

(b) Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.

(i) The NERC Board shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by ~~REGIONAL ENTITY~~WECC and other Regional Entities. ~~REGIONAL ENTITY~~WECC shall provide timely and accurate information relating to registrations to NERC, on at least a monthly basis, to enable NERC to maintain a registration database that is accurate and up-to-date.

(iii) The NERC Board Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) Reliability Assessment and Performance Analysis. ~~REGIONAL ENTITY~~WECC shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. ~~REGIONAL ENTITY~~WECC shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives. NERC shall

develop data-gathering quality control procedures, forms and reporting mechanisms, which shall be used by ~~{REGIONAL ENTITY}~~WECC and other Regional Entities in carrying out their responsibilities under this subsection (c).

(d) Event Analysis and Reliability Improvement. ~~{REGIONAL ENTITY}~~WECC shall conduct event analysis pursuant to the NERC Rules of Procedure and applicable governmental regulations. NERC and ~~{REGIONAL ENTITY}~~WECC shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, ~~{REGIONAL ENTITY}~~WECC shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) Training and Education. ~~{REGIONAL ENTITY}~~WECC may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) Situation Awareness and Infrastructure Security.

(i) ~~{REGIONAL ENTITY}~~WECC shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure and applicable governmental regulations, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System

(ii) ~~{REGIONAL ENTITY}~~WECC shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of ~~{REGIONAL ENTITY}~~WECC's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and ~~{REGIONAL ENTITY}~~WECC that matters relating to NERC's oversight of ~~{REGIONAL ENTITY}~~WECC's performance of its Delegated Authority and related

activities shall be established or resolved by collaboration between NERC and ~~{REGIONAL ENTITY}~~WECC and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with ~~{REGIONAL ENTITY}~~WECC and other Regional Entities, performance goals, measures and other parameters (including, without limiting the scope of such goals, measures and parameters, financial performance goals, measures and parameters), and performance reports, which shall be used to measure NERC's and ~~{REGIONAL ENTITY}~~WECC's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. ~~{REGIONAL ENTITY}~~WECC shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate ~~{REGIONAL ENTITY}~~WECC's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters and performance reports to evaluate ~~{REGIONAL ENTITY}~~WECC's performance of its delegated functions and related activities and to provide advice and direction to ~~{REGIONAL ENTITY}~~WECC on performance improvements. The performance goals, measures and other parameters and the values of such goals, measures and parameters, shall be reviewed by NERC, ~~{REGIONAL ENTITY}~~WECC and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, ~~{REGIONAL ENTITY}~~WECC shall be required to develop, submit for NERC approval, and implement action plans to address areas of its performance that are reasonably determined by NERC, based on analysis of ~~{REGIONAL ENTITY}~~WECC's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring ~~{REGIONAL ENTITY}~~WECC to adopt and implement an action plan or other remedial action, NERC shall issue a notice to

~~[REGIONAL ENTITY]~~WECC of the need and basis for an action plan or other remedial action and provide an opportunity for ~~[REGIONAL ENTITY]~~WECC to submit a written response contesting NERC's evaluation of ~~[REGIONAL ENTITY]~~WECC's performance and the need for an action plan. ~~[REGIONAL ENTITY]~~WECC may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board review and reconsider the request. NERC and ~~[REGIONAL ENTITY]~~WECC shall work collaboratively as needed in the development and implementation of ~~[REGIONAL ENTITY]~~WECC's action plan. A final action plan submitted by ~~[REGIONAL ENTITY]~~WECC to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to ~~[REGIONAL ENTITY]~~WECC standardized training and education programs, which shall be designed taking into account input from ~~[REGIONAL ENTITY]~~WECC and other Regional Entities, for ~~[REGIONAL ENTITY]~~WECC personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to ~~[REGIONAL ENTITY]~~WECC concerning the manner in which ~~[REGIONAL ENTITY]~~WECC shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with ~~[REGIONAL ENTITY]~~WECC and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and ~~[REGIONAL ENTITY]~~WECC and, if applicable, other Regional Entities are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President; *provided*, that before the NERC President issues a directive pursuant to this paragraph (ii), ~~[REGIONAL ENTITY]~~WECC and, if applicable, other Regional Entities, shall be given

a reasonable opportunity to present their positions on, and a suggested alternative version or versions of, the proposed directive to the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, ~~[REGIONAL ENTITY]~~WECC, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by ~~[REGIONAL ENTITY]~~WECC, the NERC Board (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without ~~[REGIONAL ENTITY]~~WECC's agreement, *provided*, that ~~[REGIONAL ENTITY]~~WECC shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and ~~[REGIONAL ENTITY]~~WECC and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which ~~[REGIONAL ENTITY]~~WECC, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The Board or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the Board or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. ~~[REGIONAL ENTITY]~~WECC, either individually or in conjunction with other Regional Entities, may

request that the NERC Board or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with ~~{REGIONAL ENTITY}~~WECC, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) Any audits of ~~{REGIONAL ENTITY}~~WECC performed by NERC shall be limited to an examination of ~~{REGIONAL ENTITY}~~WECC's compliance with this Agreement, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c)

9. Funding. ~~{REGIONAL ENTITY}~~WECC and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed on **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) ~~{REGIONAL ENTITY}~~WECC shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. ~~{REGIONAL ENTITY}~~WECC's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, ~~{REGIONAL ENTITY}~~WECC to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E**. ~~{REGIONAL ENTITY}~~WECC's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) ~~{REGIONAL ENTITY}~~WECC and NERC agree that the portion of ~~{REGIONAL ENTITY}~~WECC's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed on **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net

Energy for Load, or through such other formula as is proposed by ~~[REGIONAL ENTITY]~~WECC and approved by NERC and the Commission. If ~~[REGIONAL ENTITY]~~WECC proposes to use a formula other than Net Energy for Load beginning in the following year, ~~[REGIONAL ENTITY]~~WECC shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and ~~[REGIONAL ENTITY]~~WECC to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide ~~[REGIONAL ENTITY]~~WECC with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) ~~[REGIONAL ENTITY]~~WECC shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed on Exhibit E, as well as for all other activities of ~~[REGIONAL ENTITY]~~WECC, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund ~~[REGIONAL ENTITY]~~WECC's performance of its Delegated Authority and related activities in accordance with ~~[REGIONAL ENTITY]~~WECC's Commission-approved business plan and budget, in the amount of ~~[REGIONAL ENTITY]~~WECC's assessments to end users approved by the Commission.

Exhibit E sets forth the procedures and timing for billing and collecting ~~{REGIONAL ENTITY}~~WECC's approved assessments from end users and other entities and payment of the approved assessment amount to ~~{REGIONAL ENTITY}~~WECC, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon ~~{REGIONAL ENTITY}~~WECC that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without ~~{REGIONAL ENTITY}~~WECC's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and ~~{REGIONAL ENTITY}~~WECC fiscal year budget with the actual results at the NERC and Regional Entity levels. ~~{REGIONAL ENTITY}~~WECC shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) ~~{REGIONAL ENTITY}~~WECC shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) ~~{REGIONAL ENTITY}~~WECC shall submit audited financial statements annually, including supporting materials, in a form provided by NERC no later than May 1 of the following year.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which ~~{REGIONAL ENTITY}~~WECC shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of ~~{REGIONAL ENTITY}~~WECC) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which ~~{REGIONAL ENTITY}~~WECC shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of ~~{REGIONAL ENTITY}~~WECC.

Provided, that, subject to approval by NERC and the Commission, ~~REGIONAL ENTITY~~WECC may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. ~~REGIONAL ENTITY~~WECC may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit ~~REGIONAL ENTITY~~WECC from contracting with other entities to assist it in carrying out its Delegated Authority, provided ~~REGIONAL ENTITY~~WECC retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach

has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination

(a) This Agreement shall become effective on ~~January 1, 2011~~ (the “Effective Date”).

(b) The term of the Agreement shall be five (5) years from the Effective Date, prior to which time NERC shall conduct an audit pursuant to subsection 6(i) to ensure that ~~REGIONAL ENTITY~~WECC continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. If ~~REGIONAL ENTITY~~WECC meets such requirements, this Agreement may be renewed for another five (5) year term. This Agreement may be renewed for successive additional five (5) year renewal terms provided that prior to the end of each renewal term, NERC shall conduct an audit pursuant to subsection 6(i) to ensure that ~~REGIONAL ENTITY~~WECC continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. Provided, that either Party may terminate this Agreement as of the end of a term by giving written notice to terminate at least one (1) year prior to the end of the term. If this Agreement is not renewed or becomes subject to termination for any reason, the Parties shall work to provide for a transition of ~~REGIONAL ENTITY~~WECC's Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement. The termination of this Agreement shall not take effect until such transition has been effected, unless the transition period exceeds one year, at which time ~~REGIONAL ENTITY~~WECC may unilaterally terminate.

(c) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or

condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by ~~{REGIONAL ENTITY}~~WECC and NERC.

(d) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. ~~{REGIONAL ENTITY}~~WECC and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and ~~{REGIONAL ENTITY}~~WECC shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of the ~~{REGIONAL ENTITY}~~WECC's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that the ~~{REGIONAL ENTITY}~~WECC or NERC is found liable for gross negligence or intentional misconduct, in which case ~~{REGIONAL ENTITY}~~WECC or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party.

15. Confidentiality. During the course of the Parties' performance under this Agreement, a Party may receive Confidential Information, as defined in Section 1500 of NERC's Rules of Procedure. Except as set forth herein, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information. In addition, each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein. This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of ~~[REGIONAL ENTITY]~~WECC under this Agreement without first obtaining the consent of ~~[REGIONAL ENTITY]~~WECC, which consent shall not be unreasonably

withheld or delayed. To the extent ~~{REGIONAL ENTITY}~~WECC does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of ~~{REGIONAL ENTITY}~~WECC under this Agreement, ~~{REGIONAL ENTITY}~~WECC shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by ~~{REGIONAL ENTITY}~~WECC to NERC and the Commission, or at such other time as may be mutually agreed by ~~{REGIONAL ENTITY}~~WECC and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and ~~{REGIONAL ENTITY}~~WECC (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to ~~{REGIONAL ENTITY}~~WECC's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. ~~{REGIONAL ENTITY}~~WECC shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging

receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, *provided*, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), *provided*, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. *Provided, however*, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii)

the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. Whether expressly so stated or not, all notices, demands, requests, and other communications required or permitted by or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand or reputable overnight courier:

If to NERC:

If to ~~REGIONAL ENTITY~~WECC:

North American Electric Western Electricity Coordinating Council
Reliability Corporation 155 North 400 West, Suite 200
116-390 Village Blvd. Salt Lake City, Utah 84103
Princeton, NJ 08540-5721

=====Attn: Louise

McCarren

Attn: General Counsel
Facsimile: (609) 452-9550

Attn: Facsimile: (801) 582-3918
Facsimile: —

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of New Jersey without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in New Jersey. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in New Jersey for the purpose of hearing and determining any action not heard and determined by the Commission.

21. **Headings.** The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. **Savings Clause.** Nothing in this Agreement shall be construed to preempt or limit any authority that ~~REGIONAL ENTITY~~WECC may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. **Entire Agreement.** This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. **Execution of Counterparts.** This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN
ELECTRIC RELIABILITY CORPORATION

~~[REGIONAL ENTITY]~~WECC

By: _____

By:

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

~~Date: _____~~

EXHIBIT A

Exhibit A — Regional Boundaries

WECC's physical boundaries coincide with the boundaries of the Western Interconnection. The Western Interconnection consists of the synchronously operated electric transmission grid in the western part of North America, which includes parts of Montana, Nebraska, New Mexico, South Dakota, Texas, Wyoming, and Mexico and all of Arizona, California, Colorado, Idaho, Nevada, Oregon, Utah, Washington and the Canadian Provinces of British Columbia and Alberta. The WECC region encompasses approximately 1.8 million square miles.

WECC's northern border runs along the northern border of British Columbia and Alberta. The western border extends along the western coast of North America from British Columbia into northern Baja California, Mexico. The southern border traverses northern Baja and extends along the southern United States border to Texas. The eastern border bisects North America from Alberta, Canada through the states of Montana, South Dakota, Wyoming, Nebraska, Texas and New Mexico to the southern United States border.

EXHIBIT B

Exhibit B – Governance

Exhibit B shall set forth the Regional Entity’s bylaws, which NERC agrees demonstrate that the Regional Entity meets the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence of the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

BYLAWS
OF
THE
WESTERN ELECTRICITY COORDINATING COUNCIL

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BYLAWS
Of
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WESTERN ELECTRICITY COORDINATING COUNCIL

1. Mission.

The Western Interconnection is the geographic area containing the synchronously operated electric grid in the western part of North America, which includes parts of Montana, Nebraska, New Mexico, South Dakota, Texas, Wyoming, and Mexico and all of Arizona, California, Colorado, Idaho, Nevada, Oregon, Utah, Washington and the Canadian provinces of British Columbia and Alberta.

The Western Electricity Coordinating Council (“WECC”) is a Utah nonprofit corporation with the mission to do the following consistent with these Bylaws: 1) maintain a reliable electric power system in the Western Interconnection that supports efficient competitive power markets (“Reliability Mission”); and 2) assure open and non-discriminatory transmission access among Members and provide a forum for resolving transmission access disputes between Members consistent with FERC policies where alternative forums are unavailable or where the Members agree to resolve a dispute using the mechanism provided in Section 11 (“Transmission Access Mission”).

2. Furtherance of the WECC’s Mission

2.1 Activities to Carry Out WECC’s Reliability Mission.

- 2.1.1 Compliance with the Federal Power Act. The WECC will carry out responsibilities and exercise rights of a Regional Entity organized on an interconnection-wide basis pursuant to Section 215 of the Federal Power Act, including any responsibilities and rights delegated to it by the ERO pursuant to a Delegation Agreement.
- 2.1.2 Agreements with Canada and Mexico. The WECC will carry out responsibilities and exercise rights pursuant to International Reliability Agreements with Canadian or Mexican authorities.
- 2.1.3 Regional Coordination. The WECC will act as a coordinating entity for the entire Western Interconnection for activities of regional organizations with responsibilities for reliability and market functions.
- 2.1.4 Standard Setting. The WECC will develop and adopt reliability, operating, and planning standards, criteria and guidelines necessary to maintain the reliable operation of the Western Interconnection’s interconnected bulk power system, including seeking, as appropriate, variances from standards of the ERO (or any

successor organization which may be created by legislation or otherwise), as well as providing a process for regional variances.

- 2.1.5 Certification of Grid Operating Entities. The WECC will certify Grid Operating Entities in the Western Interconnection.
- 2.1.6 Reliability Assessment. The WECC will ensure that interconnected bulk electric system reliability assessments are conducted as needed. The WECC will do this work in conjunction with the Regional Entities to the greatest extent possible. The WECC will also facilitate coordinated reliability assessments among Regional Entities.
- 2.1.7 Compliance Activities. With respect to enforcement of reliability standards, the WECC will:
 - 2.1.7.1 implement the Reliability Management System in effect as of the WECC's formation and as the Reliability Management System may be subsequently modified in accordance with its terms;
 - 2.1.7.2 implement any enforcement mechanisms delegated to it pursuant to Section 215 of the Federal Power Act and any Delegation Agreement with the ERO, or required by any International Reliability Agreement with a Canadian or Mexican authority; and
 - 2.1.7.3 administer any other enforcement mechanisms developed through voluntary processes after the WECC's formation, where the WECC is designated to perform administration.
- 2.1.8 Coordinated Regional Planning. With respect to the coordination of regional planning activities, the WECC:
 - 2.1.8.1 will develop coordinated planning policies and procedures for the Western Interconnection, including facilitation of market-based solutions, consistent with WECC/ERO standards and FERC policy.
 - 2.1.8.2 will review and assess Local Regional Entity planning processes to determine whether WECC planning procedures have been satisfied;
 - 2.1.8.3 will refer planning matters back to the originating Local Regional Entity for revision or other corrective actions when the WECC Board determines that WECC planning procedures have not been satisfied; and
 - 2.1.8.4 may perform other interconnection-wide studies as needed.
- 2.1.9 Coordinated Operations. With respect to coordinating reliable operating activities within the Western Interconnection, the WECC will develop, coordinate and promote

consistent interregional operating policies and procedures for the Western Interconnection, consistent with WECC/ERO standards and FERC policy.

2.1.10 Market Interface Issues. With respect to Market Interface issues the WECC will:

2.1.10.1 facilitate development of compatible and efficient practices across the Western Interconnection; and

2.1.10.2 exercise Backstop Authority where an unresolved Market Interface issue will cause Material External Impacts by taking some or all of the following actions: 1) providing a forum for and coordinating voluntary solutions among Members; 2) recommending specific solutions for voluntary adoption by Members; and 3) if necessary, proposing solutions to an Applicable Regulatory Authority.

2.1.11 Dispute Resolution. The WECC will provide a process for the timely resolution of disputes between WECC Members as set forth in Section 11.

2.2 Activities to Carry Out WECC's Non-Discriminatory Access Mission.

2.2.1 In accordance with Section 10 of these Bylaws, the WECC will ensure the provision of non-discriminatory transmission access between Members.

2.2.2 In accordance with Section 10 of these Bylaws, the WECC will provide for the submission of Open Access Transmission Tariffs (or petitions for exemption) by all Members that own or operate Transmission Facilities.

2.3 Organizational Characteristics.

As the WECC carries out activities to fulfill its mission, it will seek to develop and maintain the following characteristics:

2.3.1 dedication to serving the individuals, businesses, and other organizations that generate, transmit, distribute, market, and use electrical energy in the Western Interconnection;

2.3.2 efficiency in its administration, decision-making, policy and standards development, and dispute resolution processes;

2.3.3 the ability to maintain status as an Interconnection-wide regional reliability entity and be afforded deference and delegation by ERO (or successor organization); and

2.3.4 fair and open processes through which practices, policies, and standards are developed and implemented based on sound technical and policy analysis.

2.3.5 Promote an efficient western electric market by reducing or eliminating conflict, duplication and overlap among electric organizations in the Western Interconnection.

3. Definitions.

3.1 Affiliate.

An Entity that directly or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with, another Entity. An Entity "controls" any Entity in which it has the power to vote, directly or indirectly, 5% or more of the voting interests in such entity or, in the case of a partnership, if it is a general partner. Notwithstanding the foregoing definition, for purposes of these Bylaws: 1) electric distribution cooperatives that are member-owners of a generation and transmission cooperative are not Affiliates of the generation and transmission cooperative or of each other; 2) an entity controlled by or operating as a unit, agency, or subdivision of a local, state, provincial, or U.S. federal or Canadian or Mexican national government will not be considered an Affiliate of any other entity controlled by or operating as a unit, agency, or subdivision of a local, state, provincial, or federal government; 3) separate agencies of a single state or province, or of the U.S. federal or Canadian or Mexican national government will not be considered Affiliates of each other, regardless of any commonality of political control; 4) members of any joint powers authority, and such joint powers authority, will not be considered Affiliates of each other; and 5) members of an RTO will not be considered Affiliates of such RTO or of each other solely as a result of such membership.

3.2 Annual Meeting.

The annual membership meeting of WECC, as described in Section 5.3.

3.3 Applicable Regulatory Authority.

The FERC or any state or provincial government agency with jurisdiction to regulate or directly affect the transmission of electricity within the Western Interconnection.

3.4 Backstop Authority.

The ability, obligation, or responsibility of the WECC to address an issue when the WECC Board determines that a Local Regional Entity(ies) holding Primary Authority has not resolved an issue, has created incompatible resolutions or has not acted. In each case where these Bylaws authorize the WECC to exercise Backstop Authority, the provisions that authorize Backstop Authority will also specify the conditions necessary to trigger Backstop Authority and the actions that fall within the WECC's exercise of Backstop Authority.

3.5 Board of Directors (Board).

WECC Board of Directors, collectively, as described in Section 6.

3.6 Canadian Delegation.

Canadian WECC Members.

- 3.7 Canadian Director.**
A member of the WECC Board of Directors that is either a representative from a Canadian Member of WECC or an individual currently residing in Canada and qualified to provide expertise on Canadian interests on the WECC Board of Directors.
- 3.8 Class.**
A grouping of Members described in Sections 4.2.1 through 4.2.7 and 4.3.
- 3.9 Commercial Practices.**
The products and practices involved in trading electricity. The term “Commercial Practices” only refers to an interaction among market entities that does not affect or require assistance from Grid Operating Entities that have grid reliability responsibilities.
- 3.10 Compliance Hearing Body.**
The hearing body formed in accordance with procedures established in the WECC Delegation Agreement with the ERO for the purpose of providing a balanced compliance panel to conduct hearings for the resolution of disputes concerning compliance with or enforcement of Reliability Standards that may arise between WECC (acting as Compliance Enforcement Authority for the Western Interconnection) and a Registered Entity.
- 3.11 Control Area.**
An electric power system (or combination of electric power systems) to which a common automatic generation control scheme is applied in order to: 1) match, at all times, the power output of the generating units within the electric power system(s), plus the energy purchased from entities outside the electric system(s), minus energy sold to entities outside the electric system(s), with the demand within the electric power system(s); 2) maintain scheduled interchange with other Control Areas, within the limits of Good Utility Practice; 3) maintain the frequency of the electric power system(s) within reasonable limits in accordance with Good Utility Practice; and 4) provide sufficient generating capacity to maintain operating reserves in accordance with Good Utility Practice.
- 3.12 Cross-Border Regional Entity.**
A Regional Entity that encompasses a part of the United States and a part of Canada or Mexico, and may therefore be delegated authority to propose and enforce Reliability Standards in Canada or Mexico by virtue of applicable contractual or regulatory mechanisms.
- 3.13 Delegation Agreement.**
An agreement between the ERO and the WECC pursuant to Section 215 of the Federal Power Act by which the ERO delegates to the WECC designated powers, rights and responsibilities regarding the administration within the Western Interconnection of electric Reliability Standards adopted or approved by the ERO and the FERC.
- 3.14 Director.**
An individual member of the WECC’s Board of Directors.

- 3.15 Electric Line of Business.**
The generation, transmission, distribution, or trading of electricity or the provision of related energy services in the Western Interconnection.
- 3.16 Electric Reliability Organization (ERO).**
The organization certified by FERC under 18 C.F.R. §39.3, the purpose of which is to establish and enforce Reliability Standards for the bulk-power system in the United States, subject to FERC review.
- 3.17 Entity.**
Any individual, person, corporation, partnership, association, governmental body or organization of any kind.
- 3.18 FERC.**
The Federal Energy Regulatory Commission or any successor.
- 3.19 Good Utility Practice.**
Any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.
- 3.20 Grid Operating Entity.**
Any operating entity, such as a control area operator, that is certified pursuant to Section 2.1.5 of these Bylaws to be responsible for reliable operation of a portion of the Western Interconnection.
- 3.21 Participating Stakeholder.**
Any person or entity that is not a WECC Member, but is an interested stakeholder and has applied and been granted, pursuant to Section 8.6.2, the participation and voting rights set forth in Section 8.6.1.
- 3.22 International Reliability Agreement.**
An agreement between the WECC and any appropriate Canadian or Mexican authority related to WECC's powers, rights and responsibilities regarding the administration within the Western Interconnection of electric Reliability Standards.
- 3.23 Local Regional Entity.**
A regional transmission organization or some other formally or informally constituted regional organization or group within the Western Interconnection, including but not limited to a Control Area, a group of Control Areas acting in concert, or a group of Entities that own or operate Transmission Facilities acting in concert. These Local

Regional Entity boundaries can be reevaluated or modified over time.

3.24 Market Interface.

Market Interface involves all interactions among market entities and Grid Operating Entities related to transmission service and physical delivery.

3.25 Material External Impacts (MEI).

Significant effects on another Local Regional Entity or market within the Western Interconnection but outside of the Local Regional Entity or market adopting a policy, standard, practice or procedure, or implementing an action.

3.26 Member.

Any entity that has applied and been accepted for membership in the WECC and is current in the payment of dues.

3.27 Member Class Director.

A Director elected by a Class in accordance with Section 6.4 of these Bylaws.

3.28 Mexican Delegation.

Mexican WECC Members.

3.29 Mexican Director.

A member of the WECC Board of Directors that is either a representative from a Mexican Member of WECC or an individual currently residing in Mexico and qualified to represent Mexican interests on the WECC Board of Directors.

3.30 Non-Affiliated Director.

A Director elected by the Members who satisfies the requirements of Section 6.5.1 of these Bylaws.

3.31 Open Access Tariff.

A tariff offering transmission service which meets the requirements applicable to FERC orders regarding open access.

3.32 Organizing Meeting.

The first formal membership meeting of the WECC.

3.33 Primary Authority.

The ability, obligation, or responsibility of an entity to address an issue in the first instance.

3.34 Regional Entity (RE).

An entity having enforcement authority pursuant to 18 C.F.R. §39.8.

- 3.35 Regional Transmission Organization (RTO).**
An entity approved by the Federal Energy Regulatory Commission as meeting the requirements and performing the functions of a regional transmission organization pursuant to FERC Order 2000 and subsequent related orders.
- 3.36 Registered Entity.**
An owner, operator, or user of the bulk-power system or the entities registered as their delegates for the purpose of compliance in the North American Electric Reliability Corporation Regional Compliance Registry.
- 3.37 Reliability Management System**
The contracts, separate from these Bylaws, by which Members and other parties agree to certain procedures and sanctions intended to enforce specified Reliability Practices to maintain reliable electric service throughout the Western Interconnection.
- 3.38 Reliability Practices.**
Policies, practices and standards designed to ensure the adequacy and security of the Western Interconnection in accordance with applicable reliability criteria (e.g. ERO, WECC, Local Regional Entity criteria).
- 3.39 Reliability Standard.**
A requirement approved by FERC under section 215 of the Federal Power Act, to provide for reliable operation of the bulk-power system in the United States. 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. A Reliability Standard for the Western Interconnection may also be approved by Canadian and Mexican regulatory authorities.
- 3.40 Reliability Standards Development Procedures.**
The Process for Developing and Approving WECC Standards (or its successor) attached as Exhibit C to the Delegation Agreement between WECC and North American Electric Reliability Corporation.
- 3.41 Transmission Facilities.**
Those facilities that are defined as “transmission facilities” by FERC for purposes of the open access requirements of Section 210 and 211 of the Federal Power Act or any facilities which would be so defined if the Member were subject to FERC jurisdiction.
- 3.42 Western Interconnection.**
The geographic area containing the synchronously operated electric transmission grid in the western part of North America, which includes parts of Montana, Nebraska, New Mexico, South Dakota, Texas, Wyoming, and Mexico and all of Arizona, California, Colorado,

Idaho, Nevada, Oregon, Utah, Washington and the Canadian Provinces of British Columbia and Alberta.

4. Members and Membership.

4.1 Voluntary Membership.

Except as otherwise may be required by applicable authority, membership in the WECC is voluntary. A Member may withdraw upon giving the Secretary thirty (30) days' advance written notice. Notwithstanding such notice of withdrawal, all contracts (including any Reliability Management System Agreement), FERC orders, unpaid Member costs, decisions of arbitration and requests for transmission service made to the withdrawing Member in effect or pending as of the date of the written notice of withdrawal will be followed through to completion, pursuant to these Bylaws, by the withdrawing Member; however, pending requests for transmission service to be provided to such withdrawing Member will be void for the purposes of these Bylaws. Nothing herein will relieve any Member withdrawing from the WECC from any obligation it may have under applicable law including, but not limited to, Section 215 of the Federal Power Act. A Member that withdraws is obligated to pay any unpaid dues owed through the remainder of the fiscal year in which its resignation becomes effective. Any Director employed by a withdrawing Member will be deemed to have resigned pursuant to Section 6.8.

4.2 Eligibility for Membership.

Subject to Section 4.5, any Entity that is an interested stakeholder or that meets the criteria for membership in the membership classes described in Sections 4.2.1 through 4.2.7 may be a Member of the WECC:

- 4.2.1 Class 1. Electric Line of Business Entities owning, controlling or operating more than 1000 circuit miles of transmission lines of 115 kV and higher voltages within the Western Interconnection.
- 4.2.2 Class 2. Electric Line of Business Entities owning, controlling or operating transmission or distribution lines, but not more than 1,000 circuit miles of transmission lines of 115 kV or greater, within the Western Interconnection.
- 4.2.3 Class 3. Electric Line of Business Entities doing business in the Western Interconnection that do not own, control or operate transmission or distribution lines in the Western Interconnection, including power marketers, independent power producers, load serving entities and any other Entity whose primary business is the provision of energy services.
- 4.2.4 Class 4. End users of significant amounts of electricity in the Western Interconnection, including industrial, agricultural, commercial and retail entities as well as organizations in the Western Interconnection that represent the interests of a substantial number of end users or a substantial number of persons interested in the impacts of electric systems on the public or the environment.

4.2.5 Class 5. Representatives of states and provinces in the Western Interconnection, provided that such representatives will have policy or regulatory roles and do not represent state or provincial agencies and departments whose function involves significant direct participation in the market as end users or in Electric Line of Business activities.

4.2.6 Class 6. Canadian members of other classes pursuant to Section 4.3.

4.2.7 Class 7. Members at large, that is, entities that are not eligible for membership in the other Member Classes and who have a substantial interest in the purposes of the WECC.

4.3 Designation of Membership Class.

A Member of WECC may not belong to more than one Class except that for purposes of electing Canadian Directors and for populating the Governance and Nominating Committee, there shall be a Class 6 composed of all Canadian Members from any of the Member Classes defined in Section 4.2 except Class 7. An applicant for membership will designate the Class for which it qualifies based upon the criteria for membership set forth in Section 4.2 and these additional requirements: 1) all Members that are Electric Line of Business Entities must belong to Classes 1, 2 or 3; and 2) any Member owning, controlling or operating Transmission Facilities or distribution facilities must belong to Class 1 or 2 unless the Board grants the Member's petition for a change in Member Class pursuant to the provisions of Section 4.4 of these Bylaws. Applications for membership will be submitted to the WECC. WECC staff will review the application to verify eligibility for membership and Member Class designation. An applicant whose application has been rejected or any Member who disputes the WECC staff's determination regarding the appropriate Member Class designation may request review by the Governance and Nominating Committee. If the applicant or any Member disagrees with the Governance and Nominating Committee's decision, the applicant or such Member may appeal this decision to the Board.

4.4 Changes in Membership Class.

Notwithstanding any other provision of these Bylaws, upon a petition from a Member, the WECC staff (subject to review by the Governance and Nominating Committee and appeal to the Board) may allow the Member to change Member Class if the interest of the Member is more closely aligned with the proposed Class than the Member's current Class.

4.5 Affiliates and Distinct Business Entities.

An Affiliate of a Member that satisfies the membership qualifications may also become a Member provided:

4.5.1 The Affiliate applying for membership and the Member disclose to the Chief Executive Officer all Affiliates that are WECC Members and the Classes to which the Affiliates belong. Every Member will promptly notify the Chief Executive Officer whenever it becomes, or ceases to be, an Affiliate of any other Member.

- 4.5.2 Affiliates may be members of the same Class; provided, however, a group of Affiliates within a single Class may only have one vote in any WECC forum. A group of Affiliates within a single Class may, by providing written notice to the Chief Executive Officer, split their single vote pro rata or designate a single Affiliate as the group's voting Member.
- 4.5.3 For good cause shown and with the express approval of the Board, a company or organization containing functionally distinct entities within it may obtain separate memberships for such entities; provided that such entities will be considered Affiliates.
- 4.5.4 The Board may adopt a policy regarding whether Members may share the benefits of membership (including the right to receive information that is only available to Members) with a non-member Affiliate.

4.6

Rights and Obligations of Membership.

Except as otherwise provided in these Bylaws or other applicable authority, Members of the WECC have the following general rights and obligations:

- 4.6.1 The right to elect and remove Directors as described in Sections 6.4, 6.5 and 6.7;
- 4.6.2 The right to amend these Bylaws, and to review and rescind any Board amendment of these Bylaws, in accordance with Section 13;
- 4.6.3 The right to receive appropriate meeting notices, as well as reports and information produced by the WECC;
- 4.6.4 The right to attend, participate and vote in all WECC Member meetings and the right to attend Board meetings (other than closed sessions of Board meetings) and to comment upon all matters considered in such meetings;
- 4.6.5 The right to be a member of, attend meetings of, and to introduce motions, debate and to vote in the deliberations of WECC committees, subject to the limitations of these Bylaws and such other reasonable limitations as the Board may adopt from time to time;
- 4.6.6 The right to obtain non-discriminatory transmission access from other Members in accordance with applicable law and Section 10 of these Bylaws;
- 4.6.7 The right to invoke the dispute resolution provisions of these Bylaws;
- 4.6.8 The right to petition the Board to take any action consistent with applicable law (including Section 215 of the Federal Power Act and implementing orders and regulations), these Bylaws and the articles of incorporation and to have such petition voted upon in a reasonable and timely manner;

- 4.6.9 The obligation to abide by these Bylaws, decisions resulting from the dispute resolution process, and all standards or decisions of the WECC, subject to the exceptions set forth in Section 4.7 and the enforcement provisions of Section 4.8.
- 4.6.10 For Members owning or operating Transmission Facilities, or possessing transmission capacity rights by contract, the obligation to provide non-discriminatory transmission access to other Members through a regional transmission organization, the submittal of an Open Access Tariff with the FERC or in accordance with Section 10 of these Bylaws;
- 4.6.11 The obligation to notify the Chief Executive Officer promptly of changes with respect to Affiliates as provided in Section 4.5.1 of these Bylaws; and
- 4.6.12 The obligation to pay in a timely manner the membership dues pursuant to Section 12.
- 4.6.13 The obligation to provide system data that the Board has determined is necessary for WECC functions and does not impose an undue burden on the Members; provided, however, that the Board shall adopt appropriate limitations on this obligation or procedures that protect, and avoid the unnecessary collection of, confidential, privileged, trade secret, cybersecurity or critical energy infrastructure information or other information that the Board determines merits such protection consistent with applicable law.

4.7

Limitations on Member Obligations.

The obligation of Members pursuant to Section 4.6.9 will not require any Member to take any action which the Member in good faith determines: 1) would exceed the physical capabilities of the Member's electric system (or any part of another's electric system that the Member has the legal right to cause to comply with a WECC action governed by Section 4.6.9); 2) would create serious and immediate risks to public health or safety (provided, however, that the shedding of load shall not in and of itself be deemed a serious and immediate risk to public health and safety for the purpose of this section); 3) would create an immediate risk of serious damage to facilities or equipment within its electric system or cause it to operate any of its electric facilities or equipment in an unsafe manner; 4) would cause the Member to violate or improperly implement an applicable law, regulation, rule, order, FERC license provision or other legal obligation; or 5) would conflict with any non-power requirement applicable to the Member (including without limitation any obligation under environmental laws, regulations, court and administrative decisions or biological opinions).

Each Member shall retain sole control of its facilities and the use thereof, and a Member shall not be required to construct or dedicate facilities for the benefit of any other Member, or be required to take action, or refrain from action, as may be deemed necessary to maintain reliable service to its own customers and/or to fulfill its obligations to third parties; provided, that a Member shall comply with duly-adopted reliability standards applicable to its system and shall comply with any directives under existing security coordination agreements.

Nothing in these Bylaws is intended to preclude application of Section 210 or 211 of the Federal Power Act and Section 10 of these Bylaws. The above limitations shall not be construed as altering a Member's obligation to comply with applicable Reliability Standards or enforcement orders, or any other obligation arising under 18 C.F.R. Part 39.

4.8

Compliance and Enforcement.

The power of the WECC to enforce Member obligations other than compliance with Reliability Standards and other obligations arising under 18 C.F.R. Part 39 and applicable Canadian and Mexican regulatory requirements is limited to suspension or termination of membership as set forth in this Section; provided, however, that: 1) nothing in this Section will limit the power of Members to agree to additional enforcement provisions in separate contracts (such as contracts pursuant to the Reliability Management System); 2) nothing in this Section will limit the power of the WECC to propose solutions regarding Market Interface issues to any Applicable Regulatory Authority as described in Section 2.1.10; and 3) nothing in this Section will limit WECC's delegated authority under Section 215 of the Federal Power Act and 18 C.F.R. Part 39 and applicable Canadian and Mexican regulatory requirements to enforce Reliability Standards and perform other delegated functions within the Western Interconnection. The Board may suspend or, to the extent consistent with applicable law, terminate the membership of any Member for a material failure to meet any obligation of membership set forth in these Bylaws, including, but not limited to: 1) non-payment of dues sixty (60) days after the dues become delinquent; 2) intentionally or repeatedly violating any WECC Bylaw; 3) materially breaching or intentionally violating any FERC order or arbitration decision issued pursuant to these Bylaws; or 4) willfully obstructing any lawful purpose or activity of the WECC. The Board will give the affected Member not less than twenty-one (21) days prior written notice of any proposed suspension or termination, which will include the specific basis for the proposed action and, if applicable, instructions on curing the problem.

4.8.1 Suspension. The suspension of a Member will not affect the Member's rights and obligations other than that the Member, and any Director employed by or affiliated with the Member, will not be entitled to vote at any meeting of the Members, Classes, Directors, or any committee until the suspension is removed except that a suspended Member may vote in WECC committee and subcommittee meetings on proposed Reliability Standards or revisions to Reliability Standards.

4.8.2 Termination. The termination of membership will have the same effect, and be subject to the same continuing obligations, as such Member's withdrawal pursuant to Section 4.1 (including the provision therein regarding resignation of any Director employed by such Member), except that it will be effective immediately upon the noticed date pursuant to Section 4.8.

4.9 **WECC Structure and Governance Review Related to Regional Transmission Organizations.**

At least each five years, the Board of Directors will conduct a thorough assessment of whether the WECC is fulfilling its purposes in a manner that is consistent with: 1) the provisions of Section 2.3 of these Bylaws; and 2) the then-current state and the expected future evolution of the electric power industry within the Western Interconnection. In

particular, the Board will focus on whether the standards, obligations, processes, and decisions the WECC imposes on its Members are timely, fair, effective, and reasonable in view of the commercial, legal, regulatory, and economic needs and objectives of the affected Members. The Board will evaluate the WECC's Board composition, Member Class structure, committee structure and activities, and staff responsibilities as they relate to the foregoing considerations. The assessment required by this Section 4.9 will be accompanied by Board recommendations for any changes the Board determines are warranted by the assessment. The assessment and recommendations prepared by the Board in accordance with this Section 4.9 will be submitted in writing to the Members at the first annual Member meeting held after they are completed.

5. Procedures for Member Decisions.

5.1 Quorum.

Members may conduct business and take votes only at duly noticed Member meetings. Members may not conduct any business of the membership as a whole at any meeting unless a quorum is first established. A majority of all Members, including a majority in at least three (3) Classes, will constitute a quorum for all meetings of the membership as a whole. A majority of the members of a Class will constitute a quorum for all Member Class meetings. Inactive Members, as defined in Section 5.9 of these Bylaws, will not be counted in determining a quorum at membership or Member Class meetings. A quorum, once established, will be deemed to continue for the balance of any Member or Member Class meeting, except that no election of Directors may occur without a quorum being present. Members may designate an alternate representative or submit an absentee ballot in a form consistent with Section 6.6 for any Member or Member Class meeting. No Class may elect Member Class Directors without a majority of the members of the class being present either in person, or by designation of an alternate representative, or by the submission of an absentee vote. At a duly noticed meeting of the membership as a whole where a quorum of the membership has not been established, or at any duly noticed meeting of a Class meeting on its own, a Class may elect Member Class Directors notwithstanding the lack of quorum for action by the membership as a whole, provided a majority of the Members of a Class are present in person, or by designation of an alternate representative, or have submitted an absentee vote.

5.2 General Membership Meetings.

All business of the Members acting as a whole will be conducted at meetings called by advance notice to all WECC Members provided in accordance with Section 5.5. Unless stated otherwise in these Bylaws, decisions at all meetings of the Members or of Member Classes will be by simple majority vote of the Members present or otherwise represented in accordance with these Bylaws, with each Member having one vote. The Chair of the Board will preside over all Member meetings.

5.3 Annual Member Meetings.

The WECC will hold an Annual Meeting of all Members at a time and place determined by the Board. At the Annual Meeting, in addition to such other actions the Members may take, all Member Classes together will elect Non-Affiliated Directors and each Class eligible to do so will elect Member Class Directors.

5.4 Special Member Meetings.

Members may hold special meetings whenever called by the Board. The Board will call special Member meetings whenever a majority of the Members of any Class request a special meeting or at such other times as it deems appropriate. The Chair of the Board will preside over all special Member meetings.

5.5 Member Class Meetings

An individual WECC Member Class, including Class 6 consisting of the Canadian Delegation, may hold a meeting for any purpose relevant to the interests of Class Members, including the election of Member Class Directors by Classes eligible to do so. Such meeting will be initiated by request by one or more Class Member(s), and agreement by at least fifty percent (50%) of Class Members.

5.6 Notice of Member Meetings.

5.6.1 Annual Meeting. The Chief Executive Officer will provide at least thirty (30) days' advance notice to all Members and the Board of the date, place and time of the Annual Meeting of the Members and an agenda of the business to be conducted at such meeting.

5.6.2 Other Member Meetings. The Chief Executive Officer will provide notice of regularly scheduled and special meetings of the Members to the Members not less than fifteen (15) days before the meeting if delivered by first-class mail, or not less than ten (10) days before the meeting if the notice is delivered personally, by telephone, by facsimile, electronic mail or express mail. Notice of meetings may not be sent solely by electronic mail. If mailed, such notice will be deemed given when deposited in the United States mail, with first-class postage thereon prepaid, addressed to a Member. Such notice will state the date, time and place of the meeting and the meeting agenda.

5.6.3 Public and Web Site Notice. Public notice of each meeting of the Members will be placed on WECC's Web site at least ten (10) days before such meeting. In addition, the Chief Executive Officer will provide notice in the same manner and time as set forth in Section 5.6.2 of each meeting to each member of the public who so requests and who has provided appropriate information regarding delivery of notice.

5.7 Open Meetings.

All Membership meetings are open to observation by the public.

5.8 Policymaking Authority.

The Board of Directors may adopt policies for the interpretation and implementation of the meeting and voting procedures established in this Section 5.

5.9 Minimum Participation Requirement.

In order to be counted for quorum purposes at a meeting of the membership as a whole or Class meeting, a WECC Member must actively participate (by attending in person, sending

an alternate, or voting absentee) in at least one WECC meeting (including meetings of the Board, committees and subcommittees) each year. At least two weeks prior to the WECC Annual Meeting, WECC staff will send a notice to any Member that has, according to organizational records, not satisfied this minimum participation requirement within the previous year. The notice will inform the Member that in order to be counted as an active Member of WECC for voting and quorum purposes, the Member must at a minimum either register for an attend the Annual Meeting and associated Class meetings or participate in the Annual Meeting and associated Class meetings by casting an absentee ballot. If the Member does not meet this minimum participate requirement, the Member will be considered an "inactive" Member until its active status is restored by participation in a WECC Annual Meeting. An inactive Member will not be counted toward establishing a quorum of the membership as a whole or of a Class, and an inactive Member will not be entitled to vote at WECC meetings until the Member is reinstated to "active" status by attending in person, sending an alternate or voting absentee at an Annual Meeting and associated Class meetings. An applicant for WECC membership or a WECC Member may at any time self-designate itself an inactive Member. Such designation will be effective until the Member is reinstated to "active" status.

6. Governance.

6.1 Board of Directors.

Subject to those matters expressly requiring approval of the Membership, a Board of Directors elected by the Members will govern the WECC.

6.2 Composition of the Board.

Except as provided in Sections 6.2.1 and 6.2.2, the Board consists of thirty-two Directors as follows: 1) twenty-four (24) Member Class Directors elected by the Member Classes eligible to do so, including Class 6 as defined in Section 6.2.1, (four from Classes 1 through 6); 2) seven (7) Non-Affiliated Directors elected by the WECC Members as a whole (which may include the Chief Executive Officer), and 3) one Mexican Director elected according to Section 6.2.2. As indicated in Section 6.2.1, if there is no Non-affiliated Director whose background and experience would provide the Board expertise on Canadian interests, then the Board size would be increased by one more Director elected by Class 6.

6.2.1 Canadian Interests. For purposes of providing fair and adequate representation of Canadian Interests in numbers that are approximately proportionate to the contribution of net energy for load in that portion of the Western Interconnection located in Canada, the Canadian Delegation shall constitute Class 6 and shall elect four (4) Canadian Directors, provided that at least one of these Canadian Directors must be affiliated with each of Member Classes 1, 3, and 5. Members of the Canadian Delegation shall vote for Directors in this Class 6 and shall not vote in other Member Class elections. In the initial election of these four Class 6 Directors, one shall have a term of four years, one shall have a term of three years, one shall have a term of two years, and one shall have a term of one year. Thereafter all Canadian Directors will serve a term of three years. Class 6 will also elect a fifth Canadian Director if, following the election of Non-Affiliated Directors at the

Annual Meeting, there is no Non-Affiliated Director qualified by virtue of background and experience in Canadian industry or government to provide Board expertise on Canadian interests. This fifth Canadian Director shall serve until the earlier of: 1) the end of a three-year term (provided that this provision will remain in effect and may continue to cause the election of an additional Director); or 2) the election by the Members of a Non-Affiliated Director with the background and experience described in this Section.

6.2.2 Mexican Interests. Whenever there are at least two (2) Members whose head offices and principal place of business are in Mexico or there is one such Member that operates a portion of the Western Interconnection and has signed the Reliability Management System agreement or has agreed to abide by any successor standards compliance system and no person has been elected to the Board by the Classes or Members whose experience or affiliation reflects Mexican interests, the number of Class Member Directors will be expanded by one (1) and the additional Member Class Director will be elected by the Mexican Delegation. This Mexican Director will serve until the earlier of: 1) the end of a three-year term (provided that this provision will remain in effect and may continue to cause the election of an additional Director); or 2) the election by the Members or a Member Class of a person with the experience or affiliation described in this Section.

6.3 Term of Office.

Each Director will hold office for three (3) years. For Directors elected at the Annual Membership Meeting, each three (3) year term shall commence upon the adjournment of the portion of the Annual Member Meeting provided for in Section 5.3, in which all Members are counted for purposes of determining a quorum. Similarly, the three year terms of outgoing Directors shall end upon the adjournment of that portion of the Annual Member Meeting in which all Members are counted for purposes of determining a quorum, whether that results in a longer or shorter term than exactly three years.

6.4 Selection and Compensation of Member Class Directors.

6.4.1 Selection of Member Class Directors. With the exception of Class 7, each Member Class shall be eligible to elect Member Class Directors. Member Class Directors will be elected by Members of their respective Classes of Membership. Each Member Class eligible to elect Member Class Directors may develop its own list of Director candidates or it may ask the Governance and Nominating Committee to develop a list of candidates. If the Governance Nominating Committee is used, it will select at least two (2) candidates for each vacancy for Member Class Director. In addition, in identifying candidates for Member Class Director positions, the Governance and Nominating Committee will seek to produce a slate of candidates who, together with the Directors from all Member Classes standing for election and continuing in office, will reflect the diversity of regional interests and characteristics within the Western Interconnection. The proposed slate of candidates will be mailed to the Members of the Class at least sixty (60) days before each Member Class Meeting at which the elections are to be held. Additional candidates may be added to the slate upon the

submittal of a nomination to the Chief Executive Officer signed by three (3) Members of the Class, or ten percent (10%) of the total number of Members of the Class, whichever is greater. The Chief Executive Officer must receive such nominations at least thirty (30) days before the Member Class Meeting. All candidates identified by the Class (as provided above) or by the Governance and Nominating Committee will be submitted to the Class for election at the Member Class Meeting. Candidates will provide reasonable background information regarding their qualifications and a disclosure statement regarding any affiliations with Electric Line of Business Entities in the Western Interconnection to the Members before each election. The Director candidate(s) receiving the highest number of votes cast by Members of the Class will be elected to the position of Director.

- 6.4.2 Member Class Director Qualifications. Member Classes eligible to elect Member Class Directors may elect any person as a Member Class Director, provided that no Member or group of Affiliated Members may have more than one Director associated with them. Nothing in this Section regarding the election of Directors by Classes of Members is intended to limit, qualify or alter in any manner the fiduciary obligation of Directors to the WECC set forth in Section 6.10.1. A Member Class Director shall notify all Members of the Class from which the Director was elected of any significant change in employment or other significant change in circumstances relevant to the Director's qualifications. Such notice shall be provided in writing as soon as possible and not later than sixty (60) days following the change.
- 6.4.3 Minimum Number of Class Members. Each Class eligible to elect Member Class Directors must have at least four (4) Members to be qualified to nominate and elect representatives to the Board of Directors. If a Class eligible to elect Member Class Directors contains less than four (4) members, then the Director positions for that Class will remain vacant until the first Annual Meeting at which the Class has the minimum number of members, at which time two of the vacant positions will be filled by election to three year terms and two by election to two year terms. If a Class eligible to elect Member Class Directors falls below the minimum number of members after having elected Directors, such Directors will continue to serve out their terms. However, upon expiration of their terms, the Director positions will remain vacant until such time as the Class contains sufficient members.
- 6.4.4 Member Class Director Compensation. Member Class Directors will not be compensated for their service by the WECC. The WECC will reimburse Member Class Directors for reasonable and actual out-of-pocket expenses (such as travel and lodging) that are not subject to reimbursement from any Member or other source.

6.5 Selection and Compensation of Non-Affiliated Directors.

- 6.5.1 Non-Affiliated Director Qualifications.

6.5.1.1 Non-Affiliation. The Non-Affiliated Directors of the Board may not be affiliated with any Entity that is a Member of the WECC or is eligible for membership in Classes 1 through 3 of the WECC, provided that status as a residential electricity customer will not disqualify a person from sitting as a Director. A candidate will not be qualified to serve as a Director if the candidate, or the spouse or a minor child of the candidate, derives any of his or her annual income from a Member of WECC, an Entity that is eligible for membership in Classes 1 through 3, or a bulk power user in the Western Interconnection. The WECC shall maintain a list of such Members and Entities which shall be updated periodically. Non-Affiliated Directors, candidates and others shall be entitled to rely upon the list to determine compliance with these requirements.

6.5.1.1.1 Notwithstanding the provisions of Section 6.5.1.1, a candidate for Non-Affiliated Director will not be disqualified for owning shares in a mutual fund that owns an interest in a Member or an Affiliate of a Member as long as the mutual fund does not specialize exclusively or predominantly in the energy sector. The disqualification standards described in Section 6.5.1.1 will not disqualify a candidate who is receiving payments from a pension plan of a Member or an Affiliate of a Member in a form other than securities of such Member or Affiliate and the pension plan payments bear no relationship to the economic performance of the Member or Affiliate.

6.5.1.1.2 The disqualification standards described in Section 6.5.1.1 will not apply to disqualify a candidate solely by virtue of an employment or contractual relationship with a state that has one or more agencies that are eligible to be Members of Class 5 of WECC, provided that:

1. In the case of a candidate's employment relationship, the employer is not a member of WECC;
2. In the case of a candidate's contractual relationship with a state agency, no member or employee of the state agency is a member of the WECC Board;
3. In the case of a candidate's employment relationship with a contractor to a state agency, no member or employee of the state agency is a member of the WECC Board; and
4. In the case of a candidate's employment or contractual relationship with a state agency which is a WECC Member or employs a WECC Board member, if the Governance and Nominating Committee determines that

the candidate's employment duties do not include significant work for or representation of that state agency.

6.5.1.1.3 Notwithstanding the provisions of this Section 6.5.1.1, a candidate for Non-Affiliated Director will not be disqualified for being affiliated with an organization that represents a substantial number of end users or a substantial number of persons interested in the impacts of electric systems on the public interest or the environment.

6.5.1.2 Expertise. The Governance and Nominating Committee will nominate Non-Affiliated Director candidates with the objective of having at least one Non-Affiliated Director with expertise in electric transmission operations and planning. The Governance and Nominating Committee will also have the objective of nominating persons with: 1) experience in corporate leadership at the senior management or board of directors level; 2) leadership experience in law, finance, economics, accounting, engineering, regulation, natural resources or commercial commodity markets and associated risk management; 3) experience representing a substantial number of end users or a substantial number of persons interested in the impacts of electric systems on the public or the environment; 4) a well-developed understanding of the distinct operational, resource, political, and interest-based characteristics of various regions within the Western Interconnection; and 5) a well-developed understanding of Canadian power systems or Canadian regulatory issues.

6.5.2 Selection of Non-Affiliated Directors.

6.5.2.1 Selection of Non-Affiliated Directors. After the initial election of Non-Affiliated Directors, the Governance and Nominating Committee will make nominations. Before the end of each Non-Affiliated Director's term, the Governance and Nominating Committee may select an independent search firm to provide the Governance and Nominating Committee with a list of qualified candidates for each vacant position. Incumbent Directors, if qualified and willing to serve, may be considered for nomination by the Governance and Nominating Committee. The Governance and Nominating Committee will consider each candidate for Non-Affiliated Director to determine whether that candidate is qualified to stand for election to the Board. From the list of candidates accepted by the Governance and Nominating Committee to stand for election, the Governance and Nominating Committee will select a slate of candidates for the vacant Non-Affiliated Director positions. The Governance and Nominating Committee's slate of candidates will be e-mailed to the Members no later than sixty (60) days prior to the Annual Meeting. Additional candidates may be added to the slate upon the submittal of a nomination to the Chief Executive Officer signed by three (3) Members of any Class, or ten percent

(10%) of the total number of Members of any Class, whichever is greater. The Chief Executive Officer must receive such nomination at least thirty (30) days before the Annual Meeting. The Chief Executive Officer will place such nominations before the Members for possible election unless he or she determines in writing that a proposed nominee does not meet the criteria for eligibility to be a Non-Affiliated Director in these Bylaws.

6.5.2.2 Disclosure Statement. Candidates for Non-Affiliated Director will provide to the Governance and Nominating Committee and, if nominated, to the Members, a statement describing their expertise and disclosing any present or past affiliations, relationships or associations relevant to their qualification to serve as a Non-Affiliated Director. A candidate for Non-Affiliated Director will be required to disclose any economic interest in any Member of the WECC or any Entity eligible for membership in Classes 1 through 3 of the WECC held by themselves, their spouse or their children as well as any such interest known to the candidate held by the candidate's parents, siblings, aunts, uncles, or first cousins.

6.5.2.3 Election. The number of Non-Affiliated Director candidate(s) corresponding to the number of vacant positions receiving the highest number of votes cast at the Annual Meetings of the Members will be elected to the position of Non-Affiliated Director.

6.5.3 Non-Affiliated Director Compensation. The Non-Affiliated Directors will receive a level of compensation as determined from time to time by the Member Class Directors.

6.6 Tie Vote.

In the event of an inability to select Directors due to a tie vote, a second vote will be taken to determine the placement of the tied candidates. The second vote will be limited to the tied candidates, with the candidate(s) receiving the highest number of votes being selected. If another tie vote results, additional votes will be taken (after the elimination of any candidate receiving fewer votes than the tied candidates) until a candidate can be selected. If a tie cannot be resolved pursuant to the foregoing procedures, it will be resolved by lot. For the purpose of such second (and subsequent) votes, absentee ballots shall allow voters to list all candidates in order of preference such that absentee ballots may be counted by striking those candidates not participating in the run-off. Absentee ballots that express an order of preference for fewer than all candidates will be counted if the ballot demonstrates clear preference among the runoff candidates.

6.7 Removal of Directors.

The Members or the Board may remove a Director before completion of the Director's term of office pursuant to the following provisions.

6.7.1 Removal by the Members. Member Class Directors may be removed at will by a vote of at least sixty percent (60%) of the Members of the Class that elected that Director. Non-Affiliated Directors may be removed only for gross negligence,

violation of local, state, provincial, or federal laws, gross misconduct, or failure to meet the fiduciary obligations of Directors. Removal of a Non-Affiliated Director will be by a vote of at least fifty percent (50%) of the entire WECC membership, including a vote of at least fifty percent (50%) of each Class.

6.7.2 Removal by the Board. The Board may remove any Director for gross negligence, violation of local, state, provincial, or federal laws, gross misconduct, or failure to meet the fiduciary obligations of Directors. Such removal will only occur upon the affirmative vote of not less than twenty-one (21) Directors.

6.8 Resignation.

Any Director may resign from his or her office or position at any time by written notice to the Board by delivery to the Chair. Pursuant to Sections 4.1 and 4.8.2, a Director employed by a withdrawing or expelled Member will be deemed to have resigned. The acceptance of a resignation will not be required to make it effective.

6.9 Procedures for Filling Vacant Director Positions.

6.9.1 Member Class Director Vacancies. If the position of any Director elected by a Member Class becomes vacant, the remaining Directors elected by the same Class will promptly choose a successor to that position who will serve until the next Annual Meeting.

6.9.2 Non-Affiliated Director Vacancies. If the position of any Non-Affiliated Director becomes vacant, the remaining Directors may charge the Governance and Nominating Committee with selecting a successor immediately. The Governance and Nominating Committee will follow the requirements set out in Section 6.5.2.1 in its selection of any successor Non-Affiliated Director. Alternatively, if less than one (1) year remains in the term of that Director, the remaining Directors may choose to leave the position vacant for the remainder of the term.

6.9.3 Holdover to Cure Procedural Vacancies. Whenever a vacancy in any Member Class or Non-Affiliated Director position would be created due to expiration of a Director's term combined with a lack of a quorum or other procedural inability to elect a new Director, the expired Director's term shall be extended until such time as a proper election of a new Director can be conducted.

6.10 Duties of Directors.

The Directors will have the following duties:

6.10.1 Fiduciary Obligation to the WECC: All Directors, including Member Class Directors, will have a fiduciary obligation to the WECC consistent with the requirements for Directors of Utah non-profit corporations. Notwithstanding any affiliation with individual Members or Class of membership, Members of the Board will at all times act in conformance with such requirements, these Bylaws and the Standards of Conduct set forth in Appendix A.

6.10.2 Preserve Non-Affiliated Status: Throughout their terms, Non-Affiliated Directors will have a duty to avoid any affiliation that is inconsistent with the standards for Non-Affiliated Directors in Section 6.5.1.1 of these Bylaws. If a Non-Affiliated Director becomes aware of any such affiliation, he/she must either resign or eliminate the affiliation (e.g., dispose of securities) within six (6) months.

6.11 Powers of Directors.

The management of all the property and affairs of the WECC will be vested in the Board of Directors. The Board will hold annual elections to select a Board Chair and to fill any other Board officer positions that may be created by the Board or required by applicable law. The Board may exercise all the powers of the WECC and do all lawful acts and things (including the adoption of such rules and regulations for the conduct of its meetings, the exercise of its powers and the management of the WECC) as are consistent with these Bylaws and the Articles of Incorporation.

6.12 Delegation of Board Authority.

The Board may delegate to the Chief Executive Officer or to any Board Committee formed pursuant to Section 7.7 any or all of its powers and authority except: 1) any power which it may not delegate pursuant to applicable Utah law; 2) the power to adopt any reliability standard; 3) the power to determine when to exercise the Backstop Authority of the WECC; 4) the power to approve budgets; 5) the power to form committees; 6) the power to amend the Bylaws; 7) the power to elect the Chair and other officers of the Board; 8) the power to enter into contracts obligating the WECC to pay an amount exceeding \$50,000; and 9) the power to hire, fire or set the terms of employment of the Chief Executive Officer. The Board may also delegate to any Member committee the power to make specific decisions, subject to the right of any Member to appeal any of such decisions to the Board within 30 days of the committee vote on the decision by writing a letter to the Chief Executive Officer that describes in reasonable detail the grounds for appeal, and requests that the appeal be considered by the Board at its next regularly scheduled meeting, subject to applicable notice requirements. Delegation will be by express decision and will require the affirmative vote of not less than twenty (20) Directors. Any Director may call for a vote to rescind such delegation at any time and such delegation will be rescinded if eight (8) or more Directors vote to do so.

6.12.1 Notice to Members. Within seven (7) days of any decision delegated pursuant to Section 6.12, except for routine decisions of the Chief Executive Officer, Members will be notified of the decision by electronic mail, posting on the WECC Web site and any other means determined appropriate by the Board. Routine decisions of the Chief Executive Officer will be noticed in periodic reports to the Board and Members as determined by the Board, which will be sent to Members by electronic mail and posted on the WECC Web site.

6.12.2 Board Review of Delegated Decisions. Decisions delegated pursuant to Section 6.12 will be reviewed by the Board at the request of any Director, provided such request is lodged with the Secretary within thirty (30) days of the notice. Whenever it determines that a matter requires an urgent decision, the Board may shorten the

deadline for requests for review, provided that: 1) the notice and opportunity for review will be reasonable under the circumstances; and 2) notices to Members will always contain clear notification of the procedures and deadlines for Board review. A request for review of a decision will stay the effect of the decision pending review unless the Board in making the delegation expressly determines otherwise.

7. Procedures for Board Decisions.

7.1 Quorum.

No business will be conducted by the Board unless at least seventeen (17) Directors are present, including at least three (3) Non-Affiliated Directors and at least one Director elected by each of not less than four (4) of the Member Classes; provided, that if all Member Class Director positions for a Class are vacant, or if a Class is not entitled to elect Member Class Directors, then no Director elected by such Class will be required to be present for the Board to conduct business.

7.2 Majority Vote.

A decision of the Board will require an affirmative vote of a majority of Directors present. Directors may not vote by proxy or by absentee ballot, but Directors may participate in Board meetings by telephone as provided in Section 7.3 of these Bylaws.

7.3 Attendance at Board Meetings by Teleconference.

Any or all of the WECC's Directors may participate in any meeting of the Board by telephone conference or any other means of communication that enable all Directors participating in the meeting to simultaneously hear one another. Every Director participating in a meeting in the manner described in the preceding sentence will be deemed to be present in person at that meeting.

7.4 Board Action by Unanimous Consent.

7.4.1 Action Without a Meeting. Unless the WECC's Articles of Incorporation or applicable law provides otherwise, action required or permitted to be taken at a meeting of the Board may be taken without a meeting through one or more written consents describing the action taken. Any Board action taken by written consent must be signed by all Directors in office at the time the action is taken. Such actions must be noticed to Members in accordance with Section 7.5 and Members must be given an opportunity to comment prior to the Board taking such actions through electronic mail, comments on the Web site or other appropriate means. The required notice of such meeting may generally describe the arrangements (rather than the place) for the holding of the meeting. All other provisions herein contained or referred to will apply to such meeting as though it were physically held at a single place. All Board actions by written consent must be filed with the WECC's Board meeting minutes. Action taken under this Section is effective when the last Director signs the consent, unless the consent specifies an earlier or later effective date. Any action by written consent has the same effect as a meeting vote and may be described as such in any document.

7.4.2 **Waiver of Procedures.** For any specific action at any noticed meeting of the Board, and under exigent or unusual circumstances, the Board by unanimous vote of those present may waive any procedural requirement applicable to Board decision-making, including any requirement for notice of a specific potential action, except for the following: 1) the requirement for notice of the time and place of the meeting pursuant to Section 7.5; 2) the quorum and voting requirements of Sections 7.1 and 7.2; and 3) any non-procedural limitation on the power of the Board to make a decision, including, but not limited to, those restrictions in Sections 6.12 (limiting the power to delegate) and 13.1 (limiting the power to amend the Bylaws). Whenever such action is taken, a statement describing the action, the exigent or unusual circumstances, the specific procedure waived, the basis for the waiver and the votes of all Directors present shall be posted on the web site and communicated in writing or by email to all Members within five (5) days.

7.5 Notice of Board Meetings.

- 7.5.1 **Regular Meetings.** Except as set forth in Section 7.5.2 regarding urgent business, all regular business of the Board will occur at the Board meetings, at least twenty-one (21) days' advance notice of which has been provided by the Chief Executive Officer to all Directors and all Members. Notice will include an agenda that will identify those matters on which a vote will be taken at the meeting. The foregoing requirement shall not preclude the Board from taking an action that is different from the specific proposed action identified in the agenda, as long as the relevant subject matter has been reasonably identified in the agenda. The Directors will establish a regular meeting schedule that will be made available to the Members. The schedule will include not less than two meetings of the Board annually.
- 7.5.2 **Special Meetings.** Whenever the Chair of the Board or any three (3) Directors find that there is urgent business requiring Board action before the next regular Board meeting, a special meeting of the Board may be called. Such special meetings will be held upon as much written notice to each Board Member and all Members as is possible under the circumstances, which will not be less than three (3) days. However, this notice of special meetings may be waived if: 1) the waiver is by a writing signed by a quorum of Board members; and 2) as much notice of the meeting as practicable has been given to WECC Members via e-mail and posting on the WECC Web site.
- 7.5.3 **Public and Web Site Notice.** Public notice of each meeting of the Board will be placed on WECC's Web site at least ten (10) days before such meeting (or such lesser time as provided pursuant to Section 7.5.2). In addition, the Chief Executive Officer will provide notice of each meeting by first-class mail, facsimile or electronic mail to each member of the public who so requests and who has provided appropriate information regarding delivery of notice.

7.6 Open Meetings.

Except as provided in Section 7.6.1, all regular and special meetings of the Board will be open to observation by any Member and any member of the public.

7.6.1 Closed Session. Notwithstanding the provisions of Section 7.6, upon an affirmative vote of two-thirds (2/3) of the Directors present, the Board may meet in closed session: 1) to consider the employment, evaluation of performance, or dismissal of an employee of WECC and to deliberate regarding decisions the Board may be called upon to make regarding the nomination, qualification, appointment, or removal of a member of the Board of Directors; 2) to discuss pending or proposed litigation and to receive confidential attorney-client communications from legal counsel; and 3) to receive and discuss any information that is privileged, trade secret, cybersecurity, critical energy infrastructure information (as defined by the FERC), protected from public disclosure by law or that the Board determines should be confidential in order to protect a legitimate public interest.

7.6.1.1 Attendance by an Affected Director. Closed sessions of the Board may not be attended by a Director under the following circumstances: 1) where the qualifications or performance of the Director or the Director's spouse or children are being discussed; 2) where the Director is employed by an entity that is or is likely to become a party to the litigation being discussed; and 3) where the Director or the Board determines that the Director would have a serious and substantial conflict of interest by becoming privy to confidential attorney-client or trade secret information that is to be presented to the Board in closed session.

7.6.1.2 Announcement of Closed Session. Before adjourning into closed session, the Chair of the Board will announce the purpose of the closed session in a manner that provides the public an understanding of the general subject matter to be discussed but which does not reveal sensitive or personal information. The Board will not discuss additional items outside the scope of this description.

7.6.1.3 Confidentiality of Closed Session. All Directors and others present will maintain the confidentiality of discussions and decisions made in closed session. The Board will appoint a secretary for closed session to keep a minute book for the purpose of recording the subject matter discussed in closed session and any actions taken in closed session.

7.7 Board Committees.

7.7.1 Governance and Nominating Committee. The Chair will appoint a Governance and Nominating Committee that shall: 1) return slates of candidates as required by these Bylaws; 2) oversee implementation and amendment of these Bylaws; and 3) address such other issues pertinent to Governance as the Board may choose to delegate to it. The Governance and Nominating Committee will consist of one Director from each

of the six Member Classes eligible to elect such Directors and one Non-Affiliated Director. The Chair will designate one of the appointed Directors to be the Chair of the Governance and Nominating Committee.

7.7.2 Other Board Committees. The Board may appoint such Board committees as it deems necessary from time to time to carry out its business affairs. In appointing such committees, the Board will specify their purpose, membership, voting, notice and meeting procedures and such other direction as the Board may deem appropriate. The Board may appoint one or more Members or other persons to participate in Board committees as full voting members or as non-voting advisory members.

7.7.3 Standards of Conduct for Board Committee Members. Members of Board committees shall comply with the Board Member Standards of Conduct set forth in Appendix A.

8. Member Committees.

8.1 Purpose.

The WECC will have committees composed of its Members to advise and make recommendations to the Board. Such committees will include both standing committees required by these Bylaws and such other committees as the Board may choose to create.

8.2 Standing Committees.

WECC will have the following standing committees:

8.2.1 Planning Coordination Committee. This committee will advise and make recommendations to the Board on all matters within the jurisdiction of the WECC pertaining to maintaining reliability through evaluating generation and load balance and the adequacy of the physical infrastructure of interconnected bulk electric systems within the Western Interconnection.

8.2.2 Operating Committee. This committee will advise and make recommendations to the Board on all matters within the jurisdiction of the WECC pertaining to maintaining reliability through the operation and security of the interconnected bulk western electric systems in the Western Interconnection.

8.2.3 Market Interface Committee. This committee will advise and make recommendations to the Board on the development of consistent Market Interface practices and compatible commercial practices within the Western Interconnection. It will consider matters pertaining to the impact of WECC's reliability standards, practices, and procedures on the commercial electricity market in the Western Interconnection, and facilitate analysis of the impact of electricity market practices on electric system reliability.

8.3 Other Committees.

The Board may create such other committees as it may desire from time to time. The Board will specify the functions, duties and responsibilities of any such committee at the time of its creation. The Board will also specify the membership rules, quorum requirements, voting levels and meeting and notice requirements at the time of creation. Any changes in the membership rules, quorum requirements, or voting levels of a committee, once established by the Board, will require a seventy-five percent (75%) vote of the Board to alter. The specific function or sunset date for a committee will be designated by the Board at the time of the committee's creation. The committee will terminate its activities upon the completion of its function or the expiration of the date set by the Board.

8.4 Committee Assessment and Streamlining.

8.4.1 **Assessment of Standing Committee Activities.** No later than three (3) years following the Organizing Meeting of the WECC, the Board of Directors will conduct a thorough review of the activities of each of the WECC's standing committees (as defined in Section 8.2 of these Bylaws) to assess whether they are effectively furthering the WECC's purposes in a manner that is consistent with: 1) the provisions of Section 2.3 of these Bylaws; and 2) the then-current state and the expected future evolution of the electric power industry within the Western Interconnection. The Board's review will assess whether there are any aspects of the standing committees' functions or procedures that impede development of WECC standards, obligations, processes, and decisions that are timely, fair, effective, and reasonable in view of the commercial, legal, regulatory, and economic needs and objectives of the affected Members. The Board will propose to the membership, at the first annual Member meeting held after completion of the review required by this Section 8.4.1, any changes to standing committee structures, functions, or procedures that the Board determines are warranted by its review.

8.4.2 Dissolution of Additional Member Groups.

8.4.2.1 Except as otherwise provided in Section 8.4.2.2 below, no later than three (3) years following the Organizing Meeting of the WECC, all WECC Member groups other than the WECC's standing committees (as defined in Section 8.2 of these Bylaws) will dissolve automatically. The Member groups to automatically dissolve under this Section 8.4.2.1 will include, without limitation, all WECC Member subcommittees, work groups, and task forces. There will thereafter be no committees, subcommittees, or other groups of WECC Members other than: 1) the WECC's standing committees (as defined in Section 8.2 of these Bylaws); and 2) any established by the Board after it determines that the committee, subcommittee, or other group, when established, will satisfy the terms of assessment for standing committees set forth in Section 8.4.1 above.

8.4.2.2 If, at the time specified for dissolution of Member groups that are not standing committees in accordance with Section 8.4.2.1 above, FERC-

approved Regional Transmission organizations carrying on commercial operations within the Western Interconnection do not cover at least one-half the load in the Western Interconnection, the Board may delay the implementation of the actions specified in Section 8.4.2.1 until no later than six (6) months after FERC-approved regional transmission organizations covering at least one-half the load within the Western Interconnection are in place and carrying on commercial operations.

8.5 Procedures for Committee Decision-Making.

- 8.5.1 Reports to Board of Directors. Action by a committee will be in the form of a recommendation for Board action except in those instances in which the Board has, by resolution, specifically delegated to a committee the power to take action subject to an appeal to the Board by any Member. The recommendation of a committee must be forwarded to the Board for its action along with any minority or dissenting reports filed with the committee Chair or Vice-Chair.
- 8.5.2 Subcommittees, Task Forces and Ad Hoc Groups. Any Board or member committee may create such subcommittees, task forces or other ad hoc groups ("subcommittee") as it deems appropriate to carry out the committee's responsibilities consistent with these Bylaws and the direction of the Board. The composition, responsibilities and procedures of such groups shall be specified by the committee as appropriate; provided, however that: 1) the committee may only delegate to such subcommittee responsibilities that are within the scope of the committee's responsibilities pursuant to these Bylaws and direction of the Board; and 2) the subcommittee may only make recommendations to the committee. A committee may create a subcommittee without prior approval of the Board; provided, however, that the committee shall promptly inform the Board in writing and at the next Board meeting regarding the creation of the subcommittee. The notification to the Board shall include a charter for the subcommittee that describes how members of the subcommittee will be selected, the duties of the subcommittee, and whether the committee has established a sunset date for review of (1) the need for the subcommittee and (2) the charter of the subcommittee.
- 8.5.3 Committee Officers. The Board will appoint the Chair and Vice-Chair of each committee. The Committee Chair or Vice-Chair will preside over all meetings of the committee and will report recommendations of the committee to the Board of Directors. The Chair and Vice-Chair will be responsible for informing the Board regarding minority opinions and other information required by the Board along with overall committee recommendations. Whenever the committee elects to form a subcommittee to represent regions or address specific tasks, the Chair (or in the absence of the Chair, the Vice-Chair) will have the power to appoint the members of such subcommittee from both members of the committees and non-members. Upon resignation of the Committee Chair, the Vice Chair shall serve as Chair until the Board appoints a replacement. Upon resignation of the Vice Chair, the Chair may appoint a temporary Vice Chair to serve until the Board appoints a replacement. Upon resignation of both the Chair and Vice Chair, the Chair of the Board may

appoint one or more temporary replacements to serve until the Board appoints permanent replacements.

8.5.4 Committee Membership. Except as provided in Section 8.5.4.1, any Member of WECC may designate one representative as its committee member to any standing committee or other committee. The WECC Member will have one vote at any committee meeting through that committee member. Any number of other persons may attend a committee meeting, but such persons will have no right to vote without a prior designation of representation by a WECC Member, except that interested stakeholders may, under Section 8.6, vote on proposed Reliability Standards or revisions to Reliability Standards.

8.5.4.1 Dual Representation for Functionally-Separated Members. A Member which has distinct and functionally-separated interests as both a transmission provider and a transmission customer may designate two representatives as committee members to any standing committee, one to represent each functionally separate interest. Each such committee member will have one vote. The privilege granted by this Section is subject to revocation by the Board on a case-by-case basis or generally whenever the Board finds, upon petition from any Member or its own motion, that such dual representation creates unfairness or imbalance within a committee.

8.5.5 Committee Voting and Classes.

8.5.5.1 Classes. For purposes of voting, committees will have three classes of membership:

8.5.5.1.1 Transmission Provider Members or Participating Stakeholders;

8.5.5.1.2 Transmission Customer Members or Participating Stakeholders;
and

8.5.5.1.3 States and Provincial Members (Member Class 5).

8.5.5.2 Voting. Except as provided in Section 4.5.2, each committee member and Participating Stakeholder (if any) will have one vote. In order for a recommendation to be made to the Board, such recommendation must receive a simple majority vote of both: 1) committee members and Participating Stakeholders (if any) present and voting from the Transmission Provider Class; and 2) committee members and Participating Stakeholders (if any) present and voting from Transmission Customer Class. Committees will adopt voting and record-keeping procedures to ensure that committee voting is conducted consistent with these Bylaws. This requirement will also apply where decision making power has been delegated to a committee pursuant to Section 6.12.

8.5.5.2.1 State and Provincial Votes. The position of the state and provincial Class committee members must be recorded, but the failure of a proposed recommendation or decision to obtain a simple majority vote of the state and provincial committee members will not prevent the recommendation or decision from being posted for due process comment or sent to the Board of Directors.

8.5.6 Notice and Review of Committee Recommendations and Decisions (Due Process). Committee recommendations or decisions delegated to a committee pursuant to Section 6.12 will be subject to the due process provisions of this Section. Committee recommendations or decisions related to the development or approval of Reliability Standards will be subject to the provisions of this Section 8.5.6 and Section 8.6. Following a committee's development of a proposed recommendation or decision, the committee will post the proposed recommendation or decision on the WECC Web site for review and comment by other WECC Members, interested stakeholders (if the recommendation or decision concerns a Reliability Standard or revision), and other interested parties. The committee will provide all Members and Participating Stakeholders (if the recommendation or decision concerns a Reliability Standard or revision) e-mail notification of the posting and will allow at least thirty (30) days for comment on the proposal. The committee will consider all such additional input before reaching its final recommendation or decision. If the committee's recommendation or decision changes significantly as a result of comment received, the committee will post the revised recommendation or decision on the Web site, provide e-mail notification to Members and Participating Stakeholders (if the recommendation or decision concerns a Reliability Standard or revision), and provide no less than ten (10) days for additional comment before reaching its final recommendation or decision. Upon reaching its final recommendation or decision, the committee will forward it to the Board. Whenever it determines that a matter requires an urgent decision, the Board may shorten any time period set forth in this Section, provided that: 1) notice and opportunity for comment on recommendations or decisions will be reasonable under the circumstances; and 2) notices to Members will always contain clear notification of the procedures and deadlines for comment.

8.6 Procedures for Developing and Voting on Reliability Standards.

8.6.1 Rights and Obligations of WECC Members and Participating Stakeholders. All WECC Members and interested stakeholders are entitled to participate in the development of and to vote on Reliability Standards or revisions to Reliability Standards, subject to any applicable obligations, limitations and conditions set forth in these Bylaws, and in accordance with the WECC Reliability Standards Development Procedures.

8.6.1.1 Participation. The right to participate in Reliability Standards development and voting includes the right to request the development or revision of a Reliability Standard, the right to receive notice of, attend and participate in

related WECC committee and subcommittee discussions, the right to review information relevant to a Reliability Standard or revision, the right to provide written comments on a proposed Reliability Standard or revision, the right to participate in committee or subcommittee voting on a Reliability Standard or revision and the right to file an appeal requesting review of any committee or subcommittee decision on a Reliability Standard or revision.

8.6.1.2 Voting. The procedures and conditions for voting by WECC Members and Participating Stakeholders are set forth in the Reliability Standards Development Procedures and in Section 8.5.5 and 8.5.5.2 of these Bylaws. A Participating Stakeholder may only vote on a proposed Reliability Standard or revision if they have applied for and been granted Participating Stakeholder status in accordance with Section 8.6.2 below. A Participating Stakeholder is only entitled to vote on Reliability Standards and revisions. A Participating Stakeholder is not entitled to vote in any other WECC committee balloting process or in elections for WECC Directors.

8.6.2 Participating Stakeholder Application Process. Any person or entity that is an interested stakeholder may apply to WECC for Participating Stakeholder status and, upon WECC's acceptance of such application, acquire the participation and voting rights set forth above in Section 8.6.1. WECC staff, under the direction of the CEO, will process applications and make the initial determination of eligibility for Participating Stakeholder status. Denial of Participating Stakeholder status may be appealed to the WECC Governance and Nominating Committee and, if denied by the Governance and Nominating Committee, to the WECC Board. A person or entity's Participating Stakeholder status will be maintained so long as the Participating Stakeholder continues to meet the requirements set forth in Section 3.21 and participates in at least one WECC meeting per year at which a Reliability Standard or revision is discussed and/or voted on. In the event a person or entity's Participating Stakeholder status lapses due to failure to meet the above minimum participation requirement, the person or entity may restore Participating Stakeholder status by re-applying for Participating Stakeholder status and attending a WECC meeting at which a Reliability Standard is discussed and/or voted on.

8.7 Notice of Committee Meetings.

8.7.1 Standing Committees. The committee Chair, with the assistance of the Chief Executive Officer, will ensure that not less than ten (10) days' notice of all standing committee meetings is posted on the WECC Web site and is also provided to: 1) members of the committee; 2) Participating Stakeholders (if the meeting concerns development or approval of a Reliability Standard or revision); and 3) any WECC Member or member of the public requesting notice. A committee may take up any matter at a duly noticed meeting including matters not expressly identified in the notice; provided, however, that a final recommendation to the Board must be made in accordance with Section 8.5.6.

8.7.2 Other Committees. Notice of other committee meetings will be provided in the manner adopted for such notice by the affected Members and in accordance with the requirements of Section 8.6.1.

8.8 Open Meetings.

All committee meetings of the WECC (including Board committees) will be open to any WECC Member and for observation by any member of the public, except as set forth in policies on closed sessions that the Board may adopt for the purpose of preventing public disclosure of information that the Board might consider in closed session pursuant to Section 7.6.1.

9. The Chief Executive Officer, Officers, and Employees.

9.1 Designation of Officers and Terms of Office.

The WECC will have a Chief Executive Officer, a Secretary, and any other officers specified by the Board from time to time. The Chief Executive Officer will also hold the title of President of the WECC if applicable law requires the WECC to have a President. Each officer will be appointed by the Board and will serve for the term of office specified in the Board action appointing the officer and until his or her successor is appointed. Any two or more offices may be held by the same person except the offices of Chief Executive Officer and Secretary.

9.2 Chief Executive Officer Qualifications.

The Chief Executive Officer will be a person with senior management level experience and knowledge of bulk power electric transmission systems reliability, planning and operations.

9.3 Standards Applicable to All Employees.

A person may not be an officer or employee of WECC if: 1) the person is also the employee of or has a contractual relationship with any Entity, or any Affiliate of any Entity, that is eligible for membership in the WECC; or 2) the person has a financial interest that, in the judgment of the Board or the Chief Executive Officer, creates the fact or appearance of bias, undue influence or lack of objectivity regarding any action or decision of the WECC. The Board will adopt Standards of Conduct for officers and employees setting forth their duty of care, duty of loyalty, duty to avoid conflicts of interest and related matters intended to promote their neutrality, objectivity and professionalism. Upon adoption, such standards shall be attached hereto as Appendix B.

9.3.1 Exemptions from the disqualification criteria found in Section 9.3 are as follows:

9.3.1.1 Status as a residential electricity customer will not disqualify a person from employment with WECC.

9.3.1.2 A candidate for Chief Executive Officer or employee of WECC will not be disqualified for owning shares in a mutual fund because the mutual fund owns an interest in a Member or an Affiliate of a Member.

9.3.1.3 The disqualification standards described in Section 9.3 will not apply to disqualify a candidate who is receiving payments from a pension plan of a Member or an Affiliate of a Member in a form other than securities of such Member or Affiliate if the pension plan payments bear no relationship to the economic performance of the Member or Affiliate.

9.3.2 If an officer or employee receives a gift or inheritance of securities in any Member or Affiliate, he/she must resign or dispose of such securities within six (6) months of the date of receipt. Within six (6) months of the time a new Member is added in which an officer or employee owns securities, the officer or employee will resign or dispose of those securities.

9.4 Employment.

The Chief Executive Officer will be employed by the Board of Directors and will serve at the Board's pleasure. Any contract of employment with a Chief Executive Officer will permit the Board to dismiss the officer with or without cause.

9.5 Chief Executive Officer's Duties.

Subject to the Board's direction, the Chief Executive Officer or his/her designees will have the following duties, among others:

9.5.1 Execute policies at the direction of the Board and be responsible to the Board for the performance of the WECC functions described in Section 2;

9.5.2 Hire and fire staff within the constraints of the annual budget;

9.5.3 Perform administrative duties, such as preparing annual budgets for the approval of the Board, making employment decisions and ensuring conformance with regulatory requirements;

9.5.4 Develop and implement employment policies and standards of conduct; and

9.5.5 Accept or reject membership applications in accordance with the criteria of these Bylaws.

9.6 Secretary's Duties.

9.6.1 Maintain Member and Affiliates Lists. The Secretary will maintain continuously updated lists of all Members and Affiliates.

9.6.2 Maintain Official Records. The Secretary will keep minutes of all WECC Board and Member meetings and will receive and maintain minutes of committee meetings and all other official records of the WECC. Within five (5) business days after any vote taken by Members, the Board, a Class or any committee, the Secretary will provide notice to all Members and Interested Stakeholders (if applicable) of the results of

such a vote through postings on the website, email and/or other means of communication.

9.6.3 Maintain Web Site. The Secretary will oversee the creation, maintenance, and updating of the WECC's Web site and the information published through it.

10. Transmission Service Obligations.

10.1 Non-Discriminatory Transmission Access.

All Members owning, controlling or operating Transmission Facilities, or possessing rights to transmission capacity through contract, will provide interconnection and access to available transmission capacity to all other Members in a non-discriminatory manner through one of the following mechanisms: 1) a Regional Transmission Organization approved by the FERC in accordance with FERC Order 2000 and any successor order(s); 2) submission of an Open Access Tariff to the FERC; or 3) provision of non-discriminatory service in accordance with this Section 10.

10.1.1 Regional Transmission Organizations. A Member that is a Regional Transmission Organization approved by the FERC in accordance with FERC Order 2000 and any successor order(s), or a Member whose transmission capacity is controlled or operated by such a Regional Transmission Organization, will be deemed to be in compliance with Section 10 by virtue of its compliance with FERC Order 2000 and any successor order(s) and is exempt from Sections 10.2 through 10.4. Such a member will use the dispute resolution process specified in the bylaws, contracts, or tariffs of the applicable Regional Transmission Organization or other Local Regional Entity, provided that nothing in these Bylaws will prevent such a Member from using the dispute resolution process set forth in Section 11 where authorized or required by the bylaws, contracts, or tariffs of the applicable Regional Transmission Organization.

10.1.2 Members with Open Access Tariffs Filed with FERC. A Member which is not exempt pursuant to Section 10.1.1, but which has an Open Access Tariff which has been accepted for filing by the FERC, will be deemed to be in compliance with this Section 10 by virtue of its compliance with applicable FERC requirements governing its Open Access Tariff. Such Member is exempt from Sections 10.2 and 10.3; provided, however, that such Member must resolve transmission access disputes with other Member(s) in accordance with Sections 10.4, 10.5.2 and 11 of these Bylaws.

10.1.3 Other Members. Any Member subject to Section 10.1, but not eligible for exemption pursuant to Sections 10.1.1 or 10.1.2, will provide non-discriminatory interconnection and transmission access to other Members in accordance with Sections 10.2 through 10.5 of these Bylaws.

10.1.4 Canadian and Mexican Members. At the request of any Canadian or Mexican Member, the Board may adopt alternative provisions to this Section 10 applicable to the requesting Member provided that: 1) the alternative provisions differ from this

Section 10 to the minimum extent necessary to respect the laws and regulatory authorities governing the requesting Member; and 2) the alternative provisions require the requesting Member to provide interconnection and transmission service to other Members that is substantively equivalent to that required by this Section 10.

10.2 Service to be Provided.

Members described in Section 10.1.3 will provide non-discriminatory interconnection and transmission service to other Members comparable to that which would be required of an entity subject to Sections 210 through 213 of the Federal Power Act. The provision of service may be pursuant to an agreement negotiated between such Members, or, if applicable, pursuant to a service agreement under a tariff filed in accordance with Section 10.3. In no event will these Bylaws require a Member to provide transmission service that FERC is precluded from ordering under Sections 212(g) and 212(h) of the Federal Power Act. However, nothing in these Bylaws will be construed as prohibiting any Member from providing retail wheeling voluntarily or pursuant to a state statute or a lawful decision of a regulatory agency or court of law. Nothing in this section is intended to imply that any non-jurisdictional entity Member is subject to FERC jurisdiction.

10.3 Open Access Tariffs.

Except as provided in Section 10.3.1, Members described in Section 10.1.3 will file an Open Access Tariff or Tariffs consistent with Section 10.2 with the Secretary within sixty (60) days of becoming a Member. Upon the request of any Member, a Member subject to this Section 10.3 will provide a copy of its Open Access Tariff or Tariffs. Additionally, any change in any Open Access Tariff or Tariffs previously filed with the Secretary will be promptly filed with the Secretary after its adoption.

10.3.1 Petition for Exemption. Any Member described in Section 10.1.3 may petition the Board for an exemption from Section 10.3. The Board may grant such petition only if it finds that such Member is unlikely to receive a transmission service request. The granting of such a petition will not relieve the Member from the requirement to provide non-discriminatory access pursuant to Section 10.2 if the Member receives a transmission service request. If a Member has been granted an exemption from the filing of an Open Access Tariff by a Local Regional Entity based on criteria equivalent to this Section, such Member will be exempt from Section 10.3 of these Bylaws without the filing of a petition unless the Board determines otherwise.

10.4 Requests Involving Members of Regional Entities.

If a request for transmission service involves only Members who are also members of the same Local Regional Entity and the tariffs or governing documents of such Local Regional Entity provide for a process for requesting interconnection or transmission service, the process of the Local Regional Entity, as opposed to that set forth in this Section 10, will be followed. To the extent the governing documents of the Local Regional Entity establish different principles regarding the provision of interconnection or transmission service than those of the WECC, the principles of the Local Regional Entity will govern as among members of the Local Regional Entity; provided, however, that Members who are members of Regional Entities who receive requests for interconnection or transmission service from

Members who are not members of the same Local Regional Entity will not be precluded from substantively responding to such requests in a manner consistent with the tariffs or governing documents of such Local Regional Entity, provided that such responses will be subject to the dispute resolution provisions of Section 11.

10.5 Request Process and Dispute Resolution.

Members requesting interconnection or transmission service from Members described in Section 10.1.1 or 10.1.2 will do so in accordance with the applicable tariffs of the Member receiving the request. Members requesting such service from Members described in Section 10.1.3 will do so in accordance with this Section 10.5 in lieu of filing for such service pursuant to Sections 210 through 213 of the Federal Power Act.

10.5.1 Request Process and Interpretation of FERC Policy. Members described in Section 10.1.3 receiving requests from another Member for interconnection or transmission service pursuant to these Bylaws will respond to such requests in an expeditious and good faith manner. The Board may adopt procedural requirements regarding the processing of such requests to the extent it deems necessary and appropriate; provided, however, that the Board may not impose substantive obligations for the provision of interconnection or transmission service that are different from the substantive policies of the FERC applicable to such Members pursuant to Section 10.2. For the general guidance of arbitrators and Members and as it deems necessary, the Board may either request statements of policy from the FERC or adopt its own interpretations of FERC policy which will be subject to appeal to the FERC.

10.5.2 Dispute Resolution. Except as otherwise provided in Section 10.4, Members described in Sections 10.1.2 and 10.1.3, and any Member requesting interconnection or transmission service from such a Member, will resolve disputes regarding such requests in accordance with Section 11.

11. Dispute Resolution.

Except as may be otherwise provided herein, and subject to the conditions set forth in Appendix C, Section A.1, disputes between Members and/or the WECC will be resolved pursuant to the WECC Dispute Resolution Procedures set forth in Appendix C. Matters subject to the jurisdiction of the WECC Compliance Hearing Body are not subject to the procedures in Appendix C.

12. Costs and Finances.

12.1 Funding of Reliability Activities.

12.1.1 U.S. Statutory Funding. The WECC shall fund all activities undertaken pursuant to Section 215 of the Federal Power Act in accordance with the funding provisions and procedures of that law and related FERC regulations and orders. The Board shall approve a budget for such activities in time for submission to the ERO and to the FERC for approval of such funding in accordance with applicable requirements.

12.1.2 International Funding. The WECC shall fund reliability activities undertaken pursuant to any agreements with appropriate Canadian or Mexican authorities in accordance with the provisions of those agreements.

12.1.3 Equitable Allocation of Funding. In adopting budgets for the costs of reliability activities, the Board shall endeavor to achieve an equitable allocation as between funding through Sections 12.1.1 and 12.1.2 based upon the net energy to load and other relevant factors consistent with applicable law, the Delegation Agreement and any International Reliability Agreements.

12.2 Dues.

The Board may require Members and Participating Stakeholders to pay nominal annual dues consistent with applicable FERC requirements (or those of International Reliability Agreements as applicable) to cover reasonable costs of membership and/or participation in standards development that are not funded through Sections 12.1.1 or 12.1.2. Initial dues of a Member or Participating Stakeholder will be submitted with a completed application for membership or Participating Stakeholder status and will be for the prorated share of the full annual amount based on the Member's or Participating Stakeholder's actual months of membership or participation in the calendar year. In determining nominal dues, the Board may consider all relevant factors including, but not limited to, the ability of different classes of membership or Participating Stakeholders to pay such dues. The Board may also reduce, defer or eliminate the dues obligation of an individual Member or Participating Stakeholder for good cause shown.

12.3 Funding of Non-Statutory Activities.

To the extent that the WECC elects to fund any activities not eligible for funding pursuant to Sections 12.1.1 and 12.1.2, it shall do so through the use of service fees, charges or dues applicable to the persons or entities that voluntarily participate in such activities. Participation in or funding of such activities shall not be a condition of membership in the WECC.

13. Amendments to these Bylaws.

These Bylaws may be amended by either the Board or by the Members in accordance with the following procedures.

13.1 Amendment by the Board.

Except for those provisions described below, the Board may approve an amendment of the Bylaws after providing not less than thirty (30) days' notice of the proposed amendment to all Members. Approval of such an amendment requires the affirmative votes of not less than two-thirds (2/3) of the Directors in office. Such amendment will become effective sixty (60) days after its approval by the Board unless the vote is appealed to the Members prior to that time. Such an appeal will occur whenever a majority of any Class files a petition with the Secretary seeking such amendment. A vote on the appeal will occur at the next Annual Meeting unless the Board calls a special meeting of the Members beforehand. Upon appeal, the amendment will be deemed approved unless a majority of all Members vote to rescind the amendment. Notwithstanding the foregoing, the Board may not amend Sections 6.2 through 6.10 of the Bylaws, Section 8.4, Appendix C or this Section 13.1 without submitting such amendment to the Members for their prior approval.

13.2 Amendment by the Members.

Upon petition filed with the Secretary by any Member or Director, at any Annual Meeting the Members may amend any provision of these Bylaws; provided: 1) the proposed amendment has first been presented to the Board and not adopted (this provision will not apply to amendments which the Board is prohibited from adopting); 2) Members have received not less than sixty (60) days' notice of the proposed amendment, the reasons there for and a statement of the Board's position regarding it; and 3) the amendment receives the affirmative votes of not less than two-thirds (2/3) of all Members.

13.3 Amendments in Response to Mandatory Membership.

If at any time, pursuant to legislation or otherwise, membership becomes mandatory for some or all Members, upon the request of the affected Member(s) the Board will consider amendments to these Bylaws appropriate to such mandatory membership.

13.4 Amendments proposed by FERC.

FERC, upon its own motion or upon complaint, may propose an amendment to these Bylaws pursuant to 18 C.F.R. § 39.10(b).

14. Termination of Organization.

The WECC may be terminated upon a vote of a majority of the Members in accordance with the provisions of Utah law, the Federal Power Act and the requirements of the Delegation Agreement and applicable International Reliability Agreements. Immediately upon such a vote, the Board will, after paying all debts of the WECC, distribute any remaining assets in accordance with the requirements of Utah law, the Internal Revenue Code and these Bylaws.

15. Miscellaneous Provisions.

15.1 Limitation on Liability.

It is the express intent, understanding and agreement of the Members that the remedies for nonperformance expressly included in Section 4.8 hereof shall be the sole and exclusive remedies available hereunder for any nonperformance of obligations under these Bylaws. Subject to any applicable state or federal law which may specifically limit a Member's ability to limit its liability, no Member, its directors, members of its governing bodies, officers or employees shall be liable to any other Member or Members or to third parties for any loss or damage to property, loss of earnings or revenues, personal injury, or any other direct, indirect, or consequential damages or injury which may occur or result from the performance or nonperformance of these Bylaws, including any negligence, gross negligence, or willful misconduct arising hereunder. This Section 15.1 of these Bylaws applies to such liability as might arise between Members under these Bylaws. This Section 15.1 does not apply to parties to the Agreement Limiting Liability Among Western Interconnected Systems ("WIS Agreement") with respect to matters covered by the WIS Agreement and does not apply to any liability provision in any other agreement.

15.2 Indemnification.

WECC shall indemnify and hold harmless its Directors, officers, employees, agents and advisors against any and all damages, losses, fines, costs and expenses (including attorneys'

fees and disbursements), resulting from or relating to, in any way, any claim, action, proceeding or investigation, instituted or threatened, arising out of or in any way relating to any action taken or omitted to have been taken (or alleged to have been taken or omitted to have been taken) by such person in connection with actions on behalf of WECC, and against any and all damages, losses, fines, costs and expenses (including attorneys' fees and disbursements) incurred in connection with any settlement of any such claim, action, proceeding or investigation unless such action of such person is determined to constitute fraud, gross negligence, bad faith or willful misconduct with respect to the matter or matters as to which indemnity is sought.

15.3 No Third Party Beneficiaries.

Nothing in these Bylaws shall be construed to create any duty to, any standard of care with reference to or any liability to any third party.

15.4 Informal Inquiries for Information.

Nothing in these Bylaws shall preclude: 1) a Member from making an informal inquiry for information outside of the procedures outlined in Section 4.6.13 hereof to another Member and 2) that other Member from responding voluntarily to that informal inquiry, provided, however, that any such response to an informal inquiry for information shall not be binding upon that other Member and shall be used by the Member making the informal inquiry for informational purposes only.

16. Incorporation.

WECC shall organize itself as a non-profit corporation pursuant to the laws of the state of Utah regarding non-profit corporations under the name "Western Electricity Coordinating Council." All Members agree to take no actions that would contravene the ability of the WECC to maintain its status as a non-profit corporation existing pursuant to the Utah Act. The Board shall adopt these Bylaws as the Bylaws of the WECC as a non-profit corporation.

WECC is intended to qualify as an organization described in Section 501(c)(6) of the Internal Revenue Code. No part of any net earnings of the WECC shall inure to the benefit of any Member or individual. Upon liquidation, to the extent consistent with the Internal Revenue Code and Utah law, any monies remaining from assessments paid by Members for the costs of the WECC shall be rebated to Members in proportion to their payments. Any remaining assets of the WECC shall be transferred to another organization exempt from tax under Section 501(a) of the Internal Revenue Code, or government agency, promoting the same purposes as the WECC, as designated by the Board.

17. Governing Law.

Unless otherwise agreed, if any conflict of law arises under these Bylaws among the Members, the laws of the United States of America shall govern, as applicable. The venue for any legal action initiated under these Bylaws which concerns a specific request for transmission service shall be the city and state (or province) in which the headquarters of the Member providing the service is located. The venue for any other legal action initiated under these Bylaws shall be the city and state (or province) in which the headquarters of the WECC is located.

APPENDICES

- A. Board Member Standards of Conduct
- B. Officers and Employees Standards of Conduct
- C. WECC Dispute Resolution Procedures

Appendix A
Standards of Conduct for
Members of the WECC Board of Directors

By accepting appointment to the Board of Directors (the "Board") of the Western Electricity Coordinating Council (the "WECC"), a Director agrees to abide by the duties required of corporate directors and trustees. Utah law (and similar law in other states) imposes quasi-fiduciary duties of care and loyalty on all corporate directors or trustees, including directors and trustees of nonprofit corporations. For as long as he or she remains a member of the Board of Directors of the WECC, a Director will abide by the following standards of conduct.

- I. Duty of care. The Directors of a corporation are bound to use due care and to be diligent in respect to the management and administration of the affairs of the corporation. This duty of care is generally thought to have two components: the time and attention devoted to corporate affairs and the skill and judgment reflected in business decisions.
 - A. Each Director will regularly attend Board of Directors meetings, digest the materials sent to him or her, participate in Board discussions and make independent inquiries as needed.
 - B. In voting on any matter before the Board or otherwise acting in his or her capacity as a Director, each Director will:
 1. make reasonable inquiry to inform himself or herself of the nature and consequences of the matter or action at issue;
 2. exercise, at a minimum, the degree of care, skill, and diligence that an ordinarily prudent business person would exercise under similar circumstances; and
 3. act in a manner the Director, in the exercise of his or her independent judgment, believes to be in the best interests of the WECC and the membership of the WECC, taken as a whole.
 - C. In exercising the duty of care described in paragraphs IA and B above, a Director has the right to rely on statements by the persons immediately in charge of business areas of the WECC, to rely on professionals and experts (such as engineers, accountants and lawyers) and to rely on committees of the WECC, unless facts or circumstances appear which would prompt further concerns of the ordinarily prudent person.
- II. Duty of loyalty. The duty of loyalty imposes on a Director the obligation to remain loyal to the WECC, acting at all times in the best interests of WECC and its Members as a whole and unhampered by any personal pecuniary gain. This duty does not preclude a Director from being employed in a competing or related business so long as the Director acts in good faith and does not interfere with the business of the WECC.
 - A. Each Director will carry out his or her duties as a Director in good faith.

- B. Each Director will refrain from using any influence, access, or information gained through his or her service as a Director to confer any improper personal benefit (financial or otherwise) upon himself or herself, any family member, or any person living in the Director's household.
- C. Each Director will refrain from using any influence, access, or information gained through his or her service as a Director to confer an improper benefit (financial or otherwise) on any organization:
 - 1. for which the Director serves as an officer, director, employee, consultant, or in any other compensated or management position; or
 - 2. in which the Director or any family member or person living in the Director's household has a material financial interest (whether as a shareholder, partner, or otherwise).
- D. To the extent permitted by law, each Director will maintain the confidentiality of:
 - 1. any confidential or proprietary information of the WECC disclosed or available to the Director;
 - 2. any confidential or proprietary information of WECC Member(s) to which the Director has access by virtue of his or her status as Director; and
 - 3. any confidential or proprietary information of third parties that has been provided to the WECC or the Board on condition of confidentiality.
- E. Conflicts of Interest. Because conflicts of interest may arise from time to time, specific guidelines are provided. In general, conflicts of interest involving a Director are not inherently illegal nor are they to be regarded as a reflection on the integrity of the Board or of the Director. It is the manner in which the Director and the Board deal with a disclosed conflict that determines the propriety of the transaction.

Directors of nonprofit corporations may have interests in conflict with those of the corporation. The duty of loyalty requires that a Director be conscious of the potential for such conflicts and act with candor and care in dealing with these situations.

The following are guidelines for Directors with actual or potential conflicts of interest:

- 1. Each Director has a responsibility to recognize potential conflicts of interest and to be guided when acting as a Director by his or her independent judgment of what is in the best interests of the WECC and the membership of the WECC, taken as a whole. If any Director has questions about whether a conflict of interest exists, he or she may make inquiry to the Chief Executive Officer of the WECC for advice.

2. Potential conflicts of interest may arise because of a Director's private, individual interests (personal conflicts of interest) or because of relationships the Director may have with other organizations or interest groups (organizational conflicts of interest). Current or past employment or other compensation-based relationships with one or more WECC Members are examples of potential organizational conflicts of interest. Whether a potential conflict of interest is personal or organizational, in all cases involving WECC affairs a Director's conflicting interests are subordinate to those of the WECC and the membership of the WECC, taken as a whole.
3. Personal conflicts of interest.
 - a. Personal conflicts of interest exist if a Director, a member of the Director's family, or a person sharing the Director's household: 1) has a material financial interest in a matter or transaction that comes before the Board for action; or 2) stands to receive a benefit (in money, property, or services) from a transaction involving the WECC to which the person is not legally entitled.
 - b. In cases of personal conflicts of interest, the affected Director's obligations are to:
 - (1) disclose to the Board, before the Board acts with respect to that matter, the material facts concerning the Director's personal conflict of interest; and
 - (2) refrain from voting, and from attempting to influence the vote of any other Director(s), in those matters in which the Director has a personal conflict of interest.
4. Organizational conflicts of interest.
 - a. An organization has a "direct" conflict of interest if a decision by the Board would confer material benefits on that organization that other WECC Members would not share, or impose material detriments or costs on that organization that other WECC Members would not share. The fact that many if not all Members are affected to some extent by Board decisions on core issues such as standards, new transmission lines and their ratings, does not create or constitute a "direct" conflict of interest.
 - b. It is not a "direct" conflict of interest for a Director to be associated with an organization or an interest group that may stand to benefit from decisions made or actions taken by the Board, so long as the Director does not attempt to use his or her position as a Director to confer special benefits on associated organizations or interest groups when other WECC Members would not share in those benefits.

- c. In cases of potential “direct” organizational conflicts of interest, the affected Director’s obligations are to:
- (1) disclose to the Board, before the Board acts with respect to the matter, the material facts concerning the organizational conflict of interest; and
 - (2) refrain from voting and from attempting to influence the vote of any other Director(s) with respect to the proposed action or decision.

Appendix B
Officers and Employee
Standards of Conduct

By accepting employment with the Western Electricity Coordinating Council (the "WECC"), an Employee agrees to abide by these Standards of Conduct. For the purpose of these Standards, an Employee includes each and all officers, employees and substantially full-time consultants and contractors of the WECC.

- I. Duty of care. The Employees of the WECC are bound to use due care and to be diligent in respect to the management and administration of the affairs of the corporation. This duty of care is generally thought to have two components: the time and attention devoted to corporate affairs and the skill and judgment reflected in business decisions.

Employees shall not have any outside employment that limits in any way their ability to fulfill their employment responsibilities to WECC. If an Employee has any question about whether outside employment is consistent with this standard, they should consult with their supervisor.

- II. Duty of loyalty. The duty of loyalty imposes on an Employee the obligation to remain loyal to the WECC, acting at all times in the best interests of WECC and its Members as a whole and unhampered by any personal pecuniary gain. The WECC expects all Employees to avoid adversely affecting the public's confidence in the integrity and reputation of the WECC. Any conduct or activities of any Employee should be capable of being justified and withstanding public scrutiny.

- A. Each Employee will carry out his or her duties as an Employee in good faith, with integrity and in a manner consistent with these Standards and all applicable laws governing the WECC.
- B. Each Employee will refrain from using, or creating the appearance of using, any influence, access, or information gained through his or her service as an Employee to confer any improper personal benefit (financial or otherwise) upon himself or herself, or Family Member.¹ Employees shall not accept gifts or entertainment that would tend to affect, or give the appearance of affecting, the performance of their duties; provided, however, that Employees may accept de minimus food or entertainment or non-cash gifts received as part of a social or special occasion in amounts not to exceed \$1000 per source per year.
- C. Each Employee will refrain from using, or creating the appearance of using, any influence, access, funds or information gained through his or her service as an Employee to confer an improper benefit (financial or otherwise) on any organization. The

¹ For purposes of these Standards, a Family Member includes a spouse, domestic partner, child of the Employee, or a relative living in the same home as the Employee.

obligation to avoid the appearance of impropriety shall apply in particular to any organization:

1. for which the Employee is serving or has in the past served as an officer, director, employee, consultant, or in any other compensated or management position; or
 2. in which the Employee, or Family Member has a material financial interest known to the Employee (whether as a shareholder, partner, or otherwise).
- D. Employees shall not use their WECC position, WECC funds or WECC resources to support any political party, candidate or proposition except as expressly authorized by the Board.
- E. To the extent permitted by law, each Employee shall maintain the confidentiality of:
1. any confidential or proprietary information of the WECC disclosed or available to the Employee;
 2. any confidential or proprietary information of WECC Member(s) to which the Employee has access by virtue of his or her status as Employee; and
 3. any confidential or proprietary information of third parties that has been provided to the WECC or the Board on condition of confidentiality.
- F. Conflicts of Interest. The following conflicts of interest policy shall apply to all WECC Employees. Conflicts of interest may arise from time to time. In general, conflicts of interest involving an Employee are not inherently illegal, nor are they to be regarded as a reflection on the integrity of the WECC or of the Employee. It is the manner in which the Employee and the WECC deal with a disclosed conflict that determines the propriety of the transaction. The following are guidelines for Employees with actual or potential conflicts of interest:
1. In general, personal conflicts of interest exist if an Employee, or a Family Member, has a material financial interest in a matter or transaction that comes before WECC for action, or stands to receive a benefit (in money, property, or services) from a transaction involving WECC to which the person is not legally entitled. For purposes of determining whether stock constitutes a material financial interest, see Paragraph F(6) below.
 2. Organizational conflicts of interest exist if an Employee, or a Family Member, has a relationship with an organization or interest group that would cause a reasonable person to believe such Employee's judgment, loyalty, or objectivity might be influenced in a way that is adverse to the interests of WECC.
 3. Where there is any question about potential conflicts of interest, the Employee shall disclose to the Chief Executive Officer as soon as possible and prior to when

WECC takes action with respect to that matter, the material facts concerning the Employee's personal conflict of interest, and refrain from participating in, or from attempting to influence the action of any Directors or Employee(s) of WECC regarding those matters in which the Employee has a conflict of interest.

4. No Employee may be an employee, director of, or consultant to or provide services to or be associated in any way with any WECC Member without full disclosure to, and written consent of, the Chief Executive Officer. To the extent that an Employee becomes aware that a Family Member is or will in the future be engaged in activity described in this Paragraph F(4), the Employee shall promptly notify the Chief Executive Officer, who shall review all the material facts and determine whether they constitute a conflict of interest pursuant to Paragraphs F(1) and F(2), above.
5. No Employee shall participate in any electric energy transaction other than for ordinary personal use except to the extent necessary to, and consistent with, the functions of WECC. Participation in an energy transaction includes, but is not limited to, purchasing, selling, marketing, or brokering of electricity, ancillary services, electricity transmission or electricity distribution. To the extent that an Employee becomes aware that a Family Member is or will in the future be engaged in activity described in this Paragraph F(5), the Employee shall promptly notify the Chief Executive Officer who shall review all the material facts and determine whether they constitute a conflict of interest pursuant to Paragraphs F(1) and F(2), above.
6. All Employees shall promptly disclose to the CEO and the Chair of the Board any direct or indirect financial interest in excess of \$5,000 (including the direct or indirect ownership of securities) held by the Employee or a Family Member living with the Employee² in any Electric Line of Business entity as defined in Section 3.15 of the Bylaws doing business in the Western Interconnection. Upon such disclosure, the CEO and the Chair of the Board shall determine whether such financial interest constitutes a conflict of interest, or the appearance thereof, in light of the duties of the Employee, the ability to divest such financial interest without undue hardship and the totality of the circumstances. In response to such disclosure, the CEO and the Chair may impose such remedies as are reasonable under the circumstances and consistent with section 9.3 of the Bylaws. Such remedies may include, but are not limited to, restrictions on the Employee's duties or involvement in certain matters, transfer of the Employee to another position, broader disclosure of the financial interest, voluntary or mandatory divestiture of the interest (in whole or in part) or other remedies. Pursuant to section 9.3.2 of the Bylaws, if an Employee (not a Family Member) receives a gift or inheritance of securities

² Nothing in this section shall require an Employee to investigate the financial interests of Family Members not living with the Employee. However, to the extent known to the Employee, the financial interests of a Family Member not living with the Employee may create a potential conflict of interest (or appearance thereof) subject to Sections II(B) and/or II(F)(1) of these standards, in which case disclosure pursuant to Section II(F)(3) is appropriate.

of a Member of the WECC, or if a new Member joins the WECC in which the Employee (not a Family Member) holds securities, the Employee must resign or divest such securities within six months thereafter. For the purposes of this section, none of the following shall constitute a direct or indirect financial interest:

- a. An interest that exists through diversified mutual funds;
- b. An interest that exists for six months following receipt of a gift or inheritance of securities of a Market Participant or acceptance of employment with the WECC, whichever is later (provided that employees of the WSCC shall have two years from the WECC organizational meeting to divest securities in their possession as of that date);
- c. An interest that exists through a pre-existing participation in a qualified defined benefits pension plan or health benefits plan of a Market Participant so long as the benefits under such plan do not vary with the economic performance or value of the securities of such Market Participant.

Appendix C

WECC Dispute Resolution Procedures

C. DISPUTE RESOLUTION.

C.1 Obligation To Comply with Dispute Resolution Procedures. If any dispute concerning one or more issues identified in Section C.2 below arises between a Member and one or more other Members, or between one or more Members and WECC, all of the parties to the dispute shall, to the extent permitted by law, be obligated to comply with the dispute resolution procedures specified in these Bylaws (except to the extent all of the parties to the dispute may agree otherwise as provided in Section C.4 below). Only Members and WECC have the right to invoke the provisions of this Appendix C and, except where all affected parties have separately agreed otherwise with respect to a particular dispute, only Members and WECC are obligated to carry out the dispute resolution procedures set forth herein. Any dispute subject to the provisions of this Appendix C to which WECC is made a party shall be subject to the additional requirements specified in Section C.3 below if the dispute is initiated by a party other than WECC. To the extent permitted by law (and except as otherwise permitted by the provisions of Section C.6.3), no party to a dispute subject to the provisions of this Appendix C may pursue any other available remedy with respect to the dispute until all of the parties to the dispute have fully complied with the dispute resolution procedures specified herein, *provided, however*, that if any party to a dispute subject to the provisions of this Appendix C refuses to comply with the dispute resolution procedures specified herein, all other parties to the dispute shall subsequently be relieved of any further obligation to comply with these dispute resolution procedures before pursuing other remedies in connection with that dispute.

C.2 Issues Subject to Dispute Resolution Procedures. Any dispute between or among the parties identified in Section C.1 above (that the parties to the dispute do not resolve through negotiations between or among themselves) shall be subject to the dispute resolution procedures set forth in this Appendix C if the dispute concerns: (i) the application, implementation, interpretation, or fulfillment of any guidelines, criteria, policies, procedures, or Bylaws of WECC or the North American Electric Reliability Council (or any successor organization); or (ii) any matter specified in Section C.6.2 below; except that any matter that is subject to the jurisdiction of the WECC Compliance Hearing Body is not subject to the requirements of this Appendix C. Notwithstanding the foregoing provisions of this Section C.2, however, neither WECC nor any Member shall be obligated to comply with the dispute resolution procedures of these Bylaws if: (a) the matter in dispute falls within the scope of the dispute resolution procedures set forth in the governing agreements of the Western Regional Transmission Association, the Southwest Regional Transmission Association, or the Northwest Regional Transmission Association to the extent that such organizations continue to exist; (b) the dispute is between two or more Members (or WECC), all of which, at the time of the dispute, are parties to the WECC Reliability Management System Agreement and the matter is within the scope of the dispute resolution procedures set forth in that agreement; or (c) the dispute is between two or more Members, all of which, at the time of the dispute, are parties to a separate agreement or treaty or where an applicable tariff, rate schedule, or other legal obligation of one of the parties provides for the parties to resolve the dispute in a manner other than in accordance with the provisions of this Appendix C of the Bylaws. With regard to a transmission access matter pursuant to Sections 10.1.2, 10.1.3, 10.5 and C.6.2.3, however, members agree that their rights and obligations pursuant to

Sections 210 and 211 of the FPA shall not by themselves supersede or relieve them of their obligation, if any, to participate in the procedures set forth in this Appendix C.

C.3 Limitations on Members' Rights To Make WECC a Party to a Dispute. In addition to the other provisions of this Appendix C of the Bylaws, any dispute (other than a dispute initiated by WECC) to which WECC is made a party shall be subject to the limitations set forth in Sections C.3.1 and C.3.2 below.

C.3.1 Bases for Using Dispute Resolution Procedures To Challenge WECC Action.

Subject to any limitation set forth in these Bylaws or in applicable statute, regulation or FERC order, one or more Members may use the dispute resolution procedures specified in this Appendix C to challenge any final action of WECC only on one or more of the following bases: (i) the action is contrary to applicable law or regulation; (ii) the action is contrary to WECC's Articles of Incorporation or these Bylaws (including WECC's purposes as set forth in those documents); (iii) the action was taken in violation of applicable procedures of WECC governing that action; or (iv) the action encompasses a decision in which there was plain error material to the decision. For purposes of this Appendix C, action taken by WECC shall be deemed final if: (a) the action has been taken or adopted or approved or accepted by WECC's Board of Directors (other than by a motion specifically providing that the action is conditional or will have temporary application not to exceed six months); (b) all conditions specified to make any conditional action of WECC's Board of Directors effective have been fulfilled; or (c) the action has been taken or adopted or approved or accepted by a committee, subcommittee, task force, or other group or person acting under authority of WECC without any provision making the action

subject to further approval or adoption or acceptance by the Board of Directors. Nothing contained in this Appendix C shall limit any rights any Member (or any other party) may have under applicable law or regulation to initiate or participate in an administrative or legal action to which WECC is made a party in accordance with applicable provisions of law or regulation.

C.3.2 Obligation to Bear WECC's Share of Facilitator Costs. If one or more Members initiate a dispute under this Appendix C to challenge an action of WECC, the Member(s) initiating the challenge shall be obligated to bear all of the costs of facilitators' services incurred to comply with the requirement of Section C.5 below, except to the extent WECC agrees to pay a share of the costs of facilitators' services.

C.4 Ability to Modify Dispute Resolution Procedures by Agreement. Any provision of the dispute resolution procedures set forth in this Appendix C may be modified, waived, or omitted by agreement of all of the parties to the dispute. Parties to a dispute subject to these provisions are obligated to comply with its procedures unless all of the parties to the dispute agree to do otherwise. The manner in which the dispute resolution procedures set forth in this Appendix C may be varied include (by way of example and not as limitation): the manner of selecting a facilitator or arbitrator; the procedures or time lines to be followed during mediation or arbitration; the grounds or forum or right to appeal an arbitrator's decision; the manner of allocating fees and costs associated with the dispute; whether the parties are obligated to proceed to arbitration if the dispute is not resolved through mediation; and whether a decision rendered through arbitration is binding on the parties. In addition, any dispute that does not fall within the scope specified in Section C.2 above may

be resolved according to the procedures set forth in Appendix C of these Bylaws if all of the parties to the dispute agree to do so.

C.5 Mediation.

C.5.1 Notice to Other Parties and WECC's Chief Executive Officer. To initiate the dispute resolution process with respect to a dispute governed by the provisions of this Appendix C, the Member or WECC that has elected to initiate the dispute shall deliver to all other parties to the dispute and to WECC's Chief Executive Officer (whether or not WECC is a party to the dispute) written notice invoking the dispute resolution procedures set forth in this Appendix C (a "Dispute Notice").

C.5.1.1 The Dispute Notice shall: (i) include a brief, general description of the matter(s) in dispute; (ii) include a complete list of all other Members the party submitting the Dispute Notice intends to make a party to the dispute; and (iii) state whether or not WECC is to be made a party to the dispute.

C.5.1.2 Within five business days of receiving a Dispute Notice, any party to the dispute may elect to deliver a brief supplemental description of the dispute to WECC's Chief Executive Officer.

C.5.1.3 Within 10 business days of receiving an initial Dispute Notice, WECC's Chief Executive Officer shall: (a) publish (or cause to be published) in WECC's newsletter or on its electronic bulletin board a notice containing a list of the parties to the dispute and a summary of the descriptions of the matter(s) in dispute provided by the parties to the dispute; and (b) deliver to each party to the dispute a copy of WECC's then-current standing list of

qualified facilitators, knowledgeable in the matters addressed by WECC (as approved by the Board of Directors).

C.5.1.4 No person may be listed on WECC's standing list of qualified facilitators unless the person has agreed to: (i) disclose, at any time the person is selected to serve as a facilitator under this Appendix C, any personal or financial interest the facilitator may have with respect to the matter(s) in dispute (including any indirect personal or financial interest that could arise because of interests or relationships affecting any of the facilitator's immediate family members); (ii) disclose any relationship the facilitator may have with any party to the dispute that is not permitted under Section C.5.2 below; and (iii) abide by all applicable provisions of these Bylaws, including restrictions on disclosure of matters discussed and information exchanged during mediation as provided in Section C.5.3 below.

C.5.2 Selection of a Facilitator. Within 10 calendar days after the delivery of a Dispute Notice, the parties to the dispute shall select a neutral facilitator by mutual agreement. If the parties to the dispute cannot agree on a facilitator within 10 calendar days after delivery of a Dispute Notice, the facilitator shall be selected from WECC's standing list of qualified facilitators as follows: The parties to the dispute shall take turns striking names from WECC's standing list of qualified facilitators until there is only one name remaining. (The parties to the dispute shall draw lots to determine the order in which they take turns striking names.) The last person whose name remains on the list shall serve as the facilitator. No facilitator other than a facilitator chosen by agreement of all the parties to the dispute may (i) have a

personal or financial interest in the matter(s) in dispute (including any indirect personal or financial interest that could arise because of interests or relationships affecting any of the facilitator's immediate family members); or (ii) be (or have an immediate family member who is) a past or present director, commissioner, officer, employee, consultant, agent, or other representative of any of the parties to the dispute. If the facilitator selected through the process of striking names specified above is disqualified under the preceding sentence, the facilitator whose name was stricken last shall serve in his or her place. In addition, if WECC is a party to a dispute initiated by one or more Members, turns striking names from the standing list of qualified facilitators shall alternate between WECC on the one hand and all other parties to the dispute on the other.

C.5.3 Mediation Process. The facilitator and representatives of all of the parties to the dispute shall meet within 14 calendar days after the facilitator has been selected and attempt in good faith to negotiate a resolution to the dispute. Each party's representative designated to participate in the mediation process must have the authority to settle the dispute (or, at a minimum, be authorized to negotiate on behalf of the party and make recommendations with respect to settlement of the dispute if final authority to approve a settlement is reserved to a party's board, executive committee, commission, or other governing body). At the parties' initial meeting with the facilitator, the facilitator shall, after soliciting input from the parties to the dispute, set the schedule for further meetings among the parties to the dispute (subject to the 60-day maximum mediation period specified in Section C.5.6 below). The parties to the dispute shall comply with the schedule set by the facilitator and attempt in good faith at every meeting to negotiate a resolution to the dispute. To the

extent permitted by law, neither the facilitator nor any party to the dispute may publicly disclose, rely on, or introduce as evidence in any subsequent arbitration, FERC proceeding, Canadian Regulatory Authority proceeding, proceeding before a Mexican Regulatory Authority, appeal, or litigation concerning the same or any related dispute: (i) any views expressed or suggestions made by another party to the dispute with respect to a possible settlement of the dispute; (ii) admissions made by another party to the dispute in the course of the mediation proceedings; (iii) proposals made or views expressed by the facilitator; or (iv) the fact that another party to the dispute has or has not indicated willingness to accept a proposal for settlement made by the facilitator. In those cases in which a party to a dispute subject to the provisions of this Appendix C of the Bylaws is a membership organization (including WECC, if applicable), nothing in the preceding sentence shall prohibit that organization from reasonably communicating with its members and governing body to share general information about the dispute, such as the parties, status, disputed issues, and positions of each of the parties with respect to the disputed issues.

C.5.4 Referral for Resolution. With the consent of all parties to the dispute, a resolution may include referring the matter to a technical body (such as a technical advisory panel of WECC) for resolution or an advisory opinion, to arbitration, directly to FERC or, in a dispute involving a Canadian Member, directly to the appropriate Canadian Regulatory Authority, or, in a dispute involving a Mexican Member, directly to the appropriate Mexican Regulatory Authority.

C.5.5 Mediation Participation by WECC Staff When WECC Not a Party. If, during the course of mediation to which WECC is not a party, the facilitator or any party to the dispute wishes to solicit the views of WECC concerning the application,

implementation, interpretation, or fulfillment of any guidelines, criteria, standards, policies, or procedures of WECC, the facilitator may request or permit the submission of WECC staff views only if: (i) any participation by WECC staff takes place exclusively in the presence of all parties to the dispute; (ii) participating WECC staff members agree to be equally available upon request to all parties to the dispute; and (iii) participating WECC staff members agree to comply with the restrictions on disclosure contained in Section C.5.3.

C.5.6 Mediation Deemed at Impasse After 60 Days. If the parties to the dispute have met and negotiated in good faith in accordance with the schedule set by the facilitator but have not succeeded in negotiating a resolution of the dispute within 60 calendar days after the first meeting with the facilitator pursuant to Section C.5.3 above, the parties to the dispute shall be deemed to be at impasse and, except as otherwise provided in Section C.5.6.2 below, shall also be deemed to have fulfilled their obligations under Section C.1 of these Bylaws to fully comply with the dispute resolution provisions before pursuing any other available remedy. If any party participating in the mediation process is subject to a contractual or statutory limitations period with respect to the matter in dispute, and the limitations period will expire before the 60-day period for mediation under this Section C.5.6 is completed, then the parties shall be deemed at impasse on the seventh calendar day preceding the expiration of the shortest applicable limitations period.

C.5.6.1 Disputes Not Subject to Provisions of Section C.6.2. Unless the matter in dispute is subject to the provisions of Section C.6.2 below, at any time after the parties to the dispute are deemed at impasse, the dispute may be submitted to binding arbitration in accordance with the procedures set forth in Section C.7 of these Bylaws (but only by agreement of all of the parties to the dispute). If the matter in dispute is subject to the provisions of

Section C.6.2 below, the parties' obligations with respect to submitting the matter to binding arbitration under Sections C.6 and C.7 of these Bylaws shall be as specified in Section C.5.6.2 below. In all other cases, if the parties to the dispute do not agree to submit the dispute to binding arbitration in accordance with the procedures set forth in Section C.7 of these Bylaws, any party to the dispute may at any time thereafter pursue any other remedy available under regulation, law, or equity (subject to the restrictions on disclosure set forth in Section C.5.3 above).

C.5.6.2 Disputes Covered by Section C.6.2. If the parties to a dispute concerning a matter subject to the provisions of Section C.6.2 either: (i) are deemed at impasse after attempting to resolve the matter through mediation as provided in Sections C.5.1 through C.5.6 above; or (ii) have agreed to submit the matter directly to binding arbitration without attempting to resolve the matter through mediation as provided in Sections C.5.1 through C.5.6 above, the parties to the dispute shall submit the matter to binding arbitration in accordance with the procedures set forth in Sections C.6 and C.7 of these Bylaws.

C.5.7 Costs of Facilitator's Services. Except as otherwise provided under Section C.3.2, the costs of the facilitator's services shall be born equally by all parties to the dispute unless the parties to the dispute agree otherwise, but the parties also intend that the costs of mediation should be taken into account in any resolution proposed through the mediation process.

C.5.8 Notice to WECC of Completion of Mediation. Within 10 calendar days after either: (i) reaching a negotiated resolution through the mediation process set forth in Section C.5; or (ii) reaching deemed impasse in accordance with Section C.5.6 above, the parties to the dispute shall jointly deliver to WECC's Chief Executive Officer a written notice briefly describing the outcome of the mediation process. Promptly

after receiving written notice describing the outcome of a mediation conducted in accordance with Section C.5, WECC's Chief Executive Officer shall publish (or cause to be published) in WECC's newsletter or on its electronic bulletin board a brief description of the outcome of the mediation, together with a list of all of the parties to the dispute.

C.6 General Provisions Relating to Binding Arbitration.

C.6.1 Matters for Which Binding Arbitration is Elective. Except with respect to any dispute that concerns one or more matters specified in Section C.6.2 below, the binding arbitration procedures set forth in Section C.7 may be invoked only by agreement of all of the parties to the dispute to be arbitrated and are solely for the convenience of WECC and its Members. If a dispute governed by this Appendix C does not concern a matter specified in Section C.6.2 below, a party to the dispute shall be deemed to have fulfilled its obligations to comply with Appendix C of these Bylaws (irrespective of whether the parties to the dispute agree to proceed with binding arbitration) to the extent that either: (i) that party has fully performed the obligations set forth in Sections C.1 through C.5.8; or (ii) all of the parties to the dispute have agreed to a different process for resolving the dispute and the agreed-upon process has been fully carried out.

C.6.2 Matters for Which Binding Arbitration Is Obligatory. If a dispute is governed by Appendix C of these Bylaws and is not resolved through the process of mediation in accordance with Sections C.5.1 through C.5.6 above, the parties shall be obligated to submit the matter to binding arbitration in accordance with the procedures set forth in Section C.7 (subject to the limitations on the arbitrator's authority set forth in Section C.6.3 below) if the dispute concerns one or more of the following matters:

- C.6.2.1 a decision of WECC's Board of Directors or a Committee of the Board acting on the recommendation of, or on a matter within the jurisdiction of, the Operating Transfer Capability Policy Group ("OTCPG") or successor;
- C.6.2.2 a transmission path rating, or a modification to a transmission path rating, assigned to one or more transmission paths operated by a Member (or jointly operated by more than one Member);
- C.6.2.3 transmission access, pursuant to Sections 10.1.2, 10.1.3, and 10.5; or
- C.6.2.4 any matter that, by vote of both WECC's Board of Directors and WECC's Membership, is designated as a matter to be subject to the provisions of Section C.6.2 of these Bylaws, provided that any matter submitted to WECC's Membership pursuant to this provision must be approved by at least the number of votes required to amend these Bylaws under Section 13.2.

C.6.3 Limitations on Arbitrator's Authority with Respect to Matters Specified in Section C.6.2. Unless all of the parties to a dispute agree otherwise, an arbitrator rendering a decision with respect to any matter specified in Section C.6.2 above shall have no authority to consider or award remedies for past economic harm or damages of any kind, including without limitation actual or direct damages; indirect, consequential, or incidental damages; or exemplary or punitive damages. Nothing in this Section C.6.3 shall: (i) limit any rights that a party to a dispute concerning a matter specified in Section C.6.2 above may have to pursue legal claims for damages or other economic remedies after the arbitrator has rendered his or her decision on that matter (within the scope of his or her authority under this Section C.6.3); or (ii) limit an

arbitrator's authority under Section C.8 below to shift costs or impose monetary sanctions for "good cause" (as that term is defined in Section C.8).

C.6.4 Arbitration Decisions Not To Modify Underlying Rights and Obligations. Unless all of the parties to a dispute agree otherwise, the resolution through binding arbitration of any dispute governed by this Appendix C shall not have the effect of increasing, decreasing, or otherwise modifying WECC's or any Member's obligation to abide by, or ability to enforce or impose penalties or sanctions with respect to, any guidelines, criteria, standards, policies, procedures, decisions, or Bylaws of WECC or any limitation on the foregoing, whether established by law; regulation; judicial, executive, or administrative order, decree, or decision; tariff; contract; course of performance; treaty; or otherwise.

C.6.5 Laws Relating to Binding Arbitration. WECC and its Members recognize that some Members may be subject to laws (including without limitation United States federal or state laws, Canadian or provincial laws, or Mexican laws) that limit or define those Members' ability to agree in advance to be subject to binding arbitration. If a Member has the right or obligation under applicable law to refuse to submit to binding arbitration in connection with any dispute that would otherwise be subject to binding arbitration under Section C.6.2 of these Bylaws, that Member shall not be obligated to comply with the binding arbitration procedures set forth in Sections C.6 and C.7. Any Member subject to any law or other legally binding authority that may limit (or permit the Member to limit) its obligation to comply with the provisions requiring binding arbitration under Sections C.6 and C.7 or to fully comply with a valid arbitrator's decision rendered in accordance with this Appendix C shall provide

notice to this effect to all other disputing parties and WECC's Chief Executive Officer upon initiation of any dispute involving that Member if the dispute is subject to Section C.6.2. Upon receiving a notice under Section C.6.5, any other party to the dispute shall thereafter be relieved of any obligation to comply with the provisions Sections C.6 and C.7 in connection with that dispute, except to the extent that the Member giving notice agrees to be fully bound by procedures governing and results of any arbitration proceeding. If there are more than two parties to a dispute covered by the preceding sentence, however, then all parties to the dispute other than the party giving notice under Section C.6.5 shall make good faith efforts to establish a mutually acceptable approach for resolving among themselves whatever aspects of the dispute can reasonably be resolved through the procedures set forth in this Appendix C without the participation of the party giving notice under Section C.6.5. If any Member fails to submit to binding arbitration, or fails to abide by a valid arbitrator's decision rendered in accordance with this Appendix C, that Member shall thereafter have no right to enforce any of the provisions of Section C.6.2 (concerning obligations to submit specified disputes to binding arbitration) against any other Member or WECC until such time as the WECC Board of Directors, or a delegate designated by the Board, determines that it is appropriate to restore the Member's ability to enforce the provisions of Section C.6.2.

C.6.6 Consistency with Laws, Regulatory Jurisdiction and Orders, Etc. Nothing contained in this Appendix C and no arbitrator's decision rendered in accordance with Section C.7 shall be construed to require or shall otherwise operate to cause any Member or WECC to incur any obligation or take any action that is contrary to: (i) any

applicable law or regulation; (ii) any applicable authority, order, decree, rule, or decision of a regulatory, judicial, administrative, executive, or other governmental body having jurisdiction over one or more of the matters or parties subject to this Appendix C or covered by an arbitrator's decision; or (iii) any applicable rate schedule, tariff, treaty, or valid, pre-existing contractual obligation with which any party subject to this Appendix C or covered by an arbitrator's decision is legally obligated to comply.

C.7 Arbitration Procedures.

C.7.1 Notice to WECC of Initiation of Binding Arbitration. Within 10 calendar days after all of the parties to a dispute have agreed (or become obligated under Section C.6.2 above) to submit the dispute to binding arbitration under Sections C.6 and C.7, the parties to the dispute shall deliver written notice to WECC's Chief Executive Officer (an "Arbitration Notice").

C.7.1.1 The Arbitration Notice shall: (i) include a brief, general description of the issues to be arbitrated; and (ii) identify all parties who have agreed (or become obligated) to submit the dispute to binding arbitration under Sections C.6 and C.7.

C.7.1.2 Within five business days of receiving an Arbitration Notice, WECC's Chief Executive Officer shall: (a) publish (or cause to be published) in WECC's newsletter or on its electronic bulletin board a notice containing a list of the parties to the arbitration and the parties' brief, general description of the issues to be arbitrated; and (b) deliver to each party to the dispute a copy of

WECC's then-current standing list of qualified arbitrators, knowledgeable in matters addressed by WECC (as approved by the Board of Directors).

C.7.1.3 No person may be listed on WECC's standing list of qualified arbitrators unless the person has agreed to: (a) disclose, at any time the person is selected to serve as a arbitrator under this Appendix C, any personal or financial interest the arbitrator may have with respect to the matter(s) in dispute (including any indirect personal or financial interest that could arise because of interests or relationships affecting any of the arbitrator's immediate family members); (b) disclose any relationship the arbitrator may have with any party to the dispute that is not permitted under Section C.7.2 below; (c) assemble a complete record of the arbitration process and the materials received as evidence by the arbitrator if any of the parties to the dispute elect to appeal or contest the arbitrator's decision; and (d) abide by all applicable provisions of and procedures specified by Sections C.6 and C.7.

C.7.2 Selection of an Arbitrator. Within 10 calendar days after all of the parties to a dispute have agreed (or become obligated) to submit the dispute to binding arbitration under Sections C.6 and C.7, the parties to the dispute shall select an arbitrator by mutual agreement. If the parties cannot agree on an arbitrator within 10 calendar days after agreeing to arbitrate their dispute, the arbitrator shall be selected from WECC's standing list of qualified arbitrators as follows: The parties to the dispute shall take turns striking names from WECC's standing list of qualified arbitrators until there is only one name remaining. (The parties to the dispute shall draw lots to determine the order in which they take turns striking names.) The last

person whose name remains on the list shall serve as the arbitrator. No arbitrator other than an arbitrator chosen by agreement of all the parties to the dispute may (i) have a personal or financial interest in the matter(s) in dispute (including any indirect personal or financial interest that could arise because of interests or relationships affecting any of the arbitrator's immediate family members); or (ii) be (or have an immediate family member who is) a past or present director, commissioner, officer, employee, consultant, agent, or other representative of any of the parties to the dispute. If the arbitrator selected through the process of striking names specified above is disqualified under the preceding sentence, the arbitrator whose name was stricken last shall serve in his or her place.

C.7.3 Initial Statements and Proposed Arbitration Decisions. Within 10 calendar days after the selection of an arbitrator under Section C.7.2 above, each party to the dispute shall submit a statement in writing to all other parties to the dispute and to the arbitrator. Each disputing party's statement shall set forth in reasonable detail the nature of the dispute, the issues to be arbitrated, and the party's reasonable, good faith proposal for resolving the dispute. As provided in Section C.5.3 above, to the extent permitted by law, no party to an arbitration conducted under Sections C.6 and C.7 shall publicly disclose, rely on, or introduce as evidence in any arbitration, FERC proceeding, Canadian Regulatory Authority proceeding, proceeding before a Mexican Regulatory Authority, appeal, or litigation concerning the same or any related dispute any information required to be kept confidential by the terms of Section C.5.3.

C.7.4 Procedural Matters. The arbitrator shall determine discovery procedures, how evidence shall be taken, what written submittals may be made, and other such procedural matters, taking into account the complexity of the issues involved, the extent to which factual matters are disputed and the extent to which the credibility of witnesses is relevant to a resolution. Each party to the dispute shall produce all evidence determined by the arbitrator to be relevant and material to the issues presented. If such evidence involves proprietary or confidential information, the party submitting the evidence shall petition the arbitrator for a protective order, and to the extent the arbitrator determines there is good cause the arbitrator shall issue an appropriate protective order and all parties to the dispute shall comply with the protective order. The arbitrator may elect to resolve the arbitration matter solely on the basis of written evidence and arguments.

C.7.5 Out-of-Court Sworn Testimony. At the request of any disputing party, the arbitrator shall have the discretion to allow that party to examine witnesses through sworn out-of-court testimony (referred to in the United States as “deposition” and in Canada as “discovery”) to the extent the arbitrator deems the evidence sought to be relevant and appropriate. In general, out-of-court witness examinations shall be limited to a maximum of three per party and shall be held within 30 calendar days after the making of a request. Each witness examination shall be limited to a maximum of three hours’ duration. The arbitrator shall have the discretion to permit the number and duration of examination sessions allowed under this Section C.7.5 to be increased, and to extend the 30-day time limit, upon request for good cause shown.

All objections are reserved for the arbitration hearing except for objections based on privilege and proprietary or confidential information.

C.7.6 Intervention by Other Parties. Unless all of the parties to the dispute agree otherwise, no one (whether a Member, WECC, or any other entity or person) that is not a party to a dispute at the initiation of arbitration under Sections C.6 and C.7 shall have the right to intervene in the arbitration. Any party wishing to intervene in an arbitration under Sections C.6 and C.7 may petition the arbitrator for permission to intervene, provided that the petition is submitted to the arbitrator not more than 30 calendar days after notice of the arbitration is posted by WECC's Chief Executive Officer in accordance with Section C.7.1. The arbitrator shall have the discretion to permit a party to intervene if the arbitrator determines that the party petitioning to intervene has a direct and substantial interest in the outcome of the arbitration. In exercising his or her discretion concerning a requested intervention, the arbitrator shall also consider any additional complexity or delay that may be caused by allowing the intervention and also any other remedies available to the party requesting intervention. Any party that is granted the privilege of intervening in an arbitration under Sections C.6 and C.7 shall be permitted to intervene subject to the same terms, conditions, limitations, rights, and obligations of all other parties to the dispute, including without limitation the binding effect of arbitrator's decision, limitations on rights of appeal, the obligation to share equally in the costs of the arbitrator, and the obligation to be subject to the provisions of Section C.8.

C.7.7 Consideration of WECC Criteria, Etc. The Arbitrator shall give due consideration to the reliability criteria, standards, guidelines, policies, and procedures of WECC and

the North American Electric Reliability Council (or any successor organization) to the extent they are relevant to resolution of the matter(s) in dispute. If the arbitrator's decision will include interpretation of any of WECC's reliability criteria, standards, guidelines, policies, and procedures, (and WECC is not a party to the arbitration), the arbitrator shall, before rendering his or her decision, consult with WECC (subject to the provisions of Section C.7.10 below) concerning the interpretation of WECC's applicable reliability criteria, standards, guidelines, policies, and procedures.

C.7.8 Evidence and Rebuttal. The arbitrator shall consider all issues material to the matter(s) in dispute. The arbitrator shall take evidence submitted by the parties to the dispute in accordance with procedures established by the arbitrator and may request additional information the arbitrator deems material to the resolution of the dispute. With the consent of all parties to the dispute, the arbitrator's request for additional information may include the opinion of any individual or organization with recognized expertise in the matter(s) in dispute, subject to the following conditions: (i) any verbal communication with an expert consulted by the arbitrator must take place exclusively in the presence of all parties to the dispute and copies of any written communications must be provided to all parties to the dispute; (ii) any expert consulted by the arbitrator must agree to be equally available upon request to all of the parties to the dispute; (iii) any expert consulted by the arbitrator must agree to comply with the restrictions on disclosure contained in Section C.5.3; and (iv) all parties to the dispute shall be afforded a reasonable opportunity to question the expert and to rebut any additional information submitted by the expert at the request of the arbitrator.

C.7.9 Arbitrator's Decision. The arbitrator shall make all reasonable efforts to complete hearings (if applicable) and submissions of written evidence not more than 90 calendar days after receiving initial statements submitted under Section C.7.3 above. As soon as practicable, but in no event more than 30 calendar days after the completion of hearings and evidence submittals, the arbitrator shall render his or her final decision for resolving the dispute. By agreement of all of the parties to the dispute or at the discretion of the arbitrator for good cause, the foregoing deadline for delivery of the arbitrator's decision may be extended. The arbitrator's decision shall be based on the arbitrator's good faith determination of a resolution that will: (i) be consistent with any laws, rules, and regulations applicable to the matter(s) in dispute; (ii) be consistent with any valid pre-existing agreements among the parties to the dispute that bear on the matter(s) in dispute; (iii) not require any party to the dispute to take action that is not in compliance with any of WECC's reliability criteria, standards, guidelines, policies, and procedures; and (iv) best serve to promote or maintain reliable operation of the interconnected bulk power systems of the Western Interconnection, without imposing inequitable burdens or benefits on any of the parties to the dispute or others that may be affected by implementation of the arbitrator's decision. The arbitrator shall deliver to each of the parties to the dispute, along with his or her decision, a written statement including specific findings of fact, conclusions of law (if applicable), and an explanation of the arbitrator's basis for rendering his or her decision. Subject to any protective order that may have been issued under Section C.7.4 above, WECC's Chief Executive Officer shall publish (or cause to be published) in WECC's newsletter or electronic bulletin board a brief

summary of the arbitrator's decision. An arbitrator's decision that is not appealed shall not be deemed to be precedential in any other arbitration related to a different dispute.

C.7.10 WECC Staff Participation in Arbitration When WECC Not a Party. If, during the course of binding arbitration conducted under Sections C.6 and C.7 (in which WECC is not a party) the arbitrator or any party to the dispute wishes to solicit the views of WECC staff concerning the application, implementation, interpretation, or fulfillment of any guidelines, criteria, standards, policies, or procedures of WECC, the arbitrator may request or permit the submission of WECC staff views only with the consent of all of the parties to the dispute and only if: (i) any participation by WECC staff takes place exclusively in the presence of all parties to the dispute; (ii) participating WECC staff members agree to be equally available upon request to all parties to the dispute; and (iii) participating WECC staff members agree to comply with the restrictions on disclosure contained in Section C.5.3.

C.7.11 Compliance and Costs. Unless one or more of the parties to the dispute initiates and notifies all other parties to the dispute that it has initiated a process to contest or appeal the arbitrator's decision under Sections C.9 through C.13, upon the decision by the arbitrator, the parties to the dispute shall, within the time frame specified by the arbitrator, and, subject to Section C.6.6 above, take whatever action is required to comply with the arbitrator's decision to the extent the arbitrator's decision does not require regulatory action. To the extent the arbitrator's decision affects jurisdictional rates, terms and conditions of service, or facilities or otherwise requires local, state, federal, or provincial approval or regulatory action, or a FERC filing or a Canadian

Regulatory Authority filing by a Canadian Member or a Mexican Regulatory Authority filing by a Mexican Member, the affected Member (or WECC, if WECC is the party with the obligation to seek regulatory action) shall, within the time frame specified by the arbitrator, submit the arbitrator's decision or an appropriate filing to implement the arbitrator's decision and support the appropriate authority's acceptance or approval of the arbitrator's decision or implementation filing, except in cases where any party to the dispute has given notice of its intent to contest or appeal the arbitrator's decision. All costs associated with the arbitration (not including costs associated with attorney and expert witness fees incurred by the parties to the dispute) shall be divided equally among the parties to the dispute unless: (i) all of the parties to the dispute agree to an alternate method of allocating costs; or (ii) in rendering his or her decision, the arbitrator exercises his or her discretion under Section C.8 below to assess fees, costs, or other monetary sanctions against one or more of the parties to the dispute for good cause.

C.7.12 Entry of Judgment. At any time after an arbitrator has rendered his or her decision in an arbitration conducted under Sections C.6 and C.7 (provided that the time provided for initiating an appeal under Sections C.11.1 and C.12 below has expired and no appeal or other means of contesting the arbitrator's decision has been initiated), judgment on the decision rendered by the arbitrator may be entered by any court of competent jurisdiction (subject to the provisions of Sections C.6.3, C.6.4, and C.6.6 above). If the award is against the United States, a party to the arbitration may apply to the United States District Court for the district in which the principal office of the

applicable United States department or agency is located for an order confirming the award pursuant to 5 U.S.C. § 580.

C.8 Arbitrator's Discretion to Shift Costs or Impose Sanctions for Cause. Each party to any dispute submitted to arbitration under Sections C.6 and C.7 shall bear its own costs and fees associated with representation and participation in the arbitration process, and shall share equally in the arbitrator's fees except that the arbitrator shall have the discretion, to the extent permitted by law, to require one or more of the parties to the dispute to pay part or all of the costs and fees (including without limitation attorneys' and arbitrator's fees) of one or more other parties to the dispute, or to impose monetary sanctions on some other basis that is reasonable under the circumstances, for good cause. As used in this Section C.8, "good cause" means conduct involving serious abuse of or failure to comply with the dispute resolution process set forth in this Appendix C, willfully undertaken to harass or delay other parties to the dispute or to substantially impede the arbitrator's ability to render a decision consistent with the provisions set forth in Section C.7.9.

C.9 Rights to Appeal Arbitration Decisions. Except to the extent otherwise provided by applicable United States state or federal law, applicable Canadian or provincial law, or applicable Mexican law, a party to a dispute resolved by arbitration under Sections C.6 and C.7 may appeal or contest the arbitrator's decision only on one or more of the bases specified in Section C.9.1 below and only in accordance with the procedures set forth in Sections C.9.2 through C.13.

C.9.1 Grounds for Appealing Arbitration Decisions. A party to a dispute resolved by arbitration under Sections C.6 and C.7 may contest or appeal the arbitrator's decision only on the basis that: (i) the arbitrator's decision is contrary to applicable law or

regulation (including without limitation the FPA or FERC's then-applicable standards or policies, or comparable types of provisions that may apply under applicable Canadian, provincial, Mexican, or other laws and regulations); (ii) the arbitrator's decision is demonstrably arbitrary and capricious and without support in the record assembled during the arbitration; (iii) the arbitrator failed to afford one or more parties to the dispute an opportunity for a fair and meaningful hearing; (iv) the arbitrator engaged in serious misconduct in connection with the arbitration; (v) the arbitrator exceeded the authority conferred upon him or her under this Appendix C or as otherwise established by agreement of all the parties to the dispute; or (vi) the arbitrator's decision is contrary to the provisions of Section C.6.6.

C.9.2 Matter and One or More Parties to Dispute Subject to FERC Jurisdiction. If (i) the subject matter of a dispute arbitrated under Sections C.6 and C.7 is within the jurisdiction of FERC, and (ii) the conditions specified in Section C.12.1 or C.12.2 are satisfied, the rights of the parties to contest or appeal the arbitrator's decision shall be as set forth in Sections C.10 and C.12 below (subject also to the provisions of Section C.9.1 above). Notwithstanding the foregoing, nothing herein shall be construed or operate to require any Canadian or Mexican party or any other party that is not a "public utility" within the meaning of the FPA to make any filing with FERC under Sections 205 or 206 of the FPA.

C.9.3 All Parties and Matters in Dispute Subject to Jurisdiction of a Canadian Regulatory Authority. If all of the parties to an arbitrated dispute are subject to the jurisdiction of a particular Canadian Regulatory Authority, and if all matters in dispute are also subject to the jurisdiction of the same Canadian Regulatory Authority, any disputing

party may appeal an arbitrator's decision to that Canadian Regulatory Authority, where such Canadian Regulatory Authority has jurisdiction to hear the appeal, or to the appropriate Canadian court. Any appeal to a Canadian Regulatory Authority or Canadian court shall be subject to the provisions set forth in Sections C.10 and C.11 below.

C.9.4 All Parties and the Matter in Dispute Subject to Jurisdiction of a Mexican Regulatory Authority. If all of the parties to an arbitrated dispute are subject to the jurisdiction of a particular Mexican Regulatory Authority, and if all matters in dispute are also subject to the jurisdiction of the same Mexican Regulatory Authority, any disputing party may appeal an arbitrator's decision to the appropriate Mexican Regulatory Authority, subject to the provisions set forth in Sections C.10 and C.11 below.

C.9.5 Appeal to Court. If none of the preceding provisions concerning appealing or contesting an arbitrator's decision before FERC, a Canadian Regulatory Authority, or a Mexican Regulatory Authority apply to an arbitrated dispute, any party to an arbitrator's decision rendered in accordance with the provisions of Sections C.6 and C.7 may appeal the arbitrator's decision to a court of competent jurisdiction as provided under Section C.13 below.

C.10 Appealing or Contesting Arbitrator's Decision to FERC or a Presiding Authority. Subject to the conditions specified in Sections C.9.1 through C.9.5 above, any disputing party may appeal or contest an arbitrator's decision to FERC or an appropriate Presiding Authority as follows:

C.10.1 Record on Appeal. Except as otherwise provided in Section C.10.3 below, any appeal or action to contest an arbitrator's decision to FERC or a Presiding Authority

shall be based solely upon the record assembled by the arbitrator. All parties to arbitrations conducted under Sections C.6 and C.7 intend that: (i) the FERC or other Presiding Authority should afford substantial deference to the factual findings of the arbitrator; (ii) the portion, if any, of the arbitrator's decision relating to issues not of first impression (i.e., matters previously decided by the FERC or other Presiding Authority or a court of competent jurisdiction in cases involving comparable facts and circumstances) should be afforded appropriate deference by the FERC or other Presiding Authority; and (iii) the portion, if any, of the arbitrator's decision relating to issues of first impression should be afforded no deference by the FERC or other Presiding Authority.

C.10.2 No Expansion of Record on Appeal. Except as otherwise provided in Section C.10.3 below, no Member, non-Member, or WECC that has been a party to an arbitration under Sections C.6 and C.7 shall seek to expand the factual record before FERC or a Presiding Authority beyond that assembled by the arbitrator.

C.10.3 Exceptions to Limitations on Record on Appeal. If the arbitrator fails to assemble a complete record of the evidence submitted with respect to an arbitrated decision that is appealed pursuant to Sections C.9 through C.13, the parties to the appeal shall, notwithstanding the provisions of Sections C.10.1 and C.10.2 above, have the right to supplement the arbitrator's record before FERC or the Presiding Authority with any materials received into evidence by the arbitrator but omitted from the record assembled by the arbitrator. If an arbitrator's decision is appealed under Section C.9.1(iii) or (iv) above on the grounds that the arbitrator improperly excluded evidence so as to materially prejudice the outcome of the arbitration with respect to

one or more of the parties to the dispute, any party to the appeal may submit the evidence asserted to be improperly excluded, but only as a basis to request that FERC or the Presiding Authority vacate the arbitrator's decision and remand the matter to the arbitrator (or, if FERC or the Presiding Authority determines that the arbitrator engaged in serious misconduct, to a newly selected arbitrator) for reconsideration of the matter with inclusion of the improperly excluded evidence. If an arbitrator's decision is appealed under Section C.9.1(iv) above on the grounds of serious misconduct by the arbitrator, any party to the appeal may offer new evidence relating to the arbitrator's alleged misconduct.

C.11 Procedures for Appeals to Presiding Authority. If any party to an arbitration under Sections C.6 and C.7 desires to appeal an arbitrator's decision to an appropriate Presiding Authority, it shall provide written notice to that effect to all other parties to the arbitration, the arbitrator, and WECC's Chief Executive Officer within 14 calendar days following the date of the arbitrator's decision. If notice of appeal is timely provided:

C.11.1 Within 30 calendar days after the date of the appealing party's first notice of appeal, the party providing notice of appeal shall file its statement of position regarding the appeal with the Presiding Authority, together with the complete evidentiary record of the arbitration and a copy of the arbitrator's decision. The statement of position shall state that the appeal requested has been the subject of an arbitration pursuant to this Agreement.

C.11.2 Within 30 calendar days after the date of the appealing party's first notice of appeal, any other party that was a party to the arbitration may file its statement of position regarding the appeal with the Presiding Authority.

C.11.3 Copies of all materials filed with the Presiding Authority by any party during the course of an appeal shall be delivered to all other parties to the arbitration and to WECC's Chief Executive Officer.

C.11.4 Implementation of the arbitrator's decision shall be deemed stayed pending an appeal unless and until, at the request of a disputing party, the Presiding Authority issues an order shortening or extending the stay of implementation.

C.11.5 WECC's Chief Executive Officer shall publish (or cause to be published) a summary of each appeal in WECC's newsletter or electronic bulletin board.

C.11.6 The Members and WECC intend that any Presiding Authority's order resulting from an appeal under Sections C.9 and C.11 shall be subject to judicial review pursuant to laws governing the Presiding Authority and the matter in dispute that provide for judicial review of Presiding Authority action.

C.12 Procedures for Contesting or Appealing Arbitrator's Decision Before FERC. If any party to a dispute arbitrated under Sections C.6 and C.7 elects, subject to the limitations set forth in Sections C.9.1 through C.9.5 above, to contest or appeal an arbitrator's decision before FERC, the party so electing shall provide written notice to that effect to all other parties to the arbitration, the arbitrator, and WECC's Chief Executive Officer within 14 calendar days following the date of the arbitrator's decision. The provisions contained in Sections C.10.1, C.10.2, and C.10.3 above shall apply with respect to the record of the arbitration submitted to FERC. In addition, the following provisions shall apply:

C.12.1 FERC Filing by Prevailing Party. If the arbitrator's decision requires the prevailing party to take action that must have FERC approval or involves the provision of FERC-jurisdictional service by the prevailing party, the prevailing party shall file the

arbitrator's decision or make an appropriate filing with FERC to implement the arbitrator's decision. Provided that it has given notice as required under Section C.12 above, any non-prevailing party may contest the prevailing party's filing in accordance's with FERC's applicable rules and regulations.

C.12.2 Complaint to FERC by Prevailing Party. If the arbitrator's decision requires a non-prevailing party to take action that must have FERC approval or involves the provision of FERC-jurisdictional service by any non-prevailing party, then, if the non-prevailing party has given notice as required under Section C.12 above, the prevailing party may submit the arbitrator's decision to FERC in the form of a complaint.

C.13 Appeal to Court. If none of the provisions that govern appealing or contesting an arbitrator's decision before FERC, a Canadian Regulatory Authority, or a Mexican Regulatory Authority as set forth in Sections C.9.2, C.9.3, or C.9.4 above apply, any disputing party may appeal an arbitrator's decision to any court of competent jurisdiction, subject to the conditions specified in Section C.9.1 above. Except as otherwise provided in Section C.10.3 above (substituting the words "court of competent jurisdiction" for "FERC or the Presiding Authority"), any appeal to a court shall be based solely upon the record assembled by the arbitrator, and no Member, non-Member, or WECC who is a party to an arbitration under Sections C.6 and C.7 shall seek to expand the factual record before the court beyond that assembled by the arbitrator.

Appendix of Additional Definitions Relating to Alternative Dispute Resolution Provisions

Arbitration Notice has the meaning specified in Section C.7.1 of these Bylaws.

Canadian Regulatory Authority. The agency or agencies established under the laws of Canada or the applicable Provinces of Canada and having jurisdiction over facilities, interconnections, transmission rates, charges, terms, and conditions of service of a Canadian Member.

Dispute Notice has the meaning specified in Section C.5.1 of these Bylaws.

FERC. The Federal Energy Regulatory Commission or a successor agency.

FPA. The Federal Power Act (16 U.S.C. §§ 824 *et. seq.*), as it may be amended from time to time.

Mexican Regulatory Authority. The agency or agencies established under the laws of Mexico or the applicable states of Mexico and having jurisdiction over facilities, interconnections, transmission rates, charges, terms, and conditions of service of a Mexican Member.

Presiding Authority. As used in Sections C.10 and C.11, the term “Presiding Authority” has the following meanings: with respect to an appeal to an appropriate Canadian Regulatory Authority, “Presiding Authority” means the presiding Canadian Regulatory Authority or Canadian court with jurisdiction to hear the appeal; and with respect to an appeal to an appropriate Mexican Regulatory Authority, “Presiding Authority” means the presiding Mexican Regulatory Authority or Mexican court with jurisdiction to hear the appeal.

EXHIBIT C

Exhibit C – Regional Standard Development Procedure

Exhibit C shall set forth WECC’s standards development procedure, which NERC agrees meets the following common attributes:

COMMON ATTRIBUTE 1

Proposed regional reliability standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA in the United States. In Canada and Mexico, regional standards must be approved by applicable governmental authorities before becoming mandatory in those respective jurisdictions. No regional reliability standard shall be effective within the WECC area unless filed by NERC with FERC, and any applicable authorities in Canada and Mexico, and approved by FERC and any applicable authorities in Canada and Mexico.

COMMON ATTRIBUTE 2

WECC regional reliability standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. A WECC reliability standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. A regional reliability standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

COMMON ATTRIBUTE 3

WECC regional reliability standards, when approved by FERC and applicable authorities in Canada and Mexico, shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the WECC area, regardless of membership in the region.

COMMON ATTRIBUTE 4

Requester — The requester is the sponsor of the regional reliability standard request and may assist in the development of the standard. Any member of WECC, or group within WECC, shall be allowed to request that a regional reliability standard be developed, modified, or withdrawn. Additionally, any entity (person, organization, company, government agency, individual, etc.) that is directly and materially affected by the

reliability of the bulk power system in the WECC area shall be allowed to request a regional reliability standard be developed, modified, or withdrawn.

COMMON ATTRIBUTE 5

Standards Request Routing Committee and Lead Standing Committees — The WECC Standards Request Routing Committee (SRRC) manages the standards development process. The SRRC will consider which requests for new or revised standards shall be assigned for development (or existing standards considered for deletion). The lead standing committee will advise the WECC board on standards presented for adoption.

COMMON ATTRIBUTE 6

Registered ballot body — The registered ballot body comprises all entities or individuals that qualify for one of the stakeholder segments; are registered with WECC as potential ballot participants in the voting on standards; and are current with any designated fees. Each member of the registered ballot body is eligible to vote on standards. Each standard action is balloted by the lead standing committee and any registered Participating Stakeholders. The representation model of the registered ballot body is provided in Appendix A.

COMMON ATTRIBUTE 7

WECC will coordinate with NERC such that the acknowledgement of receipt of a standard request identified in step 2, notice of comment posting period identified in step 4, and notice for vote identified in step 6 below are concurrently posted on both the WECC and NERC websites.

COMMON ATTRIBUTE 8

An acceptable standard request shall contain a description of the proposed regional reliability standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed standard.

COMMON ATTRIBUTE 9

Within 14 days of receipt of a completed standard request, the SRRC shall determine the disposition of the standard request.

COMMON ATTRIBUTE 10

The SRRC may take one of the following actions:

- Accept the standard request as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The SRRC may, at its discretion, expand or narrow the scope of the standard request under consideration. The lead standing committee shall prioritize the development of standard in relation to other proposed standards, as may be required based on the volume of requests and resources.
- Reject the standard request. If the SRRC rejects a standard request, a written explanation for rejection will be delivered to the requester within 14 days of the decision.
- Remand the standard request back to the requester for additional work. The standards process manager will make reasonable efforts to assist the requester in addressing the deficiencies identified by the SRRC. The requester may then resubmit the modified standard request using the process above. The requester may choose to withdraw the standard request from further consideration prior to acceptance by the SRRC.

COMMON ATTRIBUTE 11

Any standard request that is accepted by the SRRC for development of a standard (or modification or deletion of an existing standard) shall be posted for public viewing on the WECC website within 30 days of acceptance by the committee.

COMMON ATTRIBUTE 12

The standards process manager shall submit the proposed members of the drafting team to the lead standing committee and the SRRC. The lead standing committee and the SRRC shall approve the drafting team membership within 60 days of accepting a standard request for development, modifying the recommendations of the standards process manager as the committee deems appropriate, and assign development of the proposed standard to the drafting team.

COMMON ATTRIBUTE 13

At the direction from the lead standing committee, the standards process manager shall facilitate the posting of the draft standard on the WECC website, along with a draft implementation plan and supporting documents, for a no less than a 30-day comment

period. The standards process manager shall provide notice to WECC stakeholders and other potentially interested entities, both within and outside of the WECC area, of the posting using communication procedures then currently in effect or by other means as deemed appropriate.

COMMON ATTRIBUTE 14

The drafting team shall prepare a summary of the comments received and the changes made to the proposed standard as a result of these comments. The drafting team shall summarize comments that were rejected by the drafting team and the reason(s) that these comments were rejected, in part or whole. The summary, along with a response to each comment received will be posted on the WECC website no later than the next posting of the proposed standard.

COMMON ATTRIBUTE 15

Upon recommendation of the drafting team, and if the lead standing committee concurs that all of the requirements for development of the standard have been met, the standards process manager shall post the proposed standard and implementation plan for ballot and shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

COMMON ATTRIBUTE 16

The standards process manager shall schedule a vote by the WECC lead standing committee]. The vote shall commence no sooner than [15] days and no later than [30] days following the issuance of the notice for the vote.

COMMON ATTRIBUTE 17

The WECC registered ballot body shall be able to vote on the proposed standard during a period of not less than 10 days.

COMMON ATTRIBUTE 18

All lead standing committee members of WECC and Participating Stakeholders are eligible to participate in voting on proposed new standards, standard revisions or standard deletions.

COMMON ATTRIBUTE 19

Approval of the proposed regional reliability standard shall require a majority in the affirmative (affirmative votes divided by the sum of affirmative and negative votes) by both voting classes of the lead standing committee. Abstentions and non-responses shall not count toward the results.

COMMON ATTRIBUTE 20

Under no circumstances may the board substantively modify the proposed regional reliability standard.

COMMON ATTRIBUTE 21

Once a regional reliability standard is approved by the board, the standard will be submitted to NERC for approval and filing with FERC and applicable authorities in Canada and Mexico.

COMMON ATTRIBUTE 22

- **Open** - Participation in the development of a regional reliability standard shall be open to all organizations that are directly and materially affected by the WECC bulk power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in WECC, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to the WECC members and others.

COMMON ATTRIBUTE 23

- **Balanced** - The WECC standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.

COMMON ATTRIBUTE 24

- **Inclusive** — Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the

WECC area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.

COMMON ATTRIBUTE 25

- **Fair due process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of Participating Stakeholders.

COMMON ATTRIBUTE 26

- **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity’s Web site.

COMMON ATTRIBUTE 27

- Does not unnecessarily delay development of the proposed reliability standard.

COMMON ATTRIBUTE 28

Each standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

COMMON ATTRIBUTE 29

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all regional reliability standards shall be consistent with NERC’s market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

COMMON ATTRIBUTE 30

To ensure uniformity of regional reliability standards, a regional reliability standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

COMMON ATTRIBUTE 31

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

COMMON ATTRIBUTE 32

Applicability	Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions. If not applicable to the entire WECC area, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.
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COMMON ATTRIBUTE 33

Measure(s)	Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.
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COMMON ATTRIBUTE 34

Compliance Monitoring Process	Defines for each measure: <ul style="list-style-type: none">• The specific data or information that is required to measure performance or outcomes.• The entity that is responsible for providing the data or information for measuring performance or outcomes.• The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes.• The entity that is responsible for evaluating data or information to assess performance or outcomes.• The time period in which performance or outcomes is measured, evaluated, and then reset.• Measurement data retention requirements and assignment of responsibility for data archiving.
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PROCESS FOR DEVELOPING AND APPROVING WECC STANDARDS

Introduction

This document explains the WECC process for requesting, announcing, developing, revising, withdrawing and approving WECC Standards as defined below (“WECC Standards Process”). The process involves several steps:

- A request to develop a new Standard or revise an existing Standard
- Decision to proceed with development or revision of a Standard and assignment to a Standing Committee and Subgroup
- Public (including members) notification of intent to develop or revise a Standard
- Drafting stage
- Posting of draft for public comment
- Review of all comments and public posting of decisions reached on each comment
- WECC Standing Committee/Participating Stakeholder balloting of proposed Standard
- Consideration of any appeals
- WECC Board of Directors (Board) decision regarding approval, disapproval or remand of proposed Standard
- Forwarding proposed WECC Reliability Standards to ERO

The process for developing and approving WECC Standards includes:

1. Notification of pending Standard change before a wide audience of all “interested and affected parties”
2. Posting Standard change drafts for all parties to review
3. Provision for gathering and posting comments from all parties
4. Provision for an appeals process – both “due process” and “technical” appeals

WECC Standing Committees have the responsibility for developing and balloting WECC Standards. Standing Committee chairs are responsible for ensuring administration of the process and completion of all Standing Committee responsibilities. Standing Committees are assisted by a Standards Request Routing Committee and supported by Subgroups that draft the Standards, ensure the draft Standard is properly reviewed consistent with WECC due process requirements, respond to comments on the draft Standard, and revise the draft Standard in response to these comments. Board approval signifies that WECC has adopted the Standard. WECC staff has the role of tracking the Standard as it moves through the process and facilitating resolution of issues. In accordance with Section 8.6 of the WECC Bylaws, interested stakeholders may participate in Reliability Standard development and vote at the Standing Committee level on Reliability Standards or revisions to Reliability Standards.

WECC Bylaws Controlling

It is the intention of the drafters of the WECC Standards Process that the procedures described herein be interpreted and applied in a manner that is consistent with the WECC Bylaws. Should

any conflict between this WECC Standards Process and the WECC Bylaws arise, the WECC Bylaws will control.

Terms

Days. All references to days in this document refer to calendar days.

Due Process Appeals Committee. The committee that receives all appeals alleging that WECC's due process procedure was not properly followed during the development or revision of a Standard. The Due Process Appeals Committee consists of three Directors appointed by the Board Chair. The WECC Chief Executive Officer or his/her designee will be the staff coordinator for the Due Process Appeals Committee.

Participating Stakeholder. A Participating Stakeholder as defined in Section 3.21 of the WECC Bylaws.

Standard. In the context of this document, the term Standard refers to a Reliability Standard or a commercial Business Practice.

Standard Request Form. The form titled WECC Standards/Business Practice Request Form approved by WECC for the purpose of requesting a new Standard or a revision to an existing Standard.

Standards Request Routing Committee. This committee consists of the chairs of the three Standing Committees or their designees. This Committee is responsible for determining if a Standard Request is within the scope of WECC's activities, and assigning the request to the appropriate Standing Committee(s).

Standing Committee. The Market Interface Committee (MIC), Operating Committee (OC) or Planning Coordination Committee (PCC).¹ MIC, OC, and PCC will coordinate their responsibilities for those Standards that have a combination of market, operating, and planning implications.

Subgroup. A subcommittee, work group, or task force of the MIC, OC, PCC, or a combination of representatives from these committees that is responsible for developing a draft WECC Standard, posting it for review, and addressing public comments on the draft.² Voting members of a Subgroup are the individuals appointed to the group. In addition, one representative of the entity requesting a Standard has the option of joining the Subgroup as a voting member.

Technical Appeals Committee. The committee that receives appeals alleging that a party's technical comments were not properly addressed during the development of a Standard. The Technical Appeals Committee consists of the Vice Chairs of the Market Interface Committee, Operating Committee, Planning Coordination Committee, and a Director appointed by the Board Chair. The WECC Chief Executive Officer or his/her designee will be the staff coordinator for the Technical Appeals Committee. The Director appointed to the committee will act as chair. Replacement of a Technical Appeals Committee member in the event of a

¹ In accordance with WECC Bylaws Section 8.5.4, Membership in WECC's Standing Committees is open to all WECC members.

² Formation of Subgroups is in accordance with the Market Interface Committee's, Planning Coordination Committee's, and Operating Committee's Organizational Guidelines.

conflict of interest will be at the discretion of the Technical Appeals Committee Chair. If the chair has a conflict of interest, the WECC Board Chair will appoint another Director to serve as chair for the duration of the appeal in question.

Normal Process for Standards

Step 1 – Request To Revise or Develop a Standard

Requests to develop or revise a Standard will be submitted to the WECC staff through the use of the WECC Standard Request Form. Requesters may be any individual or organization. WECC membership is not a requirement as long as the requester has an interest in electric system reliability or commercial business practices in the Western Interconnection.

Step 2 – Request Validation and Routing

The Standard Request Form will be reviewed for completeness and assigned a tracking number by the WECC staff. Staff may assist with completing the request, or report to the Standards Request Routing Committee that the request is incomplete and request guidance. When complete, the WECC staff will forward the request to the Standards Request Routing Committee. This committee will confer either in person or via conference call within two weeks of receipt of a completed request to determine whether the request is within WECC's scope.

The WECC staff will maintain a web-based form that tracks all requests through the standard development process, as well as a standards development tracking log that is posted on the WECC website.

Upon ascertaining that a request is within the scope of WECC's activities, the Standards Request Routing Committee will assign the request to the chair of the appropriate Standing Committee(s), who will in turn assign it to a Subgroup. One Standing Committee will be designated as the lead Standing Committee. If the request has implications for any combination of planning, operations, or market issues, the chair of the lead Standing Committee, in consultation with the Standards Request Routing Committee, will evaluate the technical expertise of the Subgroup and may augment membership in the Subgroup for the purpose of drafting the proposed Standard or revision(s) to ensure that the Subgroup includes a composite of individuals having the appropriate planning, operations, and market expertise. Notification of such assignments will be posted on the WECC website and sent to all parties that subscribe to the WECC standards e-mail list. In addition, such assignments will be simultaneously noticed to NERC. The Subgroup will act in accordance with duly approved Subgroup guidelines. Any other interested parties may participate in the deliberations of the Subgroup.

Step 3 – Subgroup Begins Drafting Phase and Announces on WECC Web Site

The Subgroup will begin working on the request at the Subgroup's next scheduled meeting, or no later than a designated number of days following assignment from the Routing Committee, as directed by the lead Standing Committee chair. Notification of Subgroup meetings will be posted on the WECC website and sent to all parties that subscribe to the WECC standards e-mail list at least 30 days prior to the meeting. In addition notification of all Subgroup meetings will be simultaneously noticed to NERC. These meetings will be open to interested

stakeholders. The Subgroup chair will facilitate interested stakeholder participation in the discussion in order to encourage Subgroup understanding of the issues and consensus among the meeting participants. The Subgroup will work to achieve a consensus recommendation.

Standard requesters have the right, and are encouraged to participate in the Subgroup drafting process. Requesters may be called on to provide additional information, supporting studies, and other information to support the requirements of the proposed Standard or revision(s).

All WECC Standards will follow a standard format that refers to the Responsible Entities included in the NERC Functional Model and includes compliance measures according to the WECC standard template. The drafting group will include definitions for any terms included in the Standard or revision(s) that need to be added to the WECC glossary.

In the course of its review, the Subgroup:

- will review the preliminary technical assessment provided by the requester.
- will compare with existing standards to determine whether a the request is better served by drafting a new standard or modifying an existing standard.
- may perform or request additional technical studies, if necessary.
- will complete an impact assessment report as part of its evaluation to assess the potential effects of the request.
- may request from the Board or Standing Committee additional time to study the proposed request if the Subgroup believes it necessary to fully assess the proposed change.

Upon reaching a determination, by majority vote, that the requested Standard or revision to an existing Standard is needed, the Subgroup will announce the proposed Standard or proposed revision(s) in an existing Standard by posting on the WECC website a summary of the Standard or revision(s) it expects to draft, and an explanation as to why the new Standard or revision(s) in an existing Standard is needed. Notice of this posting, and its location on the WECC website, will be sent to all parties that subscribe to the WECC standards e-mail list. In addition these notifications will be simultaneously noticed to NERC.

If the Subgroup determines, by majority vote, that a new or revised Standard is not needed, it will prepare an explanation in consultation with the Standards Request Routing Committee and post it on the WECC website for a specified comment period. The party that submitted the request, parties subscribing to the WECC standards email list, the Standing Committees, and Board will all be notified of the posting and its location on the WECC website.

Step 4 – Draft Standard Posted for Comment

The Subgroup will post the first draft of the new or revised Standard on the WECC website and provide 45 days for comments. Along with the draft, the Subgroup will prepare and post an impact assessment report. Alternatively, the Subgroup may request input from affected parties regarding their estimated cost to implement the draft Standard and will use that data to prepare an impact assessment report, which will be posted for comment when it becomes available. The draft will include all mandatory requirements. In addition, it will include measurements, Violation Risk Factors, and Violation Severity Levels. Notice of this posting and a solicitation for comments on the draft will be sent to all WECC members and all individuals who subscribe

to the WECC standards e-mail list. In addition the notification of posting and solicitation for comments will be simultaneously noticed to NERC. Members of electric industry organizations may respond through their organizations, or directly, or both. All comments will be supplied electronically and will be posted on the WECC website.

Step 5 – Subgroup Deliberates on Comments

Subgroup chairs are responsible for ensuring that comments are addressed in a timely manner. The Subgroup will post its response to comments on the WECC website within 30 days of the close of the comment period. All parties that submit comments are strongly encouraged to participate in Subgroup deliberations.

If the Subgroup determines, by majority vote, any technical comments including those on the draft or the impact assessment report are significant, it will repeat Steps 3 and 4 as many times as considered necessary by the Subgroup to ensure adequate opportunity for interested stakeholder input. All interested stakeholders are strongly encouraged to submit their comments as early in the process as possible. The number of days for comment on each subsequent revision to the draft of the proposed Standard or revision(s) will be 30 days. Parties whose comments have been rejected by a Subgroup may request review of such comments by the Standing Committee and Participating Stakeholders when the proposed Standard or revision(s) is brought before the Standing Committee for a vote (in Step 7).

The Subgroup will attempt to achieve a consensus recommendation on a final draft. A majority vote of the Subgroup is required to approve submitting the recommended Standard or revision(s) to the Standing Committee and Participating Stakeholders. Voting will be conducted in accordance with this WECC Standards Process, the WECC Bylaws, and any other applicable regulatory requirements. Balloting results will be documented. All dissenting voters, as well as others participating in the Subgroup deliberations, will be encouraged to provide dissenting comments and, if possible, specific language that would make the Standard acceptable. If the Subgroup vote fails to capture a simple majority to approve the submittal to the Standing Committee and Participating Stakeholders, and there is no apparent way to reach a majority agreement, the Subgroup will report to and seek guidance from the Standing Committee Chair.

Step 6 – Subgroup Submits Draft for Standing Committee/Participating Stakeholder Vote

The Subgroup's final draft Standard or revision(s) will be posted on the WECC website and the appropriate Standing Committees and Participating Stakeholders will be notified of the Subgroup's recommendation. The posting will include the final Subgroup vote, all comments that were not incorporated into the draft Standard, the impact assessment report and the date on which the Standing Committee and Participating Stakeholders are scheduled to vote on the Subgroup's recommendation. Notice of the posting will be sent to the Standing Committees, all Participating Stakeholders, and the standards e-mail list. In addition the notification of posting for ballot will be simultaneously noticed to NERC.

Step 7 – Standing Committee/Participating Stakeholders Vote on Recommendation to Board

In accordance with Sections 8.5 and 8.6 of the WECC Bylaws, the Standing Committee and Participating Stakeholders will vote on the draft Standard, revision(s) or withdrawal no later than at the next Standing Committee meeting, subject to applicable notice requirements. A minimum of 30 days notice will be provided prior to all Standing Committee meetings at which new or revised Standards will be considered for approval.³ Notification of such meetings will be posted on the WECC website and sent to all parties that subscribe to the WECC standards e-mail list. Whenever it determines that a matter requires an urgent decision, the Board may shorten the time period set forth in this section in accordance with the requirements in the WECC Bylaws.⁴

The Standing Committee and Participating Stakeholders may vote to amend or modify a proposed Standard or revision(s) or remand it back to the Subgroup to propose needed modifications. The reasons for the modification(s) will be documented, posted, and provided to the Board. If any changes are made at the Standing Committee meeting, the roll call of votes for and against the proposal and abstentions will be recorded at the meeting, and the revised proposal will be posted for 10 days for comments.³ The comments will be posted and distributed to the Standing Committee and Participating Stakeholders. All Standing Committee members and Participating Stakeholders, including those who did not vote at the meeting, will be allowed 10 days from the time comments are posted to submit or change their votes, and the Standing Committee/Participating Stakeholder votes will be recounted based on these new and revised votes to determine whether a majority has voted for the proposal. Any parties that object to the modifications may appeal to the appropriate appeals committee as provided in Step 8.

A majority vote of the Standing Committee and Participating Stakeholders, as specified in Section 8.5.5.2 of the WECC Bylaws, is required to approve submitting the recommended Standard or revision(s) to the Board for a vote. In accordance with Section 8.5.5.2 only Standing Committee members and Participating Stakeholders who are present at a meeting of the Standing Committee may vote on a Standard.

Although any of the three Standing Committees (together with Participating Stakeholders) may vote on submitting the recommended Standard or revision(s) to the Board, only the vote of the lead Standing Committee and Participating Stakeholders will determine the course of action. If the Standing Committees do not agree, the lead Standing Committee and Participating Stakeholders will decide whether to return the draft to the Subgroup for further work, to submit the recommended Standard or revision(s) to the Board, or terminate the Standard development activity with the posting of an appropriate notice to the Standards requester, the Subgroup, and the Board (if appropriate). The Standing Committee chairs will coordinate input from their respective Committees and Participating Stakeholders to the lead Standing Committee so that the lead Standing Committee and Participating Stakeholders will have all relevant information when

³ WECC Bylaws, Section 8.5.6 – “If the committee’s recommendation or decision changes significantly as a result of comment received, the committee will post the revised recommendation or decision on the Web site, provide e-mail notification to Members and Participating Stakeholders (if the recommendation or decision concerns a Reliability Standard or revision), and provide no less than ten (10) days for additional comment before reaching its final recommendation or decision.”

voting. Relevant voting information from all Standing Committees will be submitted to the Board for its consideration in determining whether or not to approve the Standard.

If the Standing Committee and Participating Stakeholders approve the Standard or revision(s), the Standing Committee sends its recommendation, together with the proposed Standard or revision(s), and any comments on which the Standing Committee and Participating Stakeholders did not agree, plus minority opinions, to the Board for final approval. To be considered by the Board, any “no” votes on a proposed Standard or revision(s) should be accompanied by a text explaining the “no” vote and if possible specific language that would make the Standard or revision(s) acceptable. Proposed Standards or revision(s) will be posted no less than 30 days prior to the Board vote.⁴ The date of the expected Board vote will also be posted.

Step 8 – Appeals Process

Appeals are available at various levels of the Standards Development Process as follows:

Rejection of a Standards Request by the Standards Request Routing Committee may be appealed to a Standing Committee and Participating Stakeholders, and if necessary, to either a Due Process or Technical Appeal Committee, as appropriate.

Appeals of Subgroup decisions, including Routing Committee decisions, may be made to a Standing Committee and Participating Stakeholders. The Standing Committee will post its findings. The subsequent rejection of such an appeal by a Standing Committee and Participating Stakeholders may be further appealed to an appeals committee. The appeals committee will post and submit its findings and recommendations to the Standing Committee chair who will determine the appropriate course of action. Any submittal to the Board of Directors for approval will include any findings and recommendations of the appeals committee.

A new Standard or revision(s) to an existing Standard recommended by a Standing Committee and Participating Stakeholders may be appealed on either technical or due process grounds. Any due process or technical appeals must be submitted, in writing, to the WECC staff within 15 days of the date the Standing Committee posts a recommendation.

The WECC staff will conduct an investigation and issue a written report of its findings and recommendations to the appealing party and Standing Committee. If the appealing party does not agree with the staff report, it can request that the appeal be referred to the Technical or Due Process Appeals Committee, which will conduct an investigation and issue a report including findings and recommendations. The Technical Appeals Committee will make assignments as necessary to existing WECC technical work groups and task forces, form new technical groups if necessary, and use other technical resources as required to address technical appeals. The appealing party has the burden of proof and must demonstrate that the decision will adversely impact it. The Technical or Due Process Appeals Committee will issue a majority decision.

Each level of appeal will be completed within 30 days. The Board of Directors, at its discretion, may implement the Standard or revision(s) on an interim or emergency basis during the appeals process using the Urgent Action interim Standard Process set forth below.

⁴ WECC Bylaws, Section 7.5.1 – “Except as set forth in Section 7.5.2 regarding urgent business, all regular business of the Board will occur at the Board meetings, at least twenty-one (21) days’ advance notice of which has been provided...”

Step 9 – Board Approval

The WECC Board of Directors will consider the proposed Standard or revision(s) no later than at its next meeting occurring at least 30 days after the lead Standing Committee vote. The Board will consider the Standing Committee’s recommendations and minority opinions, all comments that were not incorporated into the draft Standard or revision(s), the impact assessment report, and inputs from the Due Process and Technical Appeals Committees. The Board will not amend or modify a proposed Standard, except to make nonmaterial changes to the language of a Standard or revision thereto. If approved, the Standard will be posted on the WECC website and all parties notified.

If the new or modified Standard is not approved, the Board may return the Standard to the Standing Committee and Participating Stakeholders for further work, or the Board may terminate the Standard activity with an appropriate notice and explanation to the Standard requester, Standing Committee, and Participating Stakeholders. These Board actions will also be posted.

A majority vote of the Directors present at a Board meeting, as specified in Section 7.2 of the WECC Bylaws, is required to approve the recommended Standard or revision(s).

Step 10 – ERO Review, FERC Approval and Implementation of Reliability Standards

To the extent required under Section 215 of the Federal Power Act, 18 C.F.R. Part 39, and according to procedures established in the delegation agreement between WECC and the Electric Reliability Organization (“ERO”), the Board shall submit new Reliability Standards and revisions to existing Reliability Standards for review by the ERO and approval by FERC. Upon approval by FERC, the Reliability Standards will be made part of the body of NERC reliability standards and enforced upon all applicable bulk power system owners, operators, and users within the WECC region. Parties’ right to participate in the ERO and FERC review processes shall be as established in the applicable regulations and the ERO/WECC delegation agreement. Reliability Standards subject to ERO review shall become effective as approved by FERC or applicable Canadian or Mexican authorities.

Step 11 – Implementation of Standards Not Subject to ERO/FERC/Other Approval

All new and modified Standards not subject to ERO review and FERC, Canadian or Mexican approval as provided in Step 10 shall become effective as ordered by the WECC Board. As of the effective date of such new or modified Standard, all industry participants in the Western Interconnection that such Standard is applicable to are expected to implement and abide by the Standard. Any and all parties to this Process retain the right of appeal to other authorities as the law allows.

Special Procedures

Expedited Process for Urgent Action Interim Standards

In cases requiring urgent action, such as in the development of emergency operating procedures, the Standing Committees and Participating Stakeholders may propose a new or modified interim Standard for approval by the WECC Board through a process that eliminates any or all of the steps outlined above, but only to the extent necessary, and only in a manner that is consistent with the WECC Bylaws. Such interim Standard shall be replaced by a Board-approved permanent Standard, developed using all the steps identified in this document within one year (or such additional time as may reasonably be required to complete all steps) from the date on which the WECC Board approved the interim standard. An interim Standard may be converted to a successor permanent Standard as long as any procedural steps bypassed in developing the interim Standard are completed with respect to the permanent Standard. If necessary, the Board may renew an interim Standard to allow additional time for the development of a successor permanent Standard. Renewal may occur more than once, but a good faith effort must be made to develop a successor permanent Standard.

Interpretation of Regional Standards

Any entity may request an interpretation of a Regional Standard by sending a request through the WECC web portal identifying the standard and requirement or requirements for which additional clarity is sought. The request shall indicate the material impact to the requesting entity or others caused by the actual or potential lack of clarity. An interpretation is limited to clarifying existing requirements in approved reliability standards. Interpretations may not be developed that expand upon a requirement or that provide guidance on how to apply a requirement.

The Director of Standards shall review the request for clarity and completeness and shall work with the requestor to clarify the request or complete any missing elements of the request if needed. The Director of Standards shall forward the request to the Standards Request Routing Committee (SRRC). If the Director believes that the request is intended to change a requirement or is seeking feedback on how to apply a requirement, rather than interpret the requirement, the Director shall note that to the SRRC. If the SRRC agrees by majority vote, the request shall be denied and returned to the requestor with an explanation. If denied, the requestor shall be advised of the appeals process.

Within 10 calendar days after receipt of the request, the SRRC shall assign the interpretation request to the Standing Committee (SC) responsible for creating the Standard. Within 21 days of receiving the request, the SC Chair shall assemble an Interpretation Drafting Team (IDT) with the relevant expertise to address the clarification. The IDT should include members from the original Standard Drafting Team to the extent possible, and may be supplemented as deemed appropriate by the SC Chair, but shall not contain any members representing the entity that submitted the request.

As soon as practicable, but not more than 45 calendar days after the SC assembles the IDT, the IDT shall draft a written interpretation to the Standard providing the requested clarity. The

interpretation shall be posted for a 30-day formal comment period. The IDT shall then have 15 days to respond to the comments and to make any changes to the interpretation. The IDT shall then return the interpretation to the SC which shall then post the interpretation for another 30 days to give entities time to review the interpretation prior to the SC vote. The SC shall vote on the interpretation as soon as practicable after the posting period consistent with the Voting Procedure for WECC Standing Committees. Use of a conference call or web meeting and electronic or e-mail balloting is encouraged to shorten the interpretation process. If the interpretation is approved, the SC shall forward the interpretation to the WECC Board of Directors for approval. If the SC rejects the interpretation, the Director of Standards shall notify the requestor.

The interpretation shall be submitted to NERC for processing with a request that the interpretation be adopted by the NERC Board of Trustees and then filed for approval with FERC and applicable Governmental Authorities in British Columbia, Alberta and Mexico.

Once the interpretation is approved by FERC and applicable Governmental Authorities in British Columbia, Alberta and Mexico, the interpretation shall become effective and shall be appended to the Standard. The interpretation will remain appended to the Standard until such time as the Standard is revised through the normal process incorporating the clarifications provided by the interpretation.

Approved by the WECC Board April 28, 2010

Process for Developing and Approving WECC Standards

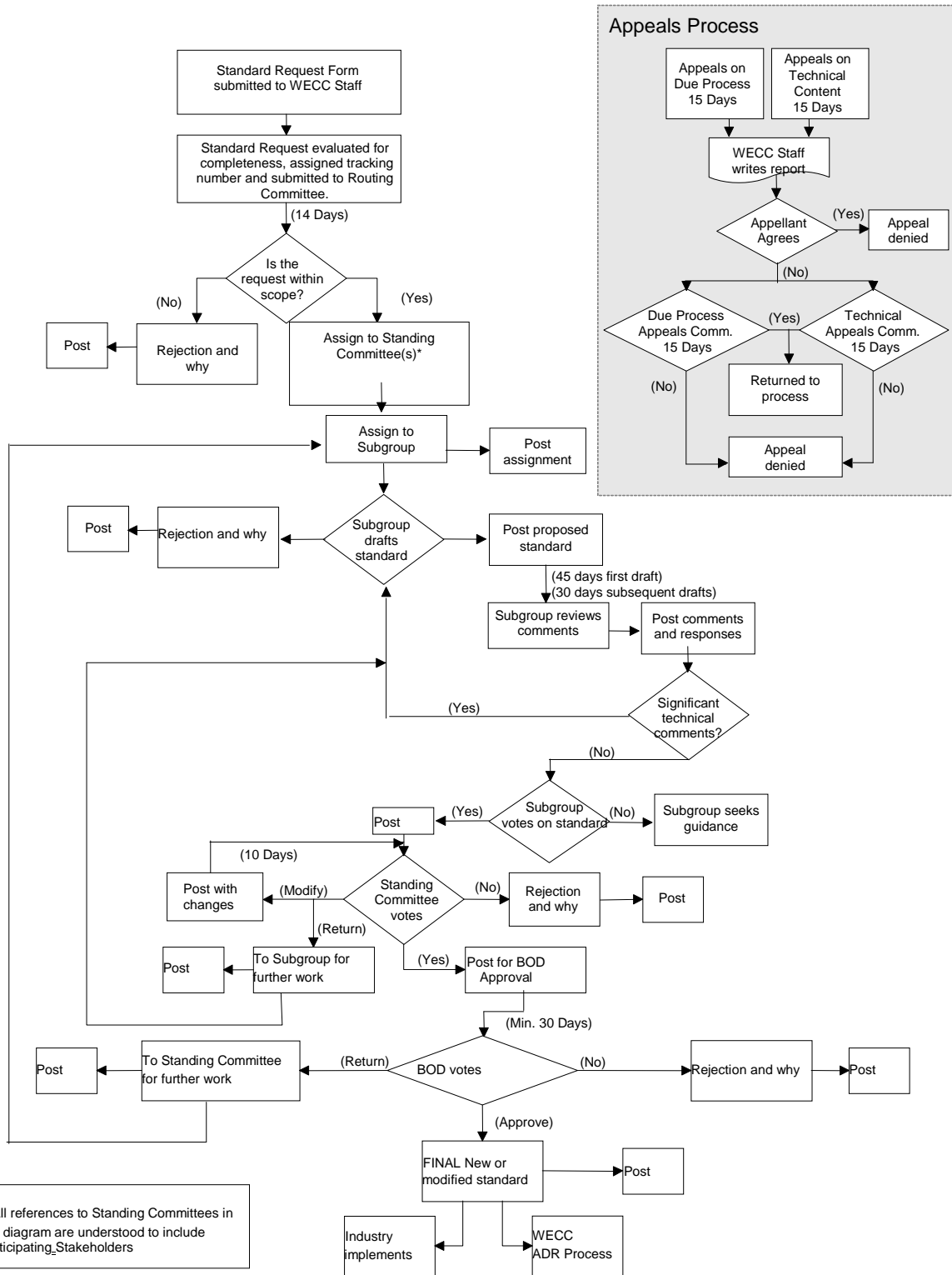


EXHIBIT D

EXHIBIT D – COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

WECC[REGIONAL ENTITY] will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within WECC[REGIONAL ENTITY]'s geographic or electrical boundaries, and such other scope, set forth on **Exhibit A** of this Agreement; provided, however, that Section 5.3(vii) of the WECC Compliance Monitoring and Enforcement Program does not refer to shortened hearing procedures.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

WECC[REGIONAL ENTITY] shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either WECC[REGIONAL ENTITY]'s board or a balanced compliance panel reporting directly to WECC[REGIONAL ENTITY]'s board. WECC's hearing body is the Compliance Hearing Body, as established under the WECC Compliance Hearing Body Charter[REGIONAL ENTITY]'s hearing body is [its board] [if not the board, insert the name of the committee or group serving as the hearing body].

Under the Compliance Hearing Body Charter, the Compliance Hearing Body consists of Class A and Class B members. Class A members are WECC non-affiliated directors, personnel employed by WECC Members who are not engaged in the Electric Line of Business, and consultants who meet the same standards of independence required by the WECC Bylaws for non-affiliated directors. Class B members are personnel employed by WECC Members engaged in the Electric Line of Business or who are otherwise affiliated with such Members. For each hearing, the Chair of the Compliance Hearing Body selects a five-member Hearing Panel (or a three-member Hearing Panel if the parties to the hearing agree) with a majority consisting of Class A members, with at least two members (one member of a three-member Hearing Panel) having technical knowledge of electric industry systems.

WECC[If the hearing body is a compliance panel other than the board, provide here a description of how the members of the compliance panel are selected and the qualifications to be selected for the compliance panel.]

[REGIONAL ENTITY] shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with the Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: [Describe any deviations, or state "None". If there are deviations from the NERC pro forma Hearing Procedures, [REGIONAL ENTITY]'s Hearing Procedures shall be included as a separate attachment to this Exhibit D.]

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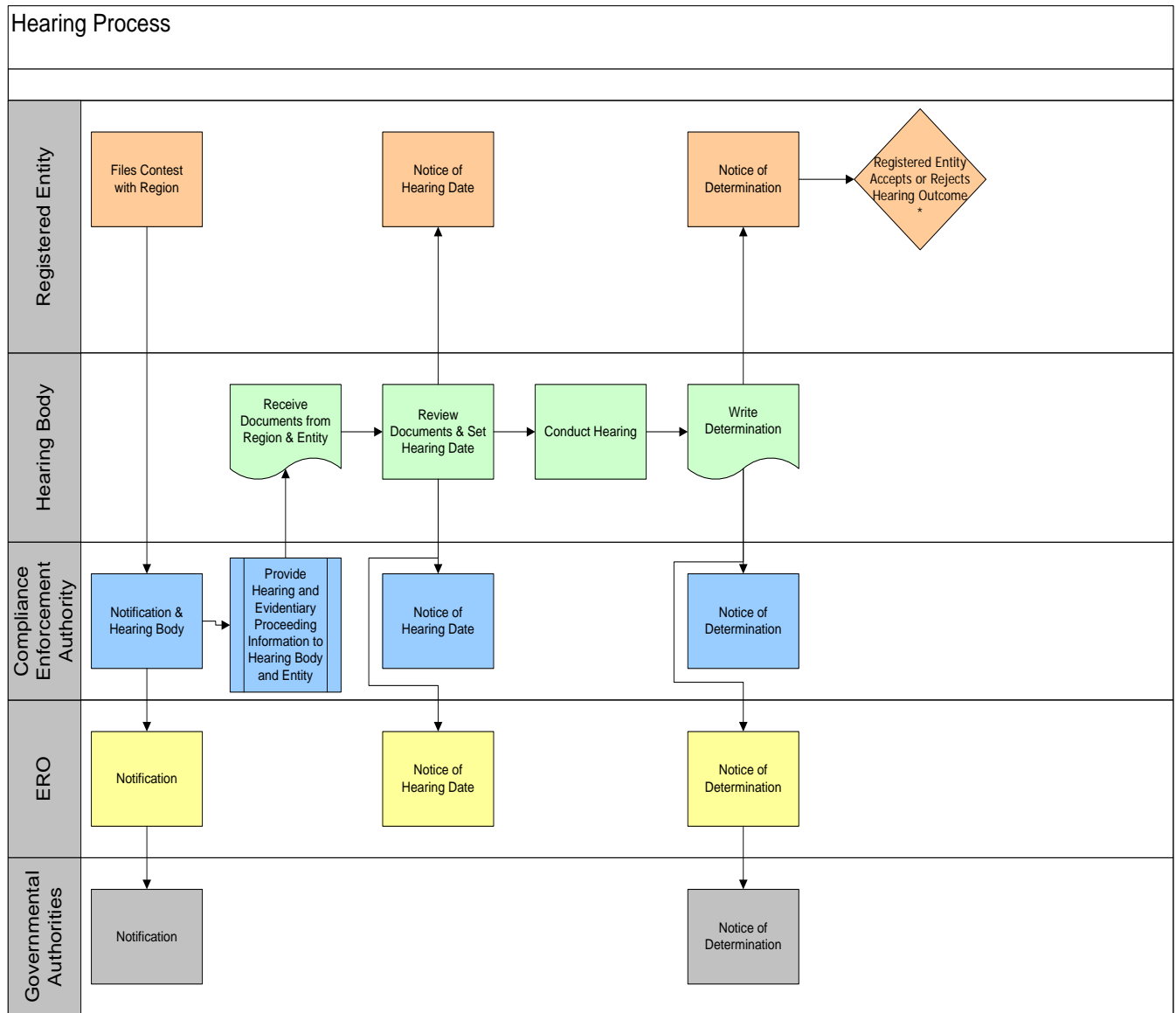
3.0 OTHER DECISION-MAKING BODIES

~~If [Regional Entity] uses other decision-making bodies within its compliance program, provide here a description of the function of that body to the extent not described elsewhere in the Agreement or exhibits, how the members of that body are selected, and the qualifications to be selected for that body.~~ None. The WECC Compliance Committee provides general oversight and policy guidance but does not have decision-making authority with respect to compliance matters.

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Figure ATT-2 –Hearing Process



*This merges with the Compliance Monitoring & Enforcement Program flow diagram at the Registered Entity Accepts or Rejects Hearing Outcome decision box

1.0 HEARING PROCEDURES

1.1 APPLICABILITY, DEFINITIONS AND INTERPRETATION

1.1.1 Procedure Governed

These Hearing Procedures shall govern the procedure before the Western Electricity Coordinating Council (“WECC”) in proceedings concerning (i) disputes regarding whether any entity should be or has been properly registered or certified, (ii) whether Registered Entities within WECC’s area of responsibility have violated Reliability Standards, (iii) if so, to determine the appropriate Mitigation Plans as well as any remedial actions, penalties or sanctions in accordance with the NERC *Sanction Guidelines* and other applicable penalty guidelines

approved by FERC pursuant to 18 C.F.R. Section 39.7(g)(2), or (iv) any other dispute that relates to enforcement of reliability standards properly before the WECC.

The standard of proof in any proceeding under these Hearing Procedures shall be by a preponderance of the evidence. The burden of persuasion on the merits of the proceedings shall rest upon the Compliance Staff alleging noncompliance with a Reliability Standard, proposing a penalty, opposing a Registered Entity's Mitigation Plan, or requiring compliance with a Remedial Action Directive.

1.1.2 Deviation

To the extent permitted by law, any provision in these Hearing Procedures may be waived, suspended or modified by the Hearing Officer or the Hearing Panel for good cause shown, either upon the Hearing Officer's or the Hearing Panel's own motion or upon the motion of any Party.

1.1.3 Standards for Discretion

These Hearing Procedures, and any discretion exercised hereunder, shall be interpreted in a manner intended to ensure just and reasonable proceedings and to effectuate the following Standards for Discretion:

- a) Integrity of the Fact-Finding Process - The principal goal of the hearing process is to assemble a complete factual record to serve as a basis for a correct and legally sustainable ruling, decision or order.
- b) Fairness - Persons appearing in WECC proceedings should be treated fairly. To this end, Parties should be given fair notice and opportunity to present explanations, factual information, documentation and legal argument. Action shall be taken as necessary to eliminate any disadvantage or prejudice to a Party that would otherwise result from another Party's failure to act diligently and in good faith.
- c) Independence - The hearing process should be tailored to protect against undue influence from any Person, Party or interest group.
- d) Balanced Decision-Making - Decisions should be based solely on the facts and arguments of record in a proceeding and by individuals who satisfy the conflict of interest provisions of section 1.8.4 of these Hearing Procedures.
- e) Impartiality - Persons appearing before the Hearing Panel should not be subject to discriminatory or preferential treatment. Registered Entities should be treated consistently unless a reasonable basis is shown in any particular proceeding to depart from prior rulings, decisions or orders.
- f) Administrative Efficiency and Expedition - Proceedings shall be brought to a conclusion as swiftly as is possible in keeping with the other goals of the hearing process.

1.1.4 Definitions and Interpretation

Unless otherwise defined, capitalized terms shall have the meanings described in the WECC Compliance Monitoring and Enforcement Program. Unless the context otherwise requires, the singular of a term used herein shall include the plural and the plural of a term shall include the singular. To the extent the text of a rule is inconsistent with its caption, the text of the rule shall control.

The following terms shall have the following meanings:

“Adjudicatory Officer,” means any person serving as a member of the Hearing Panel, Hearing Officer or Technical Advisor with respect to any proceeding.

“Clerk” means the person designated by WECC to receive filings and serve documents issued by or on behalf of, and otherwise provide support for, the Hearing Panel and Hearing Officer.

“Compliance Hearing Body,” is as defined in the WECC Compliance Hearing Body Charter.

“Critical Energy Infrastructure Information,” as defined in Section 1501 of the NERC Rules of Procedure.

“Critical Energy Infrastructure Information,” as defined in Section 1501 of the NERC Rules of Procedure, means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (1) relates to details about the production, generation, transportation, transmission, or distribution of energy; (2) could be useful to a person in planning an attack on critical infrastructure; (3) is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552 (2000); and (4) does not simply give the general location of the critical infrastructure.

“Cybersecurity Incident,” as defined in 18 C.F.R. § 39.1.

“Director of Compliance” means the Director of Compliance of WECC, who is responsible for the management and supervision of Staff.

“Document” means, in addition to the commonly understood meaning of the term as information written or printed on paper, any electronically stored information, including writings, drawings, graphs, charts, photographs, sound recordings, images and other data or data compilations stored in any medium from which information can be obtained, and shall be translated by the producing party into reasonably usable form.

“ERO” means the Electric Reliability Organization, currently the North American Electric Reliability Corporation, or any successor organization, certified by FERC pursuant to 18 C.F.R. Section 39.3.

“FERC” means the Federal Energy Regulatory Commission.

“Hearing Panel” means the persons assigned to render a final decision in matters requiring a determination under these Hearing Procedures.

“NERC” means North American Electric Reliability Corporation.

“Notice of Proceeding” means (1) a request for a hearing by a Registered Entity to contest an Alleged Violation, a proposed Penalty or a Remedial Action Directive, (2) a request for hearing by a Registered Entity or the Staff concerning a dispute as to whether the entity should be registered or certified, (3) a request for hearing by a Registered Entity in response to a Staff rejection of a proposed revised Mitigation Plan submitted after Compliance Staff rejected the Registered Entity’s initial proposed Mitigation Plan, or (4) any other notice that a proceeding has been properly commenced.

“Penalty” as used herein includes all penalties and sanctions, including but not limited to a monetary or non-monetary penalty; a limitation on an activity, function, operation or other appropriate sanction; or the addition of the Registered Entity to a reliability watch list composed of major violators.

“Person” means any individual, partnership, corporation, limited liability company, governmental body, association, joint stock company, public trust, organized group of persons, whether incorporated or not, or any other legal entity.

“Service List,” means the list maintained by the Clerk identifying the name, address, telephone number, and facsimile number and email address, if available, of each Party, the Hearing Officer, the Director of Compliance, the Registered Entity’s designated agent for service and any other individuals designated for service by a Party.

“Staff” means individuals employed or contracted by WECC who have the authority, among other things, to make initial determinations as to need for registration, compliance or violation with Reliability Standards by Registered Entities and associated Penalties, Mitigation Plans, and Remedial Action Directives.

“WECC’s area of responsibility” means WECC’s corporate region.

1.2 FILING AND SERVICE

1.2.1 Form and Content of Filings

All filings shall include (1) a caption that sets forth the title and docket number (if any) of the proceeding, (2) a heading that describes the filing and the Party on whose behalf the filing is made, (3) the name, address, telephone number and email address of the Party’s representative of the making, and (4) the service list. All filings shall be signed by an authorized representative of the Party on whose behalf the filing is made. The signature constitutes a certificate that the signer has read the filing, that the contents are true to the best of the signer’s knowledge and belief, and that service required by these Hearing Procedures has been made. Each filing shall include a service list identifying the Parties and authorized representatives served.

All filings shall be typewritten, printed, reproduced or prepared using a computer or other word or data processing equipment on white paper 8½ inches by 11 inches with inside text margins of not less than one inch. Page numbers shall be centered and have a bottom margin of not less than ½ inch. Line numbers, if any, shall have a left-hand margin of not less than ½ inch. Typeface shall be either Arial or Times New Roman font, black type on white background, and at least 12-point (at least 10-point for footnotes). Written testimony shall include continuous line numbers on the left-hand side of each page of text. Attachments shall, whenever practical,

conform to these requirements, except that any typeface shall be at least 8-point. Confidential documents shall comply with the requirements of any Protective Order issued under Section 1.10.

1.2.2 Submission of Filings

The original and five copies of any filing shall be made with the Clerk of WECC during WECC business hours (0800-1630 Mountain Time) each day except Saturday, Sunday, legal holidays and any other day declared by the WECC. Filing is complete when date stamped by the Clerk or received in the electronic mail by the Clerk.

Unless as otherwise provided, a filing may be effected by electronic mail if the filed documents are in pdf format and the requisite number of copies are delivered to the Clerk's office within seven business days thereafter.

1.2.3 Service

A copy of each filing must served on each person listed on the service list, by personal delivery, email (with paper copy to follow), United States mail (first class or registered) mail or deposit with an express courier service. The Clerk shall provide copies of all issuances of the Hearing Officer and Hearing Panel by similar means to each person listed on the service list and each member of the Hearing Panel, provided that the Initial and Final Decisions shall be served electronically and by certified mail on the Registered Entity and the Staff. Service is effective immediately if by personal delivery or email, upon deposit in the U.S. mail, or upon delivery to an express courier service.

1.2.4 Time

The time in which any action is required to be done shall be computed by excluding the day of the act or event from which the time period begins to run, and by including the last day of the time period, unless the last day is a Saturday, Sunday, legal holiday or any other day upon which the Office of WECC is closed, in which event the last day shall be the first succeeding day that is not such a day. Any Party requesting an extension of time after the expiration of the period prescribed shall demonstrate circumstances sufficient to justify the failure to act in a timely manner. Unless otherwise provided, whenever a Party has the right or is required to do some act within a prescribed period after the service, four days shall be added to the prescribed period when served by mail and the period until the next business day shall be added if served by courier.

1.3 PLEADINGS, MOTIONS AND OTHER FILINGS

1.3.1 Initiation of a Proceeding

A proceeding is initiated by a Notice of Proceeding. Any Notice of Alleged Violation or other action triggering a right to a hearing shall clearly state (as applicable) that the Registered Entity has the right to contest proposed registration or certification, that the Registered Entity has a right to a hearing, and shall describe or include (as applicable) the alleged violation, the proposed Penalty, the Staff's rejection of the proposed Mitigation Plan, or the issuance of a Remedial Action Directive. Upon receipt of a Notice of Proceeding, the Clerk shall issue a notice of

hearing, which identifies the Hearing Panel and, if applicable, the Hearing Officer assigned to the proceeding, and assigns a docket number that includes (separated by dashes) (1) the last two digits of the month and year, (2) the letters “[Regional Entity designation]”, and (3) a four digit number that is assigned sequentially beginning January 1 of each year (*e.g.*, 0707-WECC-0001).

Within five business days after the issuance of a Notice of Proceeding, WECC staff shall file and serve the notice of the Alleged Violation, the sanction originally provided to the Registered Entity and copies of any documents gathered and reviewed by WECC in the course of determining an Alleged Violation has occurred and in determining the proposed sanction or penalty. Within twenty days after the issuance of the Notice of Proceeding, (1) the Registered Entity shall file (as applicable) an explanation of why the Alleged Violation is in error, why the registration determination is in error, why the proposed penalty or sanction is inappropriate and/or the Registered Entity’s proposed Mitigation Plan, together with copies of all documents relied on by the Registered Entity to support its position, and (2) (if applicable) the Staff shall file its explanation why the Registered Entity’s proposed Mitigation Plan was not accepted, and copies of all documents relied on by the Registered Entity to support its position.

1.3.2 Amendments

Amendments to any filings initiating a proceeding or requesting a hearing may be allowed by the Hearing Officer or the Hearing Panel upon motion made within a reasonable time after the basis for the amendment became apparent, on such terms and conditions as are deemed to be just and reasonable.

1.3.3 Requirements for Motions

Unless otherwise provided, a Party may at any time seek any relief provided for under these Hearing Procedures or otherwise applicable authority by filing a motion in writing (or orally if during a hearing). All motions shall include a plain and concise statement of any facts upon which the motion is based, citations to the record or other sources, if available, any required verification under oath by a person having knowledge of the matters set forth in the filing, a description of the specific relief sought, and the authority that supports the request for relief. Unless otherwise provided, any responses to motions shall be filed within 14 business days after service of the motion, and replies to responses shall be filed within seven business days after service of the responses.

The Hearing Panel or Hearing Officer, in their discretion, may elect to hold oral argument on any matters in dispute.

1.3.4 Intervention; Consolidation of Related Proceedings

No interventions shall be permitted except upon approval of FERC. The Hearing Panel or Hearing Officer may, upon motion or their own initiative, order two or more matters partially or fully consolidated for any or all purposes if (1) events giving rise to the proceeding are the subject of another proceeding involving another Registered Entity, (2) it appears likely that consolidation is necessary to obtain all information necessary for decision and (3) reasonable procedures can be developed to prevent inappropriate disclosure of confidential information. Consolidation shall not be ordered unless all Parties in all proceedings have been provided notice and opportunity to be heard

1.3.5 Summary Disposition

The Hearing Panel or Hearing Officer may, upon motion or their own initiative, order summary disposition, in whole or in part, if there are no genuine issues of material fact with respect to the matters subject to summary disposition and the Party is entitled to summary disposition as a matter of law. Any factual allegations contained in a motion for Summary Disposition shall be supported by affidavit.

1.3.6 Interlocutory Review

Where the ruling for which interlocutory review is sought (1) presents an extraordinary circumstance which makes prompt review necessary to prevent prejudice to a Participant's ability to present its position in the proceeding or (2) involves a requirement that a non-Party produce information or testimony, a Party or person subject to the ruling may seek interlocutory review of any Hearing Officer ruling within 14 business days after the ruling. The Hearing Panel may affirm, reverse, remand, decline to act or take any other action on the Hearing Officer's ruling.

1.3.7 Pre-Evidentiary Hearing Submission of Testimony and Evidence

With the exception of examination of an adverse witness and of testimony and documents of a non-Party subject to an order to compel, all witness testimony, exhibits, and any documents intended to be introduced in connection with cross-examination, shall be filed at least five business days in advance of the evidentiary hearing pursuant to a schedule adopted for the proceeding.

1.3.8 Pre-Evidentiary Hearing Memorandum

Upon request of the Hearing Officer or the Hearing Panel, the Parties may be required to submit a memorandum prior to hearing describing the Party's position on the issue(s) in dispute, the key facts and arguments, and the applicable Reliability Standard, rules, orders or other authority. A Party will not be deemed to have waived any issue, fact or argument that is not set forth in a pre-evidentiary hearing memorandum.

1.4. DOCUMENT PRODUCTION

1.4.1 Inspection and Copying of Documents in Possession of Staff

(a) Documents to be Available for Inspection and Copying

Within five (5) business days of the initiation of the proceeding, the Staff shall make available to the Registered Entity for inspection and copying, all documents prepared by the Staff or obtained from the WECC, the Registered Entity or other sources, through or in connection with any compliance process that led to the institution of proceedings and not previously made available, including but not limited to all requests for information and responses, transcripts and transcript exhibits. Documents shall be made available during normal business hours at the WECC office where the documents are ordinarily maintained, or at such other office as the Hearing Panel or Hearing Officer, in his or her discretion, shall designate, or the Parties otherwise agree. The Registered Entity shall be responsible for the cost of photocopying, which shall be at a

reasonable rate. Documents received by the Staff thereafter shall be made available to the Registered Entity within 14 business days after receipt or as soon as possible if within 14 business days of the evidentiary hearing. In cases involving more than one Party other than the Staff, the Hearing Officer or Hearing Panel shall determine the extent to the extent to which, and conditions governing the provision of, documents relating to one Party shall be made available to another Party.

(b) Documents That May Be Withheld

The following documents are not subject to disclosure:

(1) Documents subject to a privilege available to the Staff or constituting attorney work-product of Staff's counsel (in applying this provision, the attorney-client privilege shall be recognized as absolute and any demand for production of attorney work product shall be granted only after a showing of substantial need by the Respondent);

(2) Documents that would disclose (i) an examination, investigatory or enforcement technique or guideline of WECC, a federal, state, or foreign regulatory authority, or a self-regulatory organization; (ii) the identity of a source, including a federal, state, or foreign regulatory authority or a self-regulatory organization that furnished information or was furnished information on a confidential basis regarding an investigation, an examination, an enforcement proceeding, or any other type of civil or criminal enforcement action; or (iii) an examination, an investigation, an enforcement proceeding, or any other type of civil or criminal enforcement action under consideration by, or initiated by, WECC, a federal, state, or foreign regulatory authority, or a self-regulatory organization;

(3) Documents containing confidential information, to the extent that disclosure would violate any applicable confidentiality requirement; or

(4) Documents not relevant to the subject matter of the proceeding or, upon order of the Adjudicatory Officer, for other good cause shown.

Provided, however, that nothing in Subparagraphs 1.4.1(b)(2), (3), (4) authorizes Staff to withhold a document, or part thereof, that contains exculpatory evidence, and nothing in Subparagraph (b)(1) requires Staff to withhold a document from disclosure.

The Staff shall provide to the Registered Entity, at the time the documents are provided, a list of documents withheld. Upon motion based on reasonable belief of a violation of these provisions or on their own motion, the Hearing Panel or Hearing Officer may require Staff (1) to submit any withheld document and (2) disclose to Registered Entity any document not meeting the standards of this subsection.

1.4.2 Other Discovery Procedures

In addition to the production of documents by Staff for inspection and copying by Registered Entity pursuant to Subparagraph 1.4.1(a), the Parties shall be entitled to utilize all other methods for obtaining information provided for in Rules 402 through 409 of the FERC Rules of Practice and Procedure, 18 C.F.R. §385.402 through 385.409, including data requests, written interrogatories and requests for production of documents or things, depositions by oral examination, requests for inspection of documents and other property, requests for admission and orders to compel (with respect to references to subpoenas, and which may be directed to non-

Party Registered Entities as well as Parties). Unless otherwise directed by the Hearing Officer or Hearing Panel upon motion by a Party or by the Hearing Officer, or by the Hearing Panel on its own motion, such discovery, and the resolution of any disputes concerning such discovery, shall be conducted in accordance with the provisions of Rules 402 through 410 and 510(e) of the FERC Rules of Practice and Procedure, 18 C.F.R. §385.402 through 385.410 and 510(e), which are hereby incorporated by reference into these Hearing Procedures, subject to the following limitations and modifications to such Rules:

- 1) The provisions of Subparagraph 1.4.1(b) shall apply to any such discovery.
- 2) Rule 403(b)(2) (18 C.F.R. §385.403(b)(2)) and Rule 410(d)(2) (18 C.F.R. §385.410(b)(2)) shall not be applicable.
- 3) The Hearing Officer and the Hearing Panel have the authority to issue orders to compel the appearance by, or production of documents or information by, only a Person that is a Party or a Registered Entity that is not a Party. The Hearing Officer and the Hearing Panel do not have authority to require a United States marshal or deputy marshal to serve any order to compel.
- 4) A list of documents withheld shall be provided, by the deadline for production of the documents, to the Adjudicatory Officer and each Party entitled to receive the documents.
- 5) References to the “Commission” in Rules 402 through 408 and 410 and 510(e) shall be to FERC except as follows: (i) the references in Rules 402(a), 404(b)(1) and 405(b), the second reference in Rule 410(d) and the references in Rule 510(e)(1) and (2) shall be deemed to be to the Hearing Panel, and (ii) the reference in Rule 385.406(b)(4) to “Commission trial staff” shall be deemed to be to Staff, and the reference in Rule 510(e)(3) shall be deemed to be to the Adjudicatory Officer.
- 6) Unless otherwise ordered by the Hearing Officer or Hearing Panel, a data request, set of interrogatories, request for production of documents or things, request for inspection of documents or other property, request for admissions, or order to produce or provide documents, information or testimony, shall not specify a due date or response date that is fewer than 21 days from the date of service of the request or the date of the order.
- 6) Unless otherwise ordered by the Hearing Officer or Hearing Panel, all such discovery shall be requested, scheduled and conducted so as to be completed within six (6) months following the date of the initial prehearing conference held pursuant to Paragraph 1.5.2.

The Hearing Officer’s ruling on all motions relating to disputes concerning such discovery shall consider the following objectives: (i) full disclosure of all relevant documents and information; (ii) the exercise of due diligence in the conduct of discovery by a Participant; and (iii) disallowing use of discovery as a means to delay the proceeding or to harass or burden any other Participant.

1.5 HEARINGS AND CONFERENCES

1.5.1 General

The Clerk shall issue a notice for each conference and hearing, which shall identify the matter(s) to be considered, the person(s) comprising the Hearing Panel or Hearing Officer, and the date, time and place of the hearing or conference. Unless otherwise ordered, all hearings and conferences shall be held during normal business hours at the principal office of WECC. Hearings need not be held on consecutive days.

All hearings, conferences, and other meetings shall be closed to the public, and all notices, rulings, orders or any other issuances of the Hearing Officer or Hearing Panel shall be nonpublic and held in confidence by the Parties unless the ERO (within the U.S., in accordance with the authorization previously granted by FERC to release information about a non-public proceeding) or FERC (in the case of U.S.-related information) or another Applicable Governmental Authority (in the case of non-U.S.-related information) determines that public release is appropriate. Only the Adjudicatory Officers, representatives of the Parties, and other necessary personnel (such as court reporters) shall be allowed to participate in or obtain information relating to the proceeding.

Upon a request, the Hearing Panel or Hearing Officer may permit Parties to appear and witnesses to testify via videoconference or teleconference at any conference or hearing if necessary to avoid undue expense or undue delay in the proceeding.

All hearings and (at the discretion of the Hearing Panel or Hearing Officer) all conferences shall be transcribed verbatim by a certified court reporter. A Party may request corrections to the transcript within 35 days after receipt of the transcript and any responses shall be filed within ten business days thereafter. Each Party is responsible for the costs of a copy of any transcript ordered by it.

1.5.2 Prehearing and Status Conferences

A prehearing conference shall be held within a thirty days after initiation of a proceeding, to identify issues then known to the Parties, establish a schedule and to address any other relevant matter. Any Party may request, and the Hearing Panel or Hearing Officer may call, a status conference at any time subsequent to the Prehearing Conference to address any issues that have arisen. The Hearing Panel or Hearing Officer may summarize actions taken in a memorandum.

1.5.3 Evidentiary Hearings

A Party has the right to present such evidence, to make such objections and arguments, and to conduct such cross-examination as may be necessary to assure the true and full disclosure of the facts. All testimony shall be under oath.

Evidence is admissible if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs, but may be excluded if immaterial or unduly repetitious or

prejudicial. The Hearing Panel or Hearing Officer may exclude material from the record only in response to a motion or objection by a Party.

Upon 14 business days' advance notice and subject to the objection by another Party, any Party may call and cross-examine as an adverse witness, any other Party, or any employee or agent thereof or Registered Entity that has been subject to an order to compel.

Upon motion, the Hearing Panel or Hearing Officer may take official notice of and the type of information any of the following:

- 1) Rules, regulations, administrative rulings and orders, and written policies of governmental bodies and Regional Entities, including WECC;
- 2) Municipal and other ordinances;
- 5) Generally recognized scientific or technical facts within the specialized knowledge of WECC;
- 4) Other facts not reasonably subject to dispute; and
- 6) All other matters of which the courts of the United States may take judicial notice.

Any document, and any item officially noticed that exists in document form, shall be introduced into the record in the form of an exhibit.

The Hearing Panel or (prior to issuance of an Initial Decision) the Hearing Officer may allow oral argument, and also may reopen the evidentiary record and hold additional hearings if warranted by any changes in fact or law since the hearing.

1.5.4 The Record

The record shall include the following:

- 1) The filing(s) that initiated the proceeding, responsive documents, and a list of all documents comprising the record;
- 2) Notices, rulings, orders, decisions and other issuances of the Hearing Officer and Hearing Panel;
- 3) All motions, briefs and other filings;
- 4) All prefiled testimony, exhibits, other evidence, information excluded from evidence, transcripts and matters officially noticed;
- 5) All Notices of *ex parte* communications and any notifications of recusal and motions for disqualification of any Adjudicatory Officer and any responses or replies thereto;
- 6) The Hearing Officer's Initial Decision, and exceptions thereto; and

- 7) The Hearing Panel's Final Decision and any Notice of Penalty therewith.

1.5.5 Briefs and Other Post-Hearing Pleadings

At the close of the evidentiary hearing, Parties may file initial briefs, proposed findings of fact and reply briefs. Absent good cause shown, post-hearing pleadings shall not seek to introduce additional evidence into the record after the hearing has ended.

1.6 DECISIONS

1.6.1 Initial Decisions

The Hearing Officer shall issue an Initial Decision that shall include (1) a statement of each finding and conclusion, and the reasons or basis therefore, for all material issues of fact, law or discretion presented on the record, and (2) appropriate proposed orders to dispose of the proceeding, including any Penalty, sanction, remedial action or Mitigation Plan required. Any proposal for a Penalty shall include a proposed Notice of Penalty. The Initial Decision shall note if the subject of the proceeding has been deemed to involve a Cybersecurity Incident or if any information in the proceeding was deemed to be Critical Energy Infrastructure Information protected pursuant to Paragraph 1.10. The Initial Decision shall normally be issued within thirty days following the submission of post-hearing briefs, or, if waived, following the conclusion of the hearing.

Any Party may file exceptions to the Initial Decision and replies consistent with any deadlines established in the proceeding.

1.6.2 Hearing Panel Final Decision

The Hearing Panel shall issue a Final Decision following the receipt of (1) the Initial Decision, any exceptions and replies thereto, and oral argument, if any, (where a Hearing Officer has been appointed) or (2) the briefs and reply briefs (where no Hearing Officer was appointed). The Hearing Panel shall strive, but shall not be required, to issue its Final Decision within thirty (30) days after the matter is ready for decision.

In cases where a Hearing Officer is appointed, the Final Decision may adopt, modify, amend or reject the initial opinion in its entirety or in part. The Final Decision shall include (1) a statement of each finding and conclusion, and the reasons or basis therefore, for all material issues of fact, law or discretion presented on the record, and (2) appropriate orders to dispose of the proceeding, including any Penalty, sanction, remedial action or Mitigation Plan required. If the Final Decision imposes a Penalty, it shall be entitled Final Order and Notice of Penalty. The Final Order shall note if the subject of the proceeding has been deemed to involve a Cybersecurity Incident or if any information in the proceeding was deemed to be critical energy infrastructure information protected pursuant to Paragraph 1.5.9.

When the Hearing Panel serves the Final Decision, it will inform the Parties of their appeal rights. The Clerk shall transmit the documents identified in Section 1.5.4, which shall constitute the record for purposes of 18 C.F.R. § 39.7(d)(5), to the ERO at the time it serves the ERO with the Final Decision.

1.6.3 Appeal

A Final Decision of the Hearing Panel may be appealed to NERC in accordance with NERC's Rules of Procedure, Section 410. The Clerk shall transmit the record of any docket to NERC that is the subject of an appealed Final Order.

1.6.4 Settlement

Settlement Agreements may be entered into at any time including prior to the issuance of a Notice of Proceeding or during an appeal at the ERO, until a Notice of Confirmed Violation, Notice of Penalty, Notice of Mitigation Plan or Remedial Action Directive, whichever is applicable, is filed with the appropriate regulatory authority. All Settlement Agreements entered into prior to the issuance of a Final Decision shall be subject to approval of the Hearing Panel. Any rejected Settlement Agreement shall not be admissible into evidence and the proceedings shall continue as if the Settlement Agreement had not been filed.

1.7 PARTIES AND APPEARANCES

1.7.1 Parties

The Parties shall include: the Registered Entity who is subject of the Notice of Alleged Violation, contested Mitigation Plan or contested Remedial Action Directive that is the basis for the proceeding, whichever is applicable; the Staff and any other person allowed or required by FERC to participate as an intervenor in a proceeding conducted pursuant to these Hearing Procedures.

1.7.2 Appearances

Parties shall file written appearances within seven (7) business days after service of the filing initiating the proceeding. A Party's written appearance shall identify the name(s) of each individual authorized to represent the Party in the proceeding exclusive of witnesses. An individual may appear on his or her own behalf. A corporation, association, partnership or governmental body may appear by an attorney or any *bona fide* officer or designee who has the authority to act on behalf of the Party.

A Party's written appearance shall state, with respect to each individual that the Party identifies for service, the individual's name, address, telephone number, and facsimile number and email address, if available, where service shall be made.

A Party may withdraw any individual from the Party's representation or otherwise change the identity of individuals authorized to represent the Party in a proceeding by filing a notice of a change in service list.

Any attorney appearing on behalf of a Party shall be licensed to practice and in good standing before the Supreme Court of the United States or the highest court of any State, territory of the United States or the District of Columbia.

1.7.3 Confidentiality

All participants in any proceeding before the Hearing Panel shall be take all actions necessary to be bound by confidentiality obligations consistent with NERC Rule of Procedure 1504.

1.8 RESPONSIBILITIES OF ADJUDICATORY OFFICERS

1.8.1 Hearing Panel

The Hearing Panel shall be selected from the Compliance Hearing Body, as provided in the WECC Compliance Hearing Body Charter, and the composition of the Hearing Panel shall assure that no two industry segments may control, and no single industry segment may veto, any decision by the Hearing Panel. The Hearing Panel is vested with all necessary the authority to preside over all matters relating to a proceeding, including the following:

1. To establish the scope of the proceeding, including segregation of issues into separate phases of the proceeding and consolidation of related proceedings;
2. Take such action as necessary to assure the confidentiality of the proceeding and documents produced in connection with the proceeding;
3. Establish and modify the schedule for the proceeding, and modify any deadline or required interval;
4. Supervise discovery and rule on any disputes relating thereto;
5. Preside over prehearing conferences, status hearings, oral arguments and evidentiary hearings, including administering oaths and affirmations, ruling on evidentiary matters, requiring the introduction of additional evidence;
6. Issue a Final Decision and rule upon all motions and all other requests for relief;
7. Take other actions necessary and appropriate for the adjudication of the proceeding.

All actions (including all rulings, orders and determinations) of the Hearing Panel shall require a quorum consisting of a majority of the persons assigned to the Hearing Panel, unless waived by the Parties in a particular circumstance, subject in all events to the requirement that no two industry segments may control, and no single industry segment may veto, Hearing Panel actions. All rulings, orders and determinations of the Hearing Panel shall require the vote of a majority of the persons constituting a quorum. Where necessary, one or more persons assigned to the Hearing Panel may participate by teleconference as long as a majority are present in person; provided that all persons assigned to the Hearing Panel may participate by teleconference with respect to a Remedial Action Directive hearing. All rulings, orders and determinations shall be recorded in a written ruling or in a transcript and shall be designed to promote the conduct of a full, fair and impartial proceeding and to effectuate the standards of discretion.

1.8.2 Hearing Officer

WECC may designate one or more Staff members, third-party contractors, or industry stakeholders to serve as Hearing Officers and may thereby preside over any aspect of the proceeding to the same extent as the Hearing Panel, except that the Hearing Officer will issue an

Initial Decision and the Final Decision or other order finally disposing of the proceeding or issues within the proceeding must be issued by the Hearing Panel.

1.8.3 Technical Advisor

The Hearing Officer and/or the Hearing Panel may designate one or more Staff members, third-party contractors, or industry stakeholders to serve as Technical Advisors to assist in any proceeding by providing technical advice.

1.8.4 Conflict of Interest

A person shall be disqualified from serving as an Adjudicatory Officer in any proceeding if (1) he or she has been involved in or consulted at any time in regard to any Staff investigation, initial determination of violation or Penalty, or assessment of a Registered Entity's proposed Mitigation Plan relating to the proceeding or (2) his or her participation would violate WECC's applicable conflict of interest policies. An Adjudicatory Officer shall recuse himself or herself from serving in proceeding if disqualified.

Any Adjudicatory Officer shall disclose to the Service List his or her identity, employment history and professional affiliations within two business days of assignment to the proceeding.

1.8.5 Ex Parte Communications

No Adjudicatory Officer assigned to a proceeding may communicate concerning any matter relating to the proceeding, directly or indirectly with any Person who is not an Adjudicatory Officer with respect to a proceeding, except after reasonable notice to all Parties and opportunity to participate.

Any Adjudicatory Officer who makes or receives an *ex parte* communication shall, within seven (7) business days, file and serve on the Parties a description of the date, time, place, substance of and a list of each person making or receiving the *ex parte* communication, and include any written *ex parte* communication.

1.8.6 Motion for Disqualification

Any Party may move to disqualify an Adjudicatory Officer on the basis of conflict of interest, or on the basis of a prohibited *ex parte* communication or other circumstances that could interfere with the impartial performance of his or her duties. The motion shall describe the underlying facts by affidavit and shall be filed within fifteen days after the Party learns of the facts believed to constitute the basis for disqualification or reasonably in advance of any hearing, whichever is earlier. The ruling on a motion to disqualify an Adjudicatory Officer shall be made by the Hearing Panel, provided that the ruling on a motion to disqualify a Hearing Panel member shall be made by the Hearing Panel without participation by the member subject to the motion. Any challenge to a disqualification ruling by a Hearing Officer is waived if no interlocutory appeal has been filed within five business days of the ruling. Any disqualified Adjudicatory Officer shall be replaced as soon as practicable.

1.9 REMEDIAL ACTION DIRECTIVES

1.9.1 Initiation of Remedial Action Directive Hearing

Staff may issue a Remedial Action Directive to a Registered Entity at any time, including during any proceeding related to an alleged violation of a Reliability Standard. Notice of the Remedial Action Directive shall not be effective until actual receipt by the Registered Entity, as provided in Section 7.0 of the Compliance Monitoring and Enforcement Program. WECC will notify NERC within two (2) business days after its Staff issues a Remedial Action Directive.

The Registered Entity may contest the Remedial Action Directive by filing a written notice with the Clerk of the WECC that states that the Registered Entity contests the Remedial Action Directive and that the Registered Entity requests a Remedial Action Directive hearing. The Registered Entity shall attach a copy of the Remedial Action Directive to its written notice. The Registered Entity must provide such notice within two (2) business days following actual receipt of the Remedial Action Directive. If the Registered Entity does not give written notice to WECC within the required time period, the Registered Entity shall be deemed to have waived its right to contest the Remedial Action Directive.

The Clerk shall assign a docket number, and issue a Notice of Hearing.

1.9.2 Remedial Action Directive Procedure

Proceedings to address Remedial Action Directives shall be conducted only under the expedited hearing process set forth in this Paragraph 1.9.2. All other provisions of the Hearing Procedures shall apply to the Remedial Action Directive hearing unless inconsistent with or inapplicable to the procedures set forth in this paragraph.

The Remedial Action Directive hearing will be conducted according to the following guidelines:

- a) The Hearing Panel or Hearing Officer will hold a prehearing conference within two (2) business days after receipt of the Registered Entity's request for a hearing.
- b) An evidentiary hearing will be conducted on the matter, in person or by teleconference, within seven (7) business days after the prehearing conference. The provisions in Section 1.4 concerning document production shall not apply.
- c) At the evidentiary hearing, Staff and the Registered Entity shall have the opportunity to present oral witness testimony and evidence, which shall be rendered under oath, and to conduct cross-examination.
- d) At the evidentiary hearing, the Parties shall have the opportunity to make opening and closing statements, but shall not file any briefs or draft opinions, and oral argument shall not be held.
- e) The Hearing Panel shall issue a summary written decision within ten (10) business days following the hearing, stating whether the Registered Entity shall (upon receipt of the decision) or shall not be required to comply with the Remedial Action Directive and identifying any modifications to the Remedial Action Directive that it finds appropriate. In the event a Hearing Officer has been appointed, the Initial Decision will be issued within a timeframe that permits review and comment by the Parties and issuance of a summary written decision within the ten-day deadline.

- f) Within thirty (30) days following issuance of its summary written decision, the Hearing Panel shall issue a full written decision. The written decision shall state the conclusions of the Hearing Panel with respect to the Remedial Action Directive, and shall explain the reasons for the Hearing Panel's conclusions.
- g) The Final Decision may be appealed to NERC pursuant to section 1.6.3.

1.10. PROTECTIVE ORDERS

- a) At any time during a proceeding, including in connection with document production under section 1.4, on the Hearing Officer's or the Hearing Panel's own motion or on the motion of any Party, an order may be entered to designate as proprietary and protect the confidential, proprietary or trade secret nature of any data, information or studies, or any other information the public release of which may cause a security risk or harm to a Party.
- b) The following types of information will be considered entitled to protection through a Protective Order: (i) confidential business and market information, including information that is proprietary, commercially valuable, or competitively sensitive; (ii) critical energy infrastructure information; (iii) information related to a Cybersecurity Incident; (iv) personnel information that identifies or could be used to identify a specific individual, or that reveals personnel, financial, medical or other personal information; (v) audit work papers; or (vi) investigative files that would disclose investigative techniques. Nothing in this Subparagraph shall require Staff to produce any documents it is entitled to withhold under Subparagraph 1.4.1(b)
- c) A Party submitting a motion for a protective order shall specify the proposed expiration date for the proprietary status of the data, information or studies, if any, and shall propose requirements or safeguards to be met for individuals participating in the proceeding to review the protected information.
- d) A document submitted and marked as proprietary, or a statement made at a hearing and identified as proprietary, shall be afforded proprietary treatment pending the timely submission of a motion to protect the confidential, proprietary or trade secret nature of that document or statement and a ruling on such a motion by the Hearing Officer or Hearing Panel.
- e) The protective order shall identify the data, information or studies that will be accorded proprietary treatment; the individuals participating in the proceeding, by category or otherwise, entitled to view the proprietary information; and the requirements, conditions or safeguards that must be met before an individual may view the information. The order shall also specify any required indications of confidentiality, such as colored paper or notation.
- f) A public redacted version of each document and transcript that contains information that is protected pursuant to this Paragraph must be filed with the proprietary version and must be served on each Party for distribution to those individuals participating in the proceeding who are not entitled to view the proprietary information.

- g) Should it be necessary to address proprietary information during a hearing, the Hearing Officer or Hearing Panel shall exclude from the hearing all individuals other than those entitled to access to the proprietary information in accordance with the protective order.

EXHIBIT E

Exhibit E — Funding

1. Scope of activities funded through the ERO funding mechanism

~~[Regional Entity]~~WECC shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability ~~Standard~~Standards Development
- Compliance Monitoring and Enforcement
This category encompasses WECC's Compliance Monitoring and Enforcement Program, including activities under the WECC Reliability Management System
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
This category includes WECC's Transmission Expansion Planning Program, Loads and Resources Activities, and all necessary supporting activities
- Event Analysis and Reliability Improvement
- Training and Education
This category includes WECC's Training Programs
- Situation Awareness
This category includes WECC's Reliability Coordinator Functions, Western Interconnection Synchrophasor Program, WECC Interchange Tool, and all necessary supporting activities
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and ~~[Regional Entity]~~WECC, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of ~~[Regional Entity's]~~WECC's business plan and budget.

The annual schedule for the preparation of business plans and budgets shall require

~~[Regional Entity]~~WECC (i) to submit to NERC draft(s) of ~~[Regional Entity]'s~~WECC's

proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by ~~[Regional Entity]WECC~~ Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of ~~[Regional Entity]'sWECC's~~ business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The ~~[Regional Entity]WECC~~ business plan and budget submission shall include supporting materials, including ~~[Regional Entity]'sWECC's~~ complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, ~~and~~ the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. ~~[Regional Entity]'s WECC's~~ business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

____ (b) NERC shall review and approve ~~[Regional Entity]'sWECC's~~ proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct ~~[Regional Entity]WECC~~ to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~[Regional Entity]'sWECC's~~ approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of ~~[REGIONAL ENTITY]'sWECC's~~ delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. ~~[Regional Entity]WECC~~

shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying ~~[Regional Entity's]~~WECC's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of ~~[Regional Entity's]~~the assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

~~[IF NERC WILL BILL AND COLLECT ASSESSMENTS DIRECTLY FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):]~~

~~(a) NERC shall submit invoices to the load-serving entities or designees identified by [Regional Entity] covering the NERC and [Regional Entity] assessments approved for collection.~~

~~[IF THE REGIONAL ENTITY WILL ACT AS THE BILLING AND COLLECTION AGENT ON BEHALF OF NERC TO BILL AND COLLECT ASSESSMENTS FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):]~~

~~4. Entities on the list of LSEs or Balancing Authorities will be responsible for collection and/or payment of charges through the mechanism described in either Option 1 or 2 below. Each Balancing Authority will inform WECC by June 1st of each year of its choice of Option 1 or 2, and will give WECC at least 90 days notice of its intention to change from one option to the other.~~

~~a. OPTION 1 -- The Balancing Authority will provide WECC a list of all LSEs located within its area, including each LSE's name, contact information, and Net Energy for Load. This information will be updated annually and provided to WECC no later than June 1st of each year. WECC will use this list to bill each LSE for all costs on an annual basis.~~

b. OPTION 2 -- WECC will bill the Balancing Authority for all costs on an annual basis. The Balancing Authority will be responsible for equitably allocating WECC costs among the LSEs in its area (if applicable) on the basis of Net Energy for Load, collecting the funds, and ensuring that WECC receives full payment on an annual basis.

4. Collection of Funding

(a) NERC and [Regional Entity]WECC agree that [Regional Entity]WECC shall act as the billing and collection agent on behalf of NERC to bill and collect [Regional Entity]'s WECC's assessments from load-serving entities and designees (or such other entities as agreed by NERC and [Regional Entity]). [Regional Entity]WECC). WECC agrees that it shall (i) issue all invoices to ~~load-serving entities and other entities~~each LSE or Balancing Authority (depending on the Balancing Authority's choice of Option 1 or 2 above) in a prompt and timely manner after receipt from NERC of the information needed to issue ~~the~~ invoices, but no later than November 15th each year; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC in a timely manner, as follows: ~~Prior to the start of each calendar quarter, and once~~Once per week ~~thereafter~~ until all billings ~~for the quarter~~ are collected, [Regional Entity]WECC will electronically transfer to NERC, in immediately available funds, all payments received by [Regional Entity]WECC from load-serving entities or other entities for ~~the~~ payment of annual invoices. On the same day that [Regional Entity]WECC makes each electronic transfer of funds to NERC, [Regional Entity]WECC shall send an e-mail to the Chief Financial Officer or Controller of NERC detailing the collections being transmitted, including a listing of the load-serving entities or other entities from which payments were collected and the amount collected from each entity. ~~[Note: If NERC and Regional Entity have a different collection and payment arrangement, the preceding two sentences will be modified accordingly to describe it.] and the breakdown of the total payments collected among NERC statutory funding, WECC statutory funding and WIRAB statutory funding.~~

[Regional Entity]WECC agrees that it shall not in any way use its position as billing and collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of Reliability Standards (including Regional Reliability

Standards and Regional Variances), administration of the ~~compliance~~
~~monitoring~~Compliance Monitoring and ~~enforcement~~Enforcement program and other
compliance and enforcement matters, determination and imposition of penalties and
sanctions, budgeting matters including review and approval of ~~[Regional~~
~~Entity's]~~WECC's budgets and business plans, or any other NERC decisions, including by
issuing invoices, engaging in collection activities or transferring funds collected to NERC
in an untimely manner or other than in accordance with this Agreement. To the extent
WECC uses another entity as collection agent, it will incorporate these safeguards in the
arrangements with the collection agent.

Within three (3) business days following receipt of an electronic transfer of collected
assessments from WECC in accordance with Section 4(a) of this Exhibit E, NERC will
electronically transfer (i) to WECC, in immediately available funds, the portion of the
payment received from WECC constituting WECC statutory funding, and (ii) to WIRAB,
in immediately available funds, the portion of the payment received from WECC
constituting WIRAB statutory funding.

____ (b) NERC shall pursue any non-payments of assessment amounts and shall request
assistance from ERO Governmental Authorities as necessary to secure collection. To the
extent reasonably practicable, ~~[Regional Entity]~~WECC shall assist NERC in pursuing and
collecting any non-payments. Notwithstanding the foregoing, ~~[Regional Entity]~~WECC is
not responsible and does not assume any liability for recovering non-payments or
underpayments of assessment amounts. NERC shall retain sole responsibility for
recovering non-payments or underpayments of assessment amounts. NERC shall add the
amount of any non-payments by end-users or designees within ~~[REGIONAL~~
~~ENTITY]'s]~~WECC's region, that are reasonably determined to be uncollectible, to
NERC's assessments for a subsequent year with the amount of such non-payments to be
allocated to end-users within ~~[Regional Entity]~~'s]WECC's region.

~~(c) Upon approval by ERO Governmental Authorities of [Regional Entity]'s annual~~
~~assessment to fund the costs of its delegated functions and related activities, NERC shall~~

~~pay [Regional Entity's] annual assessment to Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.~~

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by ~~[Regional Entity], WECC~~, other than penalty monies received from an operational function or division or affiliated entity of ~~[Regional Entity], WECC~~, shall be applied as a general offset to ~~[Regional Entity]'s WECC's~~ budget requirements for U.S.-related activities under this Agreement for ~~the~~ subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received by NERC from an operational function or division or affiliated entity of ~~[Regional Entity] WECC~~ shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for WECC's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), ~~[Regional Entity] WECC~~ performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): ~~[List and describe all non-statutory activities performed by Regional Entity, or state "None".]~~ Western Renewable Generation Information System ("WREGIS").

~~[Regional Entity] WECC~~ shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: ~~[List and describe the methods and procedures Regional Entity employs to keep costs and funding of statutory activities separate from costs and funding of non-statutory activities, including at a minimum a description of how Regional Entity's~~

~~bank accounts and receivables/payables procedures are set up for both statutory and non-statutory functions, a description of how Regional Entity ensures each employee involved in both statutory and non-statutory functions keeps accurate time records reflecting his/her activities, and a description of how Regional Entity's general and administrative costs are allocated between statutory activities and non-statutory activities. If the necessary descriptions are lengthy they may be provided in a separate attachment labeled "Attachment E-1", and state here "See Attachment E-1." If Regional Entity has listed no non-statutory functions in the preceding paragraph, state here "Not applicable."}; WECC utilizes a fund accounting system with capabilities to segregate receipts and expenses based on function or activity. WECC has segregated non-statutory activities by assigning a separate fund code to those receipts and expenses. All expenditures or receipts that are entered into WECC's accounting system must include a fund code identifying whether the transaction is related to statutory or non-statutory activities. General and administrative costs are allocated to non-statutory activities based on an FTE ratio that is consistent with NERC's accounting methodology for allocation of overhead to statutory activities. For these reasons, time records are not necessary for WECC to properly allocate costs between statutory and non-statutory activities.~~

~~[Regional Entity]WECC shall provide its budget for such non-statutory activities to NERC at the same time that [Regional Entity]WECC submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement.~~

~~[Regional Entity's]WECC's budget for non-statutory activities that is provided to NERC shall contain a detailed list of [Regional Entity's]WECC's non-statutory activities and a description of the funding sources for the non-statutory activities. [Regional Entity]WECC agrees that no costs (which shall include a reasonable allocation of [Regional Entity]'sWECC's general and administrative costs) of non-statutory activities are to be included in the calculation of [Regional Entity's]WECC's assessments, dues, fees, and other charges for its statutory activities.~~

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if ~~[Regional Entity]WECC~~ determines it does not or will not have sufficient funds to carry out its delegated functions and related activities,

~~[Regional Entity]~~WECC shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in ~~[Regional Entity]'s~~WECC's approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct ~~[Regional Entity]~~WECC to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~[Regional Entity]'s~~WECC's approved amended or supplemental business plan and budget and proposed supplemental- assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Statements

NERC shall conduct reviews of the quarterly and annual financial statements submitted by ~~[Regional Entity]~~WECC pursuant to Section 9(h) and (i) of the Agreement. ~~[Regional Entity]~~WECC shall provide supporting documentation for the quarterly and annual audited financial statements as reasonably requested by NERC based on its reviews.

ATTACHMENT 10

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

AMENDED BYLAWS OF

MIDWEST RELIABILITY ORGANIZATION

REDLINED VERSION

AND

SECTION-BY-SECTION EXPLANATION OF AMENDMENTS



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February 9, 2010

Mr. David Cook
Vice President and General Counsel
North American Electric Reliability Corporation
Princeton Forrestal Village
116-390 Village Boulevard
Princeton, NJ 08540-5721

Subject: Request for NERC Approval and Filing to Regulators of Revised Corporate Bylaws of
Midwest Reliability Organization

Dear David:

Please find attached to this letter the Amended and Restated Bylaws of the Midwest Reliability Organization, Inc. ("MRO") reflecting amendments to the bylaws approved by the Members of Midwest Reliability Organization on January 29, 2010. The clean and redlined versions of the bylaws are included in this narrative as Attachment B and C. The Members of MRO approved these amendments to address non-substantive changes to the bylaws as they existed before January 29, 2010. A detailed description of each revision, including the basis for change, is defined further in this document as Attachment A.

As a cross-border Regional Entity, MRO operates under delegated authority of regulators in both the United States and Canada. MRO therefore respectfully requests that the North American Electric Reliability Corporation ("NERC") approve these amendments to the MRO Bylaws and file the revised and restated bylaws with the appropriate regulatory authorities in both the U.S. and Canada for approval.

In the U.S., by filing with the Federal Energy Regulatory Commission ("FERC" or "Commission"), MRO seeks to satisfy the requirements of the Commission's regulations regarding changes to Regional Entity Rules as specified in the Commission's regulations, 18 C.F.R. §39.1 (2007), the bylaws of a Regional Entity such as MRO are Regional Entity Rules. As such, the Commission's regulations require that any changes or revisions to the MRO Bylaws must be approved by NERC, as the Electric Reliability Organization, and then submitted by NERC to the Commission for approval. See 18 C.F.R. § 39.10 (2007); see also North American Electric Reliability Council et al., 119 FERC ¶ 61,060 at P 333 (2007) ("April 19 Order") (describing MRO's Bylaws as "'rules,' under our regulations, which are subject to NERC approval and, if approved by NERC, Commission approval"). The Commission's regulations require that when NERC submits changes in Regional Entity Rules to the Commission, NERC must explain "the basis and purpose for the Rule or Rule change, together with a description of the proceedings conducted by the Regional Entity to develop the proposal." 18 C.F.R. § 39.10. To assist NERC in complying with this





regulation, and to aid in NERC's own internal assessment of the revisions, such information is contained herein.

In Canada, agreements exist between the governing bodies of the provinces of Manitoba and Saskatchewan, NERC, and MRO regarding the reliability of the bulk power system across the border. Specifically, those agreements are the Interim Agreement on Compliance Monitoring and Enforcement in Manitoba and the Memorandum of Understanding between Saskatchewan Power Corporation, NERC and MRO. Filing the amended and restated bylaws with each province maintains the spirit of cooperation between international parties and ensures that there is consistency between the MRO Bylaws and the above stated agreements.

I. The Basis and Purpose for the Amendments to the MRO Bylaws

The amendments made to the MRO Bylaws are non-substantive in nature and reflect changes that will allow the MRO Board and staff to perform MRO functions and business in a more efficient manner, and more directly address minor issues related to regulatory orders. Other minor changes were made to correct typographical errors in the MRO Bylaws, such as; document formatting, cross references, table of contents and page numbering. Each change is reflected in the redlined version of the bylaws included as Attachment B.

II. The Proceedings Conducted by MRO to Amend the Bylaws

MRO's board composition and voting protocols are designed to ensure governance by an appropriate balance of stakeholder interests, as per the April 19 Commission Order, 119 FERC ¶ 61,060 at P 331. The procedures for amending the bylaws reflect this balance as further described in Section 19.1 of the MRO Bylaws below.

Section 19.1 *"The power to adopt, amend or repeal these Bylaws is vested in the Members as set forth in Section 6.5 of these Bylaws; provided however, upon the passage of any federal reliability legislation, and/or the adoption of related requirements and procedures by NERC, its successor under such legislation or any regulatory agency with jurisdiction, the board of directors shall have authority upon a two-thirds (2/3) vote of its members to amend these Bylaws as necessary and appropriate to comply with such law and related requirements and to qualify the Corporation for delegations of authority from NERC or its successor as provided in such legislation".*

Section 6.5 of the MRO Bylaws specifically outlines the special voting requirements necessary to amend the bylaws of the corporation as stated below.

Section 6.5.1 *"In order to amend the Bylaws, except as provided in Article 20 with respect to the board of directors, two-thirds (2/3) of the Sector votes cast shall be required to approve the proposed amendment. The substance of the proposed amendment must be contained in the notice of the meeting at which the vote will be taken; provided that, the Members may modify a proposed bylaw amendment at the meeting. Two-thirds (2/3) of the Sector votes cast shall be required to approve a proposed modification of a budget approved by the board. Two-thirds*





(2/3) of the Sector votes cast shall be required to approve any proposal to terminate the Corporation. To the extent practicable, all Member votes may be held electronically under such terms and conditions as are approved by the Board”.

MRO staff followed the appropriate written procedures when proposing these amendments to the board and members by; providing the appropriate notice; fulfilling content requirements, ensuring sector quorums were met, and recording the ballot. This resulted in the ratification of the proposed amendments by the MRO Members on January 29, 2010.

III. Conclusion

MRO believes that these amendments do not affect its delegated authority under Section 39.8 of the Commission’s regulations in the U.S., or the existing agreements with Manitoba and Saskatchewan in Canada. MRO therefore respectfully requests that NERC consider and approve the foregoing amendments to the MRO Bylaws and subsequently submit these amendments to the appropriate regulatory authorities for approval as changes to the rules of a Regional Entity.

Sincerely,

A handwritten signature in black ink that reads "Daniel P. Skaar".

Daniel P. Skaar

cc: MRO Board of Directors





Attachment A

Bylaw Section	Revision	Basis for Change
Section 1.14 – MAPP	“MAPP” means the MAPP Reliability Council, pursuant to the MAPP Restated Agreement, as of November 11, 2001.	The definition of the Mid-Continent Area Power Pool (MAPP) is no longer necessary in the bylaws because of the formal separation of the organizations, therefore; the definition was deleted.
Section 1.18 Organizational Standards.	“Organizational Standards” means a standard, including adequacy requirements, outside the authority of NERC that has been duly approved by the board of directors of the Corporation. Organizational Standards do not include Reliability Standards approved by NERC. Such Organizational Standards may be filed with the appropriate regulatory authorities.	Eliminated the definition of Organizational Standards, as well as all references to Organizational Standards within the bylaw document. The MRO Board of Directors approved the removal of Organizational Standards on September 23 rd , 2009, per a recommendation from the MRO Standards Committee, as there has been no need identified for such standards.
Section 1.25 (now 1.23) Transmission System Operator	... Transmission System Operators include: (1) regional transmission organizations; (2) independent transmission providers; (3) independent system operators approved by FERC ; (4) and transmission-only companies.	Removed language requiring Transmission System Operators to be approved by the Federal Energy Regulatory Commission (“FERC”- U.S.).
Section 1.24 (NEW) Regional Planning Entities	“Regional Planning Entity” means an entity which is subject to Reliability Standards in the MRO Region and shall be eligible for MRO membership.	Added a definition to specifically include Regional Planning Entities in MRO membership.
Section 2.2 - Activities	In support and furtherance of its purpose, the Corporation’s responsibilities shall include, but not be limited to: (1) proposing Reliability Standards, including regional variances or regional differences <u>Reliability Standards</u> required to maintain and enhance electric service reliability, adequacy and security in the Corporate Region; (2) approving Organizational Standards (3) assessing compliance with and enforcing Reliability Standards and Organizational Standards; , to the extent authorized by applicable agreements and/or law governing a Member’s membership in the Corporation; (34) conducting investigations and data analysis on disturbances, system events, and related matters; (45) conducting long-term assessments of reliability within the	Eliminated the use of the term regional “differences” because that term is not recognized by the NERC Rules of Procedure, the Regional Delegation Agreements or regulatory rules and regulations. Also added to 2.2(3), “to the extent authorized by applicable agreements and/or law governing a Member’s membership in the Corporation” to the activity of assessing compliance with and enforcing Reliability Standards and Organizational Standards. This change is necessary to recognize the authority of Canadian regulators.





	Corporate region; and (56) other related activities.	
Section 5.6 - Obligation of Members	By applying for and becoming a Member of the Corporation, each Member acknowledges that it is authorized and agrees to comply with Organizational Standards, Reliability Standards, and other obligations of Members of the Corporation set forth in these Bylaws or duly adopted by the board of directors in order to achieve the purposes of the Corporation. Such obligations include but are not limited to requirements to provide data and information needed to perform the functions of the Corporation and the payment of dues and any authorized penalties, including penalties and other obligations resulting from violations of: (1) Reliability Standards assessed in accordance with NERC rules; and (2) Organizational Standards assessed in accordance with rules duly approved by the board of directors. All monies, plus any accumulated interest that the Corporation collects from the issuance of penalties resulting from violations of Organizational Standards shall be used by the Corporation to defer expenses or distributed in a fair and equitable manner to Members, as determined by the board of directors.	Removed references to Organizational Standards with the deletion of Section 1.18 (Organizational Standards).
Section 5.7 Withdrawal	... Such notice shall specify a date, not earlier than thirty (30) days from the date of notice, on which the withdrawal shall become effective; provided however, that any such withdrawing Member shall remain liable to the Corporation for any fees, dues, sanctions or obligations to the Corporation incurred while it was a Member, or which apply to violations of Organizational Standards that occurred prior to the effective date of withdrawal, as well as its share of any obligations of the Corporation for the current fiscal year. If notice is given after October 1 of the current calendar year, the Member will also be liable for any fees and dues included in the budget for the following fiscal year. The Member will not be responsible for compliance with Organizational Standards after the withdrawal date. Section 5.7 does not apply to any fees, dues, or obligations associated with the Corporation responsibilities under delegated authority from NERC or applicable regulatory authorities.	Clarified this Section to address that obligations under MRO's delegated authority are excluded from this section, and were therefore added. Also removed references to Organizational Standards.
Section 5.8 - Budget and Fees	The board of directors shall propose to NERC a budget for delegated functions exercised by the Corporation pursuant to a delegation agreement with NERC and pursuant to any agreements or laws relating to the Corporation's functions in Canada. For those functions outside the scope of the Corporation's delegated	Added clarifying language that states that all dues, fees and assessments will be consistent with the "regulations of applicable government authorities." This change is necessary to address a





	<p>functions, the board of directors may from time to time fix the amount of dues, assessments, or fees, if any, and determine the methods of collection, consistent with this Section, <u>the regulations of applicable government authorities, or with and</u> any resolution duly adopted by the Members under Section 6.5.2 of these Bylaws, <u>and with regulations from applicable government authorities.</u></p>	<p>regulatory (FERC) order to clarify that membership fees are subject to regulatory review. In addition, the language recognizes the authority of Canadian regulators and governing bodies.</p>
<p>Section 6.1 - Annual Meetings.</p>	<p>... At the annual meeting of Members: (1) each Sector shall elect the successor(s), if any, for any director(s) from their Sector whose term will expire before the next annual meeting of the Members, provided however, that any Sector may elect a successor director representing such Sector prior to such annual meeting, in accordance with the provisions of this Article 6, in which case the election of such succeeding director(s) shall be reported to the Corporation at such annual meeting; (2) the president and treasurer shall report on the activities and financial condition of the Corporation; (3) the Members shall review, and may modify, the budget of the Corporation for the ensuing year (if not modified, the budget as approved by the board of directors shall be deemed accepted); and (34) the Members shall consider and act upon such other matters as may be raised, consistent with the notice of the annual meeting. The failure to hold an annual meeting in accordance with these Bylaws shall not affect the validity of a corporate action.</p>	<p>Eliminated from the listed actions to be taken at Member meeting the requirement that the Members review the budget of the Corporation for the ensuing year. The budget is subject to Member review and comment before the board approves the budget.</p>
<p>Section 6.5.1 - Special Voting Requirements</p>	<p>The substance of the proposed amendment must be contained in the notice of the meeting at which the vote will be taken; provided that, the Members may modify a proposed bylaw amendment at the meeting. Two-thirds (2/3) of the Sector votes cast shall be required to approve a proposed modification of a budget approved by the board. Two-thirds (2/3) of the Sector votes cast shall be required to approve any proposal to terminate the Corporation. To the extent practicable, all Member votes may be held electronically under such terms and conditions as are approved by the Board.</p>	<p>Eliminated the requirements for a Member vote on a proposed budget modification. Given the existing due process for review and comment of the budget, including supplemental budget requests and the statutory nature of the budget, the requirement is no longer needed.</p>
<p>Section 7.1 Management of Corporation</p>	<p>...The duties of the board will include, but will not be limited to the following: (1) govern the Corporation and oversee all of its activities; (2) establish and oversee all organizational groups; (3) oversee accomplishment of all functions set forth in any delegation or other agreement with NERC or any governmental entity related to development,</p>	<p>Removal of references to Organization Standards with the deletion of Section 1.18 (Organizational Standards).</p>





	<p>monitoring and enforcement of Reliability Standards and related matters; (4) approve, revise and enforce Organizational Standards, Member data and information requirements and related confidentiality requirements; (5) establish compliance monitoring procedures and requirements, and penalties and sanctions for non-compliance for Organizational Standards; (6) impose penalties and sanctions for violation of Organizational Standards consistent with these Bylaws and the procedures approved by the board; (57) establish and approve an annual budget; (68) represent the Corporation in legal and regulatory proceedings; (78) hire the president. The board of directors shall select a chair and a vice-chair from among the members of the board. The board may establish board committees as appropriate.</p>	
<p>Section 7.3 Composition of the Board of Directors</p>	<p>... Members shall endeavor to select directors from among individuals holding senior management <u>or officer</u> positions in Member organizations, and with a view toward ensuring geographic representation of the Corporate Region on the board. No two directors may be employees of a single Member or employees of Members that are affiliates. To the extent the Members of a Sector do not select a director, that director position shall remain vacant until a director is selected by the Sector. A Sector may elect an alternate representative to participate in meetings of the board if the elected director of the Sector is not able to attend, provided however, that such representative shall not have any voting rights on the board and any participation by such representative in executive sessions of the board is at the board's discretion.</p>	<p>Amended Section 7.3 to emphasize that the Members should select directors from either officer or senior management positions. While in many companies these terms are synonymous, some organizations define senior management as a subset of officer positions thus unduly limiting the pool of qualified candidates. Eliminated the reference to alternates participating in board meetings, due to the inability of these alternates to vote for board action.</p>
<p>Section 7.8 - Quorum.</p>	<p>Two-thirds (2/3) A Majority of the directors currently holding office is a quorum for the transaction of business. In the absence of a quorum, a majority of the directors present may adjourn a meeting from time to time until a quorum is present.</p>	<p>Amended the quorum requirement for the Board of Directors from a two-thirds requirement to a simple majority of the directors in order to facilitate timely and efficient action. This change is consistent with other boards.</p>
<p>Section 8.1 Establishment of Organizational Groups.</p>	<p>...The board shall conduct a review of all organizational groups of the Corporation on an annual <u>periodic</u> basis to ensure that the business of the Corporation is conducted in an efficient, cost-effective manner and shall include a statement of its conclusions and resulting actions in the board's report to Members at the annual meeting.</p>	<p>The bylaws have been amended to allow for periodic rather than annual reviews of the efficiency and effectiveness of the organizational groups. Annual reviews are not always required, and additional flexibility will allow for review of these groups whenever necessary.</p>





<p>Article 16 - Transition</p>	<p>Except for those existing standards, criteria, rules, or guides that apply to the Generation Reserve Sharing Pool of the MAPP Restated Agreement, the Corporation will use the existing standards, criteria, rules or guides from each existing reliability council region for those Members that join the Corporation as in effect immediately prior to formation of the Corporation until such standards, criteria, rules or guides are adopted, superseded, or rejected by the Corporation. The Corporation will establish any necessary transition committees, subcommittees, working groups or task forces (including but not limited to a reliability committee) to administer the existing regional reliability standards, criteria, rules and guides until they are adopted, superseded, or rejected by the Corporation. The Corporation will employ its best efforts, within two years of its formation, to work toward a consistent set of Organizational and Reliability Standards (including operating reserves) for the entire Corporate Region, recognizing, however, that sub-regional differences may warrant variances for certain sub-regions.</p>	<p>Article 16 has been eliminated because the transition from legacy regional reliability councils has been completed.</p>
<p>Article 18.1 (formerly Article 19.1) Determinations of Violations Hearings and Dispute Resolution.</p>	<p><u>Hearings.</u> Except as otherwise provided in applicable agreements and/or law governing a Member's membership in the Corporation <u>The the board of directors Corporation</u> shall be responsible for making final determinations regarding whether (1) a Member has violated an Organizational Standard or Reliability Standard; (2) an entity subject to a Reliability Standard has violated a Reliability Standard in connection with its operation in the Corporate Region; and (3) assessment of sanctions within the Corporate region resulting from such violations, following an initial determination by Corporation staff in accordance with the NERC Rules of Procedure. Any Member or organization subject to a Reliability Standard or Organizational Standard, against whom a penalty or other sanction has been recommended, shall have an opportunity to be heard by the board prior to the board's determination.</p>	<p>The provisions of Article 18 have been revised to make clear that the hearing process, as set forth in the NERC Rules of Procedure and the Compliance Monitoring and Enforcement Program, will be used for disputes related to the violation of a Reliability Standard. The dispute resolution process will be used for disputes between and among MRO members, or between an MRO member or members and the MRO, related to issues associated with business matters or interpretation of the MRO bylaws.</p>
<p>Section 18.2.- Hearings and Dispute Resolution</p>	<p><u>Disputes.</u> Dispute resolution procedures will be established by the board of directors for disputes between Members, or between a Member and the Corporation for issues, arising under these Bylaws. <u>Determinations related to violations of Reliability Standards will be resolved in accordance with the NERC Rules of Procedure, except as otherwise provided in applicable agreements and/or law</u></p>	<p>In addition to the removal of Organizational Standards, revised to add "except as otherwise provided in applicable agreements and/or law governing a Member's membership in the Corporation".</p>





	<p><u>governing a Member's membership in the corporation.</u>, provided that: (1) determinations by the Corporation related to violations of Reliability Standards shall only be appealed directly to NERC; and (2) determinations of the Corporation related to violations of Organizational Standards shall be subject to dispute resolution only to the extent permitted by the rules of the Corporation regarding dispute resolution and provided that in any such dispute resolution proceeding the board of directors' determination of the meaning and scope of an Organizational Standard shall be final, subject to any right to appeal to any regulatory or other legal authority.</p>	
<p>Article 19 (formerly Article 20) Amendment of the Bylaws.</p>	<p>The power to adopt, amend or repeal these Bylaws is vested in the Members as set forth in Section 6.5 of these Bylaws; provided however, upon the passage of any federal reliability legislation, and/or the adoption of related requirements and procedures by NERC, its successor under such legislation or any regulatory agency with jurisdiction, the board or directors shall have authority upon a two-thirds (2/3) vote of its members to amend these Bylaws as necessary and appropriate to comply with such law and related requirements. and to qualify the Corporation for delegations of authority from NERC or its successor as provided in such legislation.</p>	<p>Article 19 has been amended to reflect the development of MRO under Section 215 of the Federal Power Act (U.S.) and other agreements in Manitoba and Saskatchewan.</p>



**BYLAWS OF THE
MIDWEST RELIABILITY ORGANIZATION, INC.**

As amended through ~~July~~December 3-XX, 2009~~March 29, 2007~~

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**BYLAWS
OF THE
MIDWEST RELIABILITY ORGANIZATION, INC
a Delaware nonprofit corporation
(the “Corporation”)**

**ARTICLE 1
DEFINITIONS**

Section 1.1 Affiliate. “Affiliate” means with respect to any entity, any other entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such entity, as determined in the sole discretion of the board of directors of the Corporation. For this purpose, “control” may be presumed by the direct or indirect ownership of 50 percent or more of the outstanding voting capital stock or other equity interests having ordinary voting power. A member of, or owner of an interest in, a transmission company that FERC has found meets the independence requirements for a regional transmission organization shall not be deemed to be an affiliate of such transmission company.

Section 1.2 Bulk-Power System. “Bulk-Power System” means (1) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and (2) electric energy from generation facilities needed to maintain transmission system reliability. The term does not include facilities used in local distribution of electric energy. The term Bulk-Power System shall be interpreted consistently with any definition given by NERC.

Section 1.3 Bulk-Power System Users. “Bulk-Power System Users” means any entity that sells, purchases, or transmits electric power over the Bulk-Power System, or that owns, operates or maintains facilities or control systems that are part of the Bulk-Power System.

Section 1.4 Canadian Utilities. “Canadian Utilities” means any government-owned utility serving in Canada within the Corporate Region.

Section 1.5 Cooperative. “Cooperative” means an entity serving within the Corporate Region which generally has the following characteristics: (1) private independent electric utility; (2) incorporated under the laws of the states in which they operate; (3) established to provide electric service to its members; (4) owned by the consumers they serve; and (5) governed by a board of directors elected from the membership. This sector includes Generation and Transmission Cooperatives and Public Utility Districts.

Section 1.6 Corporate Region. “Corporate Region” means the geographic area boundaries of the Bulk-Power Systems as designated by each of the Members.

Section 1.7 FERC. “FERC” means the Federal Energy Regulatory Commission.

Section 1.8 Federal Power Marketing Agencies. “Federal Power Marketing Agencies” means agencies of the federal government created to market power within the Corporate Region.

Section 1.9 Generators and Power Marketers. “Generators and Power Marketers” means any entity that owns or operates more than 50 MW of generation in the Corporate Region, or is a power marketer doing business in the Corporate Region, and that does not qualify also to participate in the Investor-Owned Utility, Cooperative, Municipal Utility, Federal Power Marketing Agency or Canadian Utilities Sector.

Section 1.10 Good Utility Practice. “Good Utility Practice” means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

Section 1.11 Industry Sector(s). “Industry Sector or Sector(s)” means a group of Bulk-Power System Users in the Corporate Region with substantially similar reliability interests, as determined by these Bylaws. The Industry Sectors shall include the following: (1) Transmission System Operators; (2) Generators and Power Marketers; (3) Investor Owned Utilities (4) Cooperatives; (5) Municipal Utilities (6) Federal Power Marketing Agencies; (7) Canadian Utilities; (8) Large End-Use Electricity Customers; and (9) Small End-Use Load Electricity Customers.

Section 1.12 Investor Owned Utility. “Investor Owned Utility” means any for-profit entity that owns and operates a distribution system and serves end-use load within the Corporate Region pursuant to an obligation to serve under state, federal or provincial law, including a default service obligation, or pursuant to a tariff by which the entity offers service to the general public.

Section 1.13 Large End-Use Electricity Customers. “Large End-Use Electricity Customers” means any entity in North America with: (1) at least one service delivery taken at 50 kV or higher (radial supply or facilities dedicated to serve customers) that is not purchased for resale; or (2) any single end-use customer with an average aggregated service load (not purchased for resale) of at least 50,000 MWh annually, excluding cogeneration or other back feed to the serving utility. This sector also includes organizations are represent the interest of such entities.

~~**Section 1.14 MAPP** “MAPP” means the MAPP Reliability Council, pursuant to the MAPP Restated Agreement, as of November 11, 2001.~~

~~Section 1.15~~**Section 1.14 Member.** “Member” means a member of the Corporation.

~~Section 1.16~~**Section 1.15 Municipal Utilities.** “Municipal Utilities” means any electric utility that is owned by a state or municipality, or group of municipalities, including a joint action agency, which serves within the Corporate Region.

~~Section 1.17~~**Section 1.16 NERC.** “NERC” means the North American Electric Reliability ~~Council~~Corporation or a successor entity.

~~Section 1.18 Organizational Standards.~~ “~~Organizational Standards~~” means a ~~standard, including adequacy requirements, outside the authority of NERC that has been duly approved by the board of directors of the Corporation. Organizational Standards do not include Reliability Standards approved by NERC. Such Organizational Standards may be filed with the appropriate regulatory authorities.~~

~~Section 1.19~~**Section 1.17 Person.** “Person” means any natural person, corporation, Cooperative, partnership, association, or other private or public entity.

~~Section 1.20~~**Section 1.18 Public Utility District.** “Public Utility District” means an entity that is a state political or governmental subdivision which owns electric generation, transmission and distribution facilities and that was created and organized under state statutes that are different than those that Municipal Utilities in the same state are created and organized under.

~~Section 1.21~~**Section 1.19 Regional Entity.** “Regional Entity” means an entity having ~~enforcement~~ authority pursuant to a delegation agreement with NERC and pursuant to any agreements or laws relating to the Corporation’s functions in Canada.

~~Section 1.22~~**Section 1.20 Regulatory Participant.** “Regulatory Participant” means any state or provincial regulatory agencies in the Corporate Region exercising authority over the rates, terms or conditions of electric service of an entity other than itself within the Corporate Region, or the planning, siting, construction or operation of electric facilities of an entity other than itself within the Corporate Region, as well as any representatives of FERC, regional advisory bodies that may be established by FERC, or representatives of any federal regulator or agency.

~~Section 1.23~~**Section 1.21 Reliability Standard.** “Reliability Standard” means a NERC reliability standard, duly in effect, under the rules, regulations and laws governing such standards, to provide for reliable operation of the Bulk-Power System.

~~Section 1.24~~**Section 1.22 Small End-Use Electricity Customers.** “Small End-Use Electricity Customers” means: (1) any person or entity within North America that takes service below 50 kV; or (2) any single end-use customer with an average aggregated service load (not purchased for resale) of less than 50,000 MWh annually, excluding cogeneration or other back feed to the serving utility. This sector also includes organizations (including state consumer advocates) that represent the interests of such entities.

Section 1.23 Transmission System Operator. “Transmission System Operator” means an entity that operates or controls operation of high voltage transmission facilities within the Corporate Region (more than 300 miles of transmission at 100 kV or greater) that

does not also own, operate or control generation within the Corporate Region, except to the limited extent permitted by FERC for independent transmission organizations with respect to ancillary service obligations. Transmission System Operators include: (1) regional transmission organizations; (2) independent transmission providers; (3) independent system operators ~~approved by FERC~~; (4) and transmission-only companies.

Section 1.24 Regional Planning Entity. “Regional Planning Entity” means an entity which is subject to Reliability Standards in the MRO Region and shall be eligible for MRO membership.

ARTICLE 2
PURPOSE

Section 2.1 Purpose. The Corporation will be a Regional Entity within the NERC structure for the purpose of preserving and enhancing electric service reliability, adequacy and security in the Corporate Region and other interconnected regions for the benefit of all end-users of electricity and all entities engaged in providing electric services in the Corporate Region, with due regard for safety, environmental protection and economy of service.

Section 2.2 Activities. In support and furtherance of its purpose, the Corporation’s responsibilities shall include, but not be limited to: ~~(1) proposing Reliability Standards, including regional variances or regional differences-Reliability Standards~~ required to maintain and enhance electric service reliability, adequacy and security in the Corporate Region; ~~(2) approving Organizational Standards;~~ ~~(23) assessing compliance with and enforcing Reliability Standards and Organizational Standards, to the extent authorized by applicable agreements and/or law governing a Member’s membership in the Corporation;~~ ~~(34) conducting investigations and data analysis on disturbances, system events, and related matters;~~ ~~(45) conducting long-term assessments of reliability within the Corporate region;~~ and ~~(56) other related activities.~~

Section 2.3 Not-for-Profit Corporation. The Corporation is operated as a Delaware non-stock, nonprofit corporation and is organized pursuant to the general corporation law of the State of Delaware.

ARTICLE 3
POWERS

Section 3.1 Powers. The Corporation shall have the power to engage in any lawful act or activity for which corporations may be organized under the general corporation law of the State of Delaware, subject to any limitations provided in applicable federal, provincial or state law or in the Corporation’s certificate of incorporation or these Bylaws.

ARTICLE 4
OFFICES

Section 4.1 Offices. The principal office of the Corporation shall be located initially within the Corporate Region, at such location as the board of directors may from time to time determine, giving consideration to the total cost to the Corporation and

convenience of travel for staff, Members and Regulatory Participants. Once established, the principal office may remain in its location, even if outside the Corporate Region.

ARTICLE 5
MEMBERS

Section 5.1 Classes of Members. The Corporation shall have one class of Members. Each Affiliate of a Member may separately be a Member.

Section 5.2 Qualifications of Members. A Member may be any entity eligible to be a member of an Industry Sector.

Section 5.3 Admission of Members. New Members may join the Corporation upon submittal of an application, in a form approved by the president, and payment of the fees as established by the Corporation. The Member shall designate the Sector to which it belongs. A Member may change its Sector designation once each calendar year, by providing notice to the president at least sixty (60) days prior to the beginning of such year. The president shall review a membership application and may request demonstration by the applicant that it qualifies for membership in a particular Sector. Any dispute with respect to a Member's qualifications for a particular Sector shall be resolved by the board of directors. The president shall have authority to approve an application for membership, subject to review by the board of directors.

Section 5.4 Voting Rights. Each Member in good standing shall be entitled to one vote in the Sector in which it is a Member, on matters submitted to a vote of Members. A Member delinquent in payment of its dues, fees or other obligations to the Corporation shall not be entitled to a vote.

Section 5.5 Transfer of Membership. A Member of the Corporation may not transfer its membership or a right arising from such membership except to any Person succeeding to all or substantially all of the assets of the Member. The president shall have authority to approve any such transfer, subject to review by the board of directors.

Section 5.6 Obligations of Members. By applying for and becoming a Member of the Corporation, each Member acknowledges that it is authorized and agrees to comply with ~~Organizational Standards~~, Reliability Standards, and other obligations of Members of the Corporation set forth in these Bylaws or duly adopted by the board of directors in order to achieve the purposes of the Corporation. Such obligations include but are not limited to requirements to provide data and information needed to perform the functions of the Corporation and the payment of dues and any authorized penalties, including penalties and other obligations resulting from violations of: ~~(1) Reliability Standards assessed in accordance with NERC rules; and (2) Organizational Standards assessed in accordance with rules duly approved by the board of directors. All monies, plus any accumulated interest that the Corporation collects from the issuance of penalties resulting from violations of Organizational Standards shall be used by the Corporation to defer expenses or distributed in a fair and equitable manner to Members, as determined by the board of directors.~~

Section 5.7 Withdrawal. A Member may withdraw from participation in the Corporation by providing written notice to the president of the Corporation of such withdrawal. Such notice shall specify a date, not earlier than thirty (30) days from the date of notice, on which the withdrawal shall become effective; provided however, that any such withdrawing Member shall remain liable to the Corporation for any fees, dues, sanctions or obligations to the Corporation incurred while it was a Member, ~~or which apply to violations of Organizational Standards that occurred prior to the effective date of withdrawal,~~ as well as its share of any obligations of the Corporation for the current fiscal year. If notice is given after October 1 of the current calendar year, the Member will also be liable for any fees and dues included in the budget for the following fiscal year. ~~The Member will not be responsible for compliance with Organizational Standards after the withdrawal date.~~ Section 5.7 does not apply to any fees, dues, or obligations associated with the Corporation responsibilities under delegated authority from NERC or applicable regulatory authorities.

Section 5.8 Budget and Fees. The board of directors shall propose to NERC a budget for delegated functions exercised by the Corporation pursuant to a delegation agreement with NERC and pursuant to any agreements or laws relating to the Corporation's functions in Canada. For those functions outside the scope of the Corporation's delegated functions, the board of directors may from time to time fix the amount of dues, assessments, or fees, if any, and determine the methods of collection, consistent with this Section, the regulations of applicable government authorities, or with and any resolutions duly adopted by the Members under Section 6.5.2 of these Bylaws ~~and with regulations from applicable government authorities.~~

ARTICLE 6 **MEETING OF MEMBERS**

Section 6.1 Annual Meeting of Members. The Members shall hold an annual meeting each calendar year. The annual meeting of the Members shall be held in December of each year, or at such other time specified by the board of directors, in order for Members to review the proposed budget and operations of the Corporation. All Members shall be entitled to at least thirty (30) days prior written notice of the annual meeting. At the annual meeting of Members: (1) each Sector shall elect the successor(s), if any, for any director(s) from their Sector whose term will expire before the next annual meeting of the Members, provided however, that any Sector may elect a successor director representing such Sector prior to such annual meeting, in accordance with the provisions of this Article 6, in which case the election of such succeeding director(s) shall be reported to the Corporation at such annual meeting; (2) the president and treasurer shall report on the activities and financial condition of the Corporation; ~~(3) the Members shall review, and may modify, the budget of the Corporation for the ensuing year (if not modified, the budget as approved by the board of directors shall be deemed accepted);~~ and ~~(34)~~ the Members shall consider and act upon such other matters as may be raised, consistent with the notice of the annual meeting. The failure to hold an annual meeting in accordance with these Bylaws shall not affect the validity of a corporate action.

Section 6.2 Special Meetings of Members.

6.2.1 Who May Call. Special meetings of the Members may be called by six (6) members of the board of directors, by the president or if at least 10 percent of the Members sign, date, and deliver to the president one or more written demands for a special meeting describing the purpose for which it is to be held.

6.2.2 Notice of Meeting. Within fifteen (15) days after receipt of a demand for a special meeting from Members, the president shall cause a special meeting to be called and held on notice no later than forty-five (45) days after receipt of the demand. If the president fails to cause a special meeting to be called and held as required by this section, a Member making the demand may call the meeting by giving notice under Section 6.3. In either event, notice of the meeting and the costs of the meeting shall be at the expense of the Corporation.

6.2.3 Time and Place of Special Meetings. Special meetings of Members shall be held at a location designated by the president or the board of directors. If a special meeting is demanded by the Members, the meeting must be held in a facility of appropriate size to accommodate the Membership and at a location within the Corporate Region.

6.2.4 Notice Requirements; Business Limited. The notice of a special meeting must contain a statement of the purposes of the meeting. The business transacted at a special meeting is limited to the purposes stated within the notice of the meeting. Business transacted at a special meeting that is not included in those stated purposes is voidable by or on behalf of the Corporation, unless 90 percent of the Members entitled to vote were present at such meeting or have waived notice of the meeting under Section 6.3.

Section 6.3 Notice Requirements.

6.3.1 To Whom Given. Notice of meetings of Members must be given to every Member as of the record date determined under Section 6.4. If the meeting is an adjourned meeting and the date, time and place of the meeting were announced at the time of the adjournment, notice is not required unless a new record date for the adjourned meeting is or must be fixed.

6.3.2 When Given; Contents. In all cases where a specific minimum notice period has not been fixed by law or these Bylaws, the notice must be given at least five (5) days before the date of a meeting and not more than sixty (60) days before the date of a meeting. The notice must contain the date, time and place of the meeting, and an agenda of the matters upon which action may be taken at the meeting. A matter may be added to the agenda of a meeting at the meeting upon the affirmative vote of three-quarters (3/4) of the Sector votes cast on a motion to amend the agenda.

6.3.3 Waiver of Notice; Objections. A Member may waive notice of a meeting of Members. A waiver of notice by a Member entitled to notice is effective whether given before, at, or after the meeting, and whether given in writing, or by attendance. Attendance by a Member at a meeting is a waiver of notice of that meeting, unless the Member objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, or objects before a vote on an item of

business because the item may not lawfully be considered at that meeting and does not participate in the consideration of the item at that meeting.

Section 6.4 Record Date; Determining Members Entitled to Notice and Vote.

The board of directors may fix a date not more than forty (40) days before the date of a meeting of Members as the date for the determination of the Members entitled to notice of and entitled to vote at the meeting. When a date is so fixed, only Members on that date are entitled to notice and to vote at a membership meeting unless the board of directors fixes a new date for determining the right to notice and to vote, which it must do if the meeting is adjourned to a date more than sixty (60) days after the record date for determining Members entitled to notice of the original meeting.

Section 6.5 Right to Vote; Act of Members. Voting of the Members shall be by Sector, with each Sector entitled to the same number of votes as it has directors on the board. If a quorum is present, except with respect to amendments of these Bylaws, modification of a budget approved by the board of directors or termination of the Corporation, the affirmative vote of the majority of the Sector votes present and entitled to vote, which must also be a majority of the required quorum, is the act of the Members. Within a Sector, each Member within the Sector shall have one vote. If a quorum is present with respect to the Sector, the affirmative vote of the majority of the Members within the Sector present and entitled to vote, which must also be a majority of the required quorum, is the act of the Sector. All of the Sector's votes shall be cast consistent with the act of the Sector unless the Sector adopts a fractional voting alternative as described in Section 6.5.3.

6.5.1 Special Voting Requirements. In order to amend the Bylaws, except as provided in Article 20 with respect to the board of directors, two-thirds (2/3) of the Sector votes cast shall be required to approve the proposed amendment. The substance of the proposed amendment must be contained in the notice of the meeting at which the vote will be taken; provided that, the Members may modify a proposed bylaw amendment at the meeting. ~~Two-thirds (2/3) of the Sector votes cast shall be required to approve a proposed modification of a budget approved by the board.~~ Two-thirds (2/3) of the Sector votes cast shall be required to approve any proposal to terminate the Corporation. To the extent practicable, all Member votes may be held electronically under such terms and conditions as are approved by the Board.

6.5.2 Change of Dues Structure. The Members may change the dues structure by resolution with an affirmative vote of two-thirds (2/3) of the Sector votes cast.

6.5.3 Fractional Voting Alternative. A Sector may adopt fractional voting. Member votes for and against are converted to percentages and multiplied by the applicable sector weight. Abstentions are not counted and do not impact the voting tabulation.

Section 6.6 Quorum. A quorum for a meeting of Members is a majority of the Sector votes entitled to vote at the meeting. A quorum for a meeting of a Sector is a majority of the Members of that Sector present or voting electronically on matters before the meeting. A quorum is necessary for the transaction of business at a meeting of Members. If a quorum

is not present, a meeting may be adjourned from time to time for that reason by the Sectors or Members then represented or present.

Section 6.7 Action by Written Ballot. An action that may be taken at a regular or special meeting of Members may be taken without a meeting if the Corporation mails or delivers a written ballot to every Member entitled to vote on the matter. Whenever possible, voting by Sectors for directors shall be by written ballot preceding the regular meeting of the Members.

Approval by written ballot is valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

Solicitations for votes by written ballot must: (1) indicate the number of responses needed to meet the quorum requirements; (2) state the percentage of approvals necessary to approve the matter; and (3) specify the time by which a ballot must be received by the Corporation in order to be counted. A written ballot may not be revoked.

Section 6.8 Action by Electronic Communication. Any vote of a Sector to elect a board member or for any other purpose may be taken by electronic means without a meeting or during a meeting. In addition, a conference among Members by a means of communication through which the participants may simultaneously hear each other during the conference is a meeting of the Members, if the same notice is given of the conference as would be required for a meeting and if the number of persons participating in the conference is a quorum. Participation in a meeting by this means is personal presence at the meeting. A Member may participate in a meeting of the Members by a means of communication through which the Member, other persons participating, and all persons physically present at the meeting may simultaneously communicate with each other during the meeting. Participation in a meeting by this means constitutes personal presence at the meeting.

Section 6.9 Member Representatives; Proxies.

6.9.1. Designation of Representative. Each year prior to the annual meeting of Members, each Member shall designate the individual authorized to vote on Corporation matters on behalf of the Member, in accordance with procedures approved by the board. A Member may change such designation at any time.

6.9.2 Authorization. The individual designated to vote by a Member may appoint a proxy to vote or otherwise act for the Member at any meeting or electronically by signing an appointment form either personally or by an attorney so designated by the Member.

6.9.3 Effective Period. An appointment of a proxy is effective when received by the secretary or other officer or agent authorized to tabulate votes. An appointment is valid for the next regular or specially scheduled meeting or electronic ballot. However, a proxy is not valid for more than sixty (60) days from its date of execution.

6.9.4 Revocation. An appointment of a proxy is revocable by the Member. Appointment of a proxy is revoked by the person appointing the proxy by signing and delivering to the secretary or other officer or agent authorized to tabulate proxy votes. This may be done either in a written statement that the appointment of the proxy is revoked or a subsequent appointment form.

Section 6.10 Reimbursement of Member Expenses. The Corporation will be under no obligation to reimburse Members for expenses associated with their attendance at regular or special Member meetings.

ARTICLE 7 BOARD OF DIRECTORS

Section 7.1 Management of Corporation. Consistent with these Bylaws, the business and affairs of the Corporation shall be managed by or under the direction of a board of directors. The duties of the board will include, but will not be limited to the following: (1) govern the Corporation and oversee all of its activities; (2) establish and oversee all organizational groups; (3) oversee accomplishment of all functions set forth in any delegation or other agreement with NERC or any governmental entity related to development, monitoring and enforcement of Reliability Standards and related matters; (4) approve, revise and enforce ~~Organizational Standards, Member data and information requirements and related confidentiality requirements; (5) establish compliance monitoring procedures and requirements, and penalties and sanctions for non-compliance for Organizational Standards; (6) impose penalties and sanctions for violation of Organizational Standards consistent with these Bylaws and the procedures approved by the board~~ (57) establish and approve an annual budget; (68) represent the Corporation in legal and regulatory proceedings; (78) hire the president. The board of directors shall select a chair and a vice-chair from among the members of the board. The board may establish board committees as appropriate.

Section 7.2 Voting. Each director shall have one vote with respect to decisions of the board.

Section 7.3 Composition of the Board of Directors. The board of directors shall consist of nineteen (19) board members elected by the Sectors as follows:

- (a). Three (3) directors from the Transmission System Operators Sector;
- (b). Two (2) directors from the Generators and Power Marketers Sector;
- (c). Five (5) directors from the Investor Owned Utilities Sector;
 - (1). Two (2) directors must be from utilities with less than 3,000 megawatts of end-use load.
 - (2). Three (3) directors must be from utilities with 3,000 megawatts or greater of end-use load.

- (d). Two (2) directors from the Cooperative Sector;
- (e). Two (2) directors from the Municipal Utilities Sector;
- (f). One (1) director from the Federal Power Marketing Agencies;
- (g). Two (2) directors from the Canadian Utilities Sector provided that both directors are not residents of the same Canadian province;
- (h). One (1) director from the Large End-Use Electricity Customers Sector, and
- (i). One (1) director from the Small End-Use Electricity Customers Sector.

Provided, however, that in choosing directors from a sector, there shall not be more directors from a particular Sector than there are actual Members of such Sector.

Members shall endeavor to select directors from among individuals holding senior management ~~or officer~~ positions in Member organizations, and with a view toward ensuring geographic representation of the Corporate Region on the board. No two directors may be employees of a single Member or employees of Members that are affiliates. To the extent the Members of a Sector do not select a director, that director position shall remain vacant until a director is selected by the Sector. ~~A Sector may elect an alternate representative to participate in meetings of the board if the elected director of the Sector is not able to attend, provided however, that such representative shall not have any voting rights on the board and any participation by such representative in executive sessions of the board is at the board's discretion.~~

Section 7.4 Terms of Directors. The directors will serve three-year, staggered terms. The terms of the initial directors will be selected by lot at the first meeting of the board of directors. Any director may be removed at any time by the affirmative vote of two-thirds (2/3) of the Members of the Sector selecting such director. A director may be removed by the board of directors for non-attendance of three consecutive board meetings.

Section 7.5 Reimbursement. Directors shall have the right to reimbursement by the Corporation of their actual reasonable travel expenses to board meetings or when specifically selected to represent the Corporation at a business meeting.

Section 7.6 Vacancies. If a director resigns, dies, changes corporate affiliation or is removed during the term of office for which elected, the directorship shall thereupon be vacant and shall be filled by the Members of the respective Sector, by written or electronic ballot in accordance with the procedures and requirements set forth above. The successor director elected by the Members of the Sector shall hold office for the unexpired term of the director replaced.

Section 7.7 Meetings; Notice. An annual meeting of the board of directors shall be held without notice immediately following the annual meeting of the Members to elect the chair and vice-chair for the next year. In addition, regular meetings may be held at such time

or times as fixed by the board of directors. Schedules of regular meetings of the board of directors shall be published by the secretary and provided to all Members. Special meetings of the board of directors may be called by the president or by three directors and shall be held at the principal office of the Corporation, or such other place within the Corporate Region as determined by the president after consultation with the board. Notice of the date, time, and place of a special meeting shall be given by the secretary not less than seven (7) days prior to the meeting by mail, telegram, or electronic communication to each director and Member. Except as necessary to discuss personnel issues, litigation or similar sensitive or confidential matters, all meetings of the board of directors shall be open to Members and other interested persons.

Section 7.8 Quorum. ~~A majority Two-thirds (2/3) of the directors currently holding office is a quorum for the transaction of business. In the absence of a quorum, a majority of the directors present may adjourn a meeting from time to time until a quorum is present.~~

Section 7.9 Board Action. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by law or these Bylaws.

Section 7.10 Action Without a Meeting. An action required or permitted to be taken at a board of directors meeting may be taken by written action, including electronic communication, signed by all of the directors of the Corporation. The written action is effective when signed by the required number of directors, unless a different effective time is provided in the written action.

Section 7.11 Action by Electronic Communication. A conference among directors by a means of communication through which the directors may simultaneously hear each other during the conference is a board meeting if the same notice is given of the conference as would be required for a meeting and if the number of directors participating in the conference is a quorum. Participation in a meeting by this means constitutes personal presence at the meeting. A director may participate in a board meeting by any means of communication through which the director, other directors participating, and all directors physically present at the meeting may simultaneously communicate with each other during the meeting.

ARTICLE 8
ORGANIZATIONAL GROUPS

Section 8.1 Establishment of Organizational Groups. The board of directors shall establish such organizational groups, consisting of committees, sub-committees, task forces and working groups of Members, as are necessary and appropriate to accomplish the purposes of the Corporation in an efficient and cost-effective manner. All organizational groups shall be subject to the direction and control of the board. The membership of organizational groups shall be determined based upon experience, expertise and geographic diversity and to the extent practicable shall include balanced representation of the Sectors.

The board of directors shall establish policies and procedures governing the creation of organizational groups, how they are populated, how voting and related matters are conducted and how they may be reorganized. The board shall conduct a review of all organizational groups of the Corporation on a ~~periodic~~annual basis to ensure that the business of the Corporation is conducted in an efficient, cost-effective manner and shall include a statement of its conclusions and resulting actions in the board's report to Members at the annual meeting.

Section 8.2 Reimbursement. Consistent with the annual budget of the Corporation, the Board may authorize reimbursement by the Corporation for members of organizational groups (other than committees of the whole) of reasonable travel, meals and lodging expenses for organizational group meetings or for representation of the Corporation at other business meetings as authorized by the board. The board of directors may authorize reimbursement for persons acting on behalf of the Corporation, as necessary in the interests of the Corporation.

ARTICLE 9 **OFFICERS**

Section 9.1 Officers. The officers of the Corporation shall include a president, a secretary, a treasurer and any other officers as may be elected or appointed in accordance with the provisions of this Article. The board of directors may elect or appoint any additional officers that it deems desirable, such other officers to have the authority and perform the duties prescribed by the board of directors. The same individual may hold any number of offices, except that of president.

Section 9.2 Election and Term of Office. The officers of the Corporation shall be elected by the board of directors. Each officer shall hold office at the pleasure of the board. New officers may be created and the positions filled at any meeting of the board of directors. Each elected officer shall hold office until his or her successor has been duly elected and qualified.

Section 9.3 Removal. Any officer elected by the board of directors may be removed by the affirmative vote of two-thirds (2/3) of the board of directors whenever in its judgment the best interests of the Corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the officer so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Section 9.4 Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or otherwise, may be filled by the board of directors for the unexpired portion of the term.

Section 9.5 President. The president shall be, in the discretion of the board of directors, either an employee of or contractor to the Corporation and shall:

- (a). be the principal executive and operating officer of the Corporation;

(b). sign certificates of membership, and may sign any deeds, mortgages, deeds of trust, notes, bonds, contracts or other instruments authorized by the board of directors to be executed, except in cases in which the signing and execution thereof shall be expressly delegated by the board of directors or by these Bylaws to some other officer or agent of the Corporation; and

(c). perform all duties incident to the office of president, including hiring and directing staff, and such other duties as may be prescribed by the board of directors from time to time.

Section 9.6 Secretary. The secretary shall ensure that the following duties are carried out:

(a). the minutes of the meetings of the Members and of the board of directors are recorded;

(b). all required notices are duly given in accordance with these Bylaws and as required by law;

(c). a register of the current names and addresses of all Members is maintained;

(d). a complete copy of the articles of incorporation and Bylaws of the Corporation containing all amendments thereto are kept on file at all times, which copies shall always be open to the inspection of any Member; and

(e). generally perform all duties incident to the office of secretary and such other duties as may be prescribed by the board of directors from time to time.

Section 9.7 Treasurer. The treasurer shall be responsible for the following activities:

(a). maintain custody of all funds and securities of the Corporation;

(b). receipt of and the issuance of receipts for all monies due and payable to the Corporation and for deposit of all such monies in the name of the Corporation in such bank or banks or financial institutions as shall be selected by the board of directors; and

(c). generally perform all duties incident to the office of treasurer and such other duties as may be prescribed by the board of directors from time to time.

ARTICLE 10 **CERTIFICATES OF MEMBERSHIP**

Section 10.1 Certificates of Membership. The board of directors may provide for the issuance of certificates evidencing membership in the Corporation, which certificates shall be in such form as may be determined by the board.

ARTICLE 11
BOOKS AND RECORDS

Section 11.1 Books and Records; Financial Statements. The Corporation shall keep at its registered office correct and complete copies of its articles and Bylaws, accounting records, and minutes of meetings of Members, board of directors, and committees having any of the authority of the board of directors. A Member, or the agent or attorney of a Member, may inspect all books and records and voting agreements for any proper purpose at any reasonable time. Upon request, the Corporation shall give the Member a statement showing the financial result of all operations and transactions affecting income and surplus during its last annual accounting period and a balance sheet containing a summary of its assets and liabilities as of the closing date of the accounting period.

ARTICLE 12
FISCAL YEAR

Section 12.1 Fiscal Year. The fiscal year of the Corporation shall be the calendar year.

ARTICLE 13
TRANSFER OF ASSETS

Section 13.1 Member Approval Not Required. The Corporation, by affirmative vote of the board of directors, may sell, lease, transfer, or dispose of its property and assets in the usual and regular course of its activities and grant a security interest in all or substantially all of its property and assets in the usual and regular course of its activities, upon those terms and conditions and for those considerations, which may be money, securities, or other instruments for the payment of money or other property, as the board of directors considers expedient, in which case no Member approval is required.

Section 13.2 Member approval; when required. The Corporation may sell, lease, transfer, or dispose of all or substantially all of its property and assets, including its good will, not in the usual and regular course of its activities, upon those terms and conditions and for those considerations, which may be money, securities, or other instruments for the payment of money or other property, as the board of directors considers expedient only when approved at a regular or special meeting of the Members by the affirmative vote of two-thirds (2/3) of all the Members. Notice of the meeting must be given to the Members. The notice must state that a purpose of the meeting is to consider the sale, lease, transfer, or other disposition of all or substantially all of the property and assets of the Corporation.

ARTICLE 14
CONTRACTS, CHECKS, DEPOSITS, AND GIFTS

Section 14.1 Contracts. The board of directors may authorize any officer or officers or agent or agents of the Corporation, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or may be confined to specific instances.

Section 14.2 Checks, Drafts, or Orders. All checks, drafts, or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Corporation, shall be signed by such officer or officers or agent or agents of the Corporation, and in such manner as shall from time to time be determined by resolution of the board of directors.

Section 14.3 Deposits. All funds of the Corporation shall be deposited to the credit of the Corporation in such banks, trust companies, or other depositories as the board of directors may select.

Section 14.4 Gifts. The board of directors may accept on behalf of the Corporation any contribution, gift, bequest, or devise for any purpose of the Corporation.

ARTICLE 15
INSURANCE, LIABILITY, AND INDEMNIFICATION

Section 15.1 Insurance. The president is authorized to procure insurance to protect the Corporation against damages arising out of or related to any directive, order, procedure, action or requirement of the Corporation.

Section 15.2 Limitations on Liability. No director, officer, agent, employee or other representative of the Corporation, and no corporation or other business organization that employs a director of the Corporation, or any director, officer, agent or employee of such corporation or other business organization, shall be personally liable to the Corporation or any Member of the Corporation for any act or omission on the part of any such director, officer, agent, employee, or other representative of the Corporation, which was performed or omitted in good faith in his official capacity as a director, officer, agent, employee or other representative of the Corporation. However, this release of liability shall not operate to release such a director, officer, agent, employee or other representative of the Corporation from any personal liability resulting from willful acts or omissions knowingly or intentionally committed or omitted by him in breach of these Bylaws for improper personal benefit or in bad faith.

Section 15.3 Indemnification. It is the intent of the Corporation to indemnify its directors, officers, agents, employees, or other representatives to the maximum extent allowed by law consistent with these Bylaws. Each director, officer, agent, employee, or other representative of the Corporation shall be indemnified by the Corporation against all judgments, penalties, fines, settlements, and reasonable expenses, including legal fees, incurred by him as a result of, or in connection with, any threatened, pending or completed civil, criminal, administrative, or investigative proceedings to which he may be made a party by reason of his acting or having acted in his official capacity as a director, officer, agent, employee, or representative of the Corporation, or in any other capacity which he may hold at the request of the Corporation, as its representative in any other organization, subject to the following conditions:

(a). Such director, officer, agent, employee, or other representative must have conducted himself in good faith and, in the case of criminal proceedings, he must have

had no reasonable cause to believe that his conduct was unlawful. When acting in his official capacity, he must have reasonably believed that his conduct was in the best interests of the Corporation, and, when acting in any other capacity, he must have reasonably believed that his conduct was at least not opposed to the best interests of the Corporation.

(b). If the proceeding was brought by or on behalf of the Corporation, however, indemnification shall be made only with respect to reasonable expenses referenced above. No indemnification of any kind shall be made in any such proceeding in which the director, officer, agent, employee, or other representative shall have been adjudged liable to the Corporation.

(c). In no event, however, will indemnification be made with respect to any described proceeding which charges or alleges improper personal benefit to a director, officer, agent, employee, or other representative and where liability is imposed upon him on the basis of the receipt of such improper personal benefit.

(d). In order for any director, officer, agent, employee, or other representative to receive indemnification under this provision, he shall vigorously assert and pursue any and all defenses to those claims, charges, or proceedings covered hereby which are reasonable and legally available and shall fully cooperate with the Corporation or any attorneys involved in the defense of any such claim, charges, or proceedings on behalf of the Corporation.

(e). No indemnification shall be made in any specific instance until it has been determined by the Corporation that indemnification is permissible in that specific case, under the standards set forth herein and that any expenses claimed or to be incurred are reasonable. These two (2) determinations shall be made by a majority vote of at least a quorum of the board consisting solely of directors who were not parties to the proceeding for which indemnification or reimbursement of expenses is claimed. If such a quorum cannot be obtained, a majority of at least a quorum of the full board, including directors who are parties to said proceeding, shall designate a special legal counsel who shall make said determinations on behalf of the Corporation. In making any such determinations, the termination of any proceeding by judgment, order, settlement, conviction, or upon plea of nolo contendere, or its equivalent, shall not, in and of itself, be conclusive that the person did not meet the standards set forth herein.

(f). Any reasonable expenses, as shall be determined above, that have been incurred by a director, officer, agent, employee, or other representative who has been made a party to a proceeding as defined herein, may be paid or reimbursed in advance upon a majority vote of a quorum of the full board, including those who may be a party to the same proceeding. However, such director, officer, agent, employee, or other representative shall have provided the Corporation with (i) a written affirmation under oath that he, in good faith, believes that he has met the conditions for indemnification herein, and (ii) a written undertaking that he shall repay any amounts advanced, with interest accumulated at a reasonable rate, if it is ultimately determined that he has not met such conditions. In addition to the indemnification and reimbursement of expenses provided herein, the president shall purchase insurance that would protect the Corporation, its directors, officers, agents, employees, or other representatives against reasonably expected liabilities and expenses arising out of the performance of their duties for the Corporation.

TRANSITION

~~Except for those existing standards, criteria, rules, or guides that apply to the Generation Reserve Sharing Pool of the MAPP Restated Agreement, the Corporation will use the existing standards, criteria, rules or guides from each existing reliability council region for those Members that join the Corporation as in effect immediately prior to formation of the Corporation until such standards, criteria, rules or guides are adopted, superseded, or rejected by the Corporation. The Corporation will establish any necessary transition committees, subcommittees, working groups or task forces (including but not limited to a reliability committee) to administer the existing regional reliability standards, criteria, rules and guides until they are adopted, superseded, or rejected by the Corporation. The Corporation will employ its best efforts, within two years of its formation, to work toward a consistent set of Organizational and Reliability Standards (including operating reserves) for the entire Corporate Region, recognizing, however, that sub regional differences may warrant variances for certain sub regions.~~

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ARTICLE 16 PARTICIPATION BY REGULATORY PARTICIPANTS

Section 16.1 All Regulatory Participants shall be entitled to and be provided with the same rights to notice of and participation in meetings or other activities of the Corporation as are provided to Members, but shall not have the right to vote.

ARTICLE 17 PARTICIPATION BY FEDERAL POWER MARKETING ADMINISTRATIONS

Section 17.1 The participation by the United States through Federal power marketing administrations (PMA) in the Corporation is subject in all respects to acts of Congress and to regulations of the Secretary of Energy established thereunder. This reservation includes, but is not limited to, the statutory limitations upon the authority of the Secretary of Energy to submit disputes arising hereunder to arbitration. In the event of a conflict between this Article 18 and any other Article of these Bylaws, this Article 18 shall have precedence with respect to the application of these Bylaws to the United States.

Section 17.2 Where activities provided for herein extend beyond the current fiscal year, continued expenditures by the United States are contingent upon Congress making the necessary appropriations required for the continued performance of the obligations of the PMA hereunder. In case such appropriations are not made, the Corporation and its Members hereby release the PMA from its contractual obligations under these Bylaws and from all liability due to the failure of Congress to make such appropriation.

Section 17.3 No member of or delegate to Congress shall be admitted to any share or part of, or to any benefit that may have arisen from, these Bylaws, but this restriction shall not be construed to extend to these Bylaws if made with a corporation or company for its general benefit.

Section 17.4 The Corporation and its Members warrant that no Person or selling agency has been employed or retained to solicit or secure participation by a PMA in the Corporation upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting *bona fide* employees or *bona fide* established commercial or selling agencies maintained by the Members for the purpose of securing business. For breach or violation of this warranty, a PMA shall have the right to annul its participation in the Corporation without liability or, in its discretion, to deduct from its dues or fees the full amount of such commission, percentage, brokerage, or contingent fee.

Section 17.5 For the purpose of this Section 18.5 the term “Contract” shall mean these Bylaws and the term “Contractor” shall mean the Corporation. During the performance of this Contract, the Contractor agrees to the following provisions.

187.5.1. Section 202 of the Executive Order No. 11246, 30 Fed. Reg. 12319 (1965), as amended by Executive Order No. 12086, 43 Fed. Reg. 46501 (1978), which provides, among other things, that the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, is incorporated by reference in the Contract.

178.5.2. The Contract, to the extent that it is of a character specified in Section 103 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. § 329 (1986) (the “Act”), is subject to the provisions of the Act, 40 U.S.C. §§ 327-333 (1986), and to regulations promulgated by the Secretary of Labor pursuant to the Act.

178.5.3. The Contractor agrees not to employ any person undergoing sentence of imprisonment in performing the Contract except as provided by 18 U.S.C. § 4082(c)(2) and Executive Order 11755, 39 Fed. Reg. 779 (1973).

ARTICLE 18

HEARINGS DETERMINATION OF VIOLATIONS AND DISPUTE RESOLUTION

Section 18.1 Hearings. Except as otherwise provided in applicable agreements and/or law governing a Member's membership in the Corporation, ~~The the board of directors Corporation~~ shall be responsible for making final determinations regarding whether ~~(1) a Member has violated an Organizational Standard or a Reliability Standard; (2) an entity subject to a Reliability Standard has violated a Reliability Standard in connection with its operation in the Corporate Region; and (3) assessment of sanctions within the Corporate region resulting from such violations, following an initial determination by Corporation staff in accordance with the NERC Rules of Procedure. Any Member or entity organization subject to a Reliability Standard or Organizational Standard, against whom a penalty or other sanction has been recommended, shall have an opportunity to be heard by the board prior to the board's determination.~~

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Section 18.2 Disputes. Dispute resolution procedures will be established by the board of directors for disputes between Members, or between a Member and the Corporation, for issues arising under these Bylaws. Determinations related to violations of Reliability Standards will be resolved in accordance with the NERC Rules of Procedure, except as

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otherwise provided in applicable agreements and/or law governing a Member's membership in the corporation. provided that: (1) determinations by the Corporation related to violations of Reliability Standards shall only be appealed directly to NERC ; and (2) determinations of the Corporation related to violations of Organizational Standards shall be subject to dispute resolution only to the extent permitted by the rules of the Corporation regarding dispute resolution and provided that in any such dispute resolution proceeding the board of directors' determination of the meaning and scope of an Organizational Standard shall be final, subject to any right to appeal to any regulatory or other legal authority.

ARTICLE 19
AMENDMENT OF BYLAWS

Section 19.1 The power to adopt, amend or repeal these Bylaws is vested in the Members as set forth in Section 6.5 of these Bylaws; provided however, upon the passage of any federal reliability legislation, and/or the adoption of related requirements and procedures by NERC, ~~its successor under such legislation~~, or any regulatory agency with jurisdiction, the board or directors shall have authority upon a two-thirds (2/3) vote ~~of its members~~ to amend these Bylaws as necessary and appropriate to comply with such law and related requirements ~~and to qualify the Corporation for delegations of authority from NERC or its successor as provided in such legislation.~~

ATTACHMENT 11A

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED SECTIONS 100-1600

OF THE

RULES OF PROCEDURE

CLEAN VERSION



Proposed Revised Version

Rules of Procedure

Effective: [DATE]

Appendix 4D is subject to further revisions to comply with directives in a FERC Order issued January 21, 2010 (130 FERC ¶ 61,050).

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SECTION 100 — APPLICABILITY OF RULES OF PROCEDURE

NERC and NERC members shall comply with these rules of procedure. Each regional entity shall comply with these rules of procedure as applicable to functions delegated to the regional entity by NERC or as required by an appropriate governmental authority or as otherwise provided.

Each bulk power system owner, operator, and user shall comply with all rules of procedure of NERC that are made applicable to such entities by approval pursuant to applicable legislation or regulation, or pursuant to agreement.

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

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

NERC shall comply with each approved reliability standard that identifies NERC or the electric reliability organization as a responsible entity. Regional Entities shall comply with each approved reliability standard that identifies Regional Entities as responsible entities. A violation by NERC or a Regional Entity of such a reliability standard shall constitute a violation of these Rules of Procedure.

SECTION 200 — DEFINITIONS OF TERMS

201. General

For purposes of NERC rules of procedure, the terms defined in Section 202 shall have the meaning set forth therein. Other terms are defined within particular sections of the rules of procedure. Other terms used but not defined in the rules of procedure shall be defined in NERC's Bylaws, the NERC Glossary of Terms Used in Reliability Standards adopted in conjunction with NERC's Reliability Standards, or in accordance with their commonly understood and used technical meanings in the electric power industry, including applicable codes and standards.

202. Specific Definitions

“Board” means the Board of Trustees of NERC.

“Bulk power system” means facilities and control systems necessary for operating an interconnected electric energy supply and transmission network (or any portion thereof), and electric energy from generating facilities needed to maintain transmission system reliability. The term does not include facilities used in the local distribution of electric energy.

“Canadian” means one of the following: (a) a company or association incorporated or organized under the laws of Canada, or its designated representative(s) irrespective of nationality; (b) an agency of a federal, provincial, or local government in Canada, or its designated representative irrespective(s) of nationality; or (c) a self-representing individual who is a Canadian citizen residing in Canada.

“Confirmed violation” is one for which an entity has: 1) accepted the finding of the violation by a regional entity or NERC and will not seek an appeal, or 2) completed the hearing and appeals process within NERC, or 3) allowed the time for submitting an appeal to expire, or 4) admitted to the violation in a settlement agreement.

“Electric reliability organization” or “ERO” means the organization that is certified by the Commission under Section 39.3 of its regulations, the purpose of which is to establish and enforce Reliability Standards for the bulk power system in the United States. The organization may also have received recognition by applicable governmental authorities in Canada and Mexico to establish and enforce reliability standards for the bulk power systems of the respective countries.

“Entity variance” means an aspect of a reliability standard that applies only within a particular entity or a subset of entities within a limited portion of a regional entity, such as a variance that would apply to a regional transmission organization or particular market or to a subset of bulk power system owners, operators or users. An entity variance may not be inconsistent with or less stringent than the reliability standards as it would otherwise exist without the entity variance. An entity variance shall be approved only through the NERC standards development procedure and shall be made part of the NERC reliability standards.

“ERO governmental authority” is a government agency that has subject matter jurisdiction over the reliability of the bulk power system within its jurisdictional territory. In the United States, the ERO governmental authority is the Federal Energy Regulatory Commission. In Canada, the ERO governmental authority resides with applicable federal and provincial governments who may delegate duties and responsibilities to other entities. Use of the term is intended to be inclusive of all applicable authorities in the United States, Canada, and Mexico, and is not restricted to those listed here.

“Net Energy for Load” or “NEL” means net generation of an electric system plus energy received from others less energy delivered to others through interchange. It includes system losses but excludes energy required for the storage of energy at energy storage facilities.

“Reliable operation” means operating the elements of the bulk power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance, including a cyber security incident, or unanticipated failure of system elements.

“Regional criteria” means reliability requirements developed by a regional entity that are necessary to implement, to augment, or to comply with reliability standards, but which are not reliability standards. Such regional criteria may be necessary to account for physical differences in the bulk power system but are not inconsistent with reliability standards nor do they result in lesser reliability. Such regional criteria are not enforceable pursuant to NERC-delegated authorities, but may be enforced through other available mechanisms. Regional criteria may include specific acceptable operating or planning parameters, guides, agreements, protocols or other documents.

“Regional reliability standard” means a type of reliability standards that is applicable only within a particular regional entity or group of regional entities. A regional reliability standard may augment, add detail to, or implement another reliability standard or cover matters not addressed by other reliability standards. Regional reliability standards, upon adoption by NERC and approval by the applicable ERO governmental authority(ies), shall be reliability standards and shall be enforced within the applicable regional entity or regional entities pursuant to delegated authorities.

“Reliability standard” means a requirement to provide for reliable operation of the bulk power system, including without limiting the foregoing, requirements for the operation of existing bulk power system facilities, including cyber security protection, and including the design of planned additions or modifications to such facilities to the extent necessary for reliable operation of the bulk power system, but the term does not include any requirement to enlarge bulk power system facilities or to construct new transmission capacity or generation capacity. A reliability standard shall not be effective in the United States until approved by the Federal Energy Regulatory Commission and shall not be effective in other jurisdictions until made or allowed to become effective by the applicable governmental authority.

“Variance” means an aspect or element of a reliability standard that applies only within a particular regional entity or group of regional entities, or to a particular entity or class of entities. A variance allows an alternative approach to meeting the same reliability objective as the reliability standard, and is typically necessitated by a physical difference. A variance is embodied within a reliability standard and as such, if adopted by NERC and approved by the ERO governmental authority, shall be enforced within the applicable regional entity or regional entities pursuant to delegated authority.

SECTION 300 — RELIABILITY STANDARDS DEVELOPMENT

301. General

NERC shall develop and maintain reliability standards that apply to bulk power system owners, operators, and users and that enable NERC and regional entities to measure the reliability performance of bulk power system owners, operators, and users; and to hold them accountable for reliable operation of the bulk power systems. The reliability standards shall be technically excellent, timely, just, reasonable, not unduly discriminatory or preferential, in the public interest, and consistent with other applicable standards of governmental authorities.

302. Essential Attributes for Technically Excellent Reliability Standards

1. **Applicability** — Each reliability standard shall clearly identify the functional classes of entities responsible for complying with the reliability standard, with any specific additions or exceptions noted. Such functional classes¹ include: reliability coordinators, balancing authorities, transmission operators, transmission owners, generator operators, generator owners, interchange authorities, transmission service providers, market operators, planning authorities, transmission planners, resource planners, load-serving entities, purchasing-selling entities, and distribution providers. Each reliability standard shall also identify the geographic applicability of the standard, such as the entire North American bulk power system, an interconnection, or within a regional entity area. A standard may also identify any limitations on the applicability of the standard based on electric facility characteristics.
2. **Reliability Objectives** — Each reliability standard shall have a clear statement of purpose that shall describe how the standard contributes to the reliability of the bulk power system. The following general objectives for the bulk power system provide a foundation for determining the specific objective(s) of each reliability standard:
 - 2.1 **Reliability Planning and Operating Performance** — Bulk power systems shall be planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions.
 - 2.2 **Frequency and Voltage Performance** — The frequency and voltage of bulk power systems shall be controlled within defined limits through the balancing of real and reactive power supply and demand.
 - 2.3 **Reliability Information** — Information necessary for the planning and operation of reliable bulk power systems shall be made available to those entities responsible for planning and operating bulk power systems.

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

- 2.4 **Emergency Preparation** — Plans for emergency operation and system restoration of bulk power systems shall be developed, coordinated, maintained, and implemented.
- 2.5 **Communications and Control** — Facilities for communication, monitoring, and control shall be provided, used, and maintained for the reliability of bulk power systems.
- 2.6 **Personnel** — Personnel responsible for planning and operating bulk power systems shall be trained and qualified, and shall have the responsibility and authority to implement actions.
- 2.7 **Wide-area View** — The reliability of the bulk power systems shall be assessed, monitored, and maintained on a wide-area basis.
- 2.8 **Security** — Bulk power systems shall be protected from malicious physical or cyber attacks.
3. **Performance Requirement or Outcome** — Each reliability standard shall state one or more performance requirements, which if achieved by the applicable entities, will provide for a reliable bulk power system, consistent with good utility practices and the public interest. Each requirement is not a “lowest common denominator” compromise, but instead achieves an objective that is the best approach for bulk power system reliability, taking account of the costs and benefits of implementing the proposal.
4. **Measurability** — Each performance requirement shall be stated so as to be objectively measurable by a third party with knowledge or expertise in the area addressed by that requirement. Each performance requirement shall have one or more associated measures used to objectively evaluate compliance with the requirement. If performance can be practically measured quantitatively, metrics shall be provided to determine satisfactory performance.
5. **Technical Basis in Engineering and Operations** — Each reliability standard shall be based upon sound engineering and operating judgment, analysis, or experience, as determined by expert practitioners in that particular field.
6. **Completeness** — Reliability standards shall be complete and self-contained. The standards shall not depend on external information to determine the required level of performance.
7. **Consequences for Noncompliance** — In combination with guidelines for penalties and sanctions, as well as other ERO and regional entity compliance documents, the consequences of violating a standard are clearly presented to the entities responsible for complying with the standards.
8. **Clear Language** — Each reliability standard shall be stated using clear and unambiguous language. Responsible entities, using reasonable judgment and in

keeping with good utility practices, are able to arrive at a consistent interpretation of the required performance.

9. **Practicality** — Each reliability standard shall establish requirements that can be practically implemented by the assigned responsible entities within the specified effective date and thereafter.
10. **Consistent Terminology** — To the extent possible, reliability standards shall use a set of standard terms and definitions that are approved through the NERC reliability standards development process.

303. Relationship between Reliability Standards and Competition

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

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

304. Essential Principles for the Development of Reliability Standards

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

1. **Openness** — Participation shall be open to all persons who are directly and materially affected by the reliability of the North American bulk power system. There shall be no undue financial barriers to participation. Participation shall not be conditional upon membership in NERC or any other organization, and shall

not be unreasonably restricted on the basis of technical qualifications or other such requirements.

2. **Transparency** — The process shall be transparent to the public.
3. **Consensus-building** — The process shall build and document consensus for each standard, both with regard to the need and justification for the standard and the content of the standard.
4. **Fair Balance of Interests** — The process shall fairly balance interests of all stakeholders and shall not be dominated by any single interest category.
5. **Due Process** — Development of standards shall provide reasonable notice and opportunity for any person with a direct and material interest to express views on a proposed standard and the basis for those views, and to have that position considered in the development of the standards.
6. **Timeliness** — Development of standards shall be timely and responsive to new and changing priorities for reliability of the bulk power system.

305. Registered Ballot Body

NERC reliability standards shall be approved by a registered ballot body prior to submittal to the board and then to ERO governmental authorities for their approval, where authorized by applicable legislation or agreement. This Section 305 sets forth the rules pertaining to the composition of, and eligibility to participate in, the registered ballot body.

1. **Eligibility to Vote on Standards** — Any person or entity may join the registered ballot body to vote on standards, whether or not such person or entity is a member of NERC.
2. **Inclusive Participation** — The segment qualification guidelines are inclusive; i.e., any entity with a legitimate interest in the reliability of the bulk power system that can meet any one of the eligibility criteria for a segment is entitled to belong to and vote in each segment for which it qualifies, subject to limitations defined in Sections 305.3 and 305.5.
3. **General Criteria for Registered Ballot Body Membership** — The general criteria for membership in the segments are:
 - 3.1 **Multiple Segments** — A corporation or other organization with integrated operations or with affiliates that qualifies to belong to more than one segment (e.g., transmission owners and load serving entities) may join once in each segment for which it qualifies, provided that each segment constitutes a separate membership and the organization is represented in each segment by a different representative. Affiliated entities are collectively limited to one membership in each segment for which they are qualified.

- 3.2 **Withdrawing from a Segment or Changing Segments** — After its initial registration in a segment, each registered participant may elect to withdraw from a segment or apply to change segments at any time.
- 3.3 **Review of Segment Criteria** — The board shall review the qualification guidelines and rules for joining segments at least every three years to ensure that the process continues to be fair, open, balanced, and inclusive. Public input will be solicited in the review of these guidelines.
4. **Proxies for Voting on Standards** — Any registered participant may designate an agent or proxy to vote on its behalf. There are no limits on how many proxies an agent may hold. However, for the proxy to be valid, NERC must have in its possession written documentation signed by the representative of the registered participant that the voting right by proxy has been transferred from the registered participant to the agent.
5. **Stakeholder Segments** — The specific criteria for membership in each registered ballot body segment are defined in the *Reliability Standards Development Procedure* in **Appendix 3A**.
6. **Review of Stakeholder Segment Entries**
NERC shall review all applications for joining the registered ballot body, and shall make a determination of whether the applicant's self-selection of a segment satisfies at least one of the guidelines to belong to that segment. The entity shall then become eligible to participate as a voting member of that segment. The Standards Committee shall resolve disputes regarding eligibility for membership in a segment, with the applicant having the right of appeal to the board.

306. Standards Committee

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

1. **Membership** — The Standards Committee is a representative committee comprising representatives of two members of each of the segments in the registered ballot body.
2. **Elections** — Standards Committee members are elected for staggered (one per segment per year) two-year terms by the respective stakeholder segments in accordance with the *Procedure for the Election of Members of the NERC Standards Committee*, which is incorporated into these rules as **Appendix 2**. Segments may use their own election procedure if such a procedure is ratified by two-thirds of the members of a segment and approved by the board.
3. **Canadian Representation**
 - 3.1 **Provision for Sufficient Canadian Representation** — If any regular election of Standards Committee members does not result in at least two

Canadian members on the Standards Committee, the Canadian nominees who were not elected but who received the next highest percentage of votes within their respective segment(s) will be designated as additional members of the Standards Committee, as needed to achieve a total of two Canadian members.

- 3.2 **Terms of Specially Designated Canadian Members** — Each specially designated Canadian member of the Standards Committee shall have a term ending with the next annual election.
- 3.3 **Segment Preference** — If any segment has an unfilled representative position on the Standards Committee following the annual election, the first preference is to assign each specially designated Canadian representative to a segment with an unfilled representative position for which his or her organization qualifies.
- 3.4 **Rights of Specially Designated Canadian Members** — Any specially designated Canadian members of the Standards Committee shall have the same rights and obligations as all other members of the Standards Committee.
4. **Open Meetings** — All meetings of the Standards Committee shall be open and publicly noticed on the NERC Web site.

307. Standards Process Manager

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

308. Steps in the Development of Reliability Standards

1. **Procedure** — NERC shall develop reliability standards through the process set forth in the NERC *Reliability Standards Development Procedure* (**Appendix 3A**). The procedure includes a provision for approval of urgent action standards that can be completed within 60 days and emergency actions that may be further expedited.
2. **Board Approval** — Reliability standards or revisions to reliability standards approved by the ballot pool in accordance with the *Reliability Standards Development Procedure* shall be submitted for approval by the board. No reliability standard or revision to a reliability standard shall be effective unless approved by the board.

3. **Governmental Approval** — After receiving board approval, a reliability standard or revision to a reliability standard shall be submitted to all applicable ERO governmental authorities in accordance with Section 309. No reliability standard or revision to a reliability standard shall be effective within a geographic area over which an ERO governmental authority has jurisdiction unless approved by such ERO governmental authority or is otherwise made effective pursuant to the laws applicable to such ERO governmental authority.

309. Filing of Reliability Standards for Approval by ERO Governmental Authorities

1. **Filing of Reliability Standards for Approval** — Where authorized by applicable legislation or agreement, NERC shall file with the applicable ERO governmental authorities each reliability standard, modification to a reliability standard, or withdrawal of a standard that is approved by the board. Each filing shall be in the format required by the ERO governmental authority and shall include: a concise statement of the basis and purpose of the standard; the text of the standard; the implementation plan for the reliability standard; a demonstration that the standard meets the essential attributes of reliability standards as stated in Section 302; the drafting team roster; the ballot pool and final ballot results; and a discussion of public comments received during the development of the reliability standard and the consideration of those comments.
2. **Remanded Reliability Standards and Directives to Develop Standards** — If an ERO governmental authority remands a reliability standard to NERC or directs NERC to develop a reliability standard, NERC shall within five (5) business days notify all other applicable ERO governmental authorities, and shall within thirty (30) calendar days report to all ERO governmental authorities a plan and timetable for modification or development of the reliability standard. Standards that are remanded or directed by an ERO governmental authority shall be modified or developed using the *Reliability Standards Development Procedure*. NERC shall, during the development of a modification for the remanded standard or directed standard, consult with other ERO governmental authorities to coordinate any impacts of the proposed standards in those other jurisdictions. The urgent approval action procedure may be applied if necessary to meet a timetable for action required by the ERO governmental authorities, respecting to the extent possible the provisions in the standards development process for reasonable notice and opportunity for public comment, due process, openness, and a balance of interest in developing reliability standards.
3. **Directives to Develop Standards under Extraordinary Circumstances** — An ERO governmental authority may, on its own initiative, determine that extraordinary circumstances exist requiring expedited development of a reliability standard. In such a case, the applicable agency may direct the development of a standard within a certain deadline. NERC staff shall prepare the standards authorization request and seek a stakeholder sponsor for the request. If NERC is unable to find a sponsor for the proposed standard, NERC will be designated as the requestor. The proposed standard will then proceed through the standards development process, using the urgent and emergency action procedures

described in the *Reliability Standards Development Procedure* as necessary to meet the specified deadline. The timeline will be developed to respect, to the extent possible, the provisions in the standards development process for reasonable notice and opportunity for public comment, due process, openness, and a balance of interests in developing reliability standards.

- 3.1 Consistent with all reliability standards developed under the urgent or emergency action process, each of the three possible follow-up actions as documented in the *Reliability Standards Development Procedure* are to be completed through the standards development process and are subject to approval by the ERO governmental authorities in the U.S. and Canada.

310. Reliability Standards Annual Work Plan

NERC shall develop and provide an annual work plan for development of reliability standards to the applicable ERO governmental authorities. NERC shall consider the comments and priorities of the ERO governmental authorities in developing and updating the work plan. Each annual work plan shall include a progress report comparing results achieved to the prior year's plan.

311. Regional Entity Standards Development Procedures

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

- 3.1 **Evaluation Criteria** — The regional reliability standards development procedure shall be:
- 3.1.1 **Open** — The regional reliability standards development procedure shall provide that any person or entity who is directly and materially affected by the reliability of the bulk power systems within the regional entity shall be able to participate in the development and approval of reliability standards. There shall be no undue financial barriers to participation. Participation shall not be conditional upon membership in the regional entity, a regional entity or any organization, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements.
 - 3.1.2 **Inclusive** — The regional reliability standards development procedure shall provide that any person with a direct and material interest has a right to participate by expressing an opinion and its basis, having that position considered, and appealing through an established appeals process if adversely affected.
 - 3.1.3 **Balanced** — The regional reliability standards development procedure shall have a balance of interests and shall not permit any two interest categories to control the vote on a matter or any single interest category to defeat a matter.
 - 3.1.4 **Due Process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.
 - 3.1.5 **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.
 - 3.1.6 **Accreditation of Regional Standards Development Procedure** — A regional entity's reliability standards development procedure that is accredited by the American National Standards Institute or the Standards Council of Canada shall be deemed to meet the criteria listed in this Section 311.3.1, although such accreditation is not a prerequisite for approval by NERC.
 - 3.1.7 **Use of NERC Procedure** — A regional entity may adopt the *NERC Reliability Standards Development Procedure* as the regional reliability standards development procedure, in which

case the regional entity's procedure shall be deemed to meet the criteria listed in this Section 311.3.1.

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

312. Regional Reliability Standards

1. **Basis for Regional Reliability Standards** — Regional entities may propose regional reliability standards that set more stringent reliability requirements than the NERC reliability standard or cover matters not covered by an existing NERC reliability standard. Such regional reliability standards shall in all cases be approved by NERC and made part of the NERC reliability standards and shall be enforceable in accordance with the delegation agreement between NERC and the regional entity or other instrument granting authority over enforcement to the regional entity. No entities other than NERC and the regional entity shall be permitted to develop regional reliability standards that are enforceable under statutory authority delegated to NERC and the regional entity.
2. **Regional Reliability Standards That are Directed by a NERC Reliability Standard** — Although it is the intent of NERC to promote uniform reliability standards across North America, in some cases it may not be feasible to achieve a reliability objective with a reliability standard that is uniformly applicable across North America. In such cases, NERC may direct regional entities to develop regional reliability standards necessary to implement a NERC reliability standard. Such regional reliability standards that are developed pursuant to a direction by NERC shall be made part of the NERC reliability standards.
3. **Procedure for Developing an Interconnection-wide Regional Standard** — A regional entity organized on an interconnection-wide basis may propose a regional reliability standard for approval as a NERC reliability standard to be made mandatory for all applicable bulk power system owners, operators, and users within that interconnection.
 - 3.1 **Presumption of Validity** — An interconnection-wide regional reliability standard that is determined by NERC to be just, reasonable, and not unduly discriminatory or preferential, and in the public interest, and consistent with such other applicable standards of governmental authorities, shall be adopted as a NERC reliability standard. NERC shall rebuttably presume that a regional reliability standard developed, in accordance with a regional reliability standards development process approved by NERC, by a regional entity organized on an interconnection-

wide basis, is just, reasonable, and not unduly discriminatory or preferential, and in the public interest, and consistent with such other applicable standards of governmental authorities.

- 3.2 **Notice and Comment Procedure for Interconnection-wide Regional Reliability Standard** — NERC shall publicly notice and request comment on the proposed interconnection-wide regional reliability standard, allowing a minimum of 45 days for comment. NERC may publicly notice and post for comment the proposed regional reliability standard concurrent with similar steps in the regional entity’s reliability standards development process. The regional entity shall have an opportunity to resolve any objections identified in the comments and may choose to comment on or withdraw the request, revise the proposed regional reliability standard and request another posting for comment, or submit the proposed regional reliability standard along with its consideration of any objections received, for approval by NERC.
- 3.3 **Approval of Interconnection-wide Regional Reliability Standard by NERC** — NERC shall evaluate and recommend whether a proposed interconnection-wide regional reliability standard has been developed in accordance with all applicable procedural requirements and whether the regional entity has considered and resolved stakeholder objections that could serve as a basis for rebutting the presumption of validity of the regional reliability standard. The regional entity, having been notified of the results of the evaluation and recommendation concerning NERC proposed regional reliability standard, shall have the option of presenting the proposed regional reliability standard to the board for approval as a NERC reliability standard. The board shall consider the regional entity’s request, NERC’s recommendation for action on the regional reliability standard, any unresolved stakeholder comments, and the regional entity’s consideration of comments, in determining whether to approve the regional reliability standard as a NERC reliability standard.
- 3.4 **ERO Governmental Authority Approval** — An interconnection-wide regional reliability standard that has been approved by the board shall be filed with the applicable ERO governmental authorities for approval, where authorized by applicable legislation or agreement, and shall become effective when approved by such ERO governmental authorities or on a date set by the ERO governmental authorities.
- 3.5 **Enforcement of Interconnection-wide Regional Reliability Standard** — An interconnection-wide regional reliability standard that has been approved by the board and by the applicable ERO governmental authorities or is otherwise made effective within Canada as mandatory within a particular region shall be applicable and enforced as a NERC reliability standard within the region.

4. **Procedure for Developing Non-Interconnection-Wide Regional Reliability Standards**

Regional entities that are not organized on an interconnection-wide basis may propose regional reliability standards to apply within their respective regions. Such standards may be developed through the NERC reliability standards development procedure, or alternatively, through a regional reliability standards development procedure that has been approved by NERC.

4.1 **No Presumption of Validity** — Regional reliability standards that are not proposed to be applied on an interconnection-wide basis are not presumed to be valid but may be demonstrated by the proponent to be valid.

4.2 **Notice and Comment Procedure for Non-Interconnection-wide Regional Reliability Standards** — NERC shall publicly notice and request comment on the proposed regional reliability standard, allowing a minimum of 45 days for comment. NERC may publicly notice and post for comment the proposed regional reliability standard concurrent with similar steps in the regional entity's reliability standards development process. The regional entity shall have an opportunity to comment on or resolve any objections identified in the comments and may choose to withdraw the request, revise the proposed regional reliability standard and request another posting for comment, or submit the proposed regional reliability standard along with its consideration of any objections received, for approval by NERC.

4.3 **NERC Approval of Non-Interconnection-wide Regional Reliability Standards** — NERC shall evaluate and recommend whether a proposed non-Interconnection-wide regional reliability standard has been developed in accordance with all applicable procedural requirements and whether the regional entity has considered and resolved stakeholder objections. The regional entity, having been notified of the results of the evaluation and recommendation concerning proposed regional reliability standard, shall have the option of presenting the proposed regional reliability standard to the board for approval as a NERC reliability standard. The board shall consider the regional entity's request, the recommendation for action on the regional reliability standard, any unresolved stakeholder comments, and the regional entity's consideration of comments, in determining whether to approve the regional reliability standard as a NERC reliability standard.

4.4 **NERC Governmental Authority Approval** — A non-Interconnection-wide regional reliability standard that has been approved by the board shall be filed with the applicable ERO governmental authorities for approval, where authorized by applicable legislation or agreement, and shall become effective when approved by such ERO governmental authorities or on a date set by the ERO governmental authorities.

- 4.5 **Enforcement of Non-Interconnection-wide Regional Reliability Standards** — A non-Interconnection-wide regional reliability standard that has been approved by the board and by the applicable ERO governmental authorities or is otherwise made effective within Canada as mandatory within a particular region shall be applicable and enforced as a NERC reliability standard within the region.

5. **Appeals**

A Regional Entity shall have the right to appeal NERC's decision not to approve a proposed regional reliability standard or variance to the Commission or other applicable governmental authority.

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

1. **Regional Criteria** — Regional entities may develop regional criteria that are necessary to implement, to augment, or to comply with reliability standards, but which are not reliability standards. Regional criteria may also address issues not within the scope of reliability standards, such as resource adequacy. Regional criteria may include specific acceptable operating or planning parameters, guides, agreements, protocols or other documents used to enhance the reliability of the regional bulk power system. These documents typically provide benefits by promoting more consistent implementation of the NERC reliability standards within the region. These documents are not NERC reliability standards, regional reliability standards, or regional variances, and therefore are not enforceable under authority delegated by NERC pursuant to delegation agreements and do not require NERC approval.
2. **Catalog of Regional Reliability Criteria** — NERC shall maintain a current catalog of regional reliability criteria. Regional entities shall provide a catalog listing of regional reliability criteria to NERC and shall notify NERC of changes to the listing. Regional entities shall provide any listed document to NERC upon written request.

314. Conflicts with Statutes, Regulations, and Orders

Notice of Potential Conflict — If a bulk power system owner, operator, or user determines that a NERC or regional reliability standard may conflict with a function, rule, order, tariff, rate schedule, legislative requirement or agreement that has been accepted, approved, or ordered by a governmental authority affecting that entity, the entity shall expeditiously notify the governmental authority, NERC, and the relevant regional entity of the conflict.

1. **Determination of Conflict** — NERC, upon request of the governmental authority, may advise the governmental authority regarding the conflict and propose a resolution of the conflict, including revision of the reliability standard if appropriate.
2. **Regulatory Precedence** — Unless otherwise ordered by a governmental authority, the affected bulk power system owner, operator, or user shall continue

to follow the function, rule, order, tariff, rate schedule, legislative requirement, or agreement accepted, approved, or ordered by the governmental authority until the governmental authority finds that a conflict exists and orders a remedy and such remedy is affected.

315. Revisions to NERC Reliability Standards Development Procedure

Any person or entity may submit a written request to modify NERC *Reliability Standards Development Procedure*. Consideration of the request and development of the revision shall follow the process defined in the NERC *Reliability Standards Development Procedure*. Upon approval by the board, the revision shall be submitted to the ERO governmental authorities for approval. Changes shall become effective only upon approval by the ERO governmental authorities or on a date designated by the ERO governmental authorities or as otherwise applicable in a particular jurisdiction.

316. Accreditation

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

317. Five-Year Review of Standards

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

318. Coordination with the North American Energy Standards Board

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

319. Archived Standards Information

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

320. Alternate Method for Adopting Violation Risk Factors

In the event the standards development process fails to produce violation risk factors for a particular standard in a timely manner, the Board of Trustees may adopt violation risk factors for that standard using the procedures set out in Section 1400 of these Rules of Procedure.

SECTION 400 — COMPLIANCE ENFORCEMENT

401. Scope of the NERC Compliance Enforcement Program

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

- 5.1 Should NERC not have a delegation agreement with a regional entity covering a geographic area, or a regional entity withdraws from an existing delegation agreement or the delegation agreement is otherwise terminated, NERC will directly administer the Compliance Monitoring and Enforcement Program applicable to owners, operators and users of the bulk-power system within that geographic area.
 1. This monitoring and enforcement will be accomplished by NERC and compliance staff from another approved regional entity.
 2. If an existing delegation agreement with a regional entity is terminating, the regional entity shall promptly provide to NERC all relevant compliance information regarding registered entities, contacts, prior compliance information and actions, mitigation plans, and remedial actions for the period in which the regional entity was responsible for administering the Compliance Monitoring and Enforcement Program.
 3. NERC will levy and collect all penalties directly and will utilize any penalty monies collected to offset the expenses of administering the compliance monitoring and enforcement program for the geographic area.
- 5.2 Should a regional entity seek to withdraw from its delegation agreement, NERC will seek agreement from another regional entity to amend its delegation agreement with NERC to extend that regional entity's boundaries for compliance monitoring and enforcement. In the event no regional entity is willing to accept this responsibility, NERC will administer the Compliance Monitoring and Enforcement Program within the geographical boundaries of the regional entity seeking to withdraw from the delegation agreement, in accordance with Section 401.5.1.
6. **Actively Monitored Requirements** — NERC, with input from the regional entities, stakeholders, and regulators, shall annually select a subset of the NERC reliability standards and requirements to be actively monitored and audited in the NERC annual compliance program. Compliance is required with all NERC reliability standards whether or not they are included in the subset of reliability standards and requirements designated to be actively monitored and audited in the NERC annual compliance program.
7. **Penalties, Sanctions, and Remedial Actions** — NERC and regional entities will apply penalties, sanctions, and remedial actions that bear a reasonable relation to the seriousness of a violation and take into consideration timely remedial efforts as defined in the NERC *Sanction Guidelines*, which is incorporated into these rules as **Appendix 4B**.
8. **Multiple Enforcement Actions** – A registered entity shall not be subject to an enforcement action by NERC and a regional entity for the same violation.
9. **Records** — NERC shall maintain a record of each compliance submission, including self-reported, possible, alleged, and confirmed violations of approved

reliability standards; associated penalties, sanctions, remedial actions and settlements; and the status of mitigation actions.

10. **Confidential Information** — NERC will treat all possible and alleged violations of reliability standards and matters related to a compliance monitoring and enforcement program process, including the status of any compliance investigation or other compliance monitoring and enforcement process, as confidential in accordance with Section 1500.

The types of information that will be considered confidential and will not (subject to statutory and regulatory requirements) be disclosed in any public information reported by NERC are identified in Section 1500. Information that would jeopardize bulk power system reliability, including information relating to a Cyber Security Incident, will be identified and protected from public disclosure as critical energy infrastructure information in accordance with Section 1500.

The regional entity and NERC shall give bulk power system owners, operators, and users a reasonable opportunity to demonstrate that information concerning a violation is confidential before such report is disclosed to the public.

11. **Public Posting** — When the affected bulk power system owner, operator, or user either agrees with a possible or alleged violation(s) of a reliability standard(s) or a report of a compliance audit or compliance investigation, or the time for submitting an appeal is passed, or all appeals processes are complete, NERC shall, subject to the confidentiality requirements of these rules, publicly post each confirmed violation, penalty or sanction, and final compliance audit or compliance investigation report, on its Web site.

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

11.2 In accordance with Section 1500, information deemed by a bulk power system owner, operator, or user, regional entity, or NERC as critical energy infrastructure information (*NERC Security Guidelines for the Electricity Sector — Protecting Potentially Sensitive Information* may be used as a guide) or other confidential information shall be redacted in accordance with Section 1500 and not be released publicly.

11.3 Subject to redaction of critical energy infrastructure information or other confidential information, for each confirmed violation or settlement relating to a possible violation or an alleged violation, the public posting shall include the name of any relevant entity, the nature, time period, and circumstances of such possible, alleged or confirmed violation, any mitigation plan to be implemented by the entity in connection with the violation or settlement, and sufficient facts to assist owners, operators and

users of the bulk power system to evaluate whether they have engaged in or are engaging in similar activities.

12. **Violation Information Review** — NERC compliance monitoring and enforcement program staff shall periodically review and analyze all reports of possible, alleged and confirmed violations to identify trends and other pertinent reliability issues.

402. NERC Oversight of the Regional Entity Compliance Enforcement Programs

1. **NERC Monitoring Program** — NERC shall have a program to monitor the compliance enforcement program of each regional entity that has been delegated authority. The objective of this monitoring program shall be to ensure that the regional entity carries out its compliance enforcement program in accordance with these rules and the terms of the delegation agreement, and to ensure consistency and fairness of the regional entity's compliance enforcement program. Oversight and monitoring by NERC shall be accomplished through an annual compliance enforcement program review, program audits, and regular evaluations of regional entity compliance enforcement program performance as described below.
 - 1.1 **NERC Review of Regional Compliance Enforcement Program Annual Plans** — NERC shall require each regional entity to submit for review and approval an annual compliance enforcement program implementation plan. NERC shall review each regional entity's compliance enforcement program annual implementation plan and shall accept the plan if it meets NERC requirements and the requirements of the delegation agreement.
 - 1.2 **Regional Entity Program Evaluation** — NERC shall annually evaluate the goals, tools, and procedures of each regional entity compliance enforcement program to determine the effectiveness of each regional entity program, using criteria developed by the NERC Compliance and Certification Committee.
 - 1.3 **Regional Entity Program Audit** — At least once every five years, NERC shall conduct an audit to evaluate how each regional entity compliance enforcement program implements the NERC Compliance Monitoring and Enforcement Program. The evaluation shall be based on these rules of procedures, including Appendix 4C, the delegation agreement, directives in effect pursuant to the delegation agreement, approved regional entity annual compliance enforcement program annual implementation plans, required program attributes, and the NERC compliance program procedures. These evaluations shall be provided to the appropriate ERO governmental authorities to demonstrate the effectiveness of each regional entity. In addition, audits of cross-border regional entities shall cover applicable requirements imposed on the regional entity by statute, regulation, or order of, or agreement with, provincial governmental and/or regulatory authorities for which NERC has auditing responsibilities over the regional entity's compliance with such requirements within Canada or Mexico. Participation of a representative of an applicable ERO

governmental authority shall be subject to the limitations of sections 3.1.6 and 8.0 of Appendix 4C of these rules of procedure regarding disclosures of non-public compliance information related to other jurisdictions. NERC shall maintain an audit procedure containing the requirements, steps, and timelines to conduct an audit of each regional entity compliance enforcement program. The current procedure is contained in the NERC Audit of Regional Entity Compliance Programs, which is incorporated into these rules as **Appendix 4A**.

- 1.4 ERO governmental authorities will be allowed to participate as an observer in any audit conducted by NERC of a regional entity's compliance monitoring and enforcement program. A representative of the regional entity being audited will be allowed to participate in the audit as an observer.
2. **Consistency Among Regional Compliance Enforcement Programs** — To provide for a consistent compliance enforcement program for all bulk power system owners, operators, and users required to comply with approved reliability standards, NERC shall maintain a single, uniform Compliance Monitoring and Enforcement Program, which is incorporated into these rules of procedure as **Appendix 4C**. Any differences in regional entity program methods, including determination of violations and penalty assessment, shall be justified on a case-by-case basis and fully documented in each regional entity delegation agreement.
 - 2.1 NERC shall ensure that each of the regional entity compliance enforcement programs meets these Rules of Procedure, including **Appendix 4C**, and follows the terms of the delegation agreement and the approved regional entity compliance enforcement program annual plan.
 - 2.2 NERC shall maintain a single, uniform compliance monitoring and enforcement program in **Appendix 4C** containing the procedures to ensure the consistency and fairness of the processes used to determine regional entity compliance enforcement program findings of compliance and noncompliance, and the application of penalties and sanctions.
 - 2.3 NERC shall periodically conduct regional entity compliance manager forums. These forums shall use the results of regional entity compliance program audits and findings of NERC compliance staff to identify and refine regional entity compliance program differences into a set of best practices over time.
3. **Information Collection and Reporting** — NERC and the regional entities shall implement data management procedures that address data reporting requirements, data integrity, data retention, data security, and data confidentiality.
4. **Violation Disclosure** — NERC shall disclose all confirmed violations and maintain as confidential possible violations and alleged violations, according to the reporting and disclosure process in **Appendix 4C**.

5. **Authority to Determine Noncompliance, Levy Penalties and Sanctions, and Issue Remedial Action Directives** — NERC and regional entity compliance staff shall have the authority and responsibility to make initial determinations of compliance or noncompliance, and where authorized by the appropriate governmental authorities or where otherwise authorized, to determine penalties and sanctions for noncompliance with a reliability standard, and issue remedial action directives. Regional entity boards or a compliance panel reporting directly to the regional entity board will be vested with the authority for the overall regional entity compliance program and have the authority to impose penalties and sanctions on behalf of NERC, where authorized by applicable legislation or agreement. Remedial action directives may be issued by NERC or a regional entity that is aware of a bulk power system owner, operator, or user that is about to engage in an act or practice that would result in noncompliance with a reliability standard, where such directive is immediately necessary to protect the reliability of the bulk power system from an imminent threat. If, after receiving such a directive, the bulk power system owner, operator, or user does not take appropriate action to avert a violation of a reliability standard, NERC may petition the applicable ERO governmental authority to issue a compliance order.

6. **Due Process** — NERC shall establish and maintain a fair, independent, and nondiscriminatory appeals process. The appeals process is set forth in Sections 408-410. The process shall allow bulk power system owners, operators, and users to appeal the regional entity’s findings of noncompliance and to appeal penalties, sanctions, and remedial actions that are levied by the regional entity. Appeals beyond the NERC process will be heard by the applicable ERO governmental authority.

The appeals process will also allow for appeals to NERC of any findings of noncompliance issued by NERC to a regional entity for standards and requirements where the regional entity is monitored for compliance to a reliability standard. No monetary penalties will be levied in these matters; however sanctions, remedial actions, and directives to comply may be applied by NERC.

7. **Conflict Disclosure** — NERC shall disclose to the appropriate governmental authorities any potential conflicts between a market rule and the enforcement of a regional reliability standard.

8. **Confidentiality** — To maintain the integrity of the NERC Compliance Monitoring and Enforcement Program, NERC and regional entity staff, audit team members, and committee members shall maintain the confidentiality of information obtained and shared during compliance monitoring and enforcement processes including investigations, audits, spot checks, drafting of reports, appeals, and closed meetings.
 - 8.1 NERC and the regional entity shall have in place appropriate codes of conduct and confidentiality agreements for staff and other compliance enforcement program participants.

- 8.2 Individuals not bound by NERC or regional entity codes of conduct who serve on compliance-related committees or audit teams shall sign a NERC confidentiality agreement prior to participating on the committee or team.
 - 8.3 Information deemed by a bulk power system owner, operator, or user, regional entity, or NERC as critical energy infrastructure information shall not be distributed outside of a committee or team, nor released publicly. Other information subject to confidentiality is identified in Section 1500.
 - 8.4 In the event that a staff, committee, or audit team member violates any of the confidentiality rules set forth above, the staff, committee, or audit team member and any member organization with which the individual is associated may be subject to appropriate action by the regional entity or NERC, including prohibiting participation in future compliance enforcement activities.
9. **Auditor Training** — NERC shall develop and provide training in auditing skills to all people who participate in NERC and regional entity compliance enforcement audits. Training for NERC and regional entity personnel and others who serve as compliance audit team leaders shall be more comprehensive than training given to industry subject matter experts and regional entity members. Training for regional entity members may be delegated to the regional entity.

403. Required Attributes of Regional Entity Compliance Enforcement Programs

Each regional entity compliance enforcement program shall promote excellence in the enforcement of reliability standards. To accomplish this goal, each regional entity compliance enforcement program shall (i) conform to and comply with the NERC uniform Compliance Monitoring and Enforcement Program, **Appendix 4C** to these rules of procedure, except to the extent of any deviations that are stated in the regional entity's delegation agreement, and (ii) meet all of the attributes set forth in this Section 403.

Program Structure

1. **Independence** — Each regional entity's governance of its compliance enforcement program shall exhibit independence, meaning the compliance enforcement program shall be organized so that its compliance monitoring and enforcement activities are carried out separately from other activities of the regional entity. The program shall not be unduly influenced by the bulk power system owners, operators, and users being monitored or other regional entity activities that are required to meet the reliability standards. Regional entities must include rules providing that no two industry sectors may control any decision and no single segment may veto any matter related to compliance.
2. **Exercising Authority** — Each regional entity compliance enforcement program shall exercise the responsibility and authority in carrying out the delegated functions of the NERC Compliance Monitoring and Enforcement Program in accordance with delegation agreements and **Appendix 4C**. These functions include but are not limited to: data gathering, data reporting, compliance

investigations, compliance auditing activities, evaluating compliance and noncompliance, imposing penalties and sanctions, and approving and tracking mitigation actions.

3. **Delegation of Authority** — To maintain independence, fairness, and consistency in the NERC Compliance Monitoring and Enforcement Program, a regional entity shall not sub-delegate its compliance enforcement program duties to entities or persons other than the regional entity compliance enforcement program staff, unless (i) required by statute or regulation in the applicable jurisdiction, or (ii) by agreement with express approval of NERC and of FERC or other appropriate ERO governmental authority, to another regional entity.
4. **Hearings of Contested Findings or Sanctions** — The regional entity board or compliance panel reporting directly to the regional entity board (with appropriate recusal procedures) will be vested with the authority for conducting compliance hearings in which any bulk power system owner, operator, or user provided notice of an alleged violation may present facts and other information to contest a notice of alleged violation or any proposed penalty, sanction, any remedial action directive, or any mitigation plan component. Compliance hearings shall be conducted in accordance with the Hearing Process set forth in Attachment 2 to **Appendix 4C**. If a stakeholder body serves as the hearing body, no two industry sectors may control any decision and no single segment may veto any matter related to compliance after recusals.

Program Resources

5. **Regional Entity Compliance Staff** — Each regional entity shall have sufficient resources to meet delegated compliance monitoring and enforcement responsibilities, including the necessary professional staff to manage and implement the regional entity compliance monitoring and enforcement program.
6. **Regional Entity Compliance Staff Independence** — The regional entity compliance monitoring and enforcement program staff shall be capable of and required to make all determinations of compliance and noncompliance and determine penalties, sanctions, and remedial actions.
 - 6.1 Regional entity compliance enforcement program staff shall not have a conflict of interest, real or perceived, in the outcome of compliance monitoring and enforcement processes, reports, or sanctions. The regional entity shall have in effect a conflict of interest policy.
 - 6.2 Regional entity compliance monitoring and enforcement program staff shall have the authority and responsibility to carry out compliance monitoring and enforcement processes (with the input of industry subject matter experts), make determinations of compliance or noncompliance, and levy penalties and sanctions without interference or undue influence from regional entity members and their representative or other industry entities.
 - 6.3 Regional entity compliance monitoring and enforcement program staff may call upon independent technical subject matter experts who have no

conflict of interest in the outcome of the compliance monitoring and enforcement process to provide technical advice or recommendations in the determination of compliance or noncompliance.

- 6.4 Regional entity compliance monitoring and enforcement program staff shall abide by the confidentiality requirements contained in Section 1500 and **Appendix 4C** of these Rules of Procedure, the NERC delegation agreement and other confidentiality agreements required by the NERC Compliance Monitoring and Enforcement Program.
- 6.5 Contracting with independent consultants or others working for the regional entity compliance enforcement program shall be permitted provided the individual has not received compensation from a bulk power system owner, operator, or user being monitored for a period of at least the preceding six months and owns no financial interest in any bulk power system owner, operator, or user being monitored for compliance to the reliability standard, regardless of where the bulk power system owner, operator, or user operates. Any such individuals for the purpose of these rules shall be considered as augmenting regional entity compliance staff.

7. Use of Industry Subject Matter Experts and Regional Entity Members — Industry experts and regional entity members may be called upon to provide their technical expertise in compliance monitoring and enforcement program activities.

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

successfully complete auditor training provided by NERC or the regional entity prior to performing these activities

Program Design

8. **Regional Entity Compliance Enforcement Program Content** — All approved reliability standards shall be included in the regional entity compliance monitoring and enforcement program for all bulk power system owners, operators, and users within the defined boundaries of the regional entity. Compliance to approved regional entity reliability standards is applicable only within the footprint of the regional entity that submitted those particular regional entity reliability standards for approval. NERC will identify the minimum set of reliability standards and requirements to be actively monitored by the regional entity in a given year.
9. **Antitrust Provisions** — Each regional entity’s compliance monitoring and enforcement program shall be structured and administered to abide by U.S. antitrust law and Canadian competition law.
10. **Information Submittal** — All bulk power system owners, operators, and users within the regional entity responsible for complying with reliability standards shall submit timely and accurate information when requested by the regional entity or NERC. NERC and the regional entities shall preserve any mark of confidentiality on information submitted pursuant to Section 1502.1.
 - 10.1 Each regional entity has the authority to collect the necessary information to determine compliance and shall develop processes for gathering data from the bulk power system owners, operators, and users the regional entity monitors.
 - 10.2 The regional entity or NERC has the authority to request information from bulk power system owners, operators, and users pursuant to section 401.3 or this section 403.10 without invoking a specific compliance monitoring and enforcement process in **Appendix 4C**, for purposes of determining whether to pursue one such process in a particular case and/or validating in the enforcement phase of a matter the conclusions reached through the compliance monitoring and enforcement process(es).
 - 10.3 When required or requested, the regional entities shall report information to NERC promptly and in accordance with **Appendix 4C** and other NERC procedures.
 - 10.4 Regional entities shall notify NERC of all possible, alleged and confirmed violations of NERC reliability standards by entities over which the regional entity has compliance monitoring and enforcement authority , in accordance with **Appendix 4C**.
 - 10.5 A bulk power system owner, operator, or user found in noncompliance with a reliability standard shall submit a mitigation plan with a timeline

addressing how the noncompliance will be corrected. The regional entity compliance staff shall review and approve the mitigation plan in accordance with **Appendix 4C**.

- 10.6 An officer of a bulk power system owner, operator, or user shall certify as accurate all compliance data self-reported to the regional entity compliance monitoring and enforcement program.
- 10.7 Regional entities shall develop and implement procedures to verify the compliance information submitted by bulk power system owners, operators, and users.

11. Compliance Audits of Bulk Power System Owners, Operators, and Users — Each regional entity will maintain and implement a program of proactive compliance audits of bulk power system owners, operators, and users responsible for complying with reliability standards, in accordance with **Appendix 4C**. A compliance audit is a process in which a detailed review of the activities of a bulk power system owner, operator, or user is performed to determine if that bulk power system owner, operator, or user is complying with approved reliability standards.

- 11.1 For an entity registered as a balancing authority, reliability coordinator, or transmission operator, the compliance audit will be performed at least once every three years. For other bulk power system owners, operators, and users on the NERC Compliance Registry, compliance audits shall be performed on a schedule established by NERC.
- 11.2 Audits of balancing authorities, reliability coordinators, and transmission operators will include a component at the audited entity's site. For other bulk power system owners, operators, and users on the NERC Compliance Registry, the audit may be either an on-site audit or based on review of documents, as determined to be necessary and appropriate by NERC or regional entity compliance monitoring and enforcement program, staff.
- 11.3 Compliance audits must include a detailed review of the activities of the bulk power system owner, operator, or user to determine if the bulk power system owner, operator, or user is complying with all approved reliability standards identified for audit by NERC. The compliance audit shall include a review of supporting documentation and evidence used by the bulk power system owner, operator or user to demonstrate compliance for an appropriate period prior to the compliance audit.

12. **Confidentiality of Compliance Monitoring and Enforcement Processes** — All compliance monitoring and enforcement processes, and information obtained from such processes, are to be non-public and treated as confidential in accordance with Section 1500 and **Appendix 4C** of these rules of procedure, unless NERC, the regional entity or FERC or another applicable governmental authority with jurisdiction determines a need to conduct a compliance monitoring and enforcement program process on a public basis, provided, that NERC and the regional entities shall publish (i) schedules of compliance audits scheduled in each year, (ii) a public report of each compliance audit, and (iii) notices of penalty and settlement agreements. Advance authorization from the applicable ERO governmental authority is required to make public any compliance monitoring and enforcement process or any information relating to a compliance monitoring and enforcement process, or to permit interventions when determining whether to impose a penalty. This prohibition on making public any compliance monitoring and enforcement process does not prohibit NERC or a regional entity from publicly disclosing (i) the initiation of or results from an analysis of a significant system event under Section 807 or of off-normal events or system performance under Section 808, or (ii) information of general applicability and usefulness to owners, operators, and users of the bulk power system concerning reliability and compliance matters, so long as specific allegations or conclusions regarding possible or alleged violations of reliability standards are not included in such disclosures.
13. **Critical Energy Infrastructure Information** — Information that would jeopardize bulk power system reliability, including information relating to a Cyber Security Incident will be identified and protected from public disclosure as critical energy infrastructure information. In accordance with Section 1500, information deemed by a bulk power system owner, operator, or user, regional entity, or NERC as critical energy infrastructure information shall be redacted according to NERC procedures and shall not be released publicly.
14. **Penalties, Sanctions, and Remedial Actions** — Each regional entity will apply all penalties, sanctions, and remedial action directives in accordance with the approved *Sanction Guidelines*, **Appendix 4B** to these rules of procedure. Any changes to the *Sanction Guidelines* to be used by any regional entity must be approved by NERC and submitted to the appropriate ERO governmental body for approval. All confirmed violations, penalties, and sanctions will be provided to NERC for review and filing with applicable ERO governmental authorities as a notice of penalty, in accordance with **Appendix 4C**.
15. **Regional Hearing Process** — Each regional entity compliance enforcement program shall establish and maintain a fair, independent, and nondiscriminatory process for hearing contested violations and any penalties or sanctions levied, in conformance with Attachment 2 to **Appendix 4C** to these rules of procedure and any deviations therefrom that are set forth in the regional entity's delegation agreement.. The hearing process shall allow bulk power system owners, operators, and users to contest findings of compliance violations, any penalties

and sanctions that are proposed to be levied, proposed remedial action directives, and components of proposed mitigation plans. The regional entity hearing process shall be conducted before the regional entity board or a balanced committee established by and reporting to the regional entity board as the final adjudicator, provided, that Canadian provincial regulators may act as the final adjudicator in their respective jurisdictions. The regional entity hearing process shall (i) include provisions for recusal of any members of the hearing body with a potential conflict of interest, real or perceived, from all compliance matters considered by the hearing body for which the potential conflict of interest exists and (ii) provide that no two industry sectors may control any decision and no single segment may veto any matter brought before the hearing body after recusals.

Each regional entity will notify NERC of all hearings and NERC may observe any of the proceedings. Each regional entity will notify NERC of the outcome of all hearings.

If a bulk power system owner, operator, or user has completed the regional entity hearing process and desires to appeal the outcome of the hearing, the bulk power system owner, operator, or user shall appeal to NERC in accordance with Section 409 of these rules of procedure, except that a determination of violation or penalty that has been directly adjudicated by an ERO governmental authority shall be appealed with that ERO governmental authority.

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

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

NERC shall monitor regional entity compliance with NERC reliability standards and, if no there is no delegation agreement in effect with a regional entity for the geographic area, shall monitor bulk power system owners, operators, and users for compliance with NERC reliability standards. Industry subject matter experts may be used as appropriate

in compliance investigations, compliance audits, and other compliance activities, subject to confidentiality, antitrust, and conflict of interest provisions.

1. **NERC Obligations** — NERC compliance monitoring and enforcement staff shall monitor the compliance of the regional entity with the reliability standards for which the regional entities are responsible, in accordance with **Appendix 4C**. NERC shall actively monitor in its annual Compliance Enforcement and Monitoring Program selected reliability standards that apply to the regional entities. NERC shall evaluate compliance and noncompliance with all of the reliability standards that apply to the regional entities and shall impose sanctions, penalties, or remedial action directives when there is a finding of noncompliance. NERC shall post all violations of reliability standards that apply to the regional entities as described in the reporting and disclosure process in **Appendix 4C**.

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

2. **Compliance Audit of the Regional Entity** — NERC shall perform a compliance audit of each regional entity responsible for complying with reliability standards at least once every three years. NERC shall make an evaluation of compliance based on the information obtained through the audit. After due process is complete, the final audit report shall be made public in accordance with the reporting and disclosure process in **Appendix 4C**.
3. **Appeals Process** — Any regional entity or bulk-power system owner, operator or user found by NERC, as opposed to a regional entity, to be in noncompliance with a reliability standard may appeal the findings of noncompliance with reliability standards and any sanctions or remedial action directives that are issued by, or mitigation plan components imposed by, NERC, pursuant to the processes described in Sections 408 through 410.

405. Monitoring of Standards and Other Requirements Applicable to NERC

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

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

NERC shall provide for an independent audit of its compliance monitoring and enforcement program at least once every three years, or more frequently as determined by the board. The audit shall be conducted by independent expert auditors as selected by the board. The independent audit shall meet the following minimum requirements and any other requirements established by the NERC board.

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

407. Penalties, Sanctions, and Remedial Actions

1. **NERC Review of Regional Penalties and Sanctions** — NERC shall review all penalties, sanctions, and remedial actions imposed by each regional entity for violations of reliability standards to determine if the regional entity's determination is supported by a sufficient record compiled by the regional entity, is consistent with the *Sanction Guidelines* incorporated into these rules as **Appendix 4B** and with other directives, guidance and directions issued by NERC pursuant to the delegation agreement, and is consistent with penalties, sanctions and remedial actions imposed by the regional entity and by other regional entities for violations involving the same or similar facts and circumstances.
2. **Developing Penalties and Sanctions** — The regional entity compliance monitoring and enforcement program staff shall use the *Sanction Guidelines*, which are incorporated into these rules as **Appendix 4B**, to develop an appropriate penalty, sanction, or remedial action for a violation, and shall notify NERC of the penalty or sanction.
3. **Effective Date of Penalty** — Where authorized by applicable legislation or agreement, no penalty imposed for a violation of a reliability standard shall take effect until the thirty-first day after NERC files, with the applicable ERO governmental authority, a “notice of penalty” and the record of the proceedings in which the violation and penalty were determined, or such other date as ordered by the ERO applicable governmental authority.

408. Review of NERC Decisions

1. **Scope of Review** — A registered entity or a regional entity wishing to challenge a finding of noncompliance and the imposition of a penalty for a compliance measure directly administered by NERC, or a regional entity wishing to challenge a regional compliance program audit finding, may do so by filing a notice of the challenge with NERC's director of compliance no later than 21 days after issuance of the notice of finding of violation or audit finding. Appeals by registered entities of decisions of regional entity hearing bodies shall be pursuant to section 409 .
2. **Contents of Notice** — The notice of challenge shall include the full text of the decision that is being challenged, a concise statement of the error or errors contained in the decision, a clear statement of the relief being sought, and argument in sufficient detail to justify such relief.
3. **Response by NERC Compliance Monitoring and Enforcement Program** — Within 21 days after receiving a copy of the notice of challenge, the NERC Director of Compliance may file with the hearing body a response to the issues raised in the notice, with a copy to the regional entity.
4. **Hearing by Compliance and Certification Committee** — The NERC Compliance and Certification Committee shall provide representatives of the regional entity or registered entity, and the NERC Compliance Monitoring and Enforcement Program an opportunity to be heard and shall decide the matter based upon the filings and presentations made, with a written explanation of its decision.
5. **Appeal** — The regional entity, or registered entity may appeal the decision of the Compliance and Certification Committee by filing a notice of appeal with NERC's director of compliance no later than 21 days after issuance of the written decision by the Compliance and Certification Committee. The notice of appeal shall include the full text of the written decision of the Compliance and Certification Committee that is being appealed, a concise statement of the error or errors contained in the decision, a clear statement of the relief being sought, and argument in sufficient detail to justify such relief. No factual material shall be presented in the appeal that was not presented to the Compliance and Certification Committee.
6. **Response by NERC Compliance Monitoring and Enforcement Program** — Within 21 days after receiving a copy of the notice of appeal, the NERC Compliance Monitoring and Enforcement Program staff may file its response to the issues raised in the notice of appeal, with a copy to the entity filing the notice.
7. **Reply** — The entity filing the appeal may file a reply within 7 days.
8. **Decision** — The Compliance Committee of the NERC Board of Trustees shall decide the appeal, in writing, based upon the notice of appeal, the record, the

response, and any reply. At its discretion, the Compliance Committee may invite representatives of the regional entity or registered entity, and the NERC Compliance Monitoring and Enforcement Program to appear before the Committee. Decisions of the Compliance Committee shall be final, except for further appeal to the applicable ERO governmental authority.

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

409. Appeals from Final Decisions of Regional Entities

1. **Time for Appeal** — An owner, operator or user of the bulk-power system wishing to appeal from a final decision of a regional entity that finds a violation of a reliability standard or imposes a penalty for violation of a reliability standard shall file its notice of appeal with NERC's director of compliance, with a copy to the regional entity, no later than 21 days after issuance of the final decision of the regional entity hearing body. The same appeal procedures will apply regardless of whether the matter first arose in a compliance investigation, compliance audit or self-report, other compliance monitoring and enforcement process, or in a reliability readiness evaluation.
2. **Contents** — The notice of appeal shall include the full text of the final decision of the regional entity hearing body that is being appealed, a concise statement of the error or errors contained in the final decision, a clear statement of the relief being sought, and argument in sufficient detail to justify such relief. No factual material shall be presented in the appeal that was not first presented during the compliance hearing before the regional entity hearing body.
3. **Response by Regional Entity** — Within 21 days after receiving a copy of the notice of appeal, the regional entity shall file the entire record of the matter with NERC's director of compliance, with a copy to the entity filing the notice, together with its response to the issues raised in the notice of appeal.
4. **Reply** — The entity filing the appeal may file a reply to the regional entity within 7 days.
5. **Decision** — The Compliance Committee of the NERC Board of Trustees shall decide the appeal, in writing, based upon the notice of appeal, the record of the matter from the regional entity, the response, and any reply filed with NERC. At its discretion, the Compliance Committee may invite representatives of the entity

making the appeal and the regional entity to appear before the Committee. Decisions of the Compliance Committee shall be final, except for further appeal to the applicable ERO governmental authority.

6. **Expenses** — Each party in the appeals process shall pay its own expenses for each step in the process.
7. **Non-Public Proceedings** — All appeals shall be closed to the public to protect confidential information.

410. Hold Harmless

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

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

A registered entity that is subject to a requirement of a NERC critical infrastructure protection reliability standard for which technical feasibility exceptions are permitted, may request a technical feasibility exception to the requirement, and the request will be reviewed, approved or disapproved, and if approved, implemented, in accordance with the NERC *Procedure for Requesting and Receiving Technical Feasibility Exceptions to NERC Critical Infrastructure Protection Standard*, Appendix 4D to these Rules of Procedure.

SECTION 500 — ORGANIZATION REGISTRATION AND CERTIFICATION

501. Scope of the Organization Registration and Certification Program

Enforcing compliance with the NERC reliability standards requires that the identity of those responsible for complying with the standards be known and that those with primary reliability responsibilities be reviewed and certified as meeting established minimum requirements for performing those tasks. NERC shall develop and maintain a compliance registry and certification program for the purpose of promoting compliance with reliability standards and enhancing the reliability of the bulk power system.

The purpose of the compliance registry will be to clearly identify those entities that are responsible for compliance with reliability standards. Organizations listed on the registry will be responsible for knowing the content of and for complying with the NERC reliability standards. Organizations listed in the registry are not, nor do they become, members of NERC or a regional entity by virtue of being listed in the compliance registry. Membership in NERC is governed by Article II of NERC's bylaws; membership in a regional entity is governed by that entity's bylaws or rules.

Organization registration and certification may be delegated to regional entities in accordance with the procedures in this Section 500, the NERC *Organization Registration and Certification Manual*, which is incorporated into these rules as **Appendix 5A**, and approved regional entity delegation agreements or other applicable agreements.

1. **Compliance Registry** — NERC shall establish and maintain a compliance registry of the bulk power system owners, operators, and users that are subject to approved reliability standards.
 - 1.1 The registry shall set forth the identity and functions performed for each organization responsible for meeting requirements of the reliability standards. Bulk power system owners, operators, and users (i) shall provide to NERC and the applicable regional entity such information as is necessary to complete the registration, and (ii) shall provide NERC and the applicable regional entity with timely updates to information concerning the registered entity's ownership, operations, contact information, and other information that may affect the registered entity's registration status or other information recorded in the compliance registry.
 - 1.2 NERC and regional entities assisting NERC in the development of the compliance registry shall determine which organizations should be placed in the registry based on the criteria provided in the NERC *Statement of Compliance Registry Criteria*, which is incorporated into these rules as **Appendix 5B**.

In addition, (a) A generation or transmission cooperative, a joint-action agency or another organization (a Joint Registration Organization or JRO) may be registered, in lieu of each of the JRO's members or related entities being registering individually, by the JRO accepting the reliability functions identified in Section 1.1 above, or (b) a JRO and its members or related entities may enter into a written agreement as to which of them will be responsible for one or more reliability standards applicable to a particular function and/or for one or more requirements within particular reliability standards applicable to a particular function and/or for one or more requirements within particular reliability standards, in either case in accordance with the provisions specified in Section 507 (each of (a) and (b), a "joint registration").

For purpose of this Section 501.1.2 and Section 507, a "related entity" is an entity whose operations in relation to the operation of the JRO make it feasible for the JRO to accept responsibility for reliability functions for which the related entity would otherwise be responsible. A non-exclusive list of examples of JROs and related entities includes (i) a balancing authority or a transmission provider as the JRO, and (ii) a load-serving entity or a distribution provider within the balancing authority's control area or receiving transmission services from the transmission provider, as the related entity.

- 1.3 NERC and the regional entities shall use the following procedure for establishing and maintaining the compliance registry:
 - 1.3.1 NERC shall notify each organization of its intent to place the organization on the compliance registry.
 - 1.3.2 Any organization receiving such a notice may challenge the decision to include it on the compliance registry by filing its written objection with NERC's director of compliance within 21 days stating the reasons it believes it should not be considered a bulk power system owner, operator, or user.
 - 1.3.3 The Compliance Committee of the Board of Trustees will promptly issue a written decision on the challenge, including the reasons for the decision.
 - 1.3.4 The decision of the Compliance Committee shall be final unless, within 21 days, the organization appeals the decision to the applicable governmental authority.
 - 1.3.5 At any time a person may recommend in writing, with supporting reasons, to the director of compliance that an organization be added to or removed from the compliance registry.

- 1.3.6 The compliance registry shall be dynamic and be revised as necessary to take account of changing circumstances. NERC will take such recommendations, and other applicable information, under advisement as it determines whether an entity should be on the compliance registry.
 - 1.3.7 Each entity identified in the registry shall notify NERC and its corresponding regional entity of any changes in ownership, corporate structure, or similar matters that affect the entity's responsibilities with respect to the reliability standards. Failure to notify will not relieve the entity from any responsibility to comply with the reliability standards or shield it from any penalties or sanctions associated with failing to comply with such standards.
- 1.4 For all geographical or electrical areas of the bulk power system, the registration process shall ensure that (1) no areas are lacking any entities to perform the duties and tasks identified in and required by the reliability standards to the fullest extent practical, and (2) there is no duplication of such coverage or of required oversight of such coverage.
- In particular the process shall:
- 1.4.1 Ensure that all areas are under the oversight of one and only one reliability coordinator.
 - 1.4.2 Ensure that all balancing authorities and transmission operator entities² are under the responsibility of one and only one reliability coordinator.
 - 1.4.3 Ensure that all transmission elements of the bulk power system are the responsibility and under the control of one and only one transmission planner, planning authority, and transmission operator.
 - 1.4.4 Ensure that all loads and generators are under the responsibility and control of one and only one balancing authority.
- 1.5 NERC shall maintain publicly available process documentation.
- 1.6 NERC shall maintain the compliance registry of organizations responsible for meeting the requirements of the reliability standards currently in effect on its Web site and shall update the compliance registry monthly.

² Some organizations perform the listed functions (e.g., balancing authority, transmission operator) over areas that transcend the footprints of more than one reliability coordinator. Such organizations will have multiple registrations, with each such registration corresponding to that portion of the organization's overall area that is within the footprint of a particular reliability coordinator.

2. **Entity Certification** — NERC shall provide for certification of all entities with primary reliability responsibilities requiring certification as established in the NERC reliability standards. The NERC program shall:
 - 2.1 Evaluate and certify the competency of entities performing reliability functions. The entities presently expected to be certified include reliability coordinators, transmission operators, and balancing authorities. Other entities may be added, as required, by approved reliability standards.
 - 2.2 Certify each entity's ability to meet the minimum requirements established by the NERC reliability standards for each function.
 - 2.3 Maintain process documentation.
 - 2.4 Maintain records of currently certified entities.
3. **Delegation and Oversight**
 - 3.1 NERC may delegate responsibilities for registration and certification to regional entities in accordance with requirements established by NERC. Delegation will be via the delegation agreement between NERC and the regional entity or other applicable agreement. The regional entity shall administer an organization registration and certification program in accordance with such delegation to meet NERC's program goals and requirements.
 - 3.2 NERC shall develop and maintain a plan to ensure the continuity of organization registration and certification within the geographic or electrical boundaries of a regional entity in the event that no entity is certified as a regional entity for that region, or the regional entity withdraws as a regional entity, or does not operate its organization registration and certification program in accordance with delegation agreements and other requirements.
 - 3.3 NERC shall develop and maintain a program to monitor and oversee each regional entity registration and certification program that is delegated authority through a delegation agreement or other applicable agreement.
 - 3.3.1 This program shall monitor whether the regional entity carries out its organization registration and certification responsibilities in accordance with NERC requirements, and whether there is consistency, fairness of administration, and comparability of outcomes within each regional entity's certification and registration program and among all of the programs.

3.3.2 Monitoring and oversight shall be accomplished through direct participation in certification audits and periodic reviews of program documents and records.

502. ERO Organization Registration and Certification Program Requirements

1. NERC shall have final authority in all matters constituting the organization registration and certification program.
 - 1.1 The roles and authority of regional entities in the program are delegated from NERC pursuant to the rules of procedure through regional delegation agreements or other applicable agreements.
 - 1.2 Processes for the program shall be owned by NERC; materials that each regional entity may use to participate in the program may be adapted by that organization subject to prior review and approval by NERC.
 - 1.3 Regional entities participating in the program shall perform their roles and responsibilities to meet NERC's requirements, as specified in the delegation agreement, the rules of procedure or NERC approved materials, including requirements for quality, thoroughness, timeliness, accuracy, efficiency, cost-effectiveness, and participation.
 - 1.4 Regional entity's decisions to grant or deny certifications shall be subject to NERC review and action, including modification or reversal.
 - 1.5 Regional entity's decisions with respect to the use of the transitional certification processes, as now provided for within the NERC *Organization Registration and Certification Manual (Appendix 5A)*, are subject to NERC review and action, including modification or reversal, should NERC deem such review or action warranted.
 - 1.6 Notwithstanding an entity's interest and right to object to the makeup of the certification team that will conduct the review of that entity, NERC, or the regional entity as authorized by NERC, will have final authority on the membership and member roles of that team.
 - 1.7 NERC, or the regional entity as authorized by NERC, shall make all assessments and decisions with respect to all aspects of the organization registration and certification program, including the completeness and accuracy of entities' applications.
2. To ensure consistency and fairness of the program, NERC shall develop procedures to be used by all regional entities in carrying out their organization registration and certification responsibilities, in accordance with the following criteria:

- 2.1 NERC and the regional entities shall have data management processes and procedures that provide for integrity and retention of data and information collected.
- 2.2 To maintain the integrity of the NERC Organization Registration and Certification Program, NERC, regional entities, certification audit team members, and committee members shall maintain the confidentiality of information provided by entities in order to become registered or certified.
 - 2.2.1 NERC and the regional entities shall have appropriate codes of conduct and confidentiality agreements for staff and other certification audit participants. Individuals not bound by ERO or approved regional entity codes of conduct and who serve on certification-related committees or audit teams shall sign an ERO confidentiality agreement prior to participating on the committee or team.
 - 2.2.2 Staff, committee, and audit team members shall maintain the confidentiality of any certification-related discussions or documents that are designated as confidential (see Section 1500 for types of confidential information). Staff, committee, and audit team members shall treat as confidential the individual comments expressed during audits and report-drafting sessions.
 - 2.2.3 Copies of notes, draft reports, and other interim documents developed or used during a certification audit shall be destroyed after the public posting of a final, uncontested report.
 - 2.2.4 Information deemed by an entity, a regional entity, or NERC as confidential or critical energy infrastructure information shall not be distributed outside of a committee or team, or released publicly.
 - 2.2.5 In the event that a staff, committee, or audit team member violates any of the confidentiality rules set forth above, the staff, committee, or audit team member and any member organization with which the individual is associated may be subject to immediate dismissal from the audit team and may be prohibited from future participation in compliance program activities by the regional entity or NERC.
 - 2.2.6 NERC shall develop and provide training in auditing skills to all individuals who participate in certification audits. Training for ERO and regional entity personnel, as well as audit team leaders, shall be more comprehensive than training given to industry subject matter experts and regional entity members. Training for regional entity members may be delegated to the regional entity.

- 2.3 An entity that is determined to be competent to perform a function after completing all certification requirements shall be deemed certified by NERC to perform that function.
 - 2.3.1 An entity deemed certified by NERC to perform a function shall be considered and may be referred to, for example, as a certified transmission operator, certified balancing authority, or certified reliability coordinator. Only entities that have received such certifications from NERC shall be so designated.
 - 2.3.2 NERC shall award certification to an entity only after it has demonstrated full competency to all certification requirements. An entity shall be awarded certification only for each function for which it has demonstrated full competency

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

- 1. **Delegation** — Recognizing the regional entity’s knowledge of and experience with their members, NERC may delegate responsibility for organization registration and certification to the regional entity through a delegation agreement or such responsibilities may be established through another applicable agreement.
- 2. **Registration** — The following organization registration activities shall be performed by the regional entity in accordance with the NERC *Organization Registration and Certification Procedures*, which are incorporated into the Rules of Procedure as **Appendix 5A**.
 - 2.1 Regional entities shall verify that all balancing authorities and transmission operators are under the responsibility of one and only one reliability coordinator.
 - 2.2 Regional entities shall verify that all transmission elements of the bulk power system operated within their geographic boundaries are under the authority and control of one and only one transmission planner, planning authority, transmission owner, and transmission operator.
 - 2.3 Regional entities shall verify that all loads and generation sources within their geographic boundaries are under the authority and control of one and only one balancing authority.
 - 2.4 Regional entities shall verify that no geographical or electrical areas of the bulk power system within their boundaries have duplication of coverage or are lacking an entity to perform required duties and tasks as identified in the reliability standards.

3. **Certification** — The following organization certification activities shall be performed by the regional entity in accordance with an approved ERO delegation agreement or another applicable agreement:
 - 3.1 Entities seeking certification to perform one of the functions requiring certification shall contact the regional entity for the region(s) in which they operate to apply for certification. NERC shall have oversight of the regional entity's certification activities and processes.
 - 3.2 Entities seeking certification and other affected operators shall provide all information and data requested by NERC or the regional entity to conduct the certification process, in accordance with 18 C.F.R. Section 39.2 in the United States.
 - 3.3 Regional entities shall contact entities directly and provide notice of the requirement to be certified by NERC and initiate the process to certify any entities that do not voluntarily contact the regional entity or NERC.
 - 3.4 Regional entities shall notify NERC of all certification applicants, including those not voluntarily seeking certification.
 - 3.5 The regional entity shall establish certification procedures to include audit processes, schedules and deadlines, expectations of the applicants and all entities participating in the audit and certification processes, and requirements for certification auditors.
 - 3.5.1 The regional entity certification procedures will include provisions for on-site visits to the applicant's facilities to review the data collected through questionnaires, interviewing the operations and management personnel, inspecting the facilities and equipment (and requesting a demonstration of all tools identified in the certification standard), reviewing all necessary documents and data (including all agreements, processes, and procedures identified in the certification standard), reviewing certification documents and projected system operator work schedules, and reviewing any additional documentation that is needed to support the completed questionnaire or inquiries arising during the site visit.
 - 3.5.2 All industry experts and regional members participating in certification audits shall successfully complete appropriate training provided by NERC or the regional entity prior to performing an audit.
 - 3.5.3 The regional entity certification procedures will provide for preparation of a written report by the audit team detailing any deficiencies that must be resolved prior to certification along with any other recommendations for consideration by the entity, the regional entity, or NERC.

- 3.5.4 The regional entity shall evaluate the competency of entities requiring certification to meet the minimum requirements established by the standards for each such function based on the requirements established by NERC.

504. Appeals

1. NERC shall maintain an appeals process to resolve any disputes related to registration or certification activities (*Organization Registration and Certification Manual — Appendix 5A*).
2. Each regional entity with delegated responsibilities for certification shall establish and maintain a fair, independent, and nondiscriminatory appeals process. The regional entity appeals process shall culminate with the regional board or a committee established by and reporting to the board as the final adjudicator, provided that where applicable, Canadian provincial governmental authorities may act as the final adjudicator in their jurisdictions. NERC shall be notified of all appeals and may observe any proceedings.

505. Program Maintenance

NERC shall maintain its program materials, including such manuals or other documents as it deems necessary, of the governing policies and procedures of the organization registration and certification program.

506. Independent Audit of NERC Organization Certification Program

1. NERC shall provide for an independent audit of its organization certification program at least once every three years, or more frequently, as determined by the board. The audit shall be conducted by independent expert auditors as selected by the board.
2. The audit shall evaluate the success and effectiveness of the NERC organization certification program in achieving its mission.
3. The final report shall be posted by NERC for public viewing.
4. If the audit report includes recommendations to improve the program, the administrators of the program shall provide a written response and plan to the board within 30 days of the final report.

507. Provisions Relating to Joint Registrations and Joint Registration Organizations

1. **Registration by a JRO.** In addition to registering as the entity responsible for all functions that a JRO performs itself, a JRO may register on behalf of one or more of its members or related entities for one or more functions as to which such members or related entities would otherwise be required to register, and thereby accept on behalf of such members or related entities all compliance responsibility, including reporting requirements, for all requirements of reliability standards applicable to the function or functions for which the JRO has registered on behalf of its members or related entities. Any entity seeking to register as a JRO for any or all requirements identified in the reliability standards that would otherwise be

the responsibility of one or more of its members or related entities shall provide to the applicable regional entity information, in the form requested by the regional entity, sufficient to identify whether the entity or its member(s) or related entities will be responsible for compliance with each provision of the reliability standards for the applicable functional responsibilities covered by the joint registration. The JRO must identify its primary compliance contact. The JRO primary compliance contact is responsible for providing all of the information and data, including submitting reports, as needed by the regional entity for performing assessments of compliance.

2. **Joint registration pursuant to written agreement.** Where a JRO and any of its members or related entities agree, in writing, upon a division of compliance responsibility among them for one or more reliability standard(s) applicable to a particular function, and/or for one or more requirements within particular reliability standard(s), both the JRO and such member(s) or related entit(ies) shall register as an organization responsible for that function. The JRO and its member(s) or related entit(ies) must have a written agreement that clearly specifies their respective responsibilities, which shall be submitted as part of the joint registration. Neither NERC nor the regional entity shall be parties to any such agreement between a JRO and its member or related entit(ies), nor shall NERC or the regional entity have responsibility for reviewing or approving any such agreement, other than to verify that the agreement provides for an allocation or assignment of responsibilities consistent with the joint registration.
3. NERC or the regional entity may request clarification of any list submitted to it that identifies the compliance responsibilities of the JRO and its member(s) or related entit(ies), and may request such additional information as NERC or the regional entity deems appropriate.
4. The regional entity shall notify NERC of each joint registration that the regional entity accepts. The regional entity's acceptance of a joint registration shall be a representation by the regional entity to NERC that the regional entity has concluded the joint registration will result in (1) no areas lacking any entities to perform the duties and tasks identified in and required by the reliability standards, and (2) no unnecessary duplication of such coverage of areas by entities to perform the duties and task identified in and required by the reliability standards or of required oversight of such coverage.
5. NERC shall maintain, and shall post on its web site, a Joint Registration Organization registry listing all joint registrations that have been accepted by NERC or by a regional entity and the reliability standards or requirements thereof for which each JRO and each of its members or related entities is responsible under the joint registration. The postings on NERC's web site shall clearly identify the compliance responsibilities of the JRO and of each of its member(s) or related entit(ies). Such postings are intended to enable reliability coordinators and other system operators to be fully aware of responsibilities and chains of command in order to respond quickly and decisively to system operation events.

6. Annually following submission of a joint registration, the JRO shall provide the regional entity with a list, in a form specified by the regional entity, that identifies the members or related entities and the functions for which the JRO has registered on behalf of such members or related entities and for which the JRO assumes compliance responsibility. Additionally, a JRO shall provide a revised list of compliance responsibilities to the regional entity each time the JRO accepts additional compliance responsibilities for a member or related entity or for a new member or related entity and each time that any compliance reliability reverts from the JRO to a member or related entity. The regional entity shall promptly notify NERC of each such revision.
7. In the event of a violation of a reliability standard or of a requirement of a reliability standard, the JRO or its member or related entity identified in the Joint Registration Organization registry as responsible for such reliability standard or requirement shall be identified in the notices of possible violation, alleged violation and confirmed violation and shall be assessed the sanction or penalty for the violation. In accordance with the NERC *Sanctions Guidelines*, for a violation that is attributable to a member or related entity that is registered under the joint registration, the penalty or sanction imposed for the violation will bear reasonable relation to the violation as incurred by that member or related entity and not the JRO. In the event a regional entity is not able to determine, based on the joint registration and the annual or other revised list submitted by the JRO, which entity is responsible for a particular reliability standard or requirement thereof that has been violated, the regional entity shall issue the notices of possible violation, alleged violation and confirmed violation to, and shall impose any sanction or penalty on, the JRO. NERC and the regional entity shall have no responsibility for any allocation or collection of penalties or sanctions between or among the JRO and its member(s) or related entit(ies).
8. **Individual member registration.** Nothing in this Section 507 shall preclude a member of a JRO, a related entity, or any other entity, from registering on its own behalf and undertaking full compliance responsibility, including reporting requirements, for the reliability standards applicable to the function(s) for which the member or other entity is registering. A JRO member or related entity that registers as responsible for any reliability standard or requirement of a reliability standards shall inform the JRO of its registration.

SECTION 600 — PERSONNEL CERTIFICATION

601. Scope of Personnel Certification

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

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

602. Structure of ERO Personnel Certification Program

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

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

603. Candidate Testing Mechanisms

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

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

604. Public Information About the Personnel Certification Program

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

605. Responsibilities to Applicants for Certification or Recertification

The personnel certification program:

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

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

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

The personnel certification program:

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

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

701 Confidentiality Requirements for Readiness Evaluations and Evaluation Team Members

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

702. Formation of Sector Forum

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

SECTION 800 — RELIABILITY ASSESSMENT AND PERFORMANCE ANALYSIS

801. Objectives of the Reliability Assessment and Performance Analysis Program

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

802. Scope of the Reliability Assessment Program

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

803. Reliability Assessment Reports

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

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

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

804. Reliability Assessment Data and Information Requirements

To carry out the reviews and assessments of the overall reliability of the interconnected bulk power systems, the regional entities and other entities shall provide sufficient data and other information requested by NERC in support of the annual long-term and seasonal assessments and any special reliability assessments.

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

While the major sources of data and information for this program are the regional entities, a team of reliability and technical experts is responsible for developing and formulating its own independent conclusions about the near-term and long-term reliability of the bulk power systems.

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

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

In general, the regional reliability self-assessments shall address, among other areas, the following topics: demand and net energy for load; assessment of projected resource adequacy; any transmission constraints that may impact bulk transmission adequacy and plans to alleviate those constraints; any unusual operating conditions that could impact reliability for the assessment period; fuel supply adequacy; the deliverability of generation (both internal and external) to load; and any other reliability issues in the region and their potential impacts on the reliability of the bulk power systems.

805. Reliability Assessment Process

Based on their expertise, the review of the collected data, the review of the regional self-assessment reports, and interviews with the regional entities, as appropriate, the teams of reliability and technical experts shall perform an independent review and assessment of the generation and transmission adequacy of each region's existing and planned bulk power system. The results of the review teams shall form the basis of NERC's long-term and seasonal reliability assessment reports. The review and assessment process is briefly summarized below.

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

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

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

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

In addition to providing long-term and seasonal assessments in connection with the reliability assessment program, the review team of experts shall also be responsible for recommending new and revised reliability standards related to the reliability assessments and the reliability of the bulk power systems. These proposals for new or revised standards shall be entered into NERC's Standards Development Process.

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

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

806. Scope of the Reliability Performance and Analysis Program

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

807. Analysis of Major Events

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

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

entity, NERC representatives will participate as members of the regional entity analysis team.

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

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

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

809. Reliability Benchmarking

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

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

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

NERC's report to the Commission and other applicable governmental authorities will describe the actions taken by the relevant owners, operators, and users of the bulk power system and the success of such actions taken in correcting any vulnerability or deficiency that was the subject of the notification, with appropriate protection for confidential or critical infrastructure information.

811. Equipment Performance Data

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

SECTION 900 — TRAINING AND EDUCATION

901. Scope of the Training and Education Program

Maintaining the reliability of the bulk electric system through implementation of the Reliability Standards requires informed and trained personnel. The training and education program will provide the education and training necessary for bulk power system personnel and regulators to obtain the essential knowledge necessary to understand and operate the bulk electric system.

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

NERC shall also develop and provide appropriate training and education for industry participants and regulators affected by new or changed reliability standards or compliance requirements.

To accomplish those objectives:

1. NERC shall periodically conduct job task analyses for targeted bulk power system personnel to ensure that the training program content is properly aligned to the job tasks performed by those personnel.
2. NERC shall develop and maintain personnel training program curriculum requirements based on valid job-task analysis.
3. NERC shall periodically conduct performance surveys to determine the effectiveness of the training program and identify areas for further training development and improvement.
4. NERC shall develop training and education materials and activities to assist bulk power system entities implementing new or revised reliability standard requirements or other NERC-related changes.
5. NERC shall develop and provide training to people who participate in NERC and regional entity evaluations, audits, and investigations for the compliance enforcement program, organization certification program, and the continuing education program.

902. Continuing Education Program

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

implemented by bulk power system entities. The program shall approve or accredit those activities and entities meeting NERC continuing education requirements.

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

SECTION 1000 — SITUATION AWARENESS AND INFRASTRUCTURE SECURITY

1001. Situation Awareness

NERC shall through the use of reliability coordinators and available tools, monitor present conditions on the bulk power system and provide leadership coordination, technical expertise, and assistance to the industry in responding to events as necessary. To accomplish these goals, NERC will:

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

1002. Reliability Support Services

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

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

1003. Infrastructure Security Program

NERC shall coordinate electric industry activities to promote critical infrastructure protection of the bulk power system in North America by taking a leadership role in critical infrastructure protection of the electricity sector so as to reduce vulnerability and

improve mitigation and protection of the electricity sector's critical infrastructure. To accomplish these goals, NERC shall perform the following functions.

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

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

SECTION 1100 — ANNUAL NERC BUSINESS PLANS AND BUDGETS

1101. Scope of Business Plans and Budgets

The board shall determine the content of the budgets to be submitted to the applicable ERO governmental authorities with consultation from the members of the Members Representatives Committee, regional entities, and others in accordance with the bylaws. The board shall identify any activities outside the scope of NERC's statutory reliability functions, if any, and the appropriate funding mechanisms for those activities.

1102. NERC Funding and Cost Allocation

1. In order that NERC's costs shall be fairly allocated among interconnections and among regional entities, the NERC funding mechanism for all statutory functions shall be based on net energy for load (NEL).
2. NERC's costs shall be allocated so that all load (or, in the case of costs for an interconnection or regional entity, all load within that interconnection or regional entity) bears an equitable share of such costs based on NEL.
3. Costs shall be equitably allocated between countries or regional entities thereof for which NERC has been designated or recognized as the electric reliability authority.
4. Costs incurred to accomplish the statutory functions for one interconnection, regional entity, or group of entities will be directly assigned to that interconnection, regional entity, or group of entities provided that such costs are allocated equitably to end-users based on net energy for load.

1103. NERC Budget Development

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

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

4. NERC shall develop, in consultation with the regional entities, a reasonable and consistent system of accounts, to allow a meaningful comparison of actual results at the NERC and regional entity level by the applicable ERO governmental authorities.

1104. Submittal of Regional Entity Budgets to NERC

1. Each regional entity shall submit its proposed annual budget for carrying out its delegated authority functions as well as all other activities and funding to NERC in accordance with a schedule developed by NERC and the regional entities, which shall provide for the regional entity to submit its final budget that has been approved by its board of directors or other governing body no later than July 1 of the prior year, in order to provide sufficient time for NERC's review and comment on the proposed budget and approval of the regional entity budget by the NERC Board of Trustees in time for the NERC and regional budgets to be submitted to FERC and other ERO governmental authorities for approval in accordance with their regulations. The regional entity's budget shall include supporting materials in accordance with the budget and reporting format developed by NERC and the regional entities, including the regional entity's complete business plan and organization chart, explaining the proposed collection of all dues, fees, and charges and the proposed expenditure of funds collected in sufficient detail to justify the requested funding collection and budget expenditures.
2. NERC shall review and approve each regional entity's budget for meeting the requirements of its delegated authority. Concurrent with approving the NERC budget, NERC shall review and approve, or reject, each regional entity budget for filing.

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

1. NERC shall file for approval by the applicable ERO governmental authorities at least 130 days in advance of the start of each fiscal year. The filing shall include: (1) the complete NERC and regional entity budgets including the business plans and organizational charts approved by the board, (2) NERC's annual funding requirement (including regional entity costs for delegated functions), and (3) the mechanism for assessing charges to recover that annual funding requirement, together with supporting materials in sufficient detail to support the requested funding requirement.

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

1106. NERC and Regional Entity Billing and Collections

1. NERC shall request the regional entities to identify all load-serving entities³ within each regional entity and the NEL assigned to each load-serving entity, and the regional entities shall supply the requested information. The assignment of a funding requirement to an entity shall not be the basis for determining that the entity must be registered in the compliance registry.
2. NERC shall accumulate the NEL by load-serving entities for each ERO governmental authority and submit the proportional share of NERC funding requirements to each ERO governmental authority for approval together with supporting materials in sufficient detail to support the requested funding requirement.
3. NEL reported by balancing authorities within a region shall be used to rationalize and validate amounts allocated for collection through regional entity processes.
4. The billing and collection processes shall provide:
 - 4.1 A clear validation of billing and application of payments.
 - 4.2 A minimum of data requests to those being billed.
 - 4.3 Adequate controls to ensure integrity in the billing determinants including identification of entities responsible for funding NERC's activities.
 - 4.4 Consistent billing and collection terms.
5. NERC will bill and collect all budget requirements approved by applicable ERO governmental authorities (including the funds required to support those functions assigned to the regional entities through the delegation agreements) directly from the load-serving entities or their designees or as directed by particular ERO governmental authorities, except where the regional entity is required to collect the budget requirements for NERC, in which case the regional entity will collect directly from the load-serving entities or as otherwise provided by agreement and submit funds to NERC. Alternatively, a load-serving entity may pay its allocated ERO costs through a regional entity managed collection mechanism.
6. NERC shall set a minimum threshold limit on the billing of small LSEs to minimize the administrative burden of collection.

³ A regional entity may allocate funding obligations using an alternative method approved by NERC and by FERC and other appropriate ERO governmental authorities, as provided for in the regional delegation agreement.

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

1107. Penalty Applications

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

1108. Special Assessments

On a demonstration of unforeseen and extraordinary circumstances requiring additional funds prior to the next funding cycle, NERC shall file with the applicable ERO governmental authorities, where authorized by applicable legislation or agreement, for authorization for an amended or supplemental budget for NERC or a regional entity and,

if necessary under the amended or supplemental budget, to collect a special or additional assessment for statutory functions of NERC or the regional entity. Such filing shall include supporting materials to justify the requested funding, including any departure from the approved funding formula or method.

SECTION 1200 — REGIONAL DELEGATION AGREEMENTS

1201. Pro Forma Regional Delegation Agreement

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

1202. Regional Entity Essential Requirements

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

1203. Negotiation of Regional Delegation Agreements

NERC shall, for all areas of North America that have provided NERC with the appropriate authority, negotiate regional delegation agreements for the purpose of ensuring all areas of the North American bulk power systems are within a regional entity area. In the event NERC is unable to reach agreement with regional entities for all areas, NERC shall provide alternative means and resources for implementing NERC functions within those areas. No delegation agreement shall take effect until it has been approved by the appropriate ERO governmental authority.

1204. Conformance to Rules and Terms of Regional Delegation Agreements

NERC and each regional entity shall comply with all applicable ERO rules of procedure and the obligations stated in the regional delegation agreement.

1205. Sub-delegation

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

1206. Nonconformance to Rules or Terms of Regional Delegation Agreement

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

1207. Regional Entity Audits

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

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

1. A registered entity that is registered in the region of one regional entity and believes its registration should be transferred to a different regional entity may submit a written request to both regional entities requesting that they process the proposed transfer in accordance with this section. The registered entity's written request shall set forth the reasons the registered entity believes justify the proposed transfer and shall describe any impacts of the proposed transfer on other bulk power system owners, operators, and users.
2. After receiving the registered entity's written request, the two regional entities shall consult with each other as to whether they agree or disagree that the requested transfer is appropriate. The regional entities may also consult with affected reliability coordinators, balancing authorities and transmission operators as appropriate. Each regional entity shall post the request on its web site for public comment period of 21 days. In evaluating the proposed transfer, the regional entities shall consider the location of the registered entity's bulk power system facilities in relation to the geographic and electrical boundaries of the respective regions; the impacts of the proposed transfer on other bulk power system owners, operators; and users, the impacts of the proposed transfer on the current and future staffing, resources, budgets and assessments to other load-serving entities of each regional entity, including the sufficiency of the proposed transferee regional entity's staffing and resources to perform compliance monitoring and enforcement activities with respect to the registered entity; the registered entity's compliance history with its current regional entity; and the manner in which pending compliance monitoring and enforcement matters concerning the registered entity would be transitioned from the current regional entity to the transferee regional entity; along with any other reasons for the proposed transfer stated by the registered entity and any other reasons either regional entity considers relevant. The regional entities may request that the registered entity provide additional data and information concerning the proposed transfer for the regional entities' use in their evaluation. The registered entity's

current regional entity shall notify the registered entity in writing as to whether (i) the two regional entities agree that the requested transfer is appropriate, (ii) the two regional entities agree that the requested transfer is not appropriate and should not be processed further, or (iii) the two regional entities disagree as to whether the proposed transfer is appropriate.

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

If the NERC board approves the proposed transfer, NERC shall file the related delegation agreements with FERC for approval.

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

SECTION 1300 — COMMITTEES

1301. Establishing Standing Committees

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

1302. Committee Membership

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

1303. Procedures for Appointing Committee Members

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

1304. Procedures for Conduct of Committee Business

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

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

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

1305. Committee Subgroups

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

SECTION 1400 — AMENDMENTS TO THE NERC RULES OF PROCEDURE

1401. Proposals for Amendment or Repeal of Rules of Procedure

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

1402. Approval of Amendment or Repeal of Rules of Procedure

Amendment to or repeal of rules of procedure shall be approved by the board after public notice and opportunity for comment in accordance with the bylaws of NERC. In approving changes to the rules of procedure, the board shall consider the inputs of the Member Representatives Committee, other ERO committees affected by the particular changes to the rules, and other stakeholders as appropriate. After board approval, the amendment or repeal shall be submitted to the ERO governmental authorities for approval, where authorized by legislation or agreement. No amendment to or repeal of the rules of procedure shall be effective until it has been approved by the applicable ERO governmental authorities.

1403. Alternative Procedure for Violation Risk Factors

In the event the standards development process fails to produce violation risk factors for a particular standard in a timely manner, the Board of Trustees may adopt violation risk factors for that standard after notice and opportunity for comment. In adopting violation risk factors, the board shall consider the inputs of the Member Representatives Committee and affected stakeholders.

SECTION 1500 — CONFIDENTIAL INFORMATION

1501. Definitions

1. **Confidential information** means (i) confidential business and market information; (ii) critical energy infrastructure information; (iii) personnel information that identifies or could be used to identify a specific individual, or reveals personnel, financial, medical, or other personal information; (iv) work papers, including any records produced for or created in the course of an evaluation or audit; (v) investigative files, including any records produced for or created in the course of an investigation; or (vi) cybersecurity incident information; provided, that public information developed or acquired by an entity shall be excluded from this definition.
2. **Confidential business and market information** means any information that pertains to the interests of any entity, that was developed or acquired by that entity, and that is proprietary or competitively sensitive.
3. **Critical energy infrastructure information** means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that (i) relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person in planning an attack on critical infrastructure; and (iii) does not simply give the location of the critical infrastructure.
4. **Critical infrastructure** means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.
5. **Cybersecurity incident information** means any information related to, describing, or which could be used to plan or cause a cybersecurity incident as defined in 18 C.F.R. § 39.1.

1502. Protection of Confidential Information

1. **Identification of Confidential Information** — An owner, operator, or user of the bulk power system and any other party (the “submitting entity”) shall mark as confidential any information that it submits to NERC or a regional entity (the “receiving entity”) that it reasonably believes contains confidential information as defined by these rules, indicating the category or categories defined in Section 1501 in which the information falls. If the information is subject to a prohibition on public disclosure in the Commission-approved rules of a regional transmission organization or independent system operator or a similar prohibition in applicable federal, state, or provincial laws, the submitting entity shall so indicate and provide supporting references and details.

2. **Confidentiality** — Except as provided herein, a receiving entity shall keep in confidence and not copy, disclose, or distribute any confidential information or any part thereof without the permission of the submitting entity, except as otherwise legally required.
3. **Information no longer Confidential** – If a submitting entity concludes that information for which it had sought confidential treatment no longer qualifies for that treatment, the submitting entity shall promptly so notify NERC or the relevant regional entity.

1503. Requests for Information

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

4. **Determination by ERO or Regional Entity** — Based on the information provided by the requester under Rule 1503.2, any comments provided by the submitting entity, and any other relevant available information, the chief executive officer or his or her designee of the receiving entity shall determine whether to disclose such information.
5. **Appeal** — A person whose request for information is denied in whole or part may appeal that determination to the President of NERC (or the President’s designee) within 30 days of the determination. Appeals filed pursuant to this Rule must be in writing, addressed to the President of NERC (or the President’s designee), and clearly marked “Appeal of Information Request Denial.”

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

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

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

posting disclosing any information that has been determined to be confidential information).

1504. Employees, Contractors and Agents

A receiving entity shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom confidential information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

1505. Provision of Information to FERC and Other Governmental Authorities

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

1506. Permitted Disclosures

1. **Confirmed Violations** — Nothing in this Section 1500 shall prohibit the disclosure of a violation at the point when the matter is filed with an appropriate governmental authority as a notice of penalty, the “violator” admits to the violation, or the alleged violator and NERC or the regional entity reach a settlement regarding the violation.
2. **Compliance Information** — NERC and the regional entities are authorized to exchange confidential information related to evaluations, audits, and investigations in furtherance of the compliance and enforcement program, on condition they continue to maintain the confidentiality of such information.

1507. Remedies for Improper Disclosure

Any person engaged in NERC or regional entity activity under section 215 of the Federal Power Act or the equivalent laws of other appropriate governmental authorities who improperly discloses information determined to be confidential may lose access to confidential information on a temporary or permanent basis and may be subject to

adverse personnel action, including suspension or termination. Nothing in Section 1500 precludes an entity whose information was improperly disclosed from seeking a remedy in an appropriate court.

SECTION 1600 — REQUESTS FOR DATA OR INFORMATION

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

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

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

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

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

- 2.2. A proposed modification to a previously authorized request for data or information shall explain (i) the nature of the modifications; (ii) an estimate of the burden imposed on the reporting entities to accommodate the modified data or information request, and (iii) any other items from paragraph 1.1 that require updating as a result of the modifications.
3. After the close of the comment period, NERC shall make such revisions to the proposed request for data or information as are appropriate in light of the comments. NERC shall submit the proposed request for data or information, as revised, along with the comments received, NERC’s evaluation of the comments and recommendations, to the Board of Trustees.
4. In acting on the proposed request for data or information, the Board of Trustees may authorize NERC to issue it, modify it, or remand it for further consideration.
5. NERC may make minor changes to an authorized request for data or information without board approval. However, if a reporting entity objects to NERC in writing to such changes within 21 days of issuance of the modified request, such changes shall require board approval before they are implemented.
6. Authorization of a request for data or information shall be final unless, within thirty (30) days of the decision by the Board of Trustees, an affected party appeals the authorization under this Section 1600 to the ERO governmental authority.

1603. Owners, Operators, and Users to Comply

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

1604. Requests by Regional Entity for Data or Information

1. A regional entity may request that NERC seek authorization for a request for data or information to be applicable within the footprint of the regional entity, either as a freestanding request or as part of a proposed NERC request for data or information. Any such request must be consistent with this Section 1600.
2. A regional entity may also develop its own procedures for requesting data or information, but any such procedures must include at least the same procedural

elements as are included in this Section 1600. Any such regional entity procedures or changes to such procedures shall be submitted to NERC for approval. Upon approving such procedures or changes thereto, NERC shall file the proposed procedures or proposed changes for approval by the Commission and any other ERO governmental authorities applicable to the regional entity. The regional entity procedures or changes to such procedures shall not be effective in a jurisdiction until approved by, and in accordance with any revisions directed by, the Commission or other ERO governmental authority.

1605. Confidentiality

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

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

1. In the event NERC or a regional entity must obtain data or information by a date or within a time period that does not permit adherence to the time periods specified in Section 1602, the procedures specified in Section 1606 may be used to obtain the data or information. Without limiting the circumstances in which the procedures in Section 1606 may be used, such circumstances include situations in which it is necessary to obtain the data or information (in order to evaluate a threat to the reliability or security of the bulk-power system, or to comply with a directive in an order issued by the Commission or by another ERO governmental authority) within a shorter time period than possible under Section 1602. The procedures specified in Section 1606 may only be used if authorized by the NERC Board of Trustees prior to activation of such procedures.
2. Prior to posting a proposed request for data or information, or a modification to a previously-authorized request, for public comment under Section 1606, NERC shall provide the proposed request or modification, including the information specified in paragraph 1602.2.1 or 1602.2.2 as applicable, to the Commission's Office of Electric Reliability. The submission to the Commission's Office of Electric Reliability shall also include an explanation of why it is necessary to use the expedited procedures of Section 1606 to obtain the data or information. The submission shall be made to the Commission's Office of Electric Reliability as far in advance, up to twenty-one (21) days, of the posting of the proposed request or modification for public comments as is reasonably possible under the circumstances, but in no event less than two (2) days in advance of the public posting of the proposed request or modification.

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

ATTACHMENT 11B

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED SECTIONS 100-1600

OF THE

RULES OF PROCEDURE

REDLINED VERSION

Proposed Revised Version

Rules of Procedure

Effective: ~~February 5, 2010~~ [DATE]

Appendix 4D is subject to further revisions to comply with directives in a FERC Order issued January 21, 2010 (130 FERC ¶ 61,050).

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SECTION 100 — APPLICABILITY OF RULES OF PROCEDURE

NERC and NERC members shall comply with these rules of procedure. Each regional entity shall comply with these rules of procedure as applicable to functions delegated to the regional entity by NERC or as required by an appropriate governmental authority or as otherwise provided.

Each bulk power system owner, operator, and user shall comply with all rules of procedure of NERC that are made applicable to such entities by approval pursuant to applicable legislation or regulation, or pursuant to agreement.

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

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

NERC shall comply with each approved reliability standard that identifies NERC or the electric reliability organization as a responsible entity. Regional Entities shall comply with each approved reliability standard that identifies Regional Entities as responsible entities. A violation by NERC or a Regional Entity of such a reliability standard shall constitute a violation of these Rules of Procedure.

SECTION 200 — DEFINITIONS OF TERMS

201. General

For purposes of NERC rules of procedure, the terms defined in Section 202 shall have the meaning set forth therein. Other terms are defined within particular sections of the rules of procedure. Other terms used but not defined in the rules of procedure shall be defined in NERC's Bylaws, the NERC Glossary of Terms Used in Reliability Standards adopted in conjunction with NERC's Reliability Standards, or in accordance with their commonly understood and used technical meanings in the electric power industry, including applicable codes and standards.

202. Specific Definitions

“Board” means the Board of Trustees of NERC.

“Bulk power system” means facilities and control systems necessary for operating an interconnected electric energy supply and transmission network (or any portion thereof), and electric energy from generating facilities needed to maintain transmission system reliability. The term does not include facilities used in the local distribution of electric energy.

“Canadian” means one of the following: (a) a company or association incorporated or organized under the laws of Canada, or its designated representative(s) irrespective of nationality; (b) an agency of a federal, provincial, or local government in Canada, or its designated representative irrespective(s) of nationality; or (c) a self-representing individual who is a Canadian citizen residing in Canada.

“Confirmed violation” is one for which an entity has: 1) accepted the finding of the violation by a regional entity or NERC and will not seek an appeal, or 2) completed the [hearing and appeals process within NERC](#), or 3) allowed the time for submitting an appeal to ~~NERC to expire~~, or 4) [admitted to the violation in a settlement agreement](#).

“Electric reliability organization” or “ERO” means the organization that is certified by the Commission under Section 39.3 of its regulations, the purpose of which is to establish and enforce Reliability Standards for the bulk power system in the United States. The organization may also have received recognition by applicable governmental authorities in Canada and Mexico to establish and enforce reliability standards for the bulk power systems of the respective countries.

“Entity variance” means an aspect of a reliability standard that applies only within a particular entity or a subset of entities within a limited portion of a regional entity, such as a variance that would apply to a regional transmission organization or particular market or to a subset of bulk power system owners, operators or users. An entity variance may not be inconsistent with or less stringent than the reliability standards as it would otherwise exist without the entity variance. An entity variance shall be approved only through the NERC standards development procedure and shall be made part of the NERC reliability standards.

“ERO governmental authority” is a government agency that has subject matter jurisdiction over the reliability of the bulk power system within its jurisdictional territory. In the United States, the ERO governmental authority is the Federal Energy Regulatory Commission. In Canada, the ERO governmental authority resides with applicable federal and provincial governments who may delegate duties and responsibilities to other entities. Use of the term is intended to be inclusive of all applicable authorities in the United States, Canada, and Mexico, and is not restricted to those listed here.

“Net Energy for Load” or “NEL” means net generation of an electric system plus energy received from others less energy delivered to others through interchange. It includes system losses but excludes energy required for the storage of energy at energy storage facilities.

“Reliable operation” means operating the elements of the bulk power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance, including a cyber security incident, or unanticipated failure of system elements.

“Regional criteria” means reliability requirements developed by a regional entity that are necessary to implement, to augment, or to comply with reliability standards, but which are not reliability standards. Such regional criteria may be necessary to account for physical differences in the bulk power system but are not inconsistent with reliability standards nor do they result in lesser reliability. Such regional criteria are not enforceable pursuant to NERC-delegated authorities, but may be enforced through other available mechanisms. Regional criteria may include specific acceptable operating or planning parameters, guides, agreements, protocols or other documents.

“Regional reliability standard” means a type of reliability standards that is applicable only within a particular regional entity or group of regional entities. A regional reliability standard may augment, add detail to, or implement another reliability standard or cover matters not addressed by other reliability standards. Regional reliability standards, upon adoption by NERC and approval by the applicable ERO governmental authority(ies), shall be reliability standards and shall be enforced within the applicable regional entity or regional entities pursuant to delegated authorities.

“Reliability standard” means a requirement to provide for reliable operation of the bulk power system, including without limiting the foregoing, requirements for the operation of existing bulk power system facilities, including cyber security protection, and including the design of planned additions or modifications to such facilities to the extent necessary for reliable operation of the bulk power system, but the term does not include any requirement to enlarge bulk power system facilities or to construct new transmission capacity or generation capacity. A reliability standard shall not be effective in the United States until approved by the Federal Energy Regulatory Commission and shall not be effective in other jurisdictions until made or allowed to become effective by the applicable governmental authority.

“Variance” means an aspect or element of a reliability standard that applies only within a particular regional entity or group of regional entities, or to a particular entity or class of entities. A variance allows an alternative approach to meeting the same reliability objective as the reliability standard, and is typically necessitated by a physical difference. A variance is embodied within a reliability standard and as such, if adopted by NERC and approved by the ERO governmental authority, shall be enforced within the applicable regional entity or regional entities pursuant to delegated authority.

SECTION 300 — RELIABILITY STANDARDS DEVELOPMENT

301. General

NERC shall develop and maintain reliability standards that apply to bulk power system owners, operators, and users and that enable NERC and regional entities to measure the reliability performance of bulk power system owners, operators, and users; and to hold them accountable for reliable operation of the bulk power systems. The reliability standards shall be technically excellent, timely, just, reasonable, not unduly discriminatory or preferential, in the public interest, and consistent with other applicable standards of governmental authorities.

302. Essential Attributes for Technically Excellent Reliability Standards

1. **Applicability** — Each reliability standard shall clearly identify the functional classes of entities responsible for complying with the reliability standard, with any specific additions or exceptions noted. Such functional classes¹ include: reliability coordinators, balancing authorities, transmission operators, transmission owners, generator operators, generator owners, interchange authorities, transmission service providers, market operators, planning authorities, transmission planners, resource planners, load-serving entities, purchasing-selling entities, and distribution providers. Each reliability standard shall also identify the geographic applicability of the standard, such as the entire North American bulk power system, an interconnection, or within a regional entity area. A standard may also identify any limitations on the applicability of the standard based on electric facility characteristics.
2. **Reliability Objectives** — Each reliability standard shall have a clear statement of purpose that shall describe how the standard contributes to the reliability of the bulk power system. The following general objectives for the bulk power system provide a foundation for determining the specific objective(s) of each reliability standard:
 - 2.1 **Reliability Planning and Operating Performance** — Bulk power systems shall be planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions.
 - 2.2 **Frequency and Voltage Performance** — The frequency and voltage of bulk power systems shall be controlled within defined limits through the balancing of real and reactive power supply and demand.
 - 2.3 **Reliability Information** — Information necessary for the planning and operation of reliable bulk power systems shall be made available to those entities responsible for planning and operating bulk power systems.

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

- 2.4 **Emergency Preparation** — Plans for emergency operation and system restoration of bulk power systems shall be developed, coordinated, maintained, and implemented.
- 2.5 **Communications and Control** — Facilities for communication, monitoring, and control shall be provided, used, and maintained for the reliability of bulk power systems.
- 2.6 **Personnel** — Personnel responsible for planning and operating bulk power systems shall be trained and qualified, and shall have the responsibility and authority to implement actions.
- 2.7 **Wide-area View** — The reliability of the bulk power systems shall be assessed, monitored, and maintained on a wide-area basis.
- 2.8 **Security** — Bulk power systems shall be protected from malicious physical or cyber attacks.
3. **Performance Requirement or Outcome** — Each reliability standard shall state one or more performance requirements, which if achieved by the applicable entities, will provide for a reliable bulk power system, consistent with good utility practices and the public interest. Each requirement is not a “lowest common denominator” compromise, but instead achieves an objective that is the best approach for bulk power system reliability, taking account of the costs and benefits of implementing the proposal.
4. **Measurability** — Each performance requirement shall be stated so as to be objectively measurable by a third party with knowledge or expertise in the area addressed by that requirement. Each performance requirement shall have one or more associated measures used to objectively evaluate compliance with the requirement. If performance can be practically measured quantitatively, metrics shall be provided to determine satisfactory performance.
5. **Technical Basis in Engineering and Operations** — Each reliability standard shall be based upon sound engineering and operating judgment, analysis, or experience, as determined by expert practitioners in that particular field.
6. **Completeness** — Reliability standards shall be complete and self-contained. The standards shall not depend on external information to determine the required level of performance.
7. **Consequences for Noncompliance** — In combination with guidelines for penalties and sanctions, as well as other ERO and regional entity compliance documents, the consequences of violating a standard are clearly presented to the entities responsible for complying with the standards.
8. **Clear Language** — Each reliability standard shall be stated using clear and unambiguous language. Responsible entities, using reasonable judgment and in

keeping with good utility practices, are able to arrive at a consistent interpretation of the required performance.

9. **Practicality** — Each reliability standard shall establish requirements that can be practically implemented by the assigned responsible entities within the specified effective date and thereafter.
10. **Consistent Terminology** — To the extent possible, reliability standards shall use a set of standard terms and definitions that are approved through the NERC reliability standards development process.

303. Relationship between Reliability Standards and Competition

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

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

304. Essential Principles for the Development of Reliability Standards

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

1. **Openness** — Participation shall be open to all persons who are directly and materially affected by the reliability of the North American bulk power system. There shall be no undue financial barriers to participation. Participation shall not be conditional upon membership in NERC or any other organization, and shall

not be unreasonably restricted on the basis of technical qualifications or other such requirements.

2. **Transparency** — The process shall be transparent to the public.
3. **Consensus-building** — The process shall build and document consensus for each standard, both with regard to the need and justification for the standard and the content of the standard.
4. **Fair Balance of Interests** — The process shall fairly balance interests of all stakeholders and shall not be dominated by any single interest category.
5. **Due Process** — Development of standards shall provide reasonable notice and opportunity for any person with a direct and material interest to express views on a proposed standard and the basis for those views, and to have that position considered in the development of the standards.
6. **Timeliness** — Development of standards shall be timely and responsive to new and changing priorities for reliability of the bulk power system.

305. Registered Ballot Body

NERC reliability standards shall be approved by a registered ballot body prior to submittal to the board and then to ERO governmental authorities for their approval, where authorized by applicable legislation or agreement. This Section 305 sets forth the rules pertaining to the composition of, and eligibility to participate in, the registered ballot body.

1. **Eligibility to Vote on Standards** — Any person or entity may join the registered ballot body to vote on standards, whether or not such person or entity is a member of NERC.
2. **Inclusive Participation** — The segment qualification guidelines are inclusive; i.e., any entity with a legitimate interest in the reliability of the bulk power system that can meet any one of the eligibility criteria for a segment is entitled to belong to and vote in each segment for which it qualifies, subject to limitations defined in Sections 305.3 and 305.5.
3. **General Criteria for Registered Ballot Body Membership** — The general criteria for membership in the segments are:
 - 3.1 **Multiple Segments** — A corporation or other organization with integrated operations or with affiliates that qualifies to belong to more than one segment (e.g., transmission owners and load serving entities) may join once in each segment for which it qualifies, provided that each segment constitutes a separate membership and the organization is represented in each segment by a different representative. Affiliated entities are collectively limited to one membership in each segment for which they are qualified.

- 3.2 **Withdrawing from a Segment or Changing Segments** — After its initial registration in a segment, each registered participant may elect to withdraw from a segment or apply to change segments at any time.
- 3.3 **Review of Segment Criteria** — The board shall review the qualification guidelines and rules for joining segments at least every three years to ensure that the process continues to be fair, open, balanced, and inclusive. Public input will be solicited in the review of these guidelines.
4. **Proxies for Voting on Standards** — Any registered participant may designate an agent or proxy to vote on its behalf. There are no limits on how many proxies an agent may hold. However, for the proxy to be valid, NERC must have in its possession written documentation signed by the representative of the registered participant that the voting right by proxy has been transferred from the registered participant to the agent.
5. **Stakeholder Segments** — The specific criteria for membership in each registered ballot body segment are defined in the *Reliability Standards Development Procedure* in **Appendix 3A**.
6. **Review of Stakeholder Segment Entries**
NERC shall review all applications for joining the registered ballot body, and shall make a determination of whether the applicant's self-selection of a segment satisfies at least one of the guidelines to belong to that segment. The entity shall then become eligible to participate as a voting member of that segment. The Standards Committee shall resolve disputes regarding eligibility for membership in a segment, with the applicant having the right of appeal to the board.

306. Standards Committee

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

1. **Membership** — The Standards Committee is a representative committee comprising representatives of two members of each of the segments in the registered ballot body.
2. **Elections** — Standards Committee members are elected for staggered (one per segment per year) two-year terms by the respective stakeholder segments in accordance with the *Procedure for the Election of Members of the NERC Standards Committee*, which is incorporated into these rules as **Appendix 2**. Segments may use their own election procedure if such a procedure is ratified by two-thirds of the members of a segment and approved by the board.
3. **Canadian Representation**
 - 3.1 **Provision for Sufficient Canadian Representation** — If any regular election of Standards Committee members does not result in at least two

Canadian members on the Standards Committee, the Canadian nominees who were not elected but who received the next highest percentage of votes within their respective segment(s) will be designated as additional members of the Standards Committee, as needed to achieve a total of two Canadian members.

- 3.2 **Terms of Specially Designated Canadian Members** — Each specially designated Canadian member of the Standards Committee shall have a term ending with the next annual election.
- 3.3 **Segment Preference** — If any segment has an unfilled representative position on the Standards Committee following the annual election, the first preference is to assign each specially designated Canadian representative to a segment with an unfilled representative position for which his or her organization qualifies.
- 3.4 **Rights of Specially Designated Canadian Members** — Any specially designated Canadian members of the Standards Committee shall have the same rights and obligations as all other members of the Standards Committee.
4. **Open Meetings** — All meetings of the Standards Committee shall be open and publicly noticed on the NERC Web site.

307. Standards Process Manager

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

308. Steps in the Development of Reliability Standards

1. **Procedure** — NERC shall develop reliability standards through the process set forth in the NERC *Reliability Standards Development Procedure* (**Appendix 3A**). The procedure includes a provision for approval of urgent action standards that can be completed within 60 days and emergency actions that may be further expedited.
2. **Board Approval** — Reliability standards or revisions to reliability standards approved by the ballot pool in accordance with the *Reliability Standards Development Procedure* shall be submitted for approval by the board. No reliability standard or revision to a reliability standard shall be effective unless approved by the board.

3. **Governmental Approval** — After receiving board approval, a reliability standard or revision to a reliability standard shall be submitted to all applicable ERO governmental authorities in accordance with Section 309. No reliability standard or revision to a reliability standard shall be effective within a geographic area over which an ERO governmental authority has jurisdiction unless approved by such ERO governmental authority or is otherwise made effective pursuant to the laws applicable to such ERO governmental authority.

309. Filing of Reliability Standards for Approval by ERO Governmental Authorities

1. **Filing of Reliability Standards for Approval** — Where authorized by applicable legislation or agreement, NERC shall file with the applicable ERO governmental authorities each reliability standard, modification to a reliability standard, or withdrawal of a standard that is approved by the board. Each filing shall be in the format required by the ERO governmental authority and shall include: a concise statement of the basis and purpose of the standard; the text of the standard; the implementation plan for the reliability standard; a demonstration that the standard meets the essential attributes of reliability standards as stated in Section 302; the drafting team roster; the ballot pool and final ballot results; and a discussion of public comments received during the development of the reliability standard and the consideration of those comments.
2. **Remanded Reliability Standards and Directives to Develop Standards** — If an ERO governmental authority remands a reliability standard to NERC or directs NERC to develop a reliability standard, NERC shall within five (5) business days notify all other applicable ERO governmental authorities, and shall within thirty (30) calendar days report to all ERO governmental authorities a plan and timetable for modification or development of the reliability standard. Standards that are remanded or directed by an ERO governmental authority shall be modified or developed using the *Reliability Standards Development Procedure*. NERC shall, during the development of a modification for the remanded standard or directed standard, consult with other ERO governmental authorities to coordinate any impacts of the proposed standards in those other jurisdictions. The urgent approval action procedure may be applied if necessary to meet a timetable for action required by the ERO governmental authorities, respecting to the extent possible the provisions in the standards development process for reasonable notice and opportunity for public comment, due process, openness, and a balance of interest in developing reliability standards.
3. **Directives to Develop Standards under Extraordinary Circumstances** — An ERO governmental authority may, on its own initiative, determine that extraordinary circumstances exist requiring expedited development of a reliability standard. In such a case, the applicable agency may direct the development of a standard within a certain deadline. NERC staff shall prepare the standards authorization request and seek a stakeholder sponsor for the request. If NERC is unable to find a sponsor for the proposed standard, NERC will be designated as the requestor. The proposed standard will then proceed through the standards development process, using the urgent and emergency action procedures

described in the *Reliability Standards Development Procedure* as necessary to meet the specified deadline. The timeline will be developed to respect, to the extent possible, the provisions in the standards development process for reasonable notice and opportunity for public comment, due process, openness, and a balance of interests in developing reliability standards.

- 3.1 Consistent with all reliability standards developed under the urgent or emergency action process, each of the three possible follow-up actions as documented in the *Reliability Standards Development Procedure* are to be completed through the standards development process and are subject to approval by the ERO governmental authorities in the U.S. and Canada.

310. Reliability Standards Annual Work Plan

NERC shall develop and provide an annual work plan for development of reliability standards to the applicable ERO governmental authorities. NERC shall consider the comments and priorities of the ERO governmental authorities in developing and updating the work plan. Each annual work plan shall include a progress report comparing results achieved to the prior year's plan.

311. Regional Entity Standards Development Procedures

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

- 3.1 **Evaluation Criteria** — The regional reliability standards development procedure shall be:
- 3.1.1 **Open** — The regional reliability standards development procedure shall provide that any person or entity who is directly and materially affected by the reliability of the bulk power systems within the regional entity shall be able to participate in the development and approval of reliability standards. There shall be no undue financial barriers to participation. Participation shall not be conditional upon membership in the regional entity, a regional entity or any organization, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements.
 - 3.1.2 **Inclusive** — The regional reliability standards development procedure shall provide that any person with a direct and material interest has a right to participate by expressing an opinion and its basis, having that position considered, and appealing through an established appeals process if adversely affected.
 - 3.1.3 **Balanced** — The regional reliability standards development procedure shall have a balance of interests and shall not permit any two interest categories to control the vote on a matter or any single interest category to defeat a matter.
 - 3.1.4 **Due Process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.
 - 3.1.5 **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.
 - 3.1.6 **Accreditation of Regional Standards Development Procedure** — A regional entity's reliability standards development procedure that is accredited by the American National Standards Institute or the Standards Council of Canada shall be deemed to meet the criteria listed in this Section 311.3.1, although such accreditation is not a prerequisite for approval by NERC.
 - 3.1.7 **Use of NERC Procedure** — A regional entity may adopt the *NERC Reliability Standards Development Procedure* as the regional reliability standards development procedure, in which

case the regional entity's procedure shall be deemed to meet the criteria listed in this Section 311.3.1.

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

312. Regional Reliability Standards

1. **Basis for Regional Reliability Standards** — Regional entities may propose regional reliability standards that set more stringent reliability requirements than the NERC reliability standard or cover matters not covered by an existing NERC reliability standard. Such regional reliability standards shall in all cases be approved by NERC and made part of the NERC reliability standards and shall be enforceable in accordance with the delegation agreement between NERC and the regional entity or other instrument granting authority over enforcement to the regional entity. No entities other than NERC and the regional entity shall be permitted to develop regional reliability standards that are enforceable under statutory authority delegated to NERC and the regional entity.
2. **Regional Reliability Standards That are Directed by a NERC Reliability Standard** — Although it is the intent of NERC to promote uniform reliability standards across North America, in some cases it may not be feasible to achieve a reliability objective with a reliability standard that is uniformly applicable across North America. In such cases, NERC may direct regional entities to develop regional reliability standards necessary to implement a NERC reliability standard. Such regional reliability standards that are developed pursuant to a direction by NERC shall be made part of the NERC reliability standards.
3. **Procedure for Developing an Interconnection-wide Regional Standard** — A regional entity organized on an interconnection-wide basis may propose a regional reliability standard for approval as a NERC reliability standard to be made mandatory for all applicable bulk power system owners, operators, and users within that interconnection.
 - 3.1 **Presumption of Validity** — An interconnection-wide regional reliability standard that is determined by NERC to be just, reasonable, and not unduly discriminatory or preferential, and in the public interest, and consistent with such other applicable standards of governmental authorities, shall be adopted as a NERC reliability standard. NERC shall rebuttably presume that a regional reliability standard developed, in accordance with a regional reliability standards development process approved by NERC, by a regional entity organized on an interconnection-

wide basis, is just, reasonable, and not unduly discriminatory or preferential, and in the public interest, and consistent with such other applicable standards of governmental authorities.

- 3.2 **Notice and Comment Procedure for Interconnection-wide Regional Reliability Standard** — NERC shall publicly notice and request comment on the proposed interconnection-wide regional reliability standard, allowing a minimum of 45 days for comment. NERC may publicly notice and post for comment the proposed regional reliability standard concurrent with similar steps in the regional entity’s reliability standards development process. The regional entity shall have an opportunity to resolve any objections identified in the comments and may choose to comment on or withdraw the request, revise the proposed regional reliability standard and request another posting for comment, or submit the proposed regional reliability standard along with its consideration of any objections received, for approval by NERC.
- 3.3 **Approval of Interconnection-wide Regional Reliability Standard by NERC** — NERC shall evaluate and recommend whether a proposed interconnection-wide regional reliability standard has been developed in accordance with all applicable procedural requirements and whether the regional entity has considered and resolved stakeholder objections that could serve as a basis for rebutting the presumption of validity of the regional reliability standard. The regional entity, having been notified of the results of the evaluation and recommendation concerning NERC proposed regional reliability standard, shall have the option of presenting the proposed regional reliability standard to the board for approval as a NERC reliability standard. The board shall consider the regional entity’s request, NERC’s recommendation for action on the regional reliability standard, any unresolved stakeholder comments, and the regional entity’s consideration of comments, in determining whether to approve the regional reliability standard as a NERC reliability standard.
- 3.4 **ERO Governmental Authority Approval** — An interconnection-wide regional reliability standard that has been approved by the board shall be filed with the applicable ERO governmental authorities for approval, where authorized by applicable legislation or agreement, and shall become effective when approved by such ERO governmental authorities or on a date set by the ERO governmental authorities.
- 3.5 **Enforcement of Interconnection-wide Regional Reliability Standard** — An interconnection-wide regional reliability standard that has been approved by the board and by the applicable ERO governmental authorities or is otherwise made effective within Canada as mandatory within a particular region shall be applicable and enforced as a NERC reliability standard within the region.

4. **Procedure for Developing Non-Interconnection-Wide Regional Reliability Standards**

Regional entities that are not organized on an interconnection-wide basis may propose regional reliability standards to apply within their respective regions. Such standards may be developed through the NERC reliability standards development procedure, or alternatively, through a regional reliability standards development procedure that has been approved by NERC.

4.1 **No Presumption of Validity** — Regional reliability standards that are not proposed to be applied on an interconnection-wide basis are not presumed to be valid but may be demonstrated by the proponent to be valid.

4.2 **Notice and Comment Procedure for Non-Interconnection-wide Regional Reliability Standards** — NERC shall publicly notice and request comment on the proposed regional reliability standard, allowing a minimum of 45 days for comment. NERC may publicly notice and post for comment the proposed regional reliability standard concurrent with similar steps in the regional entity's reliability standards development process. The regional entity shall have an opportunity to comment on or resolve any objections identified in the comments and may choose to withdraw the request, revise the proposed regional reliability standard and request another posting for comment, or submit the proposed regional reliability standard along with its consideration of any objections received, for approval by NERC.

4.3 **NERC Approval of Non-Interconnection-wide Regional Reliability Standards** — NERC shall evaluate and recommend whether a proposed non-Interconnection-wide regional reliability standard has been developed in accordance with all applicable procedural requirements and whether the regional entity has considered and resolved stakeholder objections. The regional entity, having been notified of the results of the evaluation and recommendation concerning proposed regional reliability standard, shall have the option of presenting the proposed regional reliability standard to the board for approval as a NERC reliability standard. The board shall consider the regional entity's request, the recommendation for action on the regional reliability standard, any unresolved stakeholder comments, and the regional entity's consideration of comments, in determining whether to approve the regional reliability standard as a NERC reliability standard.

4.4 **NERC Governmental Authority Approval** — A non-Interconnection-wide regional reliability standard that has been approved by the board shall be filed with the applicable ERO governmental authorities for approval, where authorized by applicable legislation or agreement, and shall become effective when approved by such ERO governmental authorities or on a date set by the ERO governmental authorities.

- 4.5 **Enforcement of Non-Interconnection-wide Regional Reliability Standards** — A non-Interconnection-wide regional reliability standard that has been approved by the board and by the applicable ERO governmental authorities or is otherwise made effective within Canada as mandatory within a particular region shall be applicable and enforced as a NERC reliability standard within the region.

5. **Appeals**

A Regional Entity shall have the right to appeal NERC's decision not to approve a proposed regional reliability standard or variance to the Commission or other applicable governmental authority.

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

1. **Regional Criteria** — Regional entities may develop regional criteria that are necessary to implement, to augment, or to comply with reliability standards, but which are not reliability standards. Regional criteria may also address issues not within the scope of reliability standards, such as resource adequacy. Regional criteria may include specific acceptable operating or planning parameters, guides, agreements, protocols or other documents used to enhance the reliability of the regional bulk power system. These documents typically provide benefits by promoting more consistent implementation of the NERC reliability standards within the region. These documents are not NERC reliability standards, regional reliability standards, or regional variances, and therefore are not enforceable under authority delegated by NERC pursuant to delegation agreements and do not require NERC approval.
2. **Catalog of Regional Reliability Criteria** — NERC shall maintain a current catalog of regional reliability criteria. Regional entities shall provide a catalog listing of regional reliability criteria to NERC and shall notify NERC of changes to the listing. Regional entities shall provide any listed document to NERC upon written request.

314. Conflicts with Statutes, Regulations, and Orders

Notice of Potential Conflict — If a bulk power system owner, operator, or user determines that a NERC or regional reliability standard may conflict with a function, rule, order, tariff, rate schedule, legislative requirement or agreement that has been accepted, approved, or ordered by a governmental authority affecting that entity, the entity shall expeditiously notify the governmental authority, NERC, and the relevant regional entity of the conflict.

1. **Determination of Conflict** — NERC, upon request of the governmental authority, may advise the governmental authority regarding the conflict and propose a resolution of the conflict, including revision of the reliability standard if appropriate.
2. **Regulatory Precedence** — Unless otherwise ordered by a governmental authority, the affected bulk power system owner, operator, or user shall continue

to follow the function, rule, order, tariff, rate schedule, legislative requirement, or agreement accepted, approved, or ordered by the governmental authority until the governmental authority finds that a conflict exists and orders a remedy and such remedy is affected.

315. Revisions to NERC Reliability Standards Development Procedure

Any person or entity may submit a written request to modify NERC *Reliability Standards Development Procedure*. Consideration of the request and development of the revision shall follow the process defined in the NERC *Reliability Standards Development Procedure*. Upon approval by the board, the revision shall be submitted to the ERO governmental authorities for approval. Changes shall become effective only upon approval by the ERO governmental authorities or on a date designated by the ERO governmental authorities or as otherwise applicable in a particular jurisdiction.

316. Accreditation

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

317. Five-Year Review of Standards

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

318. Coordination with the North American Energy Standards Board

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

319. Archived Standards Information

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

320. Alternate Method for Adopting Violation Risk Factors

In the event the standards development process fails to produce violation risk factors for a particular standard in a timely manner, the Board of Trustees may adopt violation risk factors for that standard using the procedures set out in Section 1400 of these Rules of Procedure.

SECTION 400 — COMPLIANCE ENFORCEMENT

401. Scope of the NERC Compliance Enforcement Program

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

- 5.1 Should NERC not have a delegation agreement with a regional entity covering a geographic area, or a regional entity withdraws from an existing delegation agreement or the delegation agreement is otherwise terminated, NERC will directly administer the Compliance Monitoring and Enforcement Program applicable to owners, operators and users of the bulk-power system within that geographic area.
 1. This monitoring and enforcement will be accomplished by NERC and compliance staff from another approved regional entity.
 2. If an existing delegation agreement with a regional entity is terminating, the regional entity shall promptly provide to NERC all relevant compliance information regarding registered entities, contacts, prior compliance information and actions, mitigation plans, and remedial actions for the period in which the regional entity was responsible for administering the Compliance Monitoring and Enforcement Program.
 3. NERC will levy and collect all penalties directly and will utilize any penalty monies collected to offset the expenses of administering the compliance monitoring and enforcement program for the geographic area.
- 5.2 Should a regional entity seek to withdraw from its delegation agreement, NERC will seek agreement from another regional entity to amend its delegation agreement with NERC to extend that regional entity's boundaries for compliance monitoring and enforcement. In the event no regional entity is willing to accept this responsibility, NERC will administer the Compliance Monitoring and Enforcement Program within the geographical boundaries of the regional entity seeking to withdraw from the delegation agreement, in accordance with Section 401.5.1.
6. **Actively Monitored Requirements** — NERC, with input from the regional entities, stakeholders, and regulators, shall annually select a subset of the NERC reliability standards and requirements to be actively monitored and audited in the NERC annual compliance program. Compliance is required with all NERC reliability standards whether or not they are included in the subset of reliability standards and requirements designated to be actively monitored and audited in the NERC annual compliance program.
7. **Penalties, Sanctions, and Remedial Actions** — NERC and regional entities will apply penalties, sanctions, and remedial actions that bear a reasonable relation to the seriousness of a violation and take into consideration timely remedial efforts as defined in the NERC *Sanction Guidelines*, which is incorporated into these rules as **Appendix 4B**.
8. **Multiple Enforcement Actions** – A registered entity shall not be subject to an enforcement action by NERC and a regional entity for the same violation.
9. **Records** — NERC shall maintain a record of each compliance submission, including self-reported, possible, alleged, and confirmed, ~~and alleged~~ violations of

approved reliability standards; associated penalties, sanctions, remedial actions and settlements; and the status of mitigation actions.

10. Confidential Information — NERC will treat all possible and alleged violations of reliability standards and matters related to a compliance monitoring and enforcement program process, including the status of any compliance investigation or other compliance monitoring and enforcement process, as confidential in accordance with Section 1500.

The types of information that will be considered confidential and will not (subject to statutory and regulatory requirements) be disclosed in any public information reported by NERC are identified in Section 1500. Information that would jeopardize bulk power system reliability, including information relating to a Cyber Security Incident, will be identified and protected from public disclosure as critical energy infrastructure information in accordance with Section 1500.

The regional entity and NERC shall give bulk power system owners, operators, and users a reasonable opportunity to demonstrate that information concerning a violation is confidential before such report is disclosed to the public.

11. Public Posting — When the affected bulk power system owner, operator, or user either agrees with a possible or alleged violation(s) of a reliability standard(s) or a report of a compliance audit or compliance investigation, or the time for submitting an appeal is passed, or all appeals processes are complete, NERC shall, subject to the confidentiality requirements of these rules, publicly post each confirmed violation, penalty or sanction, and final compliance audit or compliance investigation report, on its Web site.

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

11.2 In accordance with Section 1500, information deemed by a bulk power system owner, operator, or user, regional entity, or NERC as critical energy infrastructure information (*NERC Security Guidelines for the Electricity Sector — Protecting Potentially Sensitive Information* may be used as a guide) or other confidential information shall be redacted in accordance with Section 1500 and not be released publicly.

11.3 Subject to redaction of critical energy infrastructure information or other confidential information, for each confirmed violation or settlement relating to a possible violation or an alleged violation, the public posting shall include the name of any relevant entity, the nature, time period, and circumstances of such possible, alleged or confirmed violation, any mitigation plan to be implemented by the entity in connection with the violation or settlement, and sufficient facts to assist owners, operators and

users of the bulk power system to evaluate whether they have engaged in or are engaging in similar activities.

12. **Violation Information Review** — NERC compliance monitoring and enforcement program staff shall periodically review and analyze all reports of possible, alleged and confirmed violations to identify trends and other pertinent reliability issues.

402. NERC Oversight of the Regional Entity Compliance Enforcement Programs

1. **NERC Monitoring Program** — NERC shall have a program to monitor the compliance enforcement program of each regional entity that has been delegated authority. The objective of this monitoring program shall be to ensure that the regional entity carries out its compliance enforcement program in accordance with these rules and the terms of the delegation agreement, and to ensure consistency and fairness of the regional entity's compliance enforcement program. Oversight and monitoring by NERC shall be accomplished through an annual compliance enforcement program review, program audits, and regular evaluations of regional entity compliance enforcement program performance as described below.

1.1 **NERC Review of Regional Compliance Enforcement Program Annual Plans** — NERC shall require each regional entity to submit for review and approval an annual compliance enforcement program implementation plan. NERC shall review each regional entity's compliance enforcement program annual implementation plan and shall accept the plan if it meets NERC requirements and the requirements of the delegation agreement.

1.2 **Regional Entity Program Evaluation** — NERC shall annually evaluate the goals, tools, and procedures of each regional entity compliance enforcement program to determine the effectiveness of each regional entity program, using criteria developed by the NERC Compliance and Certification Committee.

1.3 **Regional Entity Program Audit** — At least once every ~~three~~five years, NERC shall conduct an audit to evaluate how each regional entity compliance enforcement program implements the NERC Compliance Monitoring and Enforcement Program. The evaluation shall be based on these rules of procedures, including Appendix 4C, the delegation agreement, directives in effect pursuant to the delegation agreement, approved regional entity annual compliance enforcement program annual implementation plans, required program attributes, and the NERC compliance program procedures. These evaluations shall be provided to the appropriate ERO governmental authorities to demonstrate the effectiveness of each regional entity. In addition, audits of cross-border regional entities shall cover applicable requirements imposed on the regional entity by statute, regulation, or order of, or agreement with, provincial governmental and/or regulatory authorities for which NERC has auditing responsibilities over the regional entity's compliance with such requirements within Canada or Mexico. Participation of a

representative of an applicable ERO governmental authority shall be subject to the limitations of sections 3.1.6 and 8.0 of Appendix 4C of these rules of procedure regarding disclosures of non-public compliance information related to other jurisdictions.

~~1.3.1~~ NERC shall maintain an audit procedure containing the requirements, steps, and timelines to conduct an audit of each regional entity compliance enforcement program. The current procedure is contained in the NERC Audit of Regional Entity Compliance Programs, which is incorporated into these rules as **Appendix 4A**.

~~1.3.2~~ ~~NERC shall establish a program to audit bulk power system owners, operators, and users operating within a regional entity to verify the findings of previous compliance audits conducted by the regional entity to evaluate how well the regional entity compliance enforcement program is meeting its delegated authority and responsibilities.~~

1.4 ERO governmental authorities will be allowed to participate as an observer in any audit conducted by NERC of a regional entity's compliance monitoring and enforcement program. A representative of the regional entity being audited will be allowed to participate in the audit as an observer.

2. **Consistency Among Regional Compliance Enforcement Programs** — To provide for a consistent compliance enforcement program for all bulk power system owners, operators, and users required to comply with approved reliability standards, NERC shall maintain a single, uniform Compliance Monitoring and Enforcement Program, which is incorporated into these rules of procedure as Appendix 4C. Any Differences in regional entity program methods, including determination of violations and penalty assessment, shall be justified on a case-by-case basis and fully documented in each regional entity delegation agreement.

2.1 NERC shall ensure that each of the regional entity compliance enforcement programs meets these Rules of Procedure, including Appendix 4C, and follows the terms of the delegation agreement and the approved regional entity compliance enforcement program annual plan.

2.2 NERC shall ~~develop~~maintain a single, uniform compliance monitoring and enforcement program in Appendix 4C containing the procedures to ensure the consistency and fairness of the processes used to determine regional entity compliance enforcement program findings of compliance and noncompliance, and the application of penalties and sanctions.

2.3 NERC shall periodically conduct regional entity compliance manager forums. These forums shall use the results of regional entity compliance program audits and findings of NERC compliance staff to identify and refine regional entity compliance program differences into a set of best practices over time.

3. **Information Collection and Reporting** — NERC and the regional entities shall implement data management procedures that address data reporting requirements, data integrity, data retention, data security, and data confidentiality.
4. **Violation Disclosure** — NERC shall disclose all confirmed violations and maintain as confidential [possible violations and alleged violations](#), according to the reporting and disclosure process in [Appendix 4CSection 408](#).
5. **Authority to Determine Noncompliance, Levy Penalties and Sanctions, and Issue Remedial Action Directives** — NERC and regional entity compliance staff shall have the authority and responsibility to make initial determinations of compliance or noncompliance, and where authorized by the appropriate governmental authorities or where otherwise authorized, to determine penalties and sanctions for noncompliance with a reliability standard, and issue remedial action directives. Regional entity boards or a compliance panel reporting directly to the regional entity board will be vested with the authority for the overall regional entity compliance program and have the authority to impose penalties and sanctions on behalf of NERC, where authorized by applicable legislation or agreement. Remedial action directives may be issued by NERC or a regional entity that is aware of a bulk power system owner, operator, or user that is about to engage in an act or practice that would result in noncompliance [with a reliability standard, where such directive is immediately necessary to protect the reliability of the bulk power system from an imminent threat](#). If, after receiving such a directive, the bulk power system owner, operator, or user does not take appropriate action to avert a violation of a reliability standard, NERC may petition the applicable ERO governmental authority to issue a compliance order.
6. **Due Process** — NERC shall establish and maintain a fair, independent, and nondiscriminatory appeals process. The appeals process is set forth in Sections [409–411408-410](#). The process shall allow bulk power system owners, operators, and users to appeal the regional entity’s findings of noncompliance and to appeal penalties, sanctions, and remedial actions that are levied by the regional entity. Appeals beyond the NERC process will be heard by the applicable [ERO](#) governmental authority.

The appeals process will also allow for appeals to NERC of any findings of noncompliance issued by NERC to a regional entity for standards and requirements where the regional entity is monitored for compliance to a reliability standard. No monetary penalties will be levied in these matters; however sanctions, remedial actions, and directives to comply may be applied by NERC.
7. **Conflict Disclosure** — NERC shall disclose to the appropriate governmental authorities any potential conflicts between a market rule and the enforcement of a regional reliability standard.
8. **Confidentiality** — To maintain the integrity of the NERC Compliance Monitoring and Enforcement Program, NERC and regional entity staff, audit team

members, and committee members shall maintain the confidentiality of information obtained and shared during compliance monitoring and enforcement processes including investigations, audits, spot checks, drafting of reports, appeals, and closed meetings.

- 8.1 NERC and the regional entity shall have in place appropriate codes of conduct and confidentiality agreements for staff and other compliance enforcement program participants.
 - 8.2 Individuals not bound by NERC or regional entity codes of conduct who serve on compliance-related committees or audit teams shall sign a NERC confidentiality agreement prior to participating on the committee or team.
 - 8.3 Information deemed by a bulk power system owner, operator, or user, regional entity, or NERC as critical energy infrastructure information shall not be distributed outside of a committee or team, nor released publicly. Other information subject to confidentiality is identified in Section 1500.
 - 8.4 In the event that a staff, committee, or audit team member violates any of the confidentiality rules set forth above, the staff, committee, or audit team member and any member organization with which the individual is associated may be subject to appropriate action by the regional entity or NERC, including prohibiting participation in future compliance enforcement activities.
9. **Auditor Training** — NERC shall develop and provide training in auditing skills to all people who participate in NERC and regional entity compliance enforcement audits. Training for NERC and regional entity personnel and others who serve as compliance audit team leaders shall be more comprehensive than training given to industry subject matter experts; and regional entity members; and volunteers. Training for regional entity members ~~and volunteers~~ may be delegated to the regional entity.

403. Required Attributes of Regional Entity Compliance Enforcement Programs

Each regional entity compliance enforcement program shall promote excellence in the enforcement of reliability standards. To accomplish this goal, each regional entity compliance enforcement program shall (i) conform to and comply with the NERC uniform Compliance Monitoring and Enforcement Program, Appendix 4C to these rules of procedure, except to the extent of any deviations that are stated in the regional entity's delegation agreement, and (ii) at a minimum meet all of the following attributes set forth in this Section 403.

Program Structure

1. **Independence** — Each regional entity's governance of its compliance enforcement program shall exhibit independence, meaning the compliance enforcement program shall be organized so that its compliance monitoring and enforcement activities are carried out separately from other activities of the

regional entity. The program shall not be unduly influenced by the bulk power system owners, operators, and users being monitored or other regional entity activities that are required to meet the reliability standards. Regional entities must include rules providing that no two industry sectors may control any decision and no single segment may veto any matter related to compliance.

2. **Exercising Authority** — Each regional entity compliance enforcement program shall exercise the responsibility and authority in carrying out the delegated functions of the NERC Compliance Monitoring and Enforcement Program in accordance with delegation agreements and Appendix 4C. These functions include but are not limited to: data gathering, data reporting, compliance ~~violation~~ investigations, compliance auditing activities, evaluating compliance and noncompliance, imposing penalties and sanctions, and approving and tracking mitigation actions.
3. **Delegation of Authority** — To maintain independence, fairness, and consistency in the NERC Compliance Monitoring and Enforcement Program, a regional entity shall not sub-delegate its compliance enforcement program duties to entities or persons other than the regional entity compliance enforcement program staff, unless (i) required by statute or regulation in the applicable jurisdiction, or (ii) by agreement with express approval of NERC and of FERC or other appropriate ERO governmental authority, to another regional entity.
4. **Hearings of Contested Findings or Sanctions** — The regional entity board or compliance panel reporting directly to the regional entity board (with appropriate recusal procedures) will be vested with the authority for conducting compliance hearings in which any bulk power system owner, operator, or user provided notice of an alleged violation may present facts and other information to contest a notice of alleged violation or any proposed penalty, sanction, ~~or any~~ remedial action directive, or any mitigation plan component. Compliance hearings shall be conducted in accordance with the Hearing Process set forth in Attachment 2 to Appendix 4C ~~the NERC Compliance Monitoring and Enforcement Program document~~. If a stakeholder body serves as the hearing body, no two industry sectors may control any decision and no single segment may veto any matter related to compliance after recusals.

Program Resources

5. **Regional Entity Compliance Staff** — Each regional entity shall have sufficient resources to meet delegated compliance monitoring and enforcement responsibilities, including the necessary professional staff to manage and implement the regional entity compliance monitoring and enforcement program.
6. **Regional Entity Compliance Staff Independence** — The regional entity compliance monitoring and enforcement program staff shall be capable of and required to make all ~~initial~~ determinations of compliance and noncompliance and determine penalties, sanctions, and remedial actions.
 - 6.1 Regional entity compliance enforcement program staff shall not have a conflict of interest, real or perceived, in the outcome of compliance

- ~~monitoring and enforcement processes-violation investigations, compliance audits~~, reports, or sanctions. The regional entity shall have in effect a conflict of interest policy.
- 6.2 Regional entity compliance monitoring and enforcement program staff shall have the authority and responsibility to carry out compliance monitoring and enforcement processes~~investigate, audit~~ (with the input of industry subject matter experts ~~or regional members~~), make initial determinations of compliance or noncompliance, and levy penalties and sanctions without interference or undue influence from regional entity members and their representative or other industry entities.
- 6.3 Regional entity compliance monitoring and enforcement program staff may call upon independent technical subject matter experts who have no conflict of interest in the outcome of the compliance monitoring and enforcement process~~violation investigation or compliance audit~~ to provide technical advice or recommendations in the determination of compliance or noncompliance ~~in compliance audits, compliance violation investigations, or review of self-reported violations~~.
- 6.4 Regional entity compliance monitoring and enforcement program staff shall abide by the confidentiality requirements contained in Section 1500 and Appendix 4C of these Rules of Procedure, the NERC delegation agreement and other confidentiality agreements required by the NERC Compliance Monitoring and Enforcement Program.
- 6.5 Contracting with independent consultants or others working for the regional entity compliance enforcement program shall be permitted provided the individual has not received compensation from a bulk power system owner, operator, or user being monitored for a period of at least the preceding six months and owns no financial interest in any bulk power system owner, operator, or user being monitored for compliance to the reliability standard, regardless of where the bulk power system owner, operator, or user operates. Any such individuals for the purpose of these rules shall be considered as augmenting regional entity compliance staff.
- 7. Use of Industry Subject Matter Experts and Regional Entity Members** — Industry experts and regional entity members may be called upon to provide their technical expertise in compliance monitoring and enforcement program~~violation investigations, compliance audits, and other compliance~~ activities.
- 7.1 The regional entity shall have procedures defining the allowable involvement of industry subject matter experts and regional entity members. The procedures shall address applicable antitrust laws and conflicts of interest.
- 7.2 Industry subject matter experts and regional entity members shall have no conflict of interest or financial interests in the outcome of their activities.

- 7.3 Regional entity members and ~~volunteers~~ industry subject matter experts, as part of teams or regional entity committees, may provide input to the regional entity compliance staff so long as the authority and responsibility for (i) ~~initially~~ evaluating and determining compliance or noncompliance and (ii) levying penalties, sanctions, or remedial actions shall not be delegated to any person or entity other than the compliance staff of the regional entity. Industry subject matter experts, regional entity members, or regional entity committees shall not make ~~initial~~ determinations of noncompliance or levy penalties, sanctions, or remedial actions. Any committee involved shall be organized so that no two industry sectors may control any decision and no single segment may veto any matter related to compliance.
- 7.4 Industry subject matter experts and regional entity members shall sign a confidentiality agreement appropriate for the activity being performed.
- 7.5 All industry subject matter experts and regional entity members participating in compliance audits and compliance ~~violation~~ investigations shall successfully complete auditor training provided by NERC or the regional entity prior to performing these activities

Program Design

8. **Regional Entity Compliance Enforcement Program Content** — All approved reliability standards shall be included in the regional entity compliance monitoring and enforcement program for all bulk power system owners, operators, and users within the defined boundaries of the regional entity. Compliance to approved regional entity reliability standards is applicable only within the footprint of the regional entity that submitted those particular regional entity reliability standards for approval. NERC will identify the minimum set of reliability standards and requirements to be actively monitored by the regional entity in a given year.
9. **Antitrust Provisions** — Each regional entity's compliance monitoring and enforcement program shall be structured and administered to abide by U.S. antitrust law and Canadian competition law.
10. **Information Submittal** — All bulk power system owners, operators, and users within the regional entity responsible for complying with reliability standards shall submit timely and accurate information when requested by the regional entity or NERC, ~~in accordance with established procedures of NERC and the regional entity~~. NERC and the regional entities shall preserve any mark of confidentiality on information submitted pursuant to Section 1502.1.
- 10.1 Each regional entity has the authority to collect the necessary information to determine compliance and shall develop processes for gathering data from the bulk power system owners, operators, and users they regional entity monitors.

10.2 The regional entity or NERC has the authority to request information from bulk power system owners, operators, and users pursuant to section 401.3 or this section 403.10 without invoking a specific compliance monitoring and enforcement process in **Appendix 4C**, for purposes of determining whether to pursue one such process in a particular case and/or validating in the enforcement phase of a matter the conclusions reached through the compliance monitoring and enforcement process(es).

~~10.2~~10.3 When required or requested, the regional entities shall report information to NERC promptly and in accordance with **Appendix 4C** and other NERC procedures.

~~10.3~~10.4 Regional entities shall notify NERC of all possible, alleged and confirmed violations of NERC reliability standards by entities over which the regional entity has compliance monitoring and enforcement authority ~~authority or enforcement responsibilities, whether self-reported, alleged, or confirmed~~, in accordance with **Appendix 4C** ~~the Reporting and Disclosure Process in Section 408~~.

~~10.4~~10.5 A bulk power system owner, operator, or user found in noncompliance with a reliability standard shall submit a mitigation plan with a timeline addressing how the noncompliance will be corrected. The regional entity compliance staff shall review and approve the mitigation plan in accordance with Appendix 4C ~~with section 403.18~~. Regional entity compliance staff may issue remedial action directives to owners, operators and users of the bulk power system to comply with reliability standards, as needed to preserve the reliability of the bulk power system.

~~10.5~~10.6 An officer of a bulk power system owner, operator, or user shall certify as accurate all compliance data self-reported to the regional entity compliance monitoring and enforcement program.

~~10.6~~10.7 Regional entities shall develop and implement procedures to ~~spot-check and~~ verify the compliance information submitted by bulk power system owners, operators, and users.

11. **Compliance Audits of Bulk Power System Owners, Operators, and Users** — Each regional entity will maintain and implement a program of proactive compliance audits. ~~The regional entity shall audit each of~~ bulk power system owners, operators, ~~and/or~~ users responsible for complying with reliability standards, in accordance with Appendix 4C. A compliance audit is a process in which a detailed review of the activities of a bulk power system owner, operator, or user is performed to determine if that bulk power system owner, operator, or user is complying with approved reliability standards.

11.1 For ~~those bulk power system owners and operators with primary reliability responsibility (i.e., entities requiring organizational certification)~~ an entity

registered as a balancing authority, reliability coordinator, or transmission operator, the compliance audit will be performed at least once every three years. For other bulk power system owners, operators, and users on the NERC Compliance Registry, compliance audits shall be performed on a schedule established by NERC.

- 11.2 Audits of balancing authorities, reliability coordinators, and transmission operators~~bulk power system owners and operators with primary reliability responsibility~~ will include a component at~~be performed on~~ the audited entity's site. For other bulk power system owners, operators, and users on the NERC Compliance Registry, the audit may be either an on-site audit or based on review of documents, as determined to be necessary and appropriate by NERC or regional entity compliance monitoring and enforcement program, staff.
- 11.3 Compliance audits must include a detailed review of the activities of the bulk power system owner, operator, or user to determine if the bulk power system owner, operator, or user is complying with all approved reliability standards identified for audit by NERC. The compliance audit shall include a review of supporting documentation and evidence used by the bulk power system owner, operator or user to demonstrate for self-certification~~compliance reporting~~ for an appropriate reporting~~reporting~~ period prior to~~since~~ the last compliance audit.
- ~~11.4 NERC compliance staff may participate on any regional entity audit team, at any time at NERC's discretion. Additionally, any applicable ERO governmental authority may participate on an audit team as an observer in any regional entity audit within its jurisdiction, at the ERO governmental authority's discretion.~~

~~12. **Compliance Audit Results**—The regional entity shall make an evaluation of a bulk power system owner's, operator's, or user's compliance based on the information obtained from a compliance audit and previously reported compliance information. After due process is complete, this evaluation (excluding any critical energy infrastructure information or other confidential information) shall be made public. The regional entity shall send the report to NERC for public posting.~~

~~13. **Compliance Violation Investigations**—Compliance violation investigations are necessary to determine if a violation of reliability standards has occurred when certain system events occur, or when other owners, operators, or users of the bulk power system file complaints. NERC is ultimately responsible for how a regional entity conducts compliance violation investigations. Compliance violation investigations are initiated at the discretion of the regional entity compliance enforcement program staff, the senior executive officer of the regional entity, NERC compliance staff, or the NERC president. The regional entity shall respond to any complaints filed by one entity against another that allege a~~

~~violation of reliability standards by a bulk power system owner, operator, or user. The regional entity may ask NERC to assist with the compliance violation investigation. Situations that can trigger a compliance violation investigation include but are not limited to (i) significant problems arising on the system, (ii) chronic noncompliance violations, (iii) bulk power system owners, operators, and users not submitting data in a timely or accurate manner, (iv) spot checks to verify submitted data, (v) filing of a compliance complaint with the regional entity or NERC, or (vi) Nuclear Regulatory Commission defined incidents occurring on the transmission system.~~

~~1412.~~ **Confidentiality of Compliance ~~Audits and Compliance Violation~~**

~~**Investigations Monitoring and Enforcement Processes** — All compliance violation investigations compliance monitoring and enforcement processes, and information obtained from such processes, are to be non-public and treated as confidential in accordance with Section 1500 and Appendix 4C of these rules of procedure, unless NERC, the regional entity or FERC or another applicable governmental authority with jurisdiction determines a need to conduct a compliance monitoring and enforcement program process on a public basis investigation, provided, that NERC and the regional entities shall publish (i) schedules of compliance audits scheduled in each year, (ii) a public report of each compliance audit, and (iii) notices of penalty and settlement agreements. Advance authorization from the applicable ERO governmental authority is required to make public any compliance violation investigation, compliance audit, monitoring and enforcement process or any information relating to a compliance violation investigation or compliance audit, monitoring and enforcement process, or to permit interventions when determining whether to impose a penalty. This prohibition on making public any compliance violation investigation or compliance audit monitoring and enforcement process does not prohibit NERC or a regional entity from publicly disclosing (i) the initiation of or results from an analysis of a significant system event under Section 807 or of off-normal events or system performance under Section 808, or (ii) information of general applicability and usefulness to owners, operators, and users of the bulk power system concerning reliability and compliance matters, so long as specific allegations or conclusions regarding possible or alleged violations of reliability standards are not included in such disclosures.~~

~~15. **Report all Violations** — Each regional entity compliance enforcement program shall report to NERC all violations whether self reported, alleged, or discovered by the region through a compliance audit or compliance violation investigation of all approved reliability standards in accordance with the *Reporting and Disclosure Process* in Section 408. The regional entity will promptly notify NERC of any change in the status of a violation and provide updates at least monthly regarding the status of any compliance audits, compliance violation investigations, or hearings.~~

~~1613.~~ **Critical Energy Infrastructure Information** — Information that would jeopardize bulk power system reliability, including information relating to a

Cyber Security Incident will be identified and protected from public disclosure as critical energy infrastructure information. In accordance with Section 1500, information deemed by a bulk power system owner, operator, or user, regional entity, or NERC as critical energy infrastructure information shall be redacted according to NERC procedures and shall not be released publicly.

1714. Penalties, Sanctions, and Remedial Actions — Each regional entity will apply all penalties, sanctions, and remedial actions directives in accordance with the approved *ERO-Sanction Guidelines*, [Appendix 4B to these rules of procedure](#). Any changes to the *ERO-Sanction Guidelines* to be used by any regional entity must be approved by NERC and submitted to the appropriate ERO governmental body for approval. All confirmed violations, penalties, and sanctions will be provided to NERC for review and filing with applicable ERO governmental authorities as a notice of penalty, [in accordance with Appendix 4C](#).

~~18. **Mitigation of Violations** — Each regional entity compliance enforcement program will require that any bulk power system owner, operator, or user found to be in noncompliance with a reliability standard requirement shall submit a mitigation plan with a timeline addressing how the noncompliance will be corrected. The mitigation plan shall be reviewed and approved by the regional entity compliance staff and the regional entity's compliance panel or board as appropriate. The regional entity shall approve or reject the mitigation plan within thirty (30) days of receipt, unless the regional entity notifies the owner, operator or user and NERC within such thirty (30) day period or any extended review period that the regional entity's review period is being extended and states the length of the extended review period. If the regional entity does not notify the owner, operator or user within the initial or any extended review period that the proposed mitigation plan is accepted or rejected, the proposed mitigation plan shall be deemed accepted. If the regional entity accepts the mitigation plan, it shall notify the owner, operator or user and shall promptly submit the complete approved mitigation plan to NERC in accordance with NERC's form. NERC shall, within thirty (30) days of the receipt of the mitigation plan, approve or disapprove the mitigation plan, and in the case of disapproval provide a statement of reasons (which may include a list of changes to the mitigation plan that would make it acceptable to NERC), and shall notify the regional entity and the bulk power system owner, operator or user of NERC's approval or disapproval of the mitigation plan. NERC will submit to the Federal Energy Regulatory Commission, as non-public information, an approved mitigation plan relating to violations of reliability standards within seven (7) business days after NERC approves the mitigation plan. NERC shall subsequently publicly post the approved mitigation plan as part of the public posting of the related confirmed violation, penalty or sanction in accordance with section 408.6 or section 403.19, or as part of the public posting of a settlement in which the owner, operator or user of the bulk power system neither admits or denies that it violated a reliability standard.~~

~~19. **Settlement Processes**—The regional entity may enter into a settlement process with owners, operators and users of the bulk power system for alleged violations of a reliability standard and any associated financial penalty, sanction, or mitigation actions. NERC must be notified of all settlement proceedings and may participate in any settlement processes. Regional entities may consider all relevant facts in the settlement. Any settlement must ensure that the reliability of the bulk power system will not be compromised by the settlement and that a violation of reliability standards will not occur as a result of the settlement. All settlements must be reported to NERC, which will in turn report the settlement of an alleged violation to the Federal Energy Regulatory Commission or the applicable ERO governmental authority. NERC shall publicly post each violation (whether confirmed or not) that is settled, and the resulting penalty or sanction.~~

2015. **Regional Hearing Process** — Each regional entity compliance enforcement program shall establish and maintain a fair, independent, and nondiscriminatory process for hearing contested violations and any penalties or sanctions levied, in conformance with Attachment 2 to Appendix 4C to these rules of procedure and any deviations therefrom that are set forth in the regional entity’s delegation agreement, where authorized by applicable legislation or agreement. The hearing process shall allow bulk power system owners, operators, and users to contest ~~both~~ findings of compliance violations, ~~and~~ any penalties and sanctions that are proposed to be levied, proposed remedial action directives, and components of proposed mitigation plans. The regional entity hearing process shall be conducted before the regional entity board or a balanced committee established by and reporting to the regional entity board as the final adjudicator, provided, that ~~(i) in ERCOT, the Public Utility Commission of Texas may act as the final adjudicator, and (ii) Canadian provincial regulators may act as the final adjudicator in their respective jurisdictions.~~ The regional entity hearing process shall (i) include provisions for recusal of any members of the hearing body with a potential conflict of interest, real or perceived, from all compliance matters considered by the hearing body for which the potential conflict of interest exists and (ii) provide that no two industry sectors may control any decision and no single segment may veto any matter brought before the hearing body after recusals.

Each regional entity will notify NERC of all hearings and NERC may observe any of the proceedings. Each regional entity will notify NERC of the outcome of all hearings.

If a bulk power system owner, operator, or user has completed the regional entity hearing process and desires to appeal the outcome of the hearing, the bulk power system owner, operator, or user shall appeal to NERC in accordance with Section 409 of these rules of procedure, except that a determination of violation or penalty that has been directly adjudicated by an ERO governmental authority shall be appealed with that ERO governmental authority.

2116. **Annual Regional Entity Compliance Enforcement Program Implementation Plan** — Each regional entity shall annually develop and submit to NERC for

approval a regional entity compliance enforcement implementation plan [in accordance with Appendix 4C](#) that identifies the reliability standards and requirements to be actively monitored (both those required by NERC and any additional reliability standards the regional entity proposes to monitor), and how each NERC and regional entity identified standard will be monitored, evaluated, reported, sanctioned, and appealed. These implementation plans will be submitted to NERC on the schedule established by NERC, generally on or about November 1 of the preceding year.

~~21.1~~—In conjunction with the annual implementation plan, each regional entity ~~with delegated authority~~ must report to NERC regarding how it carried out its delegated [compliance monitoring and enforcement authority](#) in the previous year, the effectiveness of the program, and changes expected to correct any deficiencies identified. Each regional [entity](#) will provide its annual report on the schedule established by NERC, generally on or about February 15 of the following year.

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

NERC shall monitor regional entity compliance with NERC reliability standards and, if no there is no delegation agreement in effect with a regional entity for the geographic area, shall monitor bulk power system owners, operators, and users for compliance with NERC reliability standards. Industry [subject matter](#) experts may be used as appropriate in compliance ~~violation~~ investigations, compliance audits, and other compliance activities, subject to confidentiality, antitrust, and conflict of interest provisions.

1. **NERC Obligations** — NERC compliance [monitoring and enforcement](#) staff shall monitor the compliance of the regional entity with the reliability standards for which the regional entities are responsible, [in accordance with Appendix 4C](#). NERC shall actively monitor in its annual Compliance Enforcement and Monitoring Program selected reliability standards that apply to the regional entities. NERC shall evaluate compliance and noncompliance with all of the reliability standards that apply to the regional entities and shall impose sanctions, penalties, or remedial action directives when there is a finding of noncompliance. NERC shall post all violations of reliability standards that apply to the regional entities as described in the reporting and disclosure process in [Appendix 4C](#) ~~Section 408~~.

In addition, NERC will directly monitor bulk power system owners, operators, and users for compliance with NERC Reliability Standards in any geographic area for which there is not a delegation agreement in effect with a regional entity, [in accordance with Appendix 4C](#). In such cases, NERC will serve as the Compliance [Enforcement Authority](#) ~~Monitor~~ described in [Appendix 4C](#) ~~the NERC Compliance Monitoring and Enforcement Program document~~. Compliance matters contested by bulk power system owners, operators, and users in such an event will be heard by the NERC Compliance and Certification Committee.

~~2. Mitigation Plans~~—An owner, operator or user of the bulk power system or a regional entity found by NERC to be in noncompliance with a reliability standard

~~shall submit to NERC for approval a mitigation plan with a timeline addressing how the noncompliance will be corrected.~~

~~3.2.~~ **Compliance Audit of the Regional Entity** — NERC shall perform a compliance audit of each regional entity responsible for complying with reliability standards at least once every three years. NERC shall make an evaluation of compliance based on the information obtained through the audit. After due process is complete, the final audit report shall be made public in accordance with the reporting and disclosure process in ~~Appendix 4C~~~~Section 408~~.

~~4.3.~~ **Appeals Process** — Any regional entity or bulk-power system owner, operator or user found by NERC, as opposed to a regional entity, to be in noncompliance with a reliability standard may appeal the findings of noncompliance with reliability standards and any sanctions, or remedial action directives that are issued by, ~~or mitigation plan components imposed by,~~ NERC, pursuant to the processes described in Sections ~~409~~~~408~~ through ~~411~~~~410~~.

405. Monitoring of Standards and Other Requirements Applicable to NERC

The NERC Compliance and Certification Committee shall establish and implement a process to monitor NERC's compliance with the reliability standards that apply to NERC. The process shall use independent monitors with no conflict of interest, real or perceived, in the outcomes of the process. All violations shall be made public according to the reporting and disclosure process in ~~Appendix 4C~~~~Section 408~~. The Compliance and Certification Committee will also establish a procedure for monitoring NERC's compliance with its Rules of Procedure for the Standards Development, Compliance Enforcement, and Organization Registration and Certification Programs. Such procedures shall not be used to circumvent the appeals processes established for those programs.

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

NERC shall provide for an independent audit of its compliance monitoring and enforcement program at least once every three years, or more frequently as determined by the board. The audit shall be conducted by independent expert auditors as selected by the board. The independent audit shall meet the following minimum requirements and any other requirements established by the NERC board.

1. **Effectiveness** — The audit shall evaluate the success and effectiveness of the NERC Compliance Monitoring and Enforcement Program in achieving its mission.
2. **Relationship** — The audit shall evaluate the relationship between NERC and the regional entity compliance enforcement programs and the effectiveness of the programs in ensuring reliability.
3. **Final Report Posting** — The final report shall be posted by NERC for public viewing ~~in accordance with Appendix 4C~~~~according to the reporting and disclosure process in Section 408~~.

4. **Response to Recommendations** — If the audit report includes recommendations to improve the NERC Compliance Monitoring and Enforcement Program, the administrators of the NERC Compliance Monitoring and Enforcement Program shall provide a written response and plan to the board within 30 days of the release of the final audit report.

407. Penalties, Sanctions, and Remedial Actions

1. **NERC Review of Regional Penalties and Sanctions** — NERC shall review all penalties, sanctions, and remedial actions imposed by each regional entity for violations of reliability standards to determine if the regional entity's determination is supported by a sufficient record compiled by the regional entity, is consistent with the *Sanction Guidelines* incorporated into these rules as **Appendix 4B** and with other directives, guidance and directions issued by NERC pursuant to the delegation agreement, and is consistent with penalties, sanctions and remedial actions imposed by the regional entity and by other regional entities for consistency with similar violations involving the same or similar facts and circumstances and fairness in application.
2. **Developing Penalties and Sanctions** — The regional entity compliance monitoring and enforcement program staff shall use the *ERO-Sanction Guidelines*, which are incorporated into these rules as **Appendix 4B**, to develop an appropriate penalty, sanction, or remedial action for a violation, and shall notify NERC of the penalty or sanction.
- ~~3. **Hearing Processes** — The regional entity shall make available a regional entity hearing process for entities to contest a finding of noncompliance, penalty, sanction, or remedial actions in which the bulk power system owner, operator, or user will be afforded the opportunity to present facts to rebut such a finding, conforming to Attachment 2 of the NERC Compliance Monitoring and Enforcement document. The regional entity shall also make available the NERC appeals process for bulk power system owners, operators, and users seeking an opportunity to dispute a penalty, sanction, or remedial action. Appeals beyond NERC of a finding of noncompliance, penalty, sanction, or remedial action will be before the appropriate ERO governmental authority.~~
43. **Effective Date of Penalty** — Where authorized by applicable legislation or agreement, no penalty imposed for a violation of a reliability standard shall take effect until the thirty-first day after NERC files, with the applicable ERO governmental authority, a “notice of penalty” and the record of the proceedings in which the violation and penalty were determined, or such other date as ordered by the ERO applicable governmental authority.

~~408. **Reporting and Disclosure Process**~~

- ~~1. **Reporting Requirements** — Each regional entity shall report all known violations, self-reported, confirmed, and alleged, of all reliability standards to NERC in accordance with the requirements established in the NERC Compliance Monitoring and Enforcement Program procedures document. Probable violations from NERC readiness evaluations will be treated as alleged violations when~~

reported by the regional entity to NERC after review by regional entity staff. Each regional entity shall promptly report any change in the status of a violation and the disposition of each violation. Reports on the disposition of a violation will be provided at least quarterly or as otherwise required by NERC for reporting to ERO governmental authorities. NERC shall promptly notify the applicable ERO governmental authority of any self-reported, confirmed, or alleged violation of a reliability standard, any compliance violation investigation, any imposition of a penalty or sanction, or any remedial action directive.

1.1 Requirements of reliability standards for which noncompliance may cause bulk power system reliability to be diminished or at risk, will be identified by NERC and require reporting by the regional entity to NERC within 48 hours after the regional entity learns of the violation. Such reports shall include information regarding the nature and reliability impact of the alleged violations, the identity of the organizations involved, and the status and timetable of any compliance investigation. NERC will promptly report such violation to the applicable ERO governmental authority.

2. **Reporting Process**— NERC shall implement and maintain a reporting process and utilize appropriate tools to facilitate reporting of violations. The reporting process shall identify all of the information required to be included in a violation report. NERC will report the disposition of each violation or alleged violation to the applicable ERO governmental authority on a quarterly basis.

3. **Confidential Information**— NERC will treat all alleged violations and matters related to a compliance violation investigation, including the status of the compliance violation investigation, as confidential in accordance with Section 1500. Any entity seeking to protect information as confidential shall follow the procedures of Section 1500. This information may result from compliance violation investigations, compliance audits, and proceedings concerning an alleged violation or proposed penalty or sanction.

Information that would jeopardize bulk power system reliability, including information relating to a Cyber Security Incident will be identified and protected from public disclosure as critical energy infrastructure information in accordance with Section 1500.

3.1 The regional entity and NERC shall give bulk power system owners, operators, and users a reasonable opportunity to demonstrate that information concerning a violation is confidential before such report is disclosed to the public.

3.2 The types of information that will be considered confidential and will not (subject to statutory and regulatory requirements) be disclosed in any public information reported by NERC are identified in Section 1500.

3.14. **Reporting Updated Information**— Each regional entity and NERC shall report new information on each confirmed or alleged violation as it is received and processed.

- ~~5. **Violation Information Review**—NERC staff shall periodically review and analyze all reports of violations to identify trends, chronic violators, and other pertinent reliability issues.~~
- ~~6. **Public Posting**—When the affected bulk power system owner, operator, or user either agrees with the violation(s) or report, or the time for submitting an appeal is passed, or all appeals processes are complete, NERC shall publicly post each confirmed violation, penalty or sanction, and final compliance audit or compliance violation investigation report on its Web site.
 - ~~6.1—Each bulk power system owner, operator, or user may provide NERC with a statement to accompany the violation or report to be posted publicly. The statement must be on company letterhead and include a signature, as well as the name and title of the person submitting the information.~~
 - ~~6.2—In accordance with Section 1500, information deemed by a bulk power system owner, operator, or user, regional entity, or NERC as critical energy infrastructure information (*NERC Security Guidelines for the Electricity Sector—Protecting Potentially Sensitive Information* may be used as a guide) or other confidential information shall be redacted in accordance with Section 1500 and not be released publicly.~~
 - ~~6.3—Subject to redaction of critical energy infrastructure information or other confidential information, for each confirmed violation or settlement relating to an alleged violation, the public posting shall include the name of any relevant entity, the nature, time period, and circumstances of such violation or alleged violation, any mitigation plan to be implemented by the entity in connection with the confirmed violation or settlement, and sufficient facts to enable owners, operators and users of the bulk power system to evaluate whether they have engaged in or are engaging in similar activities.~~~~

409.408. Review of NERC Decisions

1. **Scope of Review** — A registered entity or a regional entity wishing to challenge a finding of noncompliance and the imposition of a penalty for a compliance measure directly administered by NERC, or a regional entity wishing to challenge a regional compliance program audit finding, may do so by filing a notice of the challenge with NERC’s director of compliance no later than 21 days after issuance of the notice of finding of violation or audit finding. Appeals by registered entities of decisions of regional entity hearing bodies shall be pursuant to section 409s 407.3 and 410.
2. **Contents of Notice** — The notice of challenge shall include the full text of the decision that is being challenged, a concise statement of the error or errors contained in the decision, a clear statement of the relief being sought, and argument in sufficient detail to justify such relief.

3. **Response by NERC Compliance Monitoring and Enforcement Program** — Within 21 days after receiving a copy of the notice of challenge, the NERC Director of Compliance may file with the hearing body a response to the issues raised in the notice, with a copy to the regional entity.
4. **Hearing by Compliance and Certification Committee** — The NERC Compliance and Certification Committee shall provide representatives of the regional entity or registered entity, and the NERC Compliance Monitoring and Enforcement Program an opportunity to be heard and shall decide the matter based upon the filings and presentations made, with a written explanation of its decision.
5. **Appeal** — The regional entity, or registered entity may appeal the decision of the Compliance and Certification Committee by filing a notice of appeal with NERC’s director of compliance no later than 21 days after issuance of the written decision by the Compliance and Certification Committee. The notice of appeal shall include the full text of the written decision of the Compliance and Certification Committee that is being appealed, a concise statement of the error or errors contained in the decision, a clear statement of the relief being sought, and argument in sufficient detail to justify such relief. No factual material shall be presented in the appeal that was not presented to the Compliance and Certification Committee.
6. **Response by NERC Compliance Monitoring and Enforcement Program** — Within 21 days after receiving a copy of the notice of appeal, the NERC Compliance Monitoring and Enforcement Program staff may file its response to the issues raised in the notice of appeal, with a copy to the entity filing the notice.
7. **Reply** — The entity filing the appeal may file a reply within 7 days.
8. **Decision** — The Compliance Committee of the NERC Board of Trustees shall decide the appeal, in writing, based upon the notice of appeal, the record, the response, and any reply. At its discretion, the Compliance Committee may invite representatives of the regional entity or registered entity, and the NERC Compliance Monitoring and Enforcement Program to appear before the Committee. Decisions of the Compliance Committee shall be final, except for further appeal to the applicable ERO governmental authority.
9. **Impartiality** — No member of the Compliance and Certification Committee or the Board of Trustees Compliance Committee having an actual or perceived conflict of interest in the matter may participate in any aspect of the challenge or appeal except as a party or witness.
10. **Expenses** — Each party in the challenge and appeals processes shall pay its own expenses for each step in the process.
11. **Non-Public Proceedings** — All challenges and appeals shall be closed to the public to protect confidential information.

410.409. Appeals from Final Decisions of Regional Entities

1. **Time for Appeal** — An owner, operator or user of the bulk-power system wishing to appeal from a final decision of a regional entity that finds a violation of a reliability standard or imposes a penalty for violation of a reliability standard shall file its notice of appeal with NERC’s director of compliance, with a copy to the regional entity, no later than 21 days after issuance of the final decision of the regional entity hearing body. The same appeal procedures will apply regardless of whether the matter first arose in a compliance ~~violation~~ investigation, compliance audit or self-report, [other compliance monitoring and enforcement process](#), or in a reliability readiness evaluation.
2. **Contents** — The notice of appeal shall include the full text of the final decision of the regional entity hearing body that is being appealed, a concise statement of the error or errors contained in the final decision, a clear statement of the relief being sought, and argument in sufficient detail to justify such relief. No factual material shall be presented in the appeal that was not first presented during the compliance hearing before the regional entity hearing body.
3. **Response by Regional Entity** — Within 21 days after receiving a copy of the notice of appeal, the regional entity shall file the entire record of the matter with NERC’s director of compliance, with a copy to the entity filing the notice, together with its response to the issues raised in the notice of appeal.
4. **Reply** — The entity filing the appeal may file a reply to the regional entity within 7 days.
5. **Decision** — The Compliance Committee of the NERC Board of Trustees shall decide the appeal, in writing, based upon the notice of appeal, the record of the matter from the regional entity, the response, and any reply filed with NERC. At its discretion, the Compliance Committee may invite representatives of the entity making the appeal and the regional entity to appear before the Committee. Decisions of the Compliance Committee shall be final, except for further appeal to the applicable ERO governmental authority.
6. **Expenses** — Each party in the appeals process shall pay its own expenses for each step in the process.
7. **Non-Public Proceedings** — All appeals shall be closed to the public to protect confidential information.

411.410. Hold Harmless

A condition of invoking the challenge or appeals processes under Section [408 or 409](#) ~~or 410~~ is that the entity requesting the challenge or appeal agrees that neither NERC (defined to include its members, Board of Trustees, committees, subcommittees, staff and industry [subject matter experts](#) ~~volunteers~~), any person assisting in the challenge or appeals processes, nor any company employing a person assisting in the challenge or appeals processes, shall be liable, and they shall be held harmless against the

consequences of or any action or inaction or of any agreement reached in resolution of the dispute or any failure to reach agreement as a result of the challenge or appeals proceeding. This “hold harmless” clause does not extend to matters constituting gross negligence, intentional misconduct, or a breach of confidentiality.

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

A registered entity that is subject to a requirement of a NERC critical infrastructure protection reliability standard for which technical feasibility exceptions are permitted, may request a technical feasibility exception to the requirement, and the request will be reviewed, approved or disapproved, and if approved, implemented, in accordance with the NERC *Procedure for Requesting and Receiving Technical Feasibility Exceptions to NERC Critical Infrastructure Protection Standard*, Appendix 4D to these Rules of Procedure.

SECTION 500 — ORGANIZATION REGISTRATION AND CERTIFICATION

501. Scope of the Organization Registration and Certification Program

Enforcing compliance with the NERC reliability standards requires that the identity of those responsible for complying with the standards be known and that those with primary reliability responsibilities be reviewed and certified as meeting established minimum requirements for performing those tasks. NERC shall develop and maintain a compliance registry and certification program for the purpose of promoting compliance with reliability standards and enhancing the reliability of the bulk power system.

The purpose of the compliance registry will be to clearly identify those entities that are responsible for compliance with reliability standards. Organizations listed on the registry will be responsible for knowing the content of and for complying with the NERC reliability standards. Organizations listed in the registry are not, nor do they become, members of NERC or a regional entity by virtue of being listed in the compliance registry. Membership in NERC is governed by Article II of NERC's bylaws; membership in a regional entity is governed by that entity's bylaws or rules.

Organization registration and certification may be delegated to regional entities in accordance with the procedures in this Section 500, the NERC *Organization Registration and Certification Manual*, which is incorporated into these rules as **Appendix 5A**, and approved regional entity delegation agreements or other applicable agreements.

1. **Compliance Registry** — NERC shall establish and maintain a compliance registry of the bulk power system owners, operators, and users that are subject to approved reliability standards.
 - 1.1 The registry shall set forth the identity and functions performed for each organization responsible for meeting requirements of the reliability standards ~~including: reliability coordinators, balancing authorities, transmission operators, transmission owners, generator operators, generator owners, transmission service providers, planning authorities, transmission planners, resource planners, load serving entities, purchasing selling entities, and distribution providers~~. Bulk power system owners, operators, and users (i) shall provide to NERC and the applicable regional entity such information as is necessary to complete the registration, and (ii) shall provide NERC and the applicable regional entity with timely updates to information concerning the registered entity's ownership, operations, contact information, and other information that may affect the registered entity's registration status or other information recorded in the compliance registry.
 - 1.2 NERC and regional entities assisting NERC in the development of the compliance registry shall ~~consider the following factors in determining~~ which organizations should be placed in the registry based on the criteria

provided in the NERC *Statement of Compliance Registry Criteria*, which is incorporated into these rules as **Appendix 5B**.

~~1.2.1 Owners and operators of bulk power system facilities will generally be included in the registry;~~

~~1.2.2 As identified by regional entities, electrical generation resources, transmission lines, interconnections with neighboring systems, and associated equipment, generally operated at voltages of 100 kV or higher will be considered part of the bulk power system;~~

~~1.2.3 Radial transmission facilities serving only load with one transmission source, without more, will not be considered part of the bulk power system;~~

~~1.2.4 A customer that receives electric service at retail and does not otherwise directly receive, sell, purchase, or transmit power over the bulk power system or own, operate, maintain, or control facilities or systems that are part of the bulk power system will not in general be considered a user of the bulk power system;~~

~~1.2.5 An entity directly connected to the bulk power system selling, purchasing, or transmitting electric energy over the bulk power system will generally be considered a user of the bulk power system, unless the entity's actions or facilities have no material impact on the bulk power system;~~

~~1.2.6 Notwithstanding the other considerations in this Section 1.2, if the consequences of an entity's actions or inactions could have a material impact on the bulk power system, that entity may be considered a user of the bulk power system;~~

1.2.7 In addition, (a) A generation or transmission cooperative, a joint-action agency or another organization (a Joint Registration Organization or JRO) may be registered, in lieu of each of the JRO's members or related entities being registering individually, by the JRO accepting the reliability functions identified in Section 1.1 above, or (b) a JRO and its members or related entities may enter into a written agreement as to which of them will be responsible for one or more reliability standards applicable to a particular function and/or for one or more requirements within particular reliability standards applicable to a particular function and/or for one or more requirements within particular reliability standards, in either case in accordance with the provisions specified in Section 507 (each of (a) and (b), a "joint registration").

For purpose of this Section 501.1.2.7 and Section 507, a "related entity" is an entity whose operations in relation to the operation of the JRO make it feasible for the JRO to accept responsibility for

reliability functions for which the related entity would otherwise be responsible. A non-exclusive list of examples of JROs and related entities includes (i) a balancing authority or a transmission provider as the JRO, and (ii) a load-serving entity or a distribution provider within the balancing authority's control area or receiving transmission services from the transmission provider, as the related entity.

- 1.3 NERC and the regional entities shall use the following procedure for establishing and maintaining the compliance registry:
 - 1.3.1 NERC shall notify each organization of its intent to place the organization on the compliance registry.
 - 1.3.2 Any organization receiving such a notice may challenge the decision to include it on the compliance registry by filing its written objection with NERC's director of compliance within 21 days stating the reasons it believes it should not be considered a bulk power system owner, operator, or user.
 - 1.3.3 The Compliance Committee of the Board of Trustees will promptly issue a written decision on the challenge, including the reasons for the decision.
 - 1.3.4 The decision of the Compliance Committee shall be final unless, within 21 days, the organization appeals the decision to the applicable governmental authority.
 - 1.3.5 At any time a person may recommend in writing, with supporting reasons, to the director of compliance that an organization be added to or removed from the compliance registry.
 - 1.3.6 The compliance registry shall be dynamic and be revised as necessary to take account of changing circumstances. NERC will take such recommendations, and other applicable information, under advisement as it determines whether an entity should be on the compliance registry.
 - 1.3.7 Each entity identified in the registry shall notify NERC and its corresponding regional entity of any changes in ownership, corporate structure, or similar matters that affect the entity's responsibilities with respect to the reliability standards. Failure to notify will not relieve the entity from any responsibility to comply with the reliability standards or shield it from any penalties or sanctions associated with failing to comply with such standards.
- 1.4 For all geographical or electrical areas of the bulk power system, the registration process shall ensure that (1) no areas are lacking any entities

to perform the duties and tasks identified in and required by the reliability standards to the fullest extent practical, and (2) there is no duplication of such coverage or of required oversight of such coverage.

In particular the process shall:

- 1.4.1 Ensure that all areas are under the oversight of one and only one reliability coordinator.
- 1.4.2 Ensure that all balancing authorities and transmission operator entities² are under the responsibility of one and only one reliability coordinator.
- 1.4.3 Ensure that all transmission elements of the bulk power system are the responsibility and under the control of one and only one transmission planner, planning authority, and transmission operator.
- 1.4.4 Ensure that all loads and generators are under the responsibility and control of one and only one balancing authority.
- 1.5 NERC shall maintain publicly available process documentation.
- 1.6 NERC shall maintain the compliance registry of organizations responsible for meeting the requirements of the reliability standards currently in effect on its Web site and shall update the compliance registry monthly.
2. **Entity Certification** — NERC shall provide for certification of all entities with primary reliability responsibilities requiring certification as established in the NERC reliability standards. The NERC program shall:
 - 2.1 Evaluate and certify the competency of entities performing reliability functions. The entities presently expected to be certified include reliability coordinators, transmission operators, and balancing authorities. Other entities may be added, as required, by approved reliability standards.
 - 2.2 Certify each entity's ability to meet the minimum requirements established by the NERC reliability standards for each function.
 - 2.3 Maintain process documentation.

² Some organizations perform the listed functions (e.g., balancing authority, transmission operator) over areas that transcend the footprints of more than one reliability coordinator. Such organizations will have multiple registrations, with each such registration corresponding to that portion of the organization's overall area that is within the footprint of a particular reliability coordinator.

2.4 Maintain records of currently certified entities.

3. Delegation and Oversight

3.1 NERC may delegate ~~the~~ responsibilities ~~offor~~ registration and certification to regional entities in accordance with requirements established by NERC. Delegation will be via the delegation agreement between NERC and the regional entity or other applicable agreement. The regional entity shall administer an organization registration and certification program in accordance with such delegation to meet NERC's program goals and requirements.

3.2 NERC shall develop and maintain a plan to ensure the continuity of organization registration and certification within the geographic or electrical boundaries of a regional entity in the event that no entity is certified as a regional entity for that region, or the regional entity withdraws as a regional entity, or does not operate its organization registration and certification program in accordance with delegation agreements and other requirements.

3.3 NERC shall develop and maintain a program to monitor and oversee each regional entity registration and certification program that is delegated authority through a delegation agreement or other applicable agreement.

3.3.1 This program shall monitor whether the regional entity carries out its organization registration and certification responsibilities program in accordance with NERC requirements, and whether there is consistency, fairness of administration, and comparability of outcomes within each regional entity's certification and registration program and among all of the programs.

3.3.2 Monitoring and oversight shall be accomplished through direct participation in certification audits and periodic reviews of program documents and records.

502. ERO Organization Registration and Certification Program Requirements

1. NERC shall have final authority in all matters constituting the organization registration and certification program.

1.1 The roles and authority of regional entities in the program are delegated from NERC pursuant to the rules of procedure through regional delegation agreements or other applicable agreements.

- 1.2 Processes for the program shall be owned by NERC; materials that each regional entity may use to participate in the program may be adapted by that organization subject to prior review and approval by NERC.
 - 1.3 Regional entities participating in the program shall perform their roles and responsibilities to meet NERC's requirements, as specified in the [delegation agreement, the](#) rules of procedure or NERC approved materials, including requirements for quality, thoroughness, timeliness, accuracy, efficiency, cost-effectiveness, and participation.
 - 1.4 Regional entity's decisions to grant or deny certifications shall be subject to NERC review and action, including modification or reversal.
 - 1.5 Regional entity's decisions with respect to the use of the transitional certification processes, as now provided for within the NERC *Organization Registration and Certification Manual (Appendix 5A)*, are subject to NERC review and action, including modification or reversal, should NERC deem such review or action warranted.
 - 1.6 Notwithstanding an entity's interest and right to object to the makeup of the certification team that will conduct the review of that entity, NERC, or the regional entity as authorized by NERC, will have final authority on the membership and member roles of that team.
 - 1.7 NERC, or the regional entity as authorized by NERC, shall make all assessments and decisions with respect to all aspects of the organization registration and certification program, including the completeness and accuracy of entities' applications.
2. To ensure consistency and fairness of the program, NERC shall develop procedures to be used by all regional entities in carrying out their organization registration and certification [programsresponsibilities](#), in accordance with the following criteria:
 - 2.1 NERC and the regional entities shall have data management processes and procedures that provide for integrity and retention of data and information collected.
 - 2.2 To maintain the integrity of the NERC Organization Registration and Certification Program, NERC, regional entities, certification audit team members, and committee members shall maintain the confidentiality of information provided by entities in order to become registered or certified.
 - 2.2.1 NERC and the regional entities shall have appropriate codes of conduct and confidentiality agreements for staff and other certification audit participants. Individuals not bound by ERO or approved regional entity codes of conduct and who serve on certification-related committees or audit teams shall sign an ERO

- confidentiality agreement prior to participating on the committee or team.
- 2.2.2 Staff, committee, and audit team members shall maintain the confidentiality of any certification-related discussions or documents that are designated as confidential (see Section 1500 for types of confidential information). Staff, committee, and audit team members shall treat as confidential the individual comments expressed during audits and report-drafting sessions.
- 2.2.3 Copies of notes, draft reports, and other interim documents developed or used during a certification audit shall be destroyed after the public posting of a final, uncontested report.
- 2.2.4 Information deemed by an entity, a regional entity, or NERC as confidential or critical energy infrastructure information shall not be distributed outside of a committee or team, or released publicly.
- 2.2.5 In the event that a staff, committee, or audit team member violates any of the confidentiality rules set forth above, the staff, committee, or audit team member and any member organization with which the individual is associated may be subject to immediate dismissal from the audit team and may be prohibited from future participation in compliance program activities by the regional entity or NERC.
- 2.2.6 NERC shall develop and provide training in auditing skills to all individuals who participate in certification audits. Training for ERO and regional entity personnel, as well as audit team leaders, shall be more comprehensive than training given to industry ~~subject matter~~ experts, ~~and~~ regional entity members, ~~and~~ ~~volunteers~~. Training for regional entity members ~~and~~ ~~volunteers~~ may be delegated to the regional entity.
- 2.3 An entity that is determined to be competent to perform a function after completing all certification requirements shall be deemed certified by NERC to perform that function.
- 2.3.1 An entity deemed certified by NERC to perform a function shall be considered and may be referred to, for example, as a certified transmission operator, certified balancing authority, or certified reliability coordinator. Only entities that have received such certifications from NERC shall be so designated.
- 2.3.2 NERC shall award certification to an entity only after it has demonstrated full competency to all certification requirements. An entity shall be awarded certification only for each function for which it has demonstrated full competency

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

1. **Delegation** — Recognizing the regional entity’s knowledge of and experience with their members, NERC may delegate responsibility for organization registration and certification to the regional entity through a delegation agreement or such responsibilities may be established through another applicable agreement.
2. **Registration** — The following organization registration activities shall be performed by the regional entity in accordance with the NERC *Organization Registration and Certification Procedures*, which are incorporated into the Rules of Procedure as **Appendix 5A**.

~~2.1 Entities seeking registration shall contact the regional entity in which they operate to become registered and, if necessary, certified.~~

~~2.22.1~~ Regional entities shall verify that all balancing authorities and transmission operators are under the responsibility of one and only one reliability coordinator.

~~2.32.2~~ Regional entities shall verify that all transmission elements of the bulk power system operated within their geographic boundaries are under the authority and control of one and only one transmission planner, planning authority, transmission owner, and transmission operator.

~~2.42.3~~ Regional entities shall verify that all loads and generation sources within their geographic boundaries are under the authority and control of one and only one balancing authority.

~~2.52.4~~ Regional entities shall verify that no geographical or electrical areas of the bulk power system within their boundaries have duplication of coverage or are lacking an entity to perform required duties and tasks as identified in the reliability standards.

3. **Certification** — The following organization certification activities shall be performed by the regional entity in accordance with an approved ERO delegation agreement or another applicable agreement:
 - 3.1 Entities seeking certification to perform one of the functions requiring certification shall contact the regional entity for the region(s) in which they operate to apply for certification. NERC shall have oversight of the regional entity’s certification activities and processes.
 - 3.2 Entities seeking certification and other affected operators shall provide all information and data requested by NERC or the regional entity to conduct the certification process, in accordance with 18 C.F.R. Section 39.2 in the United States.

- 3.3 Regional entities shall contact entities directly and provide notice of the requirement to be certified by NERC and initiate the process to certify any entities that do not voluntarily contact the regional entity or NERC.
- 3.4 Regional entities shall notify NERC of all certification applicants, including those not voluntarily seeking certification.
- 3.5 The regional entity shall establish certification procedures to include audit processes, schedules and deadlines, expectations of the applicants and all entities participating in the audit and certification processes, and requirements for certification auditors.
 - 3.5.1 The regional entity certification procedures will include provisions for on-site visits to the applicant's facilities to review the data collected through questionnaires, interviewing the operations and management personnel, inspecting the facilities and equipment (and requesting a demonstration of all tools identified in the certification standard), reviewing all necessary documents and data (including all agreements, processes, and procedures identified in the certification standard), reviewing certification documents and projected system operator work schedules, and reviewing any additional documentation that is needed to support the completed questionnaire or inquiries arising during the site visit.
 - 3.5.2 All industry experts and regional members participating in certification audits shall successfully complete appropriate training provided by NERC or the regional entity prior to performing an audit.
 - 3.5.3 The regional entity certification procedures will provide for preparation of a written report by the audit team detailing any deficiencies that must be resolved prior to certification along with any other recommendations for consideration by the entity, the regional entity, or NERC.
 - 3.5.4 The regional entity shall evaluate the competency of entities requiring certification to meet the minimum requirements established by the standards for each such function based on the requirements established by NERC.

504. Appeals

- 1. NERC shall maintain an appeals process to resolve any disputes related to registration or certification activities (*Organization Registration and Certification Manual* — **Appendix 5A**).
- 2. Each regional entity with delegated responsibilities [for certification](#) shall establish and maintain a fair, independent, and nondiscriminatory appeals process. The

regional entity appeals process shall culminate with the regional board or a committee established by and reporting to the board as the final adjudicator, provided that: ~~(1) in ERCOT, the Public Utility Commission of Texas may act as the final adjudicator, and (2)~~ where applicable, Canadian provincial governmental authorities may act as the final adjudicator in their jurisdictions. NERC shall be notified of all appeals and may observe any proceedings.

505. Program Maintenance

NERC shall maintain its program materials, including such manuals or other documents as it deems necessary, of the governing policies and procedures of the organization registration and certification program.

506. Independent Audit of NERC Organization Certification Program

1. NERC shall provide for an independent audit of its organization certification program at least once every three years, or more frequently, as determined by the board. The audit shall be conducted by independent expert auditors as selected by the board.
2. The audit shall evaluate the success and effectiveness of the NERC organization certification program in achieving its mission.
3. The final report shall be posted by NERC for public viewing ~~according to the reporting and disclosure process in Section 408.~~
4. If the audit report includes recommendations to improve the program, the administrators of the program shall provide a written response and plan to the board within 30 days of the final report.

507. Provisions Relating to Joint Registrations and Joint Registration Organizations

1. **Registration by a JRO.** In addition to registering as the entity responsible for all functions that a JRO performs itself, a JRO may register on behalf of one or more of its members or related entities for one or more functions as to which such members or related entities would otherwise be required to register, and thereby accept on behalf of such members or related entities all compliance responsibility, including reporting requirements, for all requirements of reliability standards applicable to the function or functions for which the JRO has registered on behalf of its members or related entities. Any entity seeking to register as a JRO for any or all requirements identified in the reliability standards that would otherwise be the responsibility of one or more of its members or related entities shall provide to the applicable regional entity information, in the form requested by the regional entity, sufficient to identify whether the entity or its member(s) or related entities will be responsible for compliance with each provision of the reliability standards for the applicable functional responsibilities covered by the joint registration. The JRO must identify its primary compliance contact. The JRO primary compliance contact is responsible for providing all of the information and data, including submitting reports, as needed by the regional entity for performing assessments of compliance.

- 2. Joint registration pursuant to written agreement.** Where a JRO and any of its members or related entities agree, in writing, upon a division of compliance responsibility among them for one or more reliability standard(s) applicable to a particular function, and/or for one or more requirements within particular reliability standard(s), both the JRO and such member(s) or related entit(ies) shall register as an organization responsible for that function. The JRO and its member(s) or related entit(ies) must have a written agreement that clearly specifies their respective responsibilities, which shall be submitted as part of the joint registration. Neither NERC nor the regional entity shall be parties to any such agreement between a JRO and its member or related entit(ies), nor shall NERC or the regional entity have responsibility for reviewing or approving any such agreement, other than to verify that the agreement provides for an allocation or assignment of responsibilities consistent with the joint registration.
- 3.** NERC or the regional entity may request clarification of any list submitted to it that identifies the compliance responsibilities of the JRO and its member(s) or related entit(ies), and may request such additional information as NERC or the regional entity deems appropriate.
- 4.** The regional entity shall notify NERC of each joint registration that the regional entity accepts. The regional entity's acceptance of a joint registration shall be a representation by the regional entity to NERC that the regional entity has concluded the joint registration will result in (1) no areas lacking any entities to perform the duties and tasks identified in and required by the reliability standards, and (2) no unnecessary duplication of such coverage of areas by entities to perform the duties and task identified in and required by the reliability standards or of required oversight of such coverage.
- 5.** NERC shall maintain, and shall post on its web site, a Joint Registration Organization registry listing all joint registrations that have been accepted by NERC or by a regional entity and the reliability standards or requirements thereof for which each JRO and each of its members or related entities is responsible under the joint registration. The postings on NERC's web site shall clearly identify the compliance responsibilities of the JRO and of each of its member(s) or related entit(ies). Such postings are intended to enable reliability coordinators and other system operators to be fully aware of responsibilities and chains of command in order to respond quickly and decisively to system operation events.
- 6.** Annually following submission of a joint registration, the JRO shall provide the regional entity with a list, in a form specified by the regional entity, that identifies the members or related entities and the functions for which the JRO has registered on behalf of such members or related entities and for which the JRO assumes compliance responsibility. Additionally, a JRO shall provide a revised list of compliance responsibilities to the regional entity each time the JRO accepts additional compliance responsibilities for a member or related entity or for a new member or related entity and each time that any compliance reliability reverts

from the JRO to a member or related entity. The regional entity shall promptly notify NERC of each such revision.

7. In the event of a violation of a reliability standard or of a requirement of a reliability standard, the JRO or its member or related entity identified in the Joint Registration Organization registry as responsible for such reliability standard or requirement shall be identified in the notices of [possible violation](#), alleged violation [and confirmed violation](#) and shall be assessed the sanction or penalty for the violation. In accordance with the NERC *Sanctions Guidelines*, for a violation that is attributable to a member or related entity that is registered under the joint registration, the penalty or sanction imposed for the violation will bear reasonable relation to the violation as incurred by that member or related entity and not the JRO. In the event a regional entity is not able to determine, based on the joint registration and the annual or other revised list submitted by the JRO, which entity is responsible for a particular reliability standard or requirement thereof that has been violated, the regional entity shall issue the notices of [possible violation](#), alleged violation [and confirmed violation](#) to, and shall impose any sanction or penalty on, the JRO. NERC and the regional entity shall have no responsibility for any allocation or collection of penalties or sanctions between or among the JRO and its member(s) or related entity(ies).

8. **Individual member registration.** Nothing in this Section 507 shall preclude a member of a JRO, a related entity, or any other entity, from registering on its own behalf and undertaking full compliance responsibility, including reporting requirements, for the reliability standards applicable to the function(s) for which the member or other entity is registering. A JRO member or related entity that registers as responsible for any reliability standard or requirement of a reliability standards shall inform the JRO of its registration.

SECTION 600 — PERSONNEL CERTIFICATION

601. Scope of Personnel Certification

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

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

602. Structure of ERO Personnel Certification Program

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

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

603. Candidate Testing Mechanisms

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

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

604. Public Information About the Personnel Certification Program

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

605. Responsibilities to Applicants for Certification or Recertification

The personnel certification program:

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

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

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

The personnel certification program:

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

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

701 Confidentiality Requirements for Readiness Evaluations and Evaluation Team Members

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

702. Formation of Sector Forum

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

SECTION 800 — RELIABILITY ASSESSMENT AND PERFORMANCE ANALYSIS

801. Objectives of the Reliability Assessment and Performance Analysis Program

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

802. Scope of the Reliability Assessment Program

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

803. Reliability Assessment Reports

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

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

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

804. Reliability Assessment Data and Information Requirements

To carry out the reviews and assessments of the overall reliability of the interconnected bulk power systems, the regional entities and other entities shall provide sufficient data and other information requested by NERC in support of the annual long-term and seasonal assessments and any special reliability assessments.

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

While the major sources of data and information for this program are the regional entities, a team of reliability and technical experts is responsible for developing and formulating its own independent conclusions about the near-term and long-term reliability of the bulk power systems.

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

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

In general, the regional reliability self-assessments shall address, among other areas, the following topics: demand and net energy for load; assessment of projected resource adequacy; any transmission constraints that may impact bulk transmission adequacy and plans to alleviate those constraints; any unusual operating conditions that could impact reliability for the assessment period; fuel supply adequacy; the deliverability of generation (both internal and external) to load; and any other reliability issues in the region and their potential impacts on the reliability of the bulk power systems.

805. Reliability Assessment Process

Based on their expertise, the review of the collected data, the review of the regional self-assessment reports, and interviews with the regional entities, as appropriate, the teams of reliability and technical experts shall perform an independent review and assessment of the generation and transmission adequacy of each region's existing and planned bulk power system. The results of the review teams shall form the basis of NERC's long-term and seasonal reliability assessment reports. The review and assessment process is briefly summarized below.

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

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

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

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

In addition to providing long-term and seasonal assessments in connection with the reliability assessment program, the review team of experts shall also be responsible for recommending new and revised reliability standards related to the reliability assessments and the reliability of the bulk power systems. These proposals for new or revised standards shall be entered into NERC's Standards Development Process.

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

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

806. Scope of the Reliability Performance and Analysis Program

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

807. Analysis of Major Events

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

- a. NERC's role following a blackout or other major bulk power system disturbance or emergency is to provide leadership, coordination, technical expertise, and assistance to the industry in responding to the event. Working closely with the regional entities and reliability coordinators, NERC will coordinate and facilitate efforts among industry participants, and with state, federal, and provincial governments in the United States and Canada to support the industry's response.
- b. When responding to any event where physical or cyber security is suspected as a cause or contributing factor to an event, NERC will immediately notify appropriate government agencies and coordinate its activities with them.

c. Each user, owner, and operator of the bulk power system shall provide NERC and the applicable regional entities with such information as is necessary to enable NERC and the applicable regional entities to carry out their responsibilities under this section.

e.d. During the conduct of some NERC analyses, assistance may be needed from government agencies. This assistance could include: authority to require data reporting from affected or involved parties; communications with other agencies of government; investigations related to possible criminal or terrorist involvement in the event; resources for initial data gathering immediately after the event; authority to call meetings of affected or involved parties; and technical and analytical resources for studies.

d.e. NERC shall work with other participants to establish a clear delineation of roles, responsibilities, and coordination requirements among industry and government for the investigation and reporting of findings, conclusions, and recommendations related to major blackouts, disturbances, or other emergencies affecting the bulk power system with the objective of avoiding, to the extent possible, multiple investigations of the same event. If the event is confined to a single regional

entity, NERC representatives will participate as members of the regional entity analysis team.

e.f. NERC and applicable entity(s) shall apply the NERC *Blackout and Disturbance Response Procedures*, which are incorporated into these rules as **Appendix 8**. These procedures provide a framework to guide NERC's response to events that may have multiregional, national, or international implications. Experienced industry leadership shall be applied to tailor the response to the specific circumstances of the event. In accordance with that procedure, the NERC president will determine whether the event warrants analysis at the NERC-level. A regional entity may request that NERC elevate any analysis to a NERC level.

f.g. NERC will screen and analyze the findings and recommendations from the analysis, and those with generic applicability will be disseminated to the industry in accordance with section 810.

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

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

809. Reliability Benchmarking

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

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

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

bulk power system and the success of such actions taken in correcting any vulnerability or deficiency that was the subject of the notification, with appropriate protection for confidential or critical infrastructure information.

811. Equipment Performance Data

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

SECTION 900 — TRAINING AND EDUCATION

901. Scope of the Training and Education Program

Maintaining the reliability of the bulk electric system through implementation of the Reliability Standards requires informed and trained personnel. The training and education program will provide the education and training necessary for bulk power system personnel and regulators to obtain the essential knowledge necessary to understand and operate the bulk electric system.

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

NERC shall also develop and provide appropriate training and education for industry participants and regulators affected by new or changed reliability standards or compliance requirements.

To accomplish those objectives:

1. NERC shall periodically conduct job task analyses for targeted bulk power system personnel to ensure that the training program content is properly aligned to the job tasks performed by those personnel.
2. NERC shall develop and maintain personnel training program curriculum requirements based on valid job-task analysis.
3. NERC shall periodically conduct performance surveys to determine the effectiveness of the training program and identify areas for further training development and improvement.
4. NERC shall develop training and education materials and activities to assist bulk power system entities implementing new or revised reliability standard requirements or other NERC-related changes.
5. NERC shall develop and provide training to people who participate in NERC and regional entity evaluations, audits, and investigations for the compliance enforcement program, organization certification program, and the continuing education program.

902. Continuing Education Program

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

implemented by bulk power system entities. The program shall approve or accredit those activities and entities meeting NERC continuing education requirements.

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

SECTION 1000 — SITUATION AWARENESS AND INFRASTRUCTURE SECURITY

1001. Situation Awareness

NERC shall through the use of reliability coordinators and available tools, monitor present conditions on the bulk power system and provide leadership coordination, technical expertise, and assistance to the industry in responding to events as necessary. To accomplish these goals, NERC will:

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

1002. Reliability Support Services

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

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

1003. Infrastructure Security Program

NERC shall coordinate electric industry activities to promote critical infrastructure protection of the bulk power system in North America by taking a leadership role in critical infrastructure protection of the electricity sector so as to reduce vulnerability and

improve mitigation and protection of the electricity sector's critical infrastructure. To accomplish these goals, NERC shall perform the following functions.

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

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

SECTION 1100 — ANNUAL NERC BUSINESS PLANS AND BUDGETS

1101. Scope of Business Plans and Budgets

The board shall determine the content of the budgets to be submitted to the applicable ERO governmental authorities with consultation from the members of the Members Representatives Committee, regional entities, and others in accordance with the bylaws. The board shall identify any activities outside the scope of NERC's statutory reliability functions, if any, and the appropriate funding mechanisms for those activities.

1102. NERC Funding and Cost Allocation

1. In order that NERC's costs shall be fairly allocated among interconnections and among regional entities, the NERC funding mechanism for all statutory functions shall be based on net energy for load (NEL).
2. NERC's costs shall be allocated so that all load (or, in the case of costs for an interconnection or regional entity, all load within that interconnection or regional entity) bears an equitable share of such costs based on NEL.
3. Costs shall be equitably allocated between countries or regional entities thereof for which NERC has been designated or recognized as the electric reliability authority.
4. Costs incurred to accomplish the statutory functions for one interconnection, regional entity, or group of entities will be directly assigned to that interconnection, regional entity, or group of entities provided that such costs are allocated equitably to end-users based on net energy for load.

1103. NERC Budget Development

1. The NERC annual budget process ~~shall be scheduled and conducted~~~~shall be initiated in March of for~~ each calendar year ~~so as to thereby~~ allowing a sufficient amount of time for NERC to receive member inputs, develop the budget, and receive board and, where authorized by applicable legislation or agreement, ERO governmental authority approval of the NERC budget for the following fiscal year, including timely submission of the proposed budget to FERC for approval in accordance with FERC regulations.
2. The NERC budget submittal to ERO governmental authorities shall include provisions for all ERO functions, all regional entity delegated functions as specified in delegation agreements and reasonable reserves and contingencies.
3. The NERC annual budget submittal to ERO governmental authorities shall include description and explanation of NERC's proposed ERO program activities for the year; the following information: (1) budget component justification based on statutory or other authorities; (2) explanation of how each the budgeted activity

lends itself to the accomplishment of the statutory or other authorities; sufficiency of resources provided for in the budget to carry out the ERO program responsibilities; explanation of the (3) methods of calculations and budget estimates; identification and explanation of changes in budget components from the previous year's budget; information on staffing and organization charts; and such other information as is required by FERC and other ERO governmental authorities having authority to approve the proposed budget (4) who prioritizes competing needs; (5) how the budget meets the objectives of affordability, sustainability, and efficiency and effectiveness of expenditures; (6) implementation to meet international standards; (7) transparency; and (8) accountability and execution in accordance with operating plan, performance measures, and shifting priorities.

4. NERC shall develop, in consultation with the regional entities, a reasonable and consistent system of accounts, to allow a meaningful comparison of actual results at the NERC and regional entity level by the applicable ERO governmental authorities.

1104. Submittal of Regional Entity Budgets to NERC

1. Each regional entity shall submit its proposed annual budget for carrying out its delegated authority functions as well as all other activities and funding to NERC in accordance with a schedule developed by NERC and the regional entities, which shall provide for the regional entity to submit its final budget that has been approved by its board of directors or other governing body no later than June 4July 1 of the prior year, in order to provide sufficient time for NERC's review and comment on the proposed budget and approval of the regional entity budget by the NERC Board of Trustees in time for the NERC and regional budgets to be submitted to FERC and other ERO governmental authorities for approval in accordance with their regulations. The regional entity's budget shall include, together with supporting materials in accordance with the budget and reporting format developed by NERC and the regional entities, including the regional entity's complete business plan and organization chart, explaining the proposed collection of all dues, fees, and charges and the proposed expenditure of funds collected in sufficient detail to justify the requested funding collection and budget expenditures.
2. NERC shall review and approve each regional entity's budget for meeting the requirements of its delegated authority. Concurrent with approving the NERC budget, NERC shall review and approve, or reject, each regional entity budget for filing.

~~3. NERC shall also have the right to review from time to time, in reasonable intervals but no less frequently than every three years, the financial books and records of each regional entity having delegated authority in order to ensure that the documentation fairly represents in all material respects appropriate funding of delegated functions.~~

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

1. NERC shall file for approval by the applicable ERO governmental authorities at least 130 days in advance of the start of each fiscal year. The filing shall include: (1) the complete NERC and regional entity budgets including the business plans and organizational charts approved by the board, (2) NERC's annual funding requirement (including regional entity costs for delegated functions), ~~(3) the previous year's audited financial statements~~, and (4) the mechanism for assessing charges to recover that annual funding requirement, together with supporting materials in sufficient detail to support the requested funding requirement.
2. NERC shall seek approval from each governmental authority requiring such approval for the funding requirements necessary to perform ERO activities within their jurisdictions.

1106. NERC and Regional Entity Billing and Collections

1. NERC shall request the regional entities to identify all load-serving entities³ within each regional entity and the NEL assigned to each load-serving entity, and the regional entities shall supply the requested information. The assignment of a funding requirement to an entity shall not be the basis for determining that the entity must be registered in the compliance registry.
2. NERC shall accumulate the NEL by load-serving entities for each ERO governmental authority and submit the proportional share of NERC funding requirements to each ERO governmental authority for approval together with supporting materials in sufficient detail to support the requested funding requirement.
3. NEL reported by balancing authorities within a region shall be used to rationalize and validate amounts allocated for collection through regional entity processes.
4. The billing and collection processes shall provide:
 - 4.1 A clear validation of billing and application of payments.
 - 4.2 A minimum of data requests to those being billed.
 - 4.3 Adequate controls to ensure integrity in the billing determinants including identification of entities responsible for funding NERC's activities.
 - 4.4 Consistent billing and collection terms.
5. NERC will bill and collect all budget requirements approved by applicable ERO governmental authorities (including the funds required to support those functions

³ A regional entity ~~shall~~ may allocate funding obligations using an ~~NERC approved~~ alternative method approved by NERC and by FERC and other appropriate ERO governmental authorities, as ~~stated~~ provided for in the regional delegation agreement.

assigned to the regional entities through the delegation agreements) directly from the load-serving entities or their designees or as directed by particular ERO governmental authorities, except where the regional entity is required to collect the budget requirements for NERC, in which case the regional entity will collect directly from the load-serving entities or as otherwise provided by agreement and submit funds to NERC. Alternatively, a load-serving entity may pay its allocated ERO costs through a regional entity managed collection mechanism.

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

1107. Penalty Applications

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

3. In the event that a ~~n investigation is performed~~ compliance monitoring and enforcement process is conducted jointly by NERC and a regional entity, the regional entity shall receive the penalty monies and offset the entity's budget requirements for the subsequent fiscal year.
4. Exceptions or alternatives to the ~~foregoing provisions~~ policy due to statutory or regulatory restrictions will be ~~considered on a case by case basis~~ allowed if approved by NERC and by FERC any other applicable ERO governmental authority.

1108. Special Assessments

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

SECTION 1200 — REGIONAL DELEGATION AGREEMENTS

1201. Pro Forma Regional Delegation Agreement

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

1202. Regional Entity Essential Requirements

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

1203. Negotiation of Regional Delegation Agreements

NERC shall, for all areas of North America that have provided NERC with the appropriate authority, negotiate regional delegation agreements for the purpose of ensuring all areas of the North American bulk power systems are within a regional entity area. In the event NERC is unable to reach agreement with regional entities for all areas, NERC shall provide alternative means and resources for implementing NERC functions within those areas. No delegation agreement shall take effect until it has been approved by the appropriate ERO governmental authority.

1204. Conformance to Rules and Terms of Regional Delegation Agreements

NERC and each regional entity shall comply with all applicable ERO rules of procedure and the obligations stated in the regional delegation agreement.

1205. Sub-delegation

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

1206. Nonconformance to Rules or Terms of Regional Delegation Agreement

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

1207. Regional Entity Audits

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

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

1. A registered entity that is registered in the region of one regional entity and believes its registration should be transferred to a different regional entity may submit a written request to both regional entities requesting that they process the proposed transfer in accordance with this section. The registered entity's written request shall set forth the reasons the registered entity believes justify the proposed transfer and shall describe any impacts of the proposed transfer on other bulk power system owners, operators, and users.
2. After receiving the registered entity's written request, the two regional entities shall consult with each other as to whether they agree or disagree that the requested transfer is appropriate. The regional entities may also consult with affected reliability coordinators, balancing authorities and transmission operators as appropriate. Each regional entity shall post the request on its web site for public comment period of 21 days. In evaluating the proposed transfer, the regional entities shall consider the location of the registered entity's bulk power system facilities in relation to the geographic and electrical boundaries of the respective regions; the impacts of the proposed transfer on other bulk power system owners, operators; and users, the impacts of the proposed transfer on the current and future staffing, resources, budgets and assessments to other load-serving entities of each regional entity, including the sufficiency of the proposed transferee regional entity's staffing and resources to perform compliance monitoring and enforcement activities with respect to the registered entity; the registered entity's compliance history with its current regional entity; and the manner in which pending compliance monitoring and enforcement matters concerning the registered entity would be transitioned from the current regional entity to the transferee regional entity; along with any other reasons for the proposed transfer stated by the registered entity and any other reasons either regional entity considers relevant. The regional entities may request that the registered entity provide additional data and information concerning the proposed transfer for the regional entities' use in their evaluation. The registered entity's current regional entity shall notify the registered entity in writing as to whether (i) the two regional entities agree that the requested transfer is appropriate, (ii) the

two regional entities agree that the requested transfer is not appropriate and should not be processed further, or (iii) the two regional entities disagree as to whether the proposed transfer is appropriate.

3. If the two regional entities agree that the requested transfer is appropriate, they shall submit a joint written request to NERC requesting that the proposed transfer be approved and that the delegation agreement between NERC and each of the regional entities be amended accordingly. The regional entities' joint written submission to NERC shall describe the reasons for the proposed transfer; the location of the registered entity's bulk power system facilities in relation to the geographic and electrical boundaries of the respective regions; the impacts of the proposed transfer on other bulk power system owners, operators, and users; the impacts of the proposed transfer on the current and future staffing, resources, budgets and assessments of each regional entity, including the sufficiency of the proposed transferee regional entity's staffing and resources to perform compliance monitoring and enforcement activities with respect to the registered entity; the registered entity's compliance history with its current registered entity; and the manner in which pending compliance monitoring and enforcement matters concerning the registered entity will be transitioned from the current regional entity to the transferee regional entity. The NERC Board of Trustees shall consider the proposed transfer based on the submissions of the regional entities and any other information the board considers relevant, and shall approve or disapprove the proposed transfer and the related delegation agreement amendments. The NERC board may request that the regional entities provide additional information, or obtain additional information from the registered entity, for the use of the NERC board in making its decision. If the NERC board approves the proposed transfer, NERC shall file the related delegation agreements with FERC for approval.

4. If the two regional entities do not agree with each other that the proposed transfer is appropriate, the regional entity supporting the proposed transfer shall, if requested by the registered entity, submit a written request to NERC to approve the transfer and the related delegation agreement amendments. The regional entity's written request shall include the information specified in section 1208.3. The regional entity that does not believe the proposed transfer is appropriate will be allowed to submit a written statement to NERC explaining why the regional entity believes the transfer is not appropriate and should not be approved. The NERC Board of Trustees shall consider the proposed transfer based on the submissions of the regional entities and any other information the board considers relevant, and shall approve or disapprove the proposed transfer and the related delegation agreement amendments. The NERC board may request that the regional entities provide additional information, or obtain additional information from the registered entity, for the use of the NERC board in making its decision. If the NERC board approves the proposed transfer, NERC shall file the related delegation agreements with FERC for approval.

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

SECTION 1300 — COMMITTEES

1301. Establishing Standing Committees

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

1302. Committee Membership

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

1303. Procedures for Appointing Committee Members

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

1304. Procedures for Conduct of Committee Business

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

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

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

1305. Committee Subgroups

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

SECTION 1400 — AMENDMENTS TO THE NERC RULES OF PROCEDURE

1401. Proposals for Amendment or Repeal of Rules of Procedure

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

1402. Approval of Amendment or Repeal of Rules of Procedure

Amendment to or repeal of rules of procedure shall be approved by the board after public notice and opportunity for comment in accordance with the bylaws of NERC. In approving changes to the rules of procedure, the board shall consider the inputs of the Member Representatives Committee, other ERO committees affected by the particular changes to the rules, and other stakeholders as appropriate. After board approval, the amendment or repeal shall be submitted to the ERO governmental authorities for approval, where authorized by legislation or agreement. No amendment to or repeal of the rules of procedure shall be effective until it has been approved by the applicable ERO governmental authorities.

1403. Alternative Procedure for Violation Risk Factors

In the event the standards development process fails to produce violation risk factors for a particular standard in a timely manner, the Board of Trustees may adopt violation risk factors for that standard after notice and opportunity for comment. In adopting violation risk factors, the board shall consider the inputs of the Member Representatives Committee and affected stakeholders.

SECTION 1500 — CONFIDENTIAL INFORMATION

1501. Definitions

1. **Confidential information** means (i) confidential business and market information; (ii) critical energy infrastructure information; (iii) personnel information that identifies or could be used to identify a specific individual, or reveals personnel, financial, medical, or other personal information; (iv) work papers, including any records produced for or created in the course of an evaluation or audit; (v) investigative files, including any records produced for or created in the course of an investigation; or (vi) cybersecurity incident information; provided, that public information developed or acquired by an entity shall be excluded from this definition.
2. **Confidential business and market information** means any information that pertains to the interests of any entity, that was developed or acquired by that entity, and that is proprietary or competitively sensitive.
3. **Critical energy infrastructure information** means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that (i) relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person in planning an attack on critical infrastructure; and (iii) does not simply give the location of the critical infrastructure.
4. **Critical infrastructure** means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.
5. **Cybersecurity incident information** means any information related to, describing, or which could be used to plan or cause a cybersecurity incident as defined in 18 C.F.R. § 39.1.

1502. Protection of Confidential Information

1. **Identification of Confidential Information** — An owner, operator, or user of the bulk power system and any other party (the “submitting entity”) shall mark as confidential any information that it submits to NERC or a regional entity (the “receiving entity”) that it reasonably believes contains confidential information as defined by these rules, indicating the category or categories defined in Section 1501 in which the information falls. If the information is subject to a prohibition on public disclosure in the Commission-approved rules of a regional transmission organization or independent system operator or a similar prohibition in applicable federal, state, or provincial laws, the submitting entity shall so indicate and provide supporting references and details.

2. **Confidentiality** — Except as provided herein, a receiving entity shall keep in confidence and not copy, disclose, or distribute any confidential information or any part thereof without the permission of the submitting entity, except as otherwise legally required.
3. **Information no longer Confidential** – If a submitting entity concludes that information for which it had sought confidential treatment no longer qualifies for that treatment, the submitting entity shall promptly so notify NERC or the relevant regional entity.

1503. Requests for Information

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

4. **Determination by ERO or Regional Entity** — Based on the information provided by the requester under Rule 1503.2, any comments provided by the submitting entity, and any other relevant available information, the chief executive officer or his or her designee of the receiving entity shall determine whether to disclose such information.
5. **Appeal** — A person whose request for information is denied in whole or part may appeal that determination to the President of NERC (or the President’s designee) within 30 days of the determination. Appeals filed pursuant to this Rule must be in writing, addressed to the President of NERC (or the President’s designee), and clearly marked “Appeal of Information Request Denial.”

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

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

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

posting disclosing any information that has been determined to be confidential information).

1504. Employees, Contractors and Agents

A receiving entity shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom confidential information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

1505. Provision of Information to FERC and Other Governmental Authorities

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

1506. Permitted Disclosures

1. **Confirmed Violations** — Nothing in this Section 1500 shall prohibit the disclosure of a violation at the point when the matter is filed with an appropriate governmental authority as a notice of penalty, the “violator” admits to the violation, or the alleged violator and NERC or the regional entity reach a settlement regarding the violation.
2. **Compliance Information** — NERC and the regional entities are authorized to exchange confidential information related to evaluations, audits, and investigations in furtherance of the compliance and enforcement program, on condition they continue to maintain the confidentiality of such information.

1507. Remedies for Improper Disclosure

Any person engaged in NERC or regional entity activity under section 215 of the Federal Power Act or the equivalent laws of other appropriate governmental authorities who improperly discloses information determined to be confidential may lose access to confidential information on a temporary or permanent basis and may be subject to

adverse personnel action, including suspension or termination. Nothing in Section 1500 precludes an entity whose information was improperly disclosed from seeking a remedy in an appropriate court.

SECTION 1600 — REQUESTS FOR DATA OR INFORMATION

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

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

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

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

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

- 2.2. A proposed modification to a previously authorized request for data or information shall explain (i) the nature of the modifications; (ii) an estimate of the burden imposed on the reporting entities to accommodate the modified data or information request, and (iii) any other items from paragraph 1.1 that require updating as a result of the modifications.
3. After the close of the comment period, NERC shall make such revisions to the proposed request for data or information as are appropriate in light of the comments. NERC shall submit the proposed request for data or information, as revised, along with the comments received, NERC’s evaluation of the comments and recommendations, to the Board of Trustees.
4. In acting on the proposed request for data or information, the Board of Trustees may authorize NERC to issue it, modify it, or remand it for further consideration.
5. NERC may make minor changes to an authorized request for data or information without board approval. However, if a reporting entity objects to NERC in writing to such changes within 21 days of issuance of the modified request, such changes shall require board approval before they are implemented.
6. Authorization of a request for data or information shall be final unless, within thirty (30) days of the decision by the Board of Trustees, an affected party appeals the authorization under this Section 1600 to the ERO governmental authority.

1603. Owners, Operators, and Users to Comply

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

1604. Requests by Regional Entity for Data or Information

1. A regional entity may request that NERC seek authorization for a request for data or information to be applicable within the footprint of the regional entity, either as a freestanding request or as part of a proposed NERC request for data or information. Any such request must be consistent with this Section 1600.
2. A regional entity may also develop its own procedures for requesting data or information, but any such procedures must include at least the same procedural

elements as are included in this Section 1600. Any such regional entity procedures or changes to such procedures shall be submitted to NERC for approval. Upon approving such procedures or changes thereto, NERC shall file the proposed procedures or proposed changes for approval by the Commission and any other ERO governmental authorities applicable to the regional entity. The regional entity procedures or changes to such procedures shall not be effective in a jurisdiction until approved by, and in accordance with any revisions directed by, the Commission or other ERO governmental authority.

1605. Confidentiality

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

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

1. In the event NERC or a regional entity must obtain data or information by a date or within a time period that does not permit adherence to the time periods specified in Section 1602, the procedures specified in Section 1606 may be used to obtain the data or information. Without limiting the circumstances in which the procedures in Section 1606 may be used, such circumstances include situations in which it is necessary to obtain the data or information (in order to evaluate a threat to the reliability or security of the bulk-power system, or to comply with a directive in an order issued by the Commission or by another ERO governmental authority) within a shorter time period than possible under Section 1602. The procedures specified in Section 1606 may only be used if authorized by the NERC Board of Trustees prior to activation of such procedures.
2. Prior to posting a proposed request for data or information, or a modification to a previously-authorized request, for public comment under Section 1606, NERC shall provide the proposed request or modification, including the information specified in paragraph 1602.2.1 or 1602.2.2 as applicable, to the Commission's Office of Electric Reliability. The submission to the Commission's Office of Electric Reliability shall also include an explanation of why it is necessary to use the expedited procedures of Section 1606 to obtain the data or information. The submission shall be made to the Commission's Office of Electric Reliability as far in advance, up to twenty-one (21) days, of the posting of the proposed request or modification for public comments as is reasonably possible under the circumstances, but in no event less than two (2) days in advance of the public posting of the proposed request or modification.

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

ATTACHMENT 12A

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED APPENDIX 4A

TO THE

RULES OF PROCEDURE

AUDIT OF REGIONAL ENTITY COMPLIANCE PROGRAMS

CLEAN VERSION

NERC

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

Proposed Revised Version

Appendix 4A

Audit of Regional Entity Compliance Programs

Effective [DATE]

Overview, Objective, and Scope

The NERC regional entity audit program was established to assess the regional entity's implementation of the NERC Compliance Monitoring and Enforcement Program (CMEP) and determine whether the program, as implemented by the regional entity, effectively meets the requirements under the CMEP, the NERC Rules of Procedure (ROP), and the corresponding annual implementation plan. Each year, NERC establishes which standard requirements will be placed into the CMEP through its annual implementation plan. The scope of the regional entity audits includes the CMEP, related sections of the ROP, the annual implementation plan as approved by NERC, and additional directives provided by NERC for implementing the CMEP and related ROP sections.

Scheduling

Each regional entity compliance program shall be audited at least once every five years. The schedule for the regional entity audit program is approved by NERC staff.

Audit Team

- A member of NERC staff will be designated as the Audit Team Lead (ATL) for the regional entity audits. In this role, the ATL maintains oversight of the auditing process, coordinates and facilitates the audit process steps with the applicable ERO governmental authorities, the Compliance and Certification Committee (CCC), and the audited regional entity.
- NERC staff will conduct the audit, in whole or in part.
- NERC may use external, independent auditors to conduct the audit, in whole or in part.
- A representative from the CCC may participate as an observer, at the discretion of the CCC.
- Representatives from applicable ERO governmental authorities may participate as observers.

Participation by a representative of an applicable ERO governmental authority shall be subject to the limitations of section 3.1.6 and 8.0 of Appendix 4C of the NERC Rules of Procedure regarding disclosure of non-public compliance information related to other jurisdictions.

In addition, compliance staff from other regional entities may participate as observers, with the mutual consent of NERC and of the compliance manager of the regional entity being audited.

Planning or Pre-Audit

The NERC ATL shall send a Notification of Intent to Audit letter to the CEO of the regional entity to be audited at least sixty (60) days prior to the on-site audit. The letter will contain the scope of the audit and key audit dates. Also, within the same sixty (60) day time period, the NERC ATL shall send to the audited regional entity: (i) pre-audit questionnaire(s), and (ii) request(s) for information. The audited regional entity returns a complete questionnaire to

NERC, along with the requested reports and other documentation, thirty (30) days prior to the on-site audit.

The regional entity may request a planning conference with NERC to review audit scope, logistics, and other pertinent coordination matters to effectuate an efficient audit process.

On-Site Audit and Fieldwork

Detailed questions related to the completed questionnaire(s) and requests for information are evaluated along with a random sampling of applicable evidence. The evidentiary review of documentation from the regional entity is used to determine whether the regional entity's program is effective and meeting the requirements described above. NERC shall evaluate the controls, physical security tools, staff training and internal procedures to meet the requirements of the regional entity audit program scope.

Reporting

Upon completion of the on-site fieldwork, the audit team shall provide the regional entity with an exit briefing which shall include any preliminary findings and/or results from the examination. Within thirty (30) business days of the last day of on-site fieldwork, NERC shall provide the regional entity with a draft report which shall include a review of the scope, methodology, and evaluation of internal controls. The regional entity has thirty (30) business days to respond to the draft audit report and may request a conference with NERC to address any concerns with the draft report. Throughout this entire process, the information provided, discussions held, and the draft report will be kept confidential.

NERC will issue a final report to the regional entity forty-five (45) business days after the receipt of the regional entity's comments to the draft report. The audited regional entity is provided an opportunity to respond to the audit conclusions. The final report, along with the regional entity's response, are posted on the NERC Web site after NERC presents the final report to the NERC Board of Trustees Compliance Committee.

If there are exceptions to the identified audit scope, the regional entity shall develop a corrective action plan to resolve the exceptions noted by the audit and provide quarterly updates to NERC on the status of the corrective actions until completed.

ATTACHMENT 12B

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED APPENDIX 4A

TO THE

RULES OF PROCEDURE

AUDIT OF REGIONAL ENTITY COMPLIANCE PROGRAMS

REDLINED VERSION

NERC

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

Proposed Revised Version

Appendix 4A

Audit of Regional Entity Compliance Programs

Effective ~~January 18, 2007~~[\[DATE\]](#)

Overview, Objective, and Scope

The NERC regional entity audit process for auditing regional entity compliance programs was established to assess how the regional entity's compliance programs implementation of the NERC Compliance Monitoring and Enforcement Program (CMEP) and determine their effectiveness whether the program, as implemented by the regional entity, effectively meets the requirements under the CMEP, the NERC Rules of Procedure (ROP), and the corresponding annual implementation plan. Each year, NERC establishes which standard requirements will be placed into the CMEP compliance enforcement program through its annual implementation plan. The regional entities are expected to measure compliance to these requirements and, if desired, additional requirements. The scope of the regional entity audits includes the CMEP, related sections of the ROP, the annual implementation plan as approved by NERC, and additional directives provided by NERC for implementing the CMEP and related ROP sections.

Scheduling

Each regional entity compliance program shall be audited at least once every threefive years. The schedule for the regional entity complianceaudit program audits is approved by NERC staff and the Compliance and Certification Committee.

Audit Team

- A member of NERC staff will be designated as the Audit Team Lead (ATL) for the regional entity audits. In this role, the ATL maintains oversight of the auditing process, coordinates and facilitates the audit process steps with the applicable ERO governmental authorities, the Compliance and Certification Committee (CCC), and the audited regional entity.
- NERC staff will conduct the audit, in whole or in part.
- NERC may use external, independent auditors to conduct the audit, in whole or in part.
- A representative from the CCC may participate as an observer, at the discretion of the CCC.
- Representatives from applicable ERO governmental authorities may participate as observers.

Participation by a representative of an applicable ERO governmental authority shall be subject to the limitations of section 3.1.6 and 8.0 of Appendix 4C of the NERC Rules of Procedure regarding disclosure of non-public compliance information related to other jurisdictions.

In addition, compliance staff from other regional entities may participate as observers, with the mutual consent of NERC and of the compliance manager of the regional entity being audited. The audit team consists of at least one representative from each of the following:

- NERC staff,
- Compliance and Certification Committee (one of whom shall serve as team leader), and
- Regional entity compliance manager from another regional entity.

~~Audit team members shall not be from the regional entity being audited.~~

Planning or Pre-Audit

~~The NERC ATL shall send a Notification of Intent to Audit letter to the CEO of the regional entity to be audited at least sixty (60) days prior to the on-site audit. The letter will contain the scope of the audit and key audit dates. Also, within the same sixty (60) day time period, the NERC ATL shall send to the audited regional entity: (i) pre-audit questionnaire(s), and (ii) request(s) for information. The audited regional entity returns a complete questionnaire to NERC, along with the requested reports and other documentation, thirty (30) days prior to the on-site audit.~~

~~The regional entity may request a planning conference with NERC to review audit scope, logistics, and other pertinent coordination matters to effectuate an efficient audit process. In preparation for an audit, NERC staff develops a questionnaire that outlines the primary discussion areas to be covered during the on-site audit. The questionnaire includes a list of requested documents, some of which will be provided prior to the meeting and others to be provided and reviewed during the meeting. The questionnaire is sent to the regional entity being audited 60 calendar days in advance of the audit for completion.~~

~~Within 30 calendar days prior to the on-site audit, regional entity staff returns a completed questionnaire to NERC, along with the requested reports and documentation. NERC staff sends all of this to each of the team members 10 calendar days prior to the audit.~~

~~Audit team members make their own hotel and airline reservations for the audit. The on-site audit is typically scheduled for one and one-half calendar days.~~

On-Site Audit and Fieldwork

~~During the on-site audit, detailed questions related to the completed questionnaire(s) and requests for information are evaluated along with a random sampling of applicable evidence. The evidentiary review of documentation from the regional entity is used to determine whether the regional entity's program is effective and meeting the requirements described above. are discussed by all the participants. The team tours the facilities and meets with the regional entity staff involved in implementing the compliance enforcement program. To determine the effectiveness of the regional entity's program, NERC shall evaluate the controls, physical security goals, tools, staff training and internal procedures to meet the requirements of the of each regional entity's audit program scope compliance enforcement program. The audit team debriefs the regional entity staff at the end of the audit with initial findings and preliminary recommendations.~~

Preparation and Posting of the Audit Reporting

~~Upon completion of the on-site fieldwork, the audit team shall provide the regional entity with an exit briefing which shall include any preliminary findings and/or results from the examination. Within thirty (30) business days of the last day of on-site fieldwork, NERC shall provide the regional entity with a drafts a report which shall include a review of the scope, methodology, and evaluation of internal controls, documenting the findings and recommendations of the audit and submits it to the regional entity within 30 calendar days after~~

~~the on-site audit. The regional entity is provided with a draft of the report to verify that it accurately reflects the discussions at the on-site audit.~~

The regional entity has thirty (30) business calendar days to respond to the draft audit analyze each recommendation and finding and report and may request a conference with NERC to address any concerns with the draft report. Throughout this entire process, the information provided, discussions held, and the draft report will be kept confidential ~~on those it has implemented or plans to implement. If there are recommendations that the regional entity does not plan to implement, its rationale for reaching that conclusion will be provided.~~

NERC will issue a final report to the regional entity forty-five (45) business calendar days after the receipt of the regional entity's comments to the draft report is issued. The audited regional entity is provided an opportunity to respond to the audit conclusions. ~~If the regional entity disputes a finding or recommendation it shall refer to the NERC Rules of Procedure, Sections 409-411 within 15 days of receiving the final report from NERC.~~

~~Throughout this entire process, the information provided, discussions held, and the draft report will be kept confidential.~~ The final report, along with the regional entity's response ~~to the recommendations~~, are posted on the NERC Web site 15 days after NERC presents the final report to the NERC Board of Trustees Compliance Committee ~~the final report is sent to the region or when due process is complete, whichever is greater.~~

If there are exceptions to the identified audit scope, the regional entity shall develop a corrective action plan to resolve the exceptions noted by the audit and provide quarterly updates to NERC on the status of the corrective actions until completed.

ATTACHMENT 13A

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED APPENDIX 4B

TO THE

RULES OF PROCEDURE

SANCTION GUIDELINES OF THE

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

CLEAN VERSION

**Sanction Guidelines
of the
North American
Electric Reliability Corporation**

PROPOSED REVISED VERSION

Effective [DATE]

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1. Preamble and Overview

The North American Electric Reliability Corporation, as the electric reliability organization (ERO), and regional entities to whom NERC has delegated authority (hereinafter referred to collectively as “regional entities” or individually as a “regional entity”) shall determine and may levy monetary penalties and non-monetary sanctions and remedial actions against owners, operators, and users of the bulk power system for violations of the requirements of NERC Reliability Standards (“reliability standards”) approved by the Federal Energy Regulatory Commission (FERC) and applicable authorities in Canada and/or Mexico. This document sets out the processes and principles to be followed, and factors that will be considered when determining penalties, sanctions, or remedial actions for violations. Collectively these processes, principles and factors are NERC’s penalties, sanctions, and remedial action guidelines.

NERC and the regional entities will exclusively follow the directives, principles and processes in these Sanction Guidelines when determining penalties, sanctions, or remedial action for a violation. However, adjustment factors are also provided to afford NERC or the regional entity the flexibility needed to accommodate the facts surrounding each violation. In this manner, rigid prescription of specific penalty formulae can be avoided at the same time that appropriate limitations on the degree of discretion and flexibility available to address each violation on its merits is maintained. The outcome will be remedies that are commensurate and fair compared to the reliability impact of the violation and to remedies levied for similar violations, yet appropriately reflective of any unique facts and circumstances regarding the specific violation and violator.

The adjustment factors established in this document are generally consistent with those listed in the FERC Policy Statement on Enforcement issued on October 20, 2005. However, discussion of the factors presented in this document is not exhaustive as other facets of these factors, or other additional factors not discussed herein, may also be considered to determine a given penalty, sanction, or remedial action, as NERC or the regional entity deems appropriate under the circumstances.

Regional entities shall follow these guidelines to determine penalties, sanctions, or remedial actions. NERC shall oversee the regional entities’ application of the guidelines to ensure that acceptable levels of consistency are achieved. NERC’s oversight will also ensure comparable outcomes; i.e. that there is acceptable similarity in the degree and type of sanction for violations constituting comparable levels of threat to reliability of the bulk power system. In order to facilitate this oversight, regional entities’ reporting to NERC of penalties and sanctions they have determined will be thorough and in sufficient detail that NERC can understand and reasonably replicate the outcomes reached; NERC may develop reporting requirements or a standard reporting form for use by the regional entities for this purpose, as NERC deems necessary or appropriate.

As experience is gained by NERC and the regional entities through the use and application of these guidelines, NERC will review the guidelines and may modify them as NERC deems appropriate or necessary. Authority delegated by NERC to the regional entities with respect to penalties, sanctions, or remedial actions does not include the authority to modify these guidelines.

Any revision to this document or to the principles and factors identified or addressed within it must first be approved by the NERC board, then by FERC, appropriate authorities in Canada or appropriate authorities in Mexico prior to becoming effective and applicable within the United States or these authorities’ respective jurisdictions.

2. Document Scope and Exclusions

This document identifies and discusses the processes and principles to be followed, and factors that will be considered to determine penalties, sanctions, or remedial actions for violations of the reliability standards.

This document notes but does not otherwise address the progression of actions and steps that NERC or the regional entity will follow to process a violation from its initial incoming status upon discovery as a possible violation, through to its possible final determination as a confirmed violation. This is set out in the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure.

This document notes but does not otherwise address how a possible violation or alleged violation is reviewed in order to confirm or dismiss it. NERC's process and requirements for this review are set out in the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure. Regional entities will undertake such reviews using the processes and requirements set out in the NERC Compliance Monitoring and Enforcement Program.

This document notes but does not otherwise address the processes and procedural steps by which a confirmed violation can be appealed, or by which a penalty, sanction, or remedial action determined and levied for a violation can be appealed. These procedures are set out in the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, and applicable regional entity program documents.

The NERC Compliance Monitoring and Enforcement Program provides for the possibility of settlements within NERC or regional entity compliance enforcement programs. This document makes reference to settlements to but does not address them further.

3. Basic Principles

The following paragraphs identify and discuss the basic principles underpinning why and how NERC and the regional entities will determine penalties, sanctions, and remedial actions for violations of the requirements of the reliability standards.

The principles are unique and complimentary; the order in which they are presented does not set or indicate order of precedence.

3.1 Necessary Element of NERC Compliance Program

Primary objectives of NERC as the ERO include the promotion and enforcement of compliance with the reliability standards by owners, operators, and users of the bulk power system; standards made mandatory by duly-authorized legislative bodies in the U.S and Canada, and designed to maintain and promote the reliability of the two countries' shared power grids. Consistent with these objectives, NERC and the regional entities will monitor and act to verify compliance with standards' requirements; however, beyond monitoring and acting only to verify compliance, NERC and the regional entities will also hold bulk power system owners, operators, and users — or their delegates — accountable for confirmed compliance violations. This accountability will include determination and the possible levying of penalties, sanctions, or remedial actions.

Penalties, sanctions, and remedial actions are valid and necessary mechanisms to NERC and the regional entities for the enforcement and promotion of compliance to the reliability standards, in part because they can:

- a. promote compliance behavior;
- b. provide deterrence to future incidents, actions or situations of noncompliance by the violator or others;
- c. implement actions that will promptly correct behavior;
- d. disgorge benefits that may or may have accrued to a violator as a consequence of violating;
- e. visit upon a violator some portion of any damage their violation may or may have visited upon others.

Accordingly, the determination and potential levying of appropriate penalties, sanctions, or remedial actions by NERC or the regional entity upon those responsible for violations shall be a required step within the NERC and regional entity compliance enforcement programs.

3.2 Settlement of Compliance Violations

NERC and the regional entities shall maintain the reliability of the bulk power system by enforcing compliance with NERC and regional entity reliability standards. NERC and regional entity compliance enforcements programs will lay out how NERC and the regional entities will do this. In particular and by necessity, elements of these programs regarding the confirmation of violations, the determination and levying of penalties, sanctions, or remedial actions, and appeals are rigid and legalistic in form and nature in order to respect the basic tenets of due process and natural justice inherent within United States and Canadian justice systems, respectively, upon which they are being based. However, absolute adherence to the compliance programs, to the exclusion of other options, may not be the most appropriate, efficient or desirable means by which to achieve the end goal in all circumstances, to all entities party to a violation.

As set out in the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, violations of the reliability standards may be dealt with through settlements reached between NERC, regional entity and the entity or entities to whom a possible, alleged, or confirmed violation is attributed to by NERC or the regional entity. Any provisions made within a settlement regarding penalties, sanctions, or remedial actions can supersede any corresponding penalties, sanctions that would otherwise be determined pursuant to these guidelines.

3.3 Settlement Request

Any entity found in or being investigated for a violation may request settlement negotiations at any time, including prior to issuance of a notice of alleged violation; however, NERC or the regional entity may decline to enter into or continue settlement negotiations after the possible violation or alleged violation becomes a confirmed violation.

3.4 Settlement Effect on Continuation of Determination of Penalties, Sanctions, or Remedial Actions

Until a settlement is finalized or parties to that settlement agree otherwise, NERC or the regional entity may continue activities and actions towards the determination and levying of a penalty, sanction, or remedial action that would otherwise be applicable pursuant to these guidelines, or that will be applicable if the settlement is not finalized.

3.5 Timing of Determination of Penalty, Sanction or Remedial Action

All possible violations and alleged violations will be reviewed by NERC or the regional entity with the outcome that either the violation will be confirmed or the violation will be dismissed.

The penalty, sanction, or other remedial action for a violation will be determined when the violation becomes a confirmed violation or is resolved as part of a settlement agreement.

At any time during confirmation review, hearing, or appeals NERC or the regional entity may determine that remedial action is warranted by the subject entity of the review, hearing, or appeals. NERC or the regional entity may direct that such remedial actions be undertaken by the subject entity at any time, including prior to confirmation of a violation, and without regulatory approval.

3.6 Determining Party

The determination of penalty, sanction or other remedial action for a violation will generally be undertaken by the same entity determining the violation to be a confirmed violation, but subject to review by NERC if the determination is made by a regional entity.

3.7 No Influence of Penalty, Sanction or Remedial Action upon Violation Confirmation Process

The penalty, sanction, or remedial action determined for a violation will not influence the outcome of the regional entity' or NERC's confirmation review of the violation. In particular, if the determination of penalty, sanction, or remedial action for a probable violation is being undertaken by the same entity undertaking the confirmation review, the entity will insure that there is sufficient separation, in such terms as time, process, personnel or the like, to preclude that the penalty, sanction, or remedial action determined influences the outcome of the confirmation review.

3.8 Reasonable Relationship to Violation

Penalties, sanctions, and remedial actions levied or applied for the violation of a reliability standard shall bear a reasonable relation to the seriousness of the violation while also reflecting consideration of the factors that these guidelines direct to take into account. In the United States, the legislation establishing mandatory enforceable reliability standards and the ERO requires that "Any penalty imposed ... shall; (A) bear a reasonable relation to the seriousness of the violation; and (B) take into consideration the efforts of the user, owner, or operator to remedy the violation in a timely manner¹.

3.9 Use and Facets of Factors to Determine Penalties

Penalties levied for a given violation will be based on all facts and other information relevant to the incident or situation. To that end, these guidelines include factors which NERC and the regional entities will consider while determining the penalty or sanction to be levied.

¹ H.R.6, Energy Policy Act of 2005, Section 215, Paragraph e, subparagraph 6.

NERC considers, and these guidelines direct, that the presence of some factors within a violation aggravates the seriousness of that violation and should cause an increase or expansion of the penalty to be levied. Conversely, the presence of some other factors mitigates that seriousness and should cause a decrease or reduction of the penalty to be levied. Also, some factors may mitigate or aggravate, and should have commensurate impact. NERC considers, and these guidelines direct, that the absence of an aggravating or mitigating factor will have no impact, as opposed to a mitigating or aggravating impact, respectively, to a penalty.

This document presents many of the relevant facets of the factors included in these guidelines. However, additional facets of these factors, or additional factors not discussed herein, may also be considered to determine a given penalty, sanction, or remedial action, as NERC or the regional entity deems appropriate under the circumstances. Where additional factors or facets are used they will be identified and their use will be justified. The effect of using these factors or facets on the penalty, sanction, or remedial action determined will also be fully and clearly disclosed.

3.10 Multiple Violations

A violation is a failure or inadequacy to meet a requirement of a reliability standard by a party responsible to comply with that requirement.

The failure or inadequacy of a violator to comply may involve more than one standard or several requirements of a single standard; as such, multiple individual violations may be in play when penalties, sanctions, or remedial actions for an incident or situation of noncompliance are being determined.

Strictly speaking, NERC or the regional entity can determine and levy a separate penalty or sanction, or direct remedial action, upon a violator for each individual violation. However, in instances of multiple violations related to a single act or common incidence of noncompliance, NERC or the regional entity will generally determine and issue a single aggregate penalty, sanction, or remedial action directive bearing reasonable relationship to the aggregate of the related violations. The penalty, sanction, or remedial action will not be that determined individually for the least serious of the violations; it will generally be at least as large or expansive as what would be called for individually for the most serious of the violations.

Some entities may be registered as being responsible for more than one function (e.g., transmission owner, transmission operator, balancing authority, generation operator), and a single requirement in some reliability standards may apply to the responsible entity for several functions. Where several functions are performed by the same entity, a violation will be assessed against the entity, not against each function.

3.11 Relation of the Penalty to the Seriousness of the Violation and Violator's Ability to Pay

As discussed in Section 3.8, above, penalties levied for the violation of a reliability standard shall bear a reasonable relation to the seriousness of the violation. The seriousness of a given violation by a given violator shall be assessed by review of the applicability of the Violation Risk Factors² associated with the violation to the characteristics of the violator's operation or power system. Size is a characteristic of a violator's operation or system. The size of the violator can be considered in the assessment but shall not be the only characteristic considered. Where size is considered in such a review the facts relating to the violation in question will be reviewed such that the "actual" size of the violator is properly discerned and appropriately considered; the following are provided as illustrative examples:

- If the violator belongs to a generation and transmission cooperative or joint-action agency, size will be attributed to the particular violator, rather than to that generation and transmission cooperative or joint-action agency.

² See Section 4 Part 4.11 for a discussion of these factors

- If the violator constitutes part of a corporate family the size of the violator will be attributed to that violator alone, in the absence of any facts indicating involvement of the whole corporation or corporate affiliates of the violator.
- If the violator is an entity established solely as a shell to register as subject to one or more Reliability Standards the size of the entity will be disregarded in favor of consideration of the size of parent entity or any affiliates that NERC or the regional entity deems involved and constituting the “actual” size of the violator.

At the request of the violator, NERC or the regional entity may review the penalty in light of the violator’s financial ability to pay the penalty. Financial ability shall include both the financial strength of the entity as well as its structure (e.g., for-profit versus non-profit). Where penalties are reduced or eliminated NERC or the regional entity shall consider non-monetary sanctions or remedial action as alternatives or substitutes to the penalty, pursuant to Sections 3.17, 3.18 and 3.19, below, of this document.

The above actions will: (i) promote that violators are penalized or sanctioned commensurate with the risk or effect that their specific violation of the reliability standards had or is having to the reliability of the bulk power system while also; (ii) mitigating overly burdensome penalties to less consequential or financially-limited entities concurrent with; (iii) promoting that no penalty is inconsequential to the violator to whom it is assessed. This will promote that penalties levied for violations of reliability standards bear a reasonable relation to the seriousness of the violation while also addressing violators’ ability to pay the penalties they are assessed.

3.12 Violation Time Horizon

Reliability standards involving longer and broader time horizons, such as long-term planning activities, may have a lesser immediate impact and pose less immediate risk to the reliability of the bulk power system than standards addressing shorter and narrower timeframes, such as entities’ conduct in real time. Similarly, standards involving longer and broader time horizons typically will provide a longer time period over which to discover and remedy a violation when compared to standards addressing more immediate activities such as next-day planning, same-day operations or real-time operations. Using a time horizon element in the determination of penalties for violations provides for recognition of the “more immediate” nature — and hence higher risk — of the threat of some violations as opposed to the lesser-risk “future threat if not corrected” nature of other violations.

Penalties levied for the violation of a reliability standard shall consider the time horizon of the standard violated; violations of standards involving more immediate or real-time activities will generally incur larger penalties than violations of standards with longer or broader horizons.

Time horizons inherent in reliability standard requirements are not reflected in their assigned Violation Risk Factors or Violation Severity Levels³. Accordingly, the time horizon element of a violation will be considered when determining the Base Penalty Amount⁴ for the violation.

The time horizon considered and its impact on the selection of the Base Penalty Amount for the violation will be decided upon by NERC or the regional entity based upon judgment and the facts of the violation. The rationale for the time horizon used and its impact on the setting of the Base Penalty Amount will be documented by NERC or the regional entity and provided within the Notice of Penalty issued for the violation.

3.13 Extenuating Circumstances

In unique extenuating circumstances, such as significant natural disasters, penalties may be significantly reduced or eliminated.

³ See Section 4 Part 4.11 for a discussion of these factors.

⁴ See Section 4 Part 4.2

3.14 Concealment or Intentional Violation

Penalties levied for the violation of a reliability standard shall always take into consideration any attempt by a violator to conceal the violation from NERC or the regional entity, or any intentional violation incurred for purposes other than a demonstrably good faith effort to avoid a significant and greater threat to the immediate reliability of the bulk power system.

3.15 Economic Choice to Violate

Owners, operators, and users of the bulk power system may be presented with situations or circumstances where compliance with the reliability standards preclude or reduce an economic gain that could be realized by violating the standards. Penalties shall be sufficient to assure that entities responsible for complying with reliability standards do not find it attractive to make economic choices that cause or unduly risk violations to reliability standards, or risk or cause incidents resulting from violations of the reliability standards. Penalties levied to violators who have made such a choice shall reflect this aspect of the violation.

3.16 No Influence by Outcome of Economic Choice to Violate

Economic choices to violate are generally made for the violator's own potential gain, but making such a choice does not always result in all potential gains being realized or may result in damage or loss. However, irrespective of the outcome to the entity making an economic choice to violate, such decisions risk others' reliability, commonly without either their knowledge or consent. Penalties levied to violators making an economic choice to violate shall reflect only that the choice was made at all; the lack of or reduced magnitude of any actual benefit received, or any damage suffered, by the violator as a consequence of making this choice will have no influence on the determination of the penalty to be levied.

3.17 Non-Monetary Sanctions or Remedial Actions

Enforcement actions taken by NERC or a regional entity are not limited to monetary penalties; at the discretion of NERC or the regional entity, sanctions or remedial actions may also be applied and can include limitations on activities, functions, operations, or other appropriate sanctions, including the establishment of a reliability watch list composed of major violators.

3.18 Non-Exclusiveness of Monetary Penalties or Non-Monetary Sanctions

A non-monetary sanction may be imposed either in lieu of or in addition to a monetary penalty imposed for the same confirmed violation, and vice versa. Imposition of a monetary penalty or non-monetary sanction for a violation does not preclude the imposition of the other as long as, in combination, the aggregate penalty continues to bear a reasonable relation to the seriousness of the violation.

3.19 Monetization of the Value of Sanctions

A significant element of NERC's oversight of penalties, sanctions, and remedial action determined and levied by regional entities is ensuring acceptable similarity in the degree and type of sanction for violations constituting comparable levels of threat to the reliability of the bulk power system. It is also a requirement and a commitment of NERC and its designees that penalties, sanctions, or remedial actions levied or applied for the violation of a reliability standard bear reasonable relation to the seriousness of the violation. Specifically with respect to penalties and sanctions, it is intuitive that it will be easier, more objective, and more transparent to monitor and test for acceptable similarity if (monetary) penalties or monetized values of sanctions determined for violations are used as the primary basis of comparison, versus comparisons made on the basis of other (non-monetized) considerations. Similarly, there will be strong intuitiveness and transparency, particularly to those interested but not strongly familiar with the power industry, that the seriousness of a violation has been reasonably addressed if the consequences for it to the violator are determined and can be expressed clearly and quantifiably in monetary terms.

Penalties determined and levied by NERC or regional entities will by definition be valued in monetary terms: U.S or Canadian dollars. It will be the preference of NERC that (non-monetary) sanctions imposed either in lieu of or in addition to a penalty include disclosure of the monetary value that the sanctions represent to the violator. It is intuitive that defensible monetary values for those sanctions will be most easily determined if the penalty for the violation pursuant to these guidelines is first determined and then the sanctions to be levied are introduced and justified as appropriate alternatives to that penalty or additions to a lesser penalty. However, sanctions may be determined directly (e.g. without first determining a penalty amount) and monetized using other methods.

NERC does not have a preference between penalties and sanctions for violations. The preference expressed here will support ensuring comparability of outcomes regarding application of these guidelines and the promotion of reasonable relationship between the seriousness of a violation and the sanctions, or penalties and sanctions, levied for it.

3.20 Maximum Limitations on Penalties

Penalties are direct, monetary judgments levied against a violator by NERC or the regional entity for the violation of requirements of the reliability standards. In contrast, sanctions will impose limitations or restrictions of some kind that may result in economic or other impacts to the violator, and remedial actions are directives by NERC or a regional entity to the violator regarding the correction of conditions, practices or any other relevant action or activity underlying the noncompliance(s) involved.

In the United States, the Federal Power Act allows for the imposition of civil penalties of up to \$1,000,000 per day per violation. NERC and the regional entities draw their authority to levy penalties from the Federal Power Act; accordingly this figure is and can be understood as the maximum monetary penalty that NERC or regional entities are authorized to levy. However, as this legislation also requires that “[a]ny penalty imposed ... shall; (A) bear a reasonable relation to the seriousness of the violation; and (B) take into consideration the efforts of the user, owner, or operator to remedy the violation in a timely manner⁵” ***entities required to comply with the reliability standards must also understand that NERC and the regional entities will be obligated to assess penalties amounts up to and including the maximum amount for violations where warranted pursuant to these guidelines.***

In Canadian jurisdictions the maximum monetary penalty potentially assessable for a reliability standard violation is significantly less than the amount allowed in the United States under the Federal Power Act. Also, legislation presently governing some Canadian jurisdictions does not accommodate the levying of such a penalty under some circumstances, may not accommodate the levying of such a penalty for all violations, or does not accommodate the levying of any monetary penalties.

When a penalty may be levied, or proposed to regulatory authorities with jurisdiction to be levied, the following steps will be followed:

- a. NERC or the regional entity will initially disregard the penalty limitations of the regulatory authorities with jurisdiction, and determine what the penalties or sanctions would be pursuant to these sanction guidelines only.
- b. NERC or the regional entity will review the maximum penalty allowed by the regulatory authorities with jurisdiction.
- c. NERC or the regional entity will set the actual penalty to be levied, or proposed to the regulatory authorities with jurisdiction to be levied, as the lesser of that determined pursuant to these guidelines and the maximum penalty or sanction allowed by the regulatory authorities.

⁵ H.R.6, Energy Policy Act of 2005, Section 215, Paragraph e, subparagraph 6.

- d. If the lesser penalty is the maximum penalty allowed by the regulatory authorities, the notice of penalty or similar document issued by NERC or the regional entity regarding the violation will also list the penalty that was determined pursuant to these guidelines.

Adhering to the above steps will insure that the result of the determination of any penalty for any violation will produce output that can be directly compared (i.e. without influence of local authorities' penalty limitations or restrictions) with the penalty determined for any other violation, assisting efforts of NERC and others to ensure that these guidelines are uniformly applied and that there is an acceptable level of consistency in the application of these sanction guidelines across North America. Regulatory authorities with jurisdiction may also find such information useful for their determination of the appropriateness of any penalty or sanction proposed to them to be levied. Similarly, policy and legislative bodies may find such information of value to the review or development of arrangements addressing such matters.

3.21 Frequency and Duration of Violations

Section 316A of the Federal Power Act [16 U.S.C. § 825o-1(b)], as amended by the Energy Policy Act of 2005, provides that “any person who violates any provision of Part II of this title or any provision of any rule or order thereunder shall be subject to a civil penalty of not more than \$1,000,000 for each day that such violation continues.”

FERC Order No. 672 interprets this statement as setting a cap on the monetary penalties that the Commission, NERC and regional entities can impose under FPA section 215. FERC has referred to this statutory provision as imposing a maximum \$1,000,000 “per day, per violation” penalty and has directed that the ERO must ensure that in the U.S. such a penalty amount (\$1,000,000), in such a manner (“per day, per violation”), can be imposed for a violation of the Reliability Standards should the conduct at issue so warrant.

Some Reliability Standards may not support the assessment of penalties on a “per day, per violation” basis, but instead should have penalties calculated based on an alternative penalty frequency or duration. Where NERC or the regional entity deems that a monetary penalty is warranted, or where NERC or the regional entity is monetizing (Section 3.19) the value of a non-monetary sanction, for the violation of such a standard NERC or the regional entity shall determine the penalty or monetized amount consistent with the following:

Multiple Instances of Violation on One Day

The nature of some Reliability Standards includes the possibility that an entity could violate the same requirement two or more times on the same day. In this instance NERC or the regional entity is not limited to penalizing the violator a maximum of \$1,000,000 per day. As NERC or the regional entity deems appropriate NERC or the regional entity may deem that there have been multiple violations that occurred on the same day, each of which is subject to the maximum potential penalty of \$1,000,000 per violation, per day. Also, NERC or the regional entity is not constrained to assessing the same penalty amount for each of the multiple violations, irrespective of their proximity in time.

Cumulative Over Time

Certain requirements of the Reliability Standards are measured not on the basis of discrete acts, but of cumulative acts over time. Reliability Standards that fall into this category are generally those involving measurements based on averages over a given period. Where a violation of such a standard has occurred the element of averaging performance over a period of time introduces the difficulty to NERC or the regional entity of reasonably identifying (i) what date the violation should be deemed to have occurred and (ii) its duration.

If a Reliability Standard requirement measured by an average over time can only be violated once per applicable period, then there is risk that a disproportionately mild penalty might be levied in a

situation where the violation was serious and the effects on the Bulk-Power System severe. In the future, each Reliability Standard requirement that is based on an average over time will specify the minimum period in which a violation could occur and how to determine when a violation arises, which may be other than once per applicable period⁶. In the interim until relevant Reliability Standards are so modified, any ambiguity on this point will be construed conservatively, meaning that where an entity has not complied with such a standard NERC or the regional entity will generally consider that only one violation occurred per measurement period. However, notwithstanding this general principle of one violation per measurement period, if an average must be measured by a span of time greater than a month, each month of that span shall constitute at a minimum one violation.

Periodically Monitored Discrete Violation

Some Reliability Standards may involve discrete events which are only monitored periodically or which are reported by exception. If a requirement of such a standard states that a discrete event constitutes a violation, then (i) a violation arises when that event occurs and (ii) that violation continues until remedied; furthermore, (iii) the violation is deemed to have occurred at the point that the entity entered into noncompliance with the standard regardless of the monitoring period for the activity or its date of discovery or reporting. For example, if a task required by a Reliability Standard requirement has not been done by the required date, it is irrelevant that monitoring for compliance for the requirement occurs only on a yearly or other periodic basis; NERC or the regional entity will deem a violation to have occurred on the first day of noncompliance and each day thereafter until compliance is effectuated. Similarly, if a discrete event occurs and is not remedied on the date of occurrence, then NERC or the regional entity will deem a violation to have occurred on the day of the first instance of the noncompliance and each day, or portion thereof thereafter until compliance is effectuated.

Non-compliance with a standard of this type will subject the violator to the potential maximum monetary penalty of \$1,000,000 per violation per day in violation.

NERC or the regional entity is not constrained to assessing the same penalty amount for each day that the entity was in violation of the Reliability Standard requirement in question.

⁶ Para. 41; FERC Order on Clarification and Rehearing [Docket No. RR06-1-006]

4. Determination of Monetary Penalties

The following describes the steps that NERC or the regional entity will follow to determine the monetary penalty for a violation⁷. The determination of non-monetary sanctions is discussed in Section 5 of this document; Section 6 discusses remedial action.

- Step 1. The Base Penalty Amount for the violation will be set as discussed in Sections 4.1 and 4.2, below.
- Step 2. The Base Penalty Amount set in Step 1 will be reviewed pursuant to Section 4.3, below. This will result in the Adjusted Penalty Amount.
- Step 3. The Adjusted Penalty Amount determined in Step 2 may be reviewed in light of the violator's financial ability to pay the penalty. Also, where applicable NERC or the regional entity will reconfirm that the penalty set will disgorge unjust profits or economic benefits associated with an economic choice to violate⁸. At the conclusion of this review the Final Penalty Amount will be set.

Unless NERC or the regional entity deems alternative frequency or duration is warranted penalties shall be assessed on a per violation per day basis. Where NERC or the regional entity deems that alternative penalty frequency or duration is warranted the Notice of Penalty associated with the violation will clearly identify this and provide the rationale for it. Where NERC or the regional entity deems that alternative penalty frequency or duration is warranted, penalties shall be determined in accordance with section 3.21 of the Sanction Guidelines.

4.1 Initial Value Range of the Base Penalty Amount

NERC or the regional entity will determine an initial value range for the Base Penalty Amount by considering two factors regarding the violation: the Violation Risk Factor (VRF) of the requirement violated and the Violation Severity Level (VSL) assessed for the violation. Using the Base Penalty Amount Table provided in Appendix A NERC or the regional entity will look up the initial value range for the Base Penalty Amount by finding the intersection of the violation's VRF and VSL on the table⁹.

4.1.1 Violation Risk Factor

Each requirement set out within NERC's reliability standards has been assigned a Violation Risk Factor (VRF) through the NERC reliability standards development process. The factors have been defined and approved through the standards development process and are assigned to requirements to provide clear, concise and comparative association between the violation of a requirement and the expected or potential impact of the violation to the reliability of the bulk power system. One of three defined levels of risk is assigned to each standards requirement: Lower Risk Factor, or; Medium Risk Factor, or; High Risk Factor. Definitions of the factors can be found in appropriate standards development process documentation.

4.1.2 Violation Severity Level

Violation severity levels (VSLs) are defined measurements of the degree to which a violator violated a requirement of a reliability standard. Whereas violation risk factors are determined pre-violation and indicate the relative potential impacts that violations of each standard could pose to the reliability of the bulk power system, the violation severity level is assessed post-

⁷ The text in this section discusses the determination of a single penalty for an individual violation; however, the process laid out is also applicable to determining the individual penalties, or a single aggregate penalty, for multiple violations that are associated with each other as discussed in Section 3 Part 3.1 of this document.

⁸ Reference: Section 3 Parts 3.15 and 3.16.

⁹ As discussed in Section 3 Part 3.1 of this document where there is more than one violation in play, but the violations are sufficiently associated, NERC or the regional entity may set a single initial value range that is appropriate in light of the individual VRF/VSL combinations of the violations.

violation and is an indicator of how severely the violator actually violated the standard(s) requirement(s) in question.

These guidelines utilize the violation severity levels that have been established¹⁰ by NERC for requirements of the reliability standards. Up to four levels can be defined for each requirement; the levels have been designated as: Lower, Moderate, High, and Severe.

4.2 Setting of the Base Penalty Amount

NERC or the regional entity will set the Base Penalty Amount for the violation. The Base Penalty Amount set for the violation may be set at the highest figure of the initial value range determined pursuant to Section 4.1, above. However, NERC or the regional entity may set the Base Penalty Amount at or below the lowest figure of the initial value range in light of two specific circumstances regarding the violation and the violator, specifically:

- a. The applicability of the Violation Risk Factor of the violation to the specific circumstances¹¹ of violator.
- b. Whether this is an inconsequential first violation by the violator of the reliability standard(s) in question.

As noted in Section 3.12 NERC or the regional entity will consider the time horizon involved with the violation when setting the Base Penalty Amount for the violation. As also noted in Section 3.12 this consideration will be documented for inclusion in the Notice of Penalty issued for the violation.

The penalty amount resulting from the this review will be the Base Penalty Amount that is used as the basis for further adjustment pursuant to the factors discussed in the next section (4.3) of this document.

4.2.1 Applicability of the Violation Risk Factor

Violation Risk Factors are assigned to standards' requirements as indicators of the expected risk or harm to the bulk power system posed by the violation of a requirement by a typical or median entity that is required to comply. NERC or the regional entity may consider the specific circumstances of the violator to determine if the violation of the requirement in question actually produced the degree of risk or harm anticipated by the Violation Risk Factor. If that expected risk or harm was not or would not have been produced, NERC or the regional entity may set the Base Penalty Amount to a value it (i) deems appropriate and (ii) is within the initial value range set above pursuant to Section 4.1.

4.2.2 First Violation

If the actual or foreseen impact of the violation is judged to be inconsequential by NERC or the regional entity and the violation is the first incidence of violation of the requirement in question by the violator, NERC or the regional entity may at its discretion: (i) set the Base Penalty Amount to a value it deems appropriate within the initial value range set above pursuant to Section 4.1, or (ii) excuse the penalty for the violation (i.e. set the Base Penalty Amount to 0\$).

This relief will generally not be afforded to the violator if NERC or the regional entity determines that the violator has a poor compliance record; e.g. the circumstances discussed in Section 4.3.1 have been an aggravating factor in one or more previous penalties assessed to the violator.

¹⁰ Assignment of these levels will be complete and filed with the Commission by March 1, 2008 in accordance with FERC Order on Compliance Filing dated June 7, 2007 [Docket No. RR06-1-007] .

¹¹ The circumstances of the violator will include but not be limited to, as appropriate: the violator's aggregate and net load; interconnections characteristics such as voltage class and transfer ratings;

This relief will not be available for consideration in instances where the violator has concealed or attempted to conceal the violation, failed or refused to comply with compliance directives from NERC or the regional entity, or intentionally violated for purposes other than a demonstrably good faith effort to avoid a significant and greater threat to the immediate reliability of the bulk power system.

4.3 Application of Adjustment Factors

Adjustment factors provide the opportunity to NERC or the regional entity to adjust the base penalty to reflect the specific facts and circumstances material to each violation and violator.

These guidelines recognize and require that, as a minimum, NERC or the regional entity consider the following:

- a. Repetitive violations and the violator's compliance history
- b. Failure of the violator to comply with compliance directives
- c. Self-disclosure and voluntary corrective action by the violator
- d. Degree and quality of cooperation by the violator in the violation investigation and in any remedial action directed for the violation
- e. The presence and quality of the violator's compliance program quality
- f. Any attempt by the violator to conceal the violation
- g. Intentional violations
- h. Extenuating circumstances

Two documents issued by United States regulatory agencies will be instructive to NERC and the regional entities when they are determining penalties for violations of the reliability standards: the FERC's Policy Statement on Enforcement issued on October 20, 2005 under Docket No. PL06-00, and; U.S Securities and Exchange Commission (SEC) Release No. 44969 under the Securities and Exchange Act of 1934, issued on October 23 2001, also concurrently issued by the SEC as Release No. 1470 under Accounting and Auditing Enforcement.

NERC or the regional may also consider other additional factors it deems appropriate under the circumstances as long as their use is clearly identified and adequately justified. The effect of using these factors will also be fully and clearly disclosed.

4.3.1 Repetitive Violations and Compliance History

A bulleted point under Paragraph 20 of the FERC Policy Statement on Enforcement highlights repeat offenses by a violator. If a violator has had repetitive infractions of the same or a closely-related reliability standard requirement, particularly within a time frame defined within the standard(s) or deemed appropriate by NERC or the regional entity in the absence of the standard(s) defining the time frame, NERC or the regional entity shall consider some increase to the penalty.

The term "violation reset time period" of a standards requirement may be defined or implied within a given standard to describe the period of time generally required for a violator to continue operations without incidence of further violation(s) of the Reliability Standards, particularly of the initial or a similar standard violated, in order to avoid or minimize consideration of the violator's previous violation history for sanctioning purposes in the event of a subsequent violation(s). NERC and the Regional Entities shall exercise appropriate judgment and discretion in this regard as warranted, particularly where no reset time period is specifically set within the standard violated. Repeat violations within violation reset time periods are aggravating factors in the determination of sanctioning. Accordingly, a violation history of no violations will produce no mitigation of the penalty otherwise determined; a

violation history of infrequent minor violations of lesser risk requirements assessed lower violation severity levels may result in small or no increase; a history of more frequent violations or previous violations of higher risk requirements assessed more severe violation severity levels will generally incur commensurately larger increases.

4.3.2 Failure to Comply with Compliance Directives

If the violator has violated reliability standard requirements notwithstanding having received related compliance directives, such as for remedial action from NERC or the regional entity, NERC or the regional entity shall consider some increase to the penalty.

4.3.3 Self-Disclosure and Voluntary Corrective Action

NERC or the regional entity shall consider whether a violator self-disclosed the violation prior to detection or intervention by NERC or the regional entity, and any action undertaken by the violator to correct the situation. NERC or the regional entity will be instructed in their consideration of these factors by the text of Paragraphs 24 and 25 of the FERC Policy Statement on Enforcement. As they deem warranted, NERC or the regional entity may reduce the violator's penalty consistent with the cited sections of the FERC policy.

4.3.4 Degree and Quality of Cooperation in Violation Investigation and Remedial Action

NERC or the regional entity shall consider the degree and quality of the violator's cooperation with NERC or the regional entity in the investigation of the violation and any remedial action arising from it. NERC or the regional entity will be instructed in making their determination on this by the text of Paragraphs 26 and 27 of the FERC Policy Statement on Enforcement. NERC or the regional entity may adjust the violator's penalty as they deem warranted commensurate with the cited sections of the FERC policy statement. This may result in an increase, a decrease or no change to the penalty.

4.3.5 Presence and Quality of Compliance Program

NERC or the regional entity shall consider the presence and quality of the violator's compliance program. NERC or the regional entity will be instructed in making their determination on this factor by the text of Paragraphs 22 and 23 of the FERC Policy Statement on Enforcement. As they deem warranted, NERC or the regional entity may reduce the violator's penalty consistent with the cited sections of the FERC policy. Consistent with the FERC policy NERC or the regional entity may not increase a violator's penalty specifically on the grounds that the violator has no program or a poor quality program.

4.3.6 Violation Concealment

Two bulleted points under Paragraph 20 of the FERC Policy Statement on Enforcement highlight misrepresentation of material facts and resistance or impediment to inquiry of a violation. When determining a penalty NERC or the regional entity shall consider any concealment or attempt to conceal the violation, or information needed to investigate the violation, on the part of the violator. If the violator concealed or attempted to conceal, some significant increase to the penalty shall be considered; doubling of the penalty otherwise determined is suggested. Conduct of this nature on more than one occasion regarding one violation, or with respect to more than one violation, should incur an even larger increase to the penalty otherwise determined.

4.3.7 Intentional Violation

Another bulleted point under Paragraph 20 of the FERC Policy Statement on Enforcement highlights offenses as willful action by a violator. When determining a penalty NERC or the regional entity shall consider if the violator intentionally violated without just cause; i.e., for purposes other than a demonstrably good faith effort to avoid a significant and greater threat to the immediate reliability of the bulk power system. If the violator engaged in such conduct,

some significant increase to the penalty shall be considered; doubling of the penalty otherwise determined is suggested. If conduct of this nature has been detected on more than one occasion, NERC or the regional entity should assess an even larger increase to the penalty otherwise determined.

NERC or the regional entity will consider violations attributable to an economic choice to violate as intentional violations. Consistent with the FERC Policy Statement on Enforcement any penalty issued involving conduct of this manner shall as a minimum disgorge any profits or economic benefits acquired as a consequence of the behavior, whenever and to the extent that they can be determined or reasonably estimated.

4.3.8 Extenuating Circumstances

NERC or the regional entity will consider if there are extenuating circumstances regarding the violation that justify reduction or elimination of the penalty otherwise determined.

Consideration of adjusting a penalty for this factor would be inconsistent with NERC or the regional entity increasing a penalty after consideration of any other factor included in this section of these guidelines, such as intentional violation without justifiable cause or concealment or attempt to conceal.

4.4 Setting of the Final Penalty Amount

The Adjusted Penalty Amount determined in Step 2 may be reviewed in light of the violator's financial ability to pay the penalty. Also, if the violation was an economic choice, NERC or the regional entity will reconfirm that the penalty set will disgorge any unjust profits or economic benefits. At the conclusion of this review the Final Penalty Amount will be set.

4.4.1 Violator's Financial Ability to Pay¹²

At the written request of the violator NERC or the regional entity will review the penalty determined in Step 2 in light of relevant, verifiable information that the violator provides regarding their financial ability to pay. At the conclusion of this review NERC or the regional entity may:

1. Reduce the penalty payable to an amount that NERC or the regional entity, as applicable, deems the violator has the financial ability to pay, or;
2. Excuse the penalty amount payable, or;
3. Sustain the penalty amount determined in Step 2.

Where the penalty amount has been reduced or excused, NERC or the regional entity shall consider the assessment of appropriate non-monetary sanction(s) as a substitute or an alternative for the penalty amount that has been excused or by which the penalty has been reduced.

4.4.2 Reconfirmation of Disgorgement of Unjust Profit or Gain

Notwithstanding the application of any other consideration or factor applicable to the determination of a just and reasonable penalty for the violation, if the violation in question involved an economic choice to violate NERC or the regional entity shall reconfirm that the penalty set meets the requirements set forth in Parts 3.15 and 3.16 of Section 3 of this document.

¹² NERC anticipates that this will be the primary vehicle for addressing the ability to pay of "not-for-profit" and other similar organizations.

5. Determination of Non-Monetary Sanctions

The imposition of sanctions is not bounded to monetary penalties. Non-Monetary sanctions applied must be applied with the objective of promoting reliability and compliance with the reliability standards. Non-monetary sanctions may include, but not be limited to, the following:

- a. Limitations on activities, functions, or operations
- b. Placing an entity on a reliability watch list composed of major violators

6. Remedial Action

6.1 Definition and Anticipated Use

Remedial actions are directives that may be issued to a bulk power system owner, operator, or user to resolve an alleged violation of a reliability standard by addressing conditions, practices, or any other relevant action or activity that is immediately necessary to terminate or correct to protect the reliability of the bulk power system from an imminent threat. A remedial action directive will be issued when NERC or the regional entity identifies an alleged violation of a reliability standard that must be corrected immediately to protect the reliability of the bulk power system from the imminent threat that NERC or the regional entity has identified.

NERC or the regional entity will generally employ remedial action directives where they deem it necessary to clearly specify minimum corrective actions that the subject of the remedial action directive must take; additionally or alternatively a remedial action directive may clearly specify timelines within which the subject must take specified actions, complete specified tasks, or achieve specified outcomes. Also, to the extent NERC or the regional entity is authorized to do so, a remedial action directive may communicate penalties, sanctions, or further remedial actions that may be imposed should the specific remedial action directive not be complied with by those to whom it has been issued. As a rule of thumb, remedial action directives will be of use to NERC or the regional entity whenever any significant combination of specificity, clarity, or time is of the essence to address a threat to the reliability of the bulk power system brought on by lack of or inadequate compliance to the reliability standards.

6.2 Compliance Requirements

In the United States, the Commission has concluded that owners, operators, or users of the bulk power system must comply with remedial action directives issued to them by NERC or a regional entity. Noncompliance with a remedial action directive may result in a substantially increased penalty or sanction.

Remedial action directives issued by NERC or the regional entity will include a deadline by which time the owner, operator, or user must complete requirements set out in the order, and by which time the entity must demonstrate compliance to the remedial action directive to NERC or the regional entity that issued it. Failure or refusal to meet the requirements or deadlines set out in a remedial action directive may itself result in further remedial action directives or significantly increased penalties or sanctions by NERC or the regional entity.

6.3 No Obligation to Issue

NERC or the regional entity may, but is not obligated, to issue remedial action directives. Lack of being issued a remedial action directive does not relieve a bulk power system owner, operator, or user from any responsibilities they otherwise have to comply or maintain compliance with requirements of the reliability standards. Remedial action directives will be used by NERC or the regional entities only as they deem warranted, when they deem warranted.

6.4 Scope of Application

The scope of remedial action directives issued by NERC or the regional entity will be limited to conditions, practices, or any other relevant actions or activities resulting in noncompliance, or that NERC or the regional entity considers at significant risk of becoming noncompliant, to requirements of the reliability standards, and that present an imminent threat to the reliability of the bulk power system. However, beyond merely directing compliance or improved compliance with standards' requirements, where NERC or the regional entity is authorized to do so, the directive may also stipulate how compliance or the improvement to compliance is to be achieved.

6.5 Availability

In the United States, the Commission has interpreted the Federal Power Act to authorize the NERC or the regional entity can issue a remedial action directive prior to completion of the confirmation review of a probable violation, or prior to the determination of a penalty or sanction for that violation. The Commission also concluded it is not necessary for NERC or the regional entity to acquire the Commission's or other regulators' approval prior to issuing remedial action directives. Accordingly, NERC or the regional entity may issue remedial action directives to entities in the United States whenever they deem it necessary or otherwise warranted to do so. Also, NERC or the regional entity may issue remedial action directives to entities in the United States regarding a violation that is immediately necessary to terminate or correct to protect the reliability of the bulk power system from an imminent threat, irrespective of whether that violation is ultimately verified or dismissed by NERC or the regional entity's investigation of the violation.

6.6 No Impact on Confirmation of Violation, or Penalties or Sanctions

Remedial action directives issued regarding a violation, in particular any costs incurred by the violator to comply with any such directive, will not be considered when reviewing whether the aggregate of any penalties and sanctions levied for that violation bear a reasonable relation to the seriousness of the violation. Also, any remedial action directives issued with respect to a violation will not influence the outcome of the confirmation review of that violation nor the determination of penalties or sanctions for that violation; ordering a violator to correct what needs correcting anyway is no grounds for dispelling a violation nor reducing or eliminating a penalty or sanction that would otherwise be determined appropriate for the violator for that violation.

6.7 Types of Remedial Actions

NERC or the regional entities may issue remedial action directives to correct compliance with NERC or regional reliability standards and reduce or eliminate imminent threats to the reliability of the bulk power system. Examples of remedial actions include:

- a. Specifying operating or planning criteria, limits, or limitations
- b. Requiring specific system studies
- c. Defining operating practices or guidelines
- d. Requiring confirmation of data, practices, or procedures through inspection testing or other methods
- e. Requiring specific training for personnel
- f. Requiring development of specific operating plans

Appendix A: Base Penalty Amount Table

The following lists the Base Penalty amounts corresponding to combinations of violation risk factor and violation severity factor.

Violation Risk Factor	Violation Severity Level							
	Lower		Moderate		High		Severe	
	Range Limits		Range Limits		Range Limits		Range Limits	
	Low	High	Low	High	Low	High	Low	High
Lower	\$1,000	\$3,000	\$2,000	\$7,500	\$3,000	\$15,000	\$5,000	\$25,000
Medium	\$2,000	\$30,000	\$4,000	\$100,000	\$6,000	\$200,000	\$10,000	\$335,000
High	\$4,000	\$125,000	\$8,000	\$300,000	\$12,000	\$625,000	\$20,000	\$1,000,000

NOTE: This table describes the amount of penalty that could be applied for each day that a violation continues, subject to the considerations of Section 3.21 regarding frequency and duration of violations.

ATTACHMENT 13B

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED APPENDIX 4B

TO THE

RULES OF PROCEDURE

SANCTION GUIDELINES OF THE

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REDLINED VERSION

**Sanction Guidelines
of the
North American
Electric Reliability Corporation**

PROPOSED REVISED VERSION

Effective ~~January 15, 2008~~ [DATE]

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1. Preamble and Overview

The North American Electric Reliability Corporation, as the electric reliability organization (ERO), and regional entities to whom NERC has delegated authority (hereinafter referred to collectively as “regional entities” or individually as a “regional entity”) shall determine and may levy monetary penalties and non-monetary sanctions and remedial actions against owners, operators, and users of the bulk power system for violations of the requirements of NERC Reliability Standards (“reliability standards”) approved by the Federal Energy Regulatory Commission (FERC) and applicable authorities in Canada and/or Mexico. This document sets out the processes and principles to be followed, and factors that will be considered when determining penalties, sanctions, or remedial actions for violations. Collectively these processes, principles and factors are NERC’s penalties, sanctions, and remedial action guidelines.

NERC and the regional entities will exclusively follow the directives, principles and processes in these Sanction Guidelines when determining penalties, sanctions, or remedial action for a violation. However, adjustment factors are also provided to afford NERC or the regional entity the flexibility needed to accommodate the facts surrounding each violation. In this manner, rigid prescription of specific penalty formulae can be avoided at the same time that appropriate limitations on the degree of discretion and flexibility available to address each violation on its merits is maintained. The outcome will be remedies that are commensurate and fair compared to the reliability impact of the violation and to remedies levied for similar violations, yet appropriately reflective of any unique facts and circumstances regarding the specific violation and violator.

The adjustment factors established in this document are generally consistent with those listed in the FERC Policy Statement on Enforcement issued on October 20, 2005. However, discussion of the factors presented in this document is not exhaustive as other facets of these factors, or other additional factors not discussed herein, may also be considered to determine a given penalty, sanction, or remedial action, as NERC or the regional entity deems appropriate under the circumstances.

Regional entities shall follow these guidelines to determine penalties, sanctions, or remedial actions. NERC shall oversee the regional entities’ application of the guidelines to ensure that acceptable levels of consistency are achieved. NERC’s oversight will also ensure comparable outcomes; i.e. that there is acceptable similarity in the degree and type of sanction for violations constituting comparable levels of threat to reliability of the bulk power system. In order to facilitate this oversight, regional entities’ reporting to NERC of penalties and sanctions they have determined will be thorough and in sufficient detail that NERC can understand and reasonably replicate the outcomes reached; NERC may develop reporting requirements or a standard reporting form for use by the regional entities for this purpose, as NERC deems necessary or appropriate.

As experience is gained by NERC and the regional entities through the use and application of these guidelines, NERC will review the guidelines and may modify them as NERC deems appropriate or necessary. Authority delegated by NERC to the regional entities with respect to penalties, sanctions, or remedial actions does not include the authority to modify these guidelines.

Any revision to this document or to the principles and factors identified or addressed within it must first be approved by the NERC board, then by FERC, appropriate authorities in Canada or appropriate authorities in Mexico prior to becoming effective and applicable within the United States or these authorities’ respective jurisdictions.

2. Document Scope and Exclusions

This document identifies and discusses the processes and principles to be followed, and factors that will be considered to determine penalties, sanctions, or remedial actions for violations of the reliability standards.

This document notes but does not otherwise address the progression of actions and steps that NERC or the regional entity will follow to process a violation from its initial incoming status upon discovery as a ~~possible~~probable violation, through to its possible final determination as a ~~post-appeal~~-confirmed violation. This is set out in [the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC's Rules of Procedure](#) ~~Section 400 and applicable regional entity program documents~~.

This document notes but does not otherwise address how ~~an~~ possible violation or alleged violation is reviewed in order to confirm or ~~dispel~~dismiss it. NERC's process and requirements for this review are set out in the NERC [Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure](#) ~~Section 400~~. Regional entities will undertake such reviews ~~either~~ using the processes and requirements set out in the [NERC Compliance Monitoring and Enforcement Program Rules of Procedure](#) ~~or using their own documented process that has been reviewed and approved by NERC as meeting the requirements for such a process~~.

This document notes but does not otherwise address the processes and procedural steps by which a confirmed violation can be appealed, or by which a penalty, sanction, or remedial action determined and levied for a violation can be appealed. These procedures are set out in [the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC's Rules of Procedure](#), ~~Section 400~~ and applicable regional entity program documents.

[The NERC Compliance Monitoring and Enforcement Program](#) ~~Section 403 paragraph 18 of NERC's Rules of Procedure~~ provides for the possibility of settlements within NERC or regional entity compliance enforcement programs. This document makes reference to settlements to but does not address them further.

3. Basic Principles

The following paragraphs identify and discuss the basic principles underpinning why and how NERC and the regional entities will determine penalties, sanctions, and remedial actions for violations of the requirements of the reliability standards.

The principles are unique and complimentary; the order in which they are presented does not set or indicate order of precedence.

3.1 Necessary Element of NERC Compliance Program

Primary objectives of NERC as the ERO include the promotion and enforcement of compliance with the reliability standards by owners, operators, and users of the bulk power system; standards made mandatory by duly-authorized legislative bodies in the U.S and Canada, and designed to maintain and promote the reliability of the two countries' shared power grids. Consistent with these objectives, NERC and the regional entities will monitor and act to verify compliance with standards' requirements; however, beyond monitoring and acting only to verify compliance, NERC and the regional entities will also hold bulk power system owners, operators, and users — or their delegates — accountable for confirmed compliance violations. This accountability will include determination and the possible levying of penalties, sanctions, or remedial actions.

Penalties, sanctions, and remedial actions are valid and necessary mechanisms to NERC and the regional entities for the enforcement and promotion of compliance to the reliability standards, in part because they can:

- a. promote compliance behavior;
- b. provide deterrence to future incidents, actions or situations of noncompliance by the violator or others;
- c. implement actions that will promptly correct behavior;
- d. disgorge benefits that may or may have accrued to a violator as a consequence of violating;
- e. visit upon a violator some portion of any damage their violation may or may have visited upon others.

Accordingly, the determination and potential levying of appropriate penalties, sanctions, or remedial actions by NERC or the regional entity upon those responsible for violations shall be a required step within the NERC and regional entity compliance enforcement programs.

3.2 Settlement of Compliance Violations

NERC and the regional entities shall maintain the reliability of the bulk power system by enforcing compliance with NERC and regional entity reliability standards. NERC and regional entity compliance enforcements programs will lay out how NERC and the regional entities will do this. In particular and by necessity, elements of these programs regarding the confirmation of violations, the determination and levying of penalties, sanctions, or remedial actions, and appeals are rigid and legalistic in form and nature in order to respect the basic tenets of due process and natural justice inherent within United States and Canadian justice systems, respectively, upon which they are being based. However, absolute adherence to the compliance programs, to the exclusion of other options, may not be the most appropriate, efficient or desirable means by which to achieve the end goal in all circumstances, to all entities party to a violation.

As set out in the NERC [Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure-Section 403-19](#), violations of the reliability standards may be dealt with through settlements reached between NERC, regional entity and the entity or entities to whom a [potential possible](#), alleged, or confirmed violation is attributed to by NERC or the regional entity. Any provisions made within a settlement regarding penalties, sanctions, or remedial actions can supersede

any corresponding penalties, sanctions that would otherwise be determined pursuant to these guidelines.

3.3 Settlement Request

~~At any point in the determination and levying of a penalty, sanction, or remedial action pursuant to these guidelines, a~~Any entity found in or being investigated for a violation may request ~~a settlement negotiations at any time, including prior to issuance of a notice of alleged violation;~~~~at no point within the processes and procedures, etc., described by these guidelines is the option of settlement not available.~~ however, NERC or the regional entity may decline to enter into or continue settlement negotiations after the possible violation or alleged violation becomes a confirmed violation.

3.4 Settlement Effect on Continuation of Determination of Penalties, Sanctions, or Remedial Actions

Until a settlement is finalized or parties to that settlement agree otherwise, NERC or the regional entity may continue activities and actions towards the determination and levying of a penalty, sanction, or remedial action that would otherwise be applicable pursuant to these guidelines, or that will be applicable if the settlement is not finalized.

3.5 Timing of Determination of Penalty, Sanction or Remedial Action

All possible violations and alleged violations will be reviewed by NERC or the regional entity with the outcome that either the violation will be confirmed or the violation will be ~~dismissed~~repealed.

The penalty, sanction, or other remedial action for a violation will be determined when ~~thean alleged violation becomes a confirmed violation or is resolved as part of a settlement agreement is affirmed.~~

At any time during confirmation review, hearing, or appeals NERC or the regional entity may determine that remedial action is warranted by the subject entity of the review, hearing, or appeals. NERC or the regional entity may direct that such remedial actions be undertaken by the subject entity at any time, including prior to confirmation of a violation, and without regulatory approval.

3.6 Determining Party

The determination of penalty, sanction or other remedial action for a violation will generally be undertaken by the same entity determining the violation to be a confirmed violation, but subject to review by NERC if the determination is made by a regional entity~~undertaking the confirmation review of that violation.~~

3.7 No Influence of Penalty, Sanction or Remedial Action upon Violation Confirmation Process

The penalty, sanction, or remedial action determined for a violation will not influence the outcome of the regional entity' or NERC's confirmation review of the violation. In particular, if the determination of penalty, sanction, or remedial action for a probable violation is being undertaken by the same entity undertaking the confirmation review, the entity will insure that there is sufficient separation, in such terms as time, process, personnel or the like, to preclude that the penalty, sanction, or remedial action determined influences the outcome of the confirmation review.

3.8 Reasonable Relationship to Violation

Penalties, sanctions, and remedial actions levied or applied for the violation of a reliability standard shall bear a reasonable relation to the seriousness of the violation while also reflecting consideration of the factors that these guidelines direct to take into account. In the United States, the legislation establishing mandatory enforceable reliability standards and the ERO requires that "Any penalty imposed ... shall; (A) bear a reasonable relation to the seriousness of the violation; and (B) take into consideration the efforts of the user, owner, or operator to remedy the violation in a timely manner¹.

¹ H.R.6, Energy Policy Act of 2005, Section 215, Paragraph e, subparagraph 6.

3.9 Use and Facets of Factors to Determine Penalties

Penalties levied for a given violation will be based on all facts and other information relevant to the incident or situation. To that end, these guidelines include factors which NERC and the regional entities will consider while determining the penalty or sanction to be levied.

NERC considers, and these guidelines direct, that the presence of some factors within a violation aggravates the seriousness of that violation and should cause an increase or expansion of the penalty to be levied. Conversely, the presence of some other factors mitigates that seriousness and should cause a decrease or reduction of the penalty to be levied. Also, some factors may mitigate or aggravate, and should have commensurate impact. NERC considers, and these guidelines direct, that the absence of an aggravating or mitigating factor will have no impact, as opposed to a mitigating or aggravating impact, respectively, to a penalty.

This document presents many of the relevant facets of the factors included in these guidelines. However, additional facets of these factors, or additional factors not discussed herein, may also be considered to determine a given penalty, sanction, or remedial action, as NERC or the regional entity deems appropriate under the circumstances. Where additional factors or facets are used they will be identified and their use will be justified. The effect of using these factors or facets on the penalty, sanction, or remedial action determined will also be fully and clearly disclosed.

3.10 Multiple Violations

A violation is a failure or inadequacy to meet a requirement of a reliability standard by a party responsible to comply with that requirement.

The failure or inadequacy of a violator to comply may involve more than one standard or several requirements of a single standard; as such, multiple individual violations may be in play when penalties, sanctions, or remedial actions for an incident or situation of noncompliance are being determined.

Strictly speaking, NERC or the regional entity can determine and levy a separate penalty or sanction, or direct remedial action, upon a violator for each individual violation. However, in instances of multiple violations related to a single act or common incidence of noncompliance, NERC or the regional entity will generally determine and issue a single aggregate penalty, sanction, or remedial action directive bearing reasonable relationship to the aggregate of the related violations. The penalty, sanction, or remedial action will not be that determined individually for the least serious of the violations; it will generally be at least as large or expansive as what would be called for individually for the most serious of the violations.

Some entities may be registered as being responsible for more than one function (e.g., transmission owner, transmission operator, balancing authority, generation operator), and a single requirement in some reliability standards may apply to the responsible entity for several functions. Where several functions are performed by the same entity, a violation will be assessed against the entity, not against each function.

3.11 Relation of the Penalty to the Seriousness of the Violation and Violator's Ability to Pay

As discussed in Section 3.8, above, penalties levied for the violation of a reliability standard shall bear a reasonable relation to the seriousness of the violation. The seriousness of a given violation by a given violator shall be assessed by review of the applicability of the Violation Risk Factors² associated with the violation to the characteristics of the violator's operation or power system. Size is a characteristic of a violator's operation or system. The size of the violator can be considered in the assessment but shall not be the only characteristic considered. Where size is considered in such a

² See Section 4 Part 4.11 for a discussion of these factors

review the facts relating to the violation in question will be reviewed such that the “actual” size of the violator is properly discerned and appropriately considered; the following are provided as illustrative examples:

- If the violator belongs to a generation and transmission cooperative or joint-action agency, size will be attributed to the particular violator, rather than to that generation and transmission cooperative or joint-action agency.
- If the violator constitutes part of a corporate family the size of the violator will be attributed to that violator alone, in the absence of any facts indicating involvement of the whole corporation or corporate affiliates of the violator.
- If the violator is an entity established solely as a shell to register as subject to one or more Reliability Standards the size of the entity will be disregarded in favor of consideration of the size of parent entity or any affiliates that NERC or the regional entity deems involved and constituting the “actual” size of the violator.

At the request of the violator, NERC or the regional entity may review the penalty in light of the violator’s financial ability to pay the penalty. Financial ability shall include both the financial strength of the entity as well as its structure (e.g., for-profit versus non-profit). Where penalties are reduced or eliminated NERC or the regional entity shall consider non-monetary sanctions or remedial action as alternatives or substitutes to the penalty, pursuant to Sections 3.17, 3.18 and 3.19, below, of this document.

The above actions will: (i) promote that violators are penalized or sanctioned commensurate with the risk or effect that their specific violation of the reliability standards had or is having to the reliability of the bulk power system while also; (ii) mitigating overly burdensome penalties to less consequential or financially-limited entities concurrent with; (iii) promoting that no penalty is inconsequential to the violator to whom it is assessed. This will promote that penalties levied for violations of reliability standards bear a reasonable relation to the seriousness of the violation while also addressing violators’ ability to pay the penalties they are assessed.

3.12 Violation Time Horizon

Reliability standards involving longer and broader time horizons, such as long-term planning activities, may have a lesser immediate impact and pose less immediate risk to the reliability of the bulk power system than standards addressing shorter and narrower timeframes, such as entities’ conduct in real time. Similarly, standards involving longer and broader time horizons typically will provide a longer time period over which to discover and remedy a violation when compared to standards addressing more immediate activities such as next-day planning, same-day operations or real-time operations. Using a time horizon element in the determination of penalties for violations provides for recognition of the “more immediate” nature — and hence higher risk — of the threat of some violations as opposed to the lesser-risk “future threat if not corrected” nature of other violations.

Penalties levied for the violation of a reliability standard shall consider the time horizon of the standard violated; violations of standards involving more immediate or real-time activities will generally incur larger penalties than violations of standards with longer or broader horizons.

Time horizons inherent in reliability standard requirements are not reflected in their assigned Violation Risk Factors or Violation Severity Levels³. Accordingly, the time horizon element of a violation will be considered when determining the Base Penalty Amount⁴ for the violation.

The time horizon considered and its impact on the selection of the Base Penalty Amount for the violation will be decided upon by NERC or the regional entity based upon judgment and the facts of the violation. The rationale for the time horizon used and its impact on the setting of the Base Penalty

³ See Section 4 Part 4.11 for a discussion of these factors.

⁴ See Section 4 Part 4.2

Amount will be documented by NERC or the regional entity and provided within the Notice of Penalty issued for the violation.

3.13 Extenuating Circumstances

In unique extenuating circumstances, such as significant natural disasters, penalties may be significantly reduced or eliminated.

3.14 Concealment or Intentional Violation

Penalties levied for the violation of a reliability standard shall always take into consideration any attempt by a violator to conceal the violation from NERC or the regional entity, or any intentional violation incurred for purposes other than a demonstrably good faith effort to avoid a significant and greater threat to the immediate reliability of the bulk power system.

3.15 Economic Choice to Violate

Owners, operators, and users of the bulk power system may be presented with situations or circumstances where compliance with the reliability standards preclude or reduce an economic gain that could be realized by violating the standards. Penalties shall be sufficient to assure that entities responsible for complying with reliability standards do not find it attractive to make economic choices that cause or unduly risk violations to reliability standards, or risk or cause incidents resulting from violations of the reliability standards. Penalties levied to violators who have made such a choice shall reflect this aspect of the violation.

3.16 No Influence by Outcome of Economic Choice to Violate

Economic choices to violate are generally made for the violator's own potential gain, but making such a choice does not always result in all potential gains being realized or may result in damage or loss. However, irrespective of the outcome to the entity making an economic choice to violate, such decisions risk others' reliability, commonly without either their knowledge or consent. Penalties levied to violators making an economic choice to violate shall reflect only that the choice was made at all; the lack of or reduced magnitude of any actual benefit received, or any damage suffered, by the violator as a consequence of making this choice will have no influence on the determination of the penalty to be levied.

3.17 Non-Monetary Sanctions or Remedial Actions

Enforcement actions taken by NERC or a regional entity are not limited to monetary penalties; at the discretion of NERC or the regional entity, sanctions or remedial actions may also be applied and can include limitations on activities, functions, operations, or other appropriate sanctions, including the establishment of a reliability watch list composed of major violators.

3.18 Non-Exclusiveness of Monetary Penalties or Non-Monetary Sanctions

A non-monetary sanction may be imposed either in lieu of or in addition to a monetary penalty imposed for the same confirmed violation, and vice versa. Imposition of a monetary penalty or non-monetary sanction for a violation does not preclude the imposition of the other as long as, in combination, the aggregate penalty continues to bear a reasonable relation to the seriousness of the violation.

3.19 Monetization of the Value of Sanctions

A significant element of NERC's oversight of penalties, sanctions, and remedial action determined and levied by regional entities is ensuring acceptable similarity in the degree and type of sanction for violations constituting comparable levels of threat to the reliability of the bulk power system. It is also a requirement and a commitment of NERC and its designees that penalties, sanctions, or remedial actions levied or applied for the violation of a reliability standard bear reasonable relation to the seriousness of the violation. Specifically with respect to penalties and sanctions, it is intuitive that it will be easier, more objective, and more transparent to monitor and test for acceptable similarity if (monetary) penalties or monetized values of sanctions determined for violations are used as the

primary basis of comparison, versus comparisons made on the basis of other (non-monetized) considerations. Similarly, there will be strong intuitiveness and transparency, particularly to those interested but not strongly familiar with the power industry, that the seriousness of a violation has been reasonably addressed if the consequences for it to the violator are determined and can be expressed clearly and quantifiably in monetary terms.

Penalties determined and levied by NERC or regional entities will by definition be valued in monetary terms: U.S or Canadian dollars. It will be the preference of NERC that (non-monetary) sanctions imposed either in lieu of or in addition to a penalty include disclosure of the monetary value that the sanctions represent to the violator. It is intuitive that defensible monetary values for those sanctions will be most easily determined if the penalty for the violation pursuant to these guidelines is first determined and then the sanctions to be levied are introduced and justified as appropriate alternatives to that penalty or additions to a lesser penalty. However, sanctions may be determined directly (e.g. without first determining a penalty amount) and monetized using other methods.

NERC does not have a preference between penalties and sanctions for violations. The preference expressed here will support ensuring comparability of outcomes regarding application of these guidelines and the promotion of reasonable relationship between the seriousness of a violation and the sanctions, or penalties and sanctions, levied for it.

3.20 Maximum Limitations on Penalties

Penalties are direct, monetary judgments levied against a violator by NERC or the regional entity for the violation of requirements of the reliability standards. In contrast, sanctions will impose limitations or restrictions of some kind that may result in economic or other impacts to the violator, and remedial actions are directives by NERC or a regional entity to the violator regarding the correction of conditions, practices or any other relevant action or activity underlying the noncompliance(s) involved.

In the United States, the Federal Power Act allows for the imposition of civil penalties of up to \$1,000,000 per day per violation. NERC and the regional entities draw their authority to levy penalties from the Federal Power Act; accordingly this figure is and can be understood as the maximum monetary penalty that NERC or regional entities are authorized to levy. However, as this legislation also requires that “[a]ny penalty imposed ... shall; (A) bear a reasonable relation to the seriousness of the violation; and (B) take into consideration the efforts of the user, owner, or operator to remedy the violation in a timely manner⁵” ***entities required to comply with the reliability standards must also understand that NERC and the regional entities will be obligated to assess penalties amounts up to and including the maximum amount for violations where warranted pursuant to these guidelines.***

In Canadian jurisdictions the maximum monetary penalty potentially assessable for a reliability standard violation is significantly less than the amount allowed in the United States under the Federal Power Act. Also, legislation presently governing some Canadian jurisdictions does not accommodate the levying of such a penalty under some circumstances, may not accommodate the levying of such a penalty for all violations, or does not accommodate the levying of any monetary penalties.

When a penalty may be levied, or proposed to regulatory authorities with jurisdiction to be levied, the following steps will be followed:

- a. NERC or the regional entity will initially disregard the penalty limitations of the regulatory authorities with jurisdiction, and determine what the penalties or sanctions would be pursuant to these sanction guidelines only.
- b. NERC or the regional entity will review the maximum penalty allowed by the regulatory authorities with jurisdiction.

⁵ H.R.6, Energy Policy Act of 2005, Section 215, Paragraph e, subparagraph 6.

- c. NERC or the regional entity will set the actual penalty to be levied, or proposed to the regulatory authorities with jurisdiction to be levied, as the lesser of that determined pursuant to these guidelines and the maximum penalty or sanction allowed by the regulatory authorities.
- d. If the lesser penalty is the maximum penalty allowed by the regulatory authorities, the notice of penalty or similar document issued by NERC or the regional entity regarding the violation will also list the penalty that was determined pursuant to these guidelines.

Adhering to the above steps will insure that the result of the determination of any penalty for any violation will produce output that can be directly compared (i.e. without influence of local authorities' penalty limitations or restrictions) with the penalty determined for any other violation, assisting efforts of NERC and others to ensure that these guidelines are uniformly applied and that there is an acceptable level of consistency in the application of these sanction guidelines across North America. Regulatory authorities with jurisdiction may also find such information useful for their determination of the appropriateness of any penalty or sanction proposed to them to be levied. Similarly, policy and legislative bodies may find such information of value to the review or development of arrangements addressing such matters.

3.21 Frequency and Duration of Violations

Section 316A of the Federal Power Act [16 U.S.C. § 825o-1(b)], as amended by the Energy Policy Act of 2005, provides that “any person who violates any provision of Part II of this title or any provision of any rule or order thereunder shall be subject to a civil penalty of not more than \$1,000,000 for each day that such violation continues.”

FERC Order No. 672 interprets this statement as setting a cap on the monetary penalties that the Commission, NERC and regional entities can impose under FPA section 215. FERC has referred to this statutory provision as imposing a maximum \$1,000,000 “per day, per violation” penalty and has directed that the ERO must ensure that in the U.S. such a penalty amount (\$1,000,000), in such a manner (“per day, per violation”), can be imposed for a violation of the Reliability Standards should the conduct at issue so warrant.

Some Reliability Standards may not support the assessment of penalties on a “per day, per violation” basis, but instead should have penalties calculated based on an alternative penalty frequency or duration. Where NERC or the regional entity deems that a monetary penalty is warranted, or where NERC or the regional entity is monetizing (Section 3.19) the value of a non-monetary sanction, for the violation of such a standard NERC or the regional entity shall determine the penalty or monetized amount consistent with the following:

Multiple Instances of Violation on One Day

The nature of some Reliability Standards includes the possibility that an entity could violate the same requirement two or more times on the same day. In this instance NERC or the regional entity is not limited to penalizing the violator a maximum of \$1,000,000 per day. As NERC or the regional entity deems appropriate NERC or the regional entity may deem that there have been multiple violations that occurred on the same day, each of which is subject to the maximum potential penalty of \$1,000,000 per violation, per day. Also, NERC or the regional entity is not constrained to assessing the same penalty amount for each of the multiple violations, irrespective of their proximity in time.

Cumulative Over Time

Certain requirements of the Reliability Standards are measured not on the basis of discrete acts, but of cumulative acts over time. Reliability Standards that fall into this category are generally those involving measurements based on averages over a given period. Where a violation of such a standard has occurred the element of averaging performance over a period of time introduces the difficulty to

NERC or the regional entity of reasonably identifying (i) what date the violation should be deemed to have occurred and (ii) its duration.

If a Reliability Standard requirement measured by an average over time can only be violated once per applicable period, then there is risk that a disproportionately mild penalty might be levied in a situation where the violation was serious and the effects on the Bulk-Power System severe. In the future, each Reliability Standard requirement that is based on an average over time will specify the minimum period in which a violation could occur and how to determine when a violation arises, which may be other than once per applicable period⁶. In the interim until relevant Reliability Standards are so modified, any ambiguity on this point will be construed conservatively, meaning that where an entity has not complied with such a standard NERC or the regional entity will generally consider that only one violation occurred per measurement period. However, notwithstanding this general principle of one violation per measurement period, if an average must be measured by a span of time greater than a month, each month of that span shall constitute at a minimum one violation.

Periodically Monitored Discrete Violation

Some Reliability Standards may involve discrete events which are only monitored periodically or which are reported by exception. If a requirement of such a standard states that a discrete event constitutes a violation, then (i) a violation arises when that event occurs and (ii) that violation continues until remedied; furthermore, (iii) the violation is deemed to have occurred at the point that the entity entered into noncompliance with the standard regardless of the monitoring period for the activity or its date of discovery or reporting. For example, if a task required by a Reliability Standard requirement has not been done by the required date, it is irrelevant that monitoring for compliance for the requirement occurs only on a yearly or other periodic basis; NERC or the regional entity will deem a violation to have occurred on the first day of noncompliance and each day thereafter until compliance is effectuated. Similarly, if a discrete event occurs and is not remedied on the date of occurrence, then NERC or the regional entity will deem a violation to have occurred on the day of the first instance of the noncompliance and each day, or portion thereof thereafter until compliance is effectuated.

Non-compliance with a standard of this type will subject the violator to the potential maximum monetary penalty of \$1,000,000 per violation per day in violation.

NERC or the regional entity is not constrained to assessing the same penalty amount for each day that the entity was in violation of the Reliability Standard requirement in question.

⁶ Para. 41; FERC Order on Clarification and Rehearing [Docket No. RR06-1-006]

4. Determination of Monetary Penalties

The following describes the steps that NERC or the regional entity will follow to determine the monetary penalty for a violation⁷. The determination of non-monetary sanctions is discussed in Section 5 of this document; Section 6 discusses remedial action.

- Step 1. The Base Penalty Amount for the violation will be set as discussed in Sections 4.1 and 4.2, below.
- Step 2. The Base Penalty Amount set in Step 1 will be reviewed pursuant to Section 4.3, below. This will result in the Adjusted Penalty Amount.
- Step 3. The Adjusted Penalty Amount determined in Step 2 may be reviewed in light of the violator's financial ability to pay the penalty. Also, where applicable NERC or the regional entity will reconfirm that the penalty set will disgorge unjust profits or economic benefits associated with an economic choice to violate⁸. At the conclusion of this review the Final Penalty Amount will be set.

Unless NERC or the regional entity deems alternative frequency or duration is warranted penalties shall be assessed on a per violation per day basis. Where NERC or the regional entity deems that alternative penalty frequency or duration is warranted the Notice of Penalty associated with the violation will clearly identify this and provide the rationale for it. Where NERC or the regional entity deems that alternative penalty frequency or duration is warranted, penalties shall be determined in accordance with section 3.21 of the Sanction Guidelines.

4.1 Initial Value Range of the Base Penalty Amount

NERC or the regional entity will determine an initial value range for the Base Penalty Amount by considering two factors regarding the violation: the Violation Risk Factor (VRF) of the requirement violated and the Violation Severity Level (VSL) assessed for the violation. Using the Base Penalty Amount Table provided in Appendix A NERC or the regional entity will look up the initial value range for the Base Penalty Amount by finding the intersection of the violation's VRF and VSL on the table⁹.

4.1.1 Violation Risk Factor

Each requirement set out within NERC's reliability standards has been assigned a Violation Risk Factor (VRF) through the NERC reliability standards development process. The factors have been defined and approved through the standards development process and are assigned to requirements to provide clear, concise and comparative association between the violation of a requirement and the expected or potential impact of the violation to the reliability of the bulk power system. One of three defined levels of risk is assigned to each standards requirement: Lower Risk Factor, or; Medium Risk Factor, or; High Risk Factor. Definitions of the factors can be found in appropriate standards development process documentation.

4.1.2 Violation Severity Level

Violation severity levels (VSLs) are defined measurements of the degree to which a violator violated a requirement of a reliability standard. Whereas violation risk factors are determined pre-violation and indicate the relative potential impacts that violations of each standard could pose to the reliability of the bulk power system, the violation severity level is assessed post-

⁷ The text in this section discusses the determination of a single penalty for an individual violation; however, the process laid out is also applicable to determining the individual penalties, or a single aggregate penalty, for multiple violations that are associated with each other as discussed in Section 3 Part 3.1 of this document.

⁸ Reference: Section 3 Parts 3.15 and 3.16.

⁹ As discussed in Section 3 Part 3.1 of this document where there is more than one violation in play, but the violations are sufficiently associated, NERC or the regional entity may set a single initial value range that is appropriate in light of the individual VRF/VSL combinations of the violations.

violation and is an indicator of how severely the violator actually violated the standard(s) requirement(s) in question.

These guidelines utilize the violation severity levels that have been established¹⁰ by NERC for requirements of the reliability standards. Up to four levels can be defined for each requirement; the levels have been designated as: Lower, Moderate, High, and Severe.

4.2 Setting of the Base Penalty Amount

NERC or the regional entity will set the Base Penalty Amount for the violation. The Base Penalty Amount set for the violation may be set at the highest figure of the initial value range determined pursuant to Section 4.1, above. However, NERC or the regional entity may set the Base Penalty Amount at or below the lowest figure of the initial value range in light of two specific circumstances regarding the violation and the violator, specifically:

- a. The applicability of the Violation Risk Factor of the violation to the specific circumstances¹¹ of violator.
- b. Whether this is an inconsequential first violation by the violator of the reliability standard(s) in question.

As noted in Section 3.12 NERC or the regional entity will consider the time horizon involved with the violation when setting the Base Penalty Amount for the violation. As also noted in Section 3.12 this consideration will be documented for inclusion in the Notice of Penalty issued for the violation.

The penalty amount resulting from the this review will be the Base Penalty Amount that is used as the basis for further adjustment pursuant to the factors discussed in the next section (4.3) of this document.

4.2.1 Applicability of the Violation Risk Factor

Violation Risk Factors are assigned to standards' requirements as indicators of the expected risk or harm to the bulk power system posed by the violation of a requirement by a typical or median entity that is required to comply. NERC or the regional entity may consider the specific circumstances of the violator to determine if the violation of the requirement in question actually produced the degree of risk or harm anticipated by the Violation Risk Factor. If that expected risk or harm was not or would not have been produced, NERC or the regional entity may set the Base Penalty Amount to a value it (i) deems appropriate and (ii) is within the initial value range set above pursuant to Section 4.1.

4.2.2 First Violation

If the actual or foreseen impact of the violation is judged to be inconsequential by NERC or the regional entity and the violation is the first incidence of violation of the requirement in question by the violator, NERC or the regional entity may at its discretion: (i) set the Base Penalty Amount to a value it deems appropriate within the initial value range set above pursuant to Section 4.1, or (ii) excuse the penalty for the violation (i.e. set the Base Penalty Amount to 0\$).

This relief will generally not be afforded to the violator if NERC or the regional entity determines that the violator has a poor compliance record; e.g. the circumstances discussed in Section 4.3.1 have been an aggravating factor in one or more previous penalties assessed to the violator.

¹⁰ Assignment of these levels will be complete and filed with the Commission by March 1, 2008 in accordance with FERC Order on Compliance Filing dated June 7, 2007 [Docket No. RR06-1-007] .

¹¹ The circumstances of the violator will include but not be limited to, as appropriate: the violator's aggregate and net load; interconnections characteristics such as voltage class and transfer ratings;

This relief will not be available for consideration in instances where the violator has concealed or attempted to conceal the violation, failed or refused to comply with compliance directives from NERC or the regional entity, or intentionally violated for purposes other than a demonstrably good faith effort to avoid a significant and greater threat to the immediate reliability of the bulk power system.

4.3 Application of Adjustment Factors

Adjustment factors provide the opportunity to NERC or the regional entity to adjust the base penalty to reflect the specific facts and circumstances material to each violation and violator.

These guidelines recognize and require that, as a minimum, NERC or the regional entity consider the following:

- a. Repetitive violations and the violator's compliance history
- b. Failure of the violator to comply with compliance directives
- c. Self-disclosure and voluntary corrective action by the violator
- d. Degree and quality of cooperation by the violator in the violation investigation and in any remedial action directed for the violation
- e. The presence and quality of the violator's compliance program quality
- f. Any attempt by the violator to conceal the violation
- g. Intentional violations
- h. Extenuating circumstances

Two documents issued by United States regulatory agencies will be instructive to NERC and the regional entities when they are determining penalties for violations of the reliability standards: the FERC's Policy Statement on Enforcement issued on October 20, 2005 under Docket No. PL06-00, and; U.S Securities and Exchange Commission (SEC) Release No. 44969 under the Securities and Exchange Act of 1934, issued on October 23 2001, also concurrently issued by the SEC as Release No. 1470 under Accounting and Auditing Enforcement.

NERC or the regional may also consider other additional factors it deems appropriate under the circumstances as long as their use is clearly identified and adequately justified. The effect of using these factors will also be fully and clearly disclosed.

4.3.1 Repetitive Violations and Compliance History

A bulleted point under Paragraph 20 of the FERC Policy Statement on Enforcement highlights repeat offenses by a violator. If a violator has had repetitive infractions of the same or a closely-related reliability standard requirement, particularly within a time frame defined within the standard(s) or deemed appropriate by NERC or the regional entity in the absence of the standard(s) defining the time frame, NERC or the regional entity shall consider some increase to the penalty.

The term "violation reset time period" of a standards requirement may be defined or implied within a given standard to describe the period of time generally required for a violator to continue operations without incidence of further violation(s) of the Reliability Standards, particularly of the initial or a similar standard violated, in order to avoid or minimize consideration of the violator's previous violation history for sanctioning purposes in the event of a subsequent violation(s). NERC and the Regional Entities shall exercise appropriate judgment and discretion in this regard as warranted, particularly where no reset time period is specifically set within the standard violated. Repeat violations within violation reset time periods are aggravating factors in the determination of sanctioning. Accordingly, a violation history of no violations will produce no mitigation of the penalty otherwise determined; a

violation history of infrequent minor violations of lesser risk requirements assessed lower violation severity levels may result in small or no increase; a history of more frequent violations or previous violations of higher risk requirements assessed more severe violation severity levels will generally incur commensurately larger increases.

4.3.2 Failure to Comply with Compliance Directives

If the violator has violated reliability standard requirements notwithstanding having received related compliance directives, such as for remedial action from NERC or the regional entity, NERC or the regional entity shall consider some increase to the penalty.

4.3.3 Self-Disclosure and Voluntary Corrective Action

NERC or the regional entity shall consider whether a violator self-disclosed the violation prior to detection or intervention by NERC or the regional entity, and any action undertaken by the violator to correct the situation. NERC or the regional entity will be instructed in their consideration of these factors by the text of Paragraphs 24 and 25 of the FERC Policy Statement on Enforcement. As they deem warranted, NERC or the regional entity may reduce the violator's penalty consistent with the cited sections of the FERC policy.

4.3.4 Degree and Quality of Cooperation in Violation Investigation and Remedial Action

NERC or the regional entity shall consider the degree and quality of the violator's cooperation with NERC or the regional entity in the investigation of the violation and any remedial action arising from it. NERC or the regional entity will be instructed in making their determination on this by the text of Paragraphs 26 and 27 of the FERC Policy Statement on Enforcement. NERC or the regional entity may adjust the violator's penalty as they deem warranted commensurate with the cited sections of the FERC policy statement. This may result in an increase, a decrease or no change to the penalty.

4.3.5 Presence and Quality of Compliance Program

NERC or the regional entity shall consider the presence and quality of the violator's compliance program. NERC or the regional entity will be instructed in making their determination on this factor by the text of Paragraphs 22 and 23 of the FERC Policy Statement on Enforcement. As they deem warranted, NERC or the regional entity may reduce the violator's penalty consistent with the cited sections of the FERC policy. Consistent with the FERC policy NERC or the regional entity may not increase a violator's penalty specifically on the grounds that the violator has no program or a poor quality program.

4.3.6 Violation Concealment

Two bulleted points under Paragraph 20 of the FERC Policy Statement on Enforcement highlight misrepresentation of material facts and resistance or impediment to inquiry of a violation. When determining a penalty NERC or the regional entity shall consider any concealment or attempt to conceal the violation, or information needed to investigate the violation, on the part of the violator. If the violator concealed or attempted to conceal, some significant increase to the penalty shall be considered; doubling of the penalty otherwise determined is suggested. Conduct of this nature on more than one occasion regarding one violation, or with respect to more than one violation, should incur an even larger increase to the penalty otherwise determined.

4.3.7 Intentional Violation

Another bulleted point under Paragraph 20 of the FERC Policy Statement on Enforcement highlights offenses as willful action by a violator. When determining a penalty NERC or the regional entity shall consider if the violator intentionally violated without just cause; i.e., for purposes other than a demonstrably good faith effort to avoid a significant and greater threat to the immediate reliability of the bulk power system. If the violator engaged in such conduct,

some significant increase to the penalty shall be considered; doubling of the penalty otherwise determined is suggested. If conduct of this nature has been detected on more than one occasion, NERC or the regional entity should assess an even larger increase to the penalty otherwise determined.

NERC or the regional entity will consider violations attributable to an economic choice to violate as intentional violations. Consistent with the FERC Policy Statement on Enforcement any penalty issued involving conduct of this manner shall as a minimum disgorge any profits or economic benefits acquired as a consequence of the behavior, whenever and to the extent that they can be determined or reasonably estimated.

4.3.8 Extenuating Circumstances

NERC or the regional entity will consider if there are extenuating circumstances regarding the violation that justify reduction or elimination of the penalty otherwise determined.

Consideration of adjusting a penalty for this factor would be inconsistent with NERC or the regional entity increasing a penalty after consideration of any other factor included in this section of these guidelines, such as intentional violation without justifiable cause or concealment or attempt to conceal.

4.4 Setting of the Final Penalty Amount

The Adjusted Penalty Amount determined in Step 2 may be reviewed in light of the violator's financial ability to pay the penalty. Also, if the violation was an economic choice, NERC or the regional entity will reconfirm that the penalty set will disgorge any unjust profits or economic benefits. At the conclusion of this review the Final Penalty Amount will be set.

4.4.1 Violator's Financial Ability to Pay¹²

At the written request of the violator NERC or the regional entity will review the penalty determined in Step 2 in light of relevant, verifiable information that the violator provides regarding their financial ability to pay. At the conclusion of this review NERC or the regional entity may:

1. Reduce the penalty payable to an amount that NERC or the regional entity, as applicable, deems the violator has the financial ability to pay, or;
2. Excuse the penalty amount payable, or;
3. Sustain the penalty amount determined in Step 2.

Where the penalty amount has been reduced or excused, NERC or the regional entity shall consider the assessment of appropriate non-monetary sanction(s) as a substitute or an alternative for the penalty amount that has been excused or by which the penalty has been reduced.

4.4.2 Reconfirmation of Disgorgement of Unjust Profit or Gain

Notwithstanding the application of any other consideration or factor applicable to the determination of a just and reasonable penalty for the violation, if the violation in question involved an economic choice to violate NERC or the regional entity shall reconfirm that the penalty set meets the requirements set forth in Parts 3.15 and 3.16 of Section 3 of this document.

¹² NERC anticipates that this will be the primary vehicle for addressing the ability to pay of "not-for-profit" and other similar organizations.

5. Determination of Non-Monetary Sanctions

The imposition of sanctions is not bounded to monetary penalties. Non-Monetary sanctions applied must be applied with the objective of promoting reliability and compliance with the reliability standards. Non-monetary sanctions may include, but not be limited to, the following:

- a. Limitations on activities, functions, or operations
- b. Placing an entity on a reliability watch list composed of major violators

6. Remedial Action

6.1 Definition and Anticipated Use

Remedial actions are directives that may be issued to a bulk power system owner, operator, or user to resolve an alleged violation of a reliability standard by addressing conditions, practices, or any other relevant action or activity that is immediately necessary to terminate or correct to protect the reliability of the bulk power system from an imminent threat. A remedial action directive will be issued when NERC or the regional entity identifies an alleged violation of a reliability standard that must be corrected immediately to ~~promptly reduce~~ protect the reliability of the bulk power system from the imminent ~~the reliability~~ threat that NERC or the regional entity has identified ~~poses to the reliability of the bulk power system~~.

NERC or the regional entity will generally employ remedial action directives where they deem it necessary to clearly specify minimum corrective actions that the subject of the remedial action directive must take; additionally or alternatively a remedial action directive may clearly specify timelines within which the subject must take specified actions, complete specified tasks, or achieve specified outcomes. Also, to the extent NERC or the regional entity is authorized to do so, a remedial action directive may communicate penalties, sanctions, or further remedial actions that may be imposed should the specific remedial action directive not be complied with by those to whom it has been issued. As a rule of thumb, remedial action directives will be of use to NERC or the regional entity whenever any significant combination of specificity, clarity, or time is of the essence to address a threat to the reliability of the bulk power system brought on by lack of or inadequate compliance to the reliability standards.

6.2 Compliance Requirements

In the United States, the Commission has concluded that owners, operators, or users of the bulk power system must comply with remedial action directives issued to them by NERC or a regional entity. Noncompliance with a remedial action directive may result in a substantially increased penalty or sanction.

Remedial action directives issued by NERC or the regional entity will include a deadline by which time the owner, operator, or user must complete requirements set out in the order, and by which time the entity must demonstrate compliance to the remedial action directive to NERC or the regional entity that issued it. Failure or refusal to meet the requirements or deadlines set out in a remedial action directive may itself result in further remedial action directives or significantly increased penalties or sanctions by NERC or the regional entity.

6.3 No Obligation to Issue

NERC or the regional entity may, but is not obligated, to issue remedial action directives. Lack of being issued a remedial action directive does not relieve a bulk power system owner, operator, or user from any responsibilities they otherwise have to comply or maintain compliance with requirements of the reliability standards. Remedial action directives will be used by NERC or the regional entities only as they deem warranted, when they deem warranted.

6.4 Scope of Application

The scope of remedial action directives issued by NERC or the regional entity will be limited to conditions, practices, or any other relevant actions or activities resulting in noncompliance, or that NERC or the regional entity considers at significant risk of becoming noncompliant, to requirements of the reliability standards, and that present an imminent threat to the reliability of the bulk power system. However, beyond merely directing compliance or improved compliance with standards' requirements, where NERC or the regional entity is authorized to do so, the directive may also stipulate how compliance or the improvement to compliance is to be achieved.

6.5 Availability

In the United States, the Commission has interpreted the Federal Power Act to authorize the NERC or the regional entity can issue a remedial action directive prior to completion of the confirmation review of a probable violation, or prior to the determination of a penalty or sanction for that violation. The Commission also concluded it is not necessary for NERC or the regional entity to acquire the Commission's or other regulators' approval prior to issuing remedial action directives. Accordingly, NERC or the regional entity may issue remedial action directives to entities in the United States whenever they deem it necessary or otherwise warranted to do so. Also, NERC or the regional entity may issue remedial action directives to entities in the United States regarding a violation [that is immediately necessary to terminate or correct to protect the reliability of the bulk power system from an imminent threat](#), irrespective of whether that violation is ultimately verified or ~~dispelled~~[dismissed](#) by NERC or the regional entity's investigation of the violation.

6.6 No Impact on Confirmation of Violation, or Penalties or Sanctions

Remedial action directives issued regarding a violation, in particular any costs incurred by the violator to comply with any such directive, will not be considered when reviewing whether the aggregate of any penalties and sanctions levied for that violation bear a reasonable relation to the seriousness of the violation. Also, any remedial action directives issued with respect to a violation will not influence the outcome of the confirmation review of that violation nor the determination of penalties or sanctions for that violation; ordering a violator to correct what needs correcting anyway is no grounds for dispelling a violation nor reducing or eliminating a penalty or sanction that would otherwise be determined appropriate for the violator for that violation.

6.7 Types of Remedial Actions

NERC or the regional entities may issue remedial action directives to correct compliance with NERC or regional reliability standards and reduce or eliminate [imminent](#) threats to the reliability of the bulk power system. Examples of remedial actions include:

- a. Specifying operating or planning criteria, limits, or limitations
- b. Requiring specific system studies
- c. Defining operating practices or guidelines
- d. Requiring confirmation of data, practices, or procedures through inspection testing or other methods
- e. Requiring specific training for personnel
- f. Requiring development of specific operating plans

Appendix A: Base Penalty Amount Table

The following lists the Base Penalty amounts corresponding to combinations of violation risk factor and violation severity factor.

Violation Risk Factor	Violation Severity Level							
	Lower		Moderate		High		Severe	
	Range Limits		Range Limits		Range Limits		Range Limits	
	Low	High	Low	High	Low	High	Low	High
Lower	\$1,000	\$3,000	\$2,000	\$7,500	\$3,000	\$15,000	\$5,000	\$25,000
Medium	\$2,000	\$30,000	\$4,000	\$100,000	\$6,000	\$200,000	\$10,000	\$335,000
High	\$4,000	\$125,000	\$8,000	\$300,000	\$12,000	\$625,000	\$20,000	\$1,000,000

NOTE: This table describes the amount of penalty that could be applied for each day that a violation continues, subject to the considerations of Section 3.21 regarding frequency and duration of violations.

ATTACHMENT 14A

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED APPENDIX 4C

TO THE

RULES OF PROCEDURE

COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

CLEAN VERSION



Proposed Revised Version

North American Electric Reliability Corporation

Compliance Monitoring and Enforcement Program

APPENDIX 4C TO THE RULES OF PROCEDURE

Effective: [DATE]

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ATTACHMENT 1 – PROCESS FOR NON-SUBMITTAL OF REQUESTED DATA

**ATTACHMENT 2 – COMPLIANCE ENFORCEMENT AUTHORITY HEARING
PROCEDURE**

Compliance Monitoring and Enforcement Program

COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

1.0 INTRODUCTION

This Compliance Monitoring and Enforcement Program (“Compliance Program”) is the program to be used by the North American Electric Reliability Corporation (“NERC”) and the Regional Entities to monitor, assess, and enforce compliance with Reliability Standards within the United States. Compliance monitoring and enforcement programs also will be implemented in Canada consistent with Canadian laws and agreements.

1.1 Definitions

Capitalized terms used in this Compliance Program shall have the meanings set forth in Section 200 of the NERC Rules of Procedure or as set forth below:

- 1.1.1 Alleged Violation:** A Possible Violation for which the Compliance Enforcement Authority has determined, based on an assessment of the facts and circumstances surrounding the Possible Violation, that evidence exists to indicate a Registered Entity has violated a Reliability Standard.
- 1.1.2 Annual Audit Plan:** A plan developed annually by the Compliance Enforcement Authority that includes the Reliability Standards and Registered Entities to be audited, the schedule of Compliance Audits, and Compliance Audit Participant requirements for the calendar year.
- 1.1.3 Applicable Governmental Authority:** The Federal Energy Regulatory Commission (“FERC”) within the United States and the appropriate governmental authority with subject matter jurisdiction over reliability in Canada and Mexico.
- 1.1.4 Complaint:** An allegation that a Registered Entity violated a Reliability Standard.
- 1.1.5 Compliance Audit:** A systematic, objective review and examination of records and activities to determine whether a Registered Entity meets the requirements of applicable Reliability Standards.
- 1.1.6 Compliance Audit Participants:** Registered Entities scheduled to be audited and the audit team members.
- 1.1.7 Compliance Enforcement Authority:** NERC or the Regional Entity in their respective roles of monitoring and enforcing compliance with the NERC Reliability Standards.
- 1.1.8 Compliance Investigation:** A comprehensive investigation, which may include an on-site visit with interviews of the appropriate personnel, to determine if a violation of a Reliability Standard has occurred.

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- 1.1.9** Confirmed Violation: An Alleged Violation for which an entity has: (1) accepted the finding of the violation by a Regional Entity or NERC and will not seek an appeal, or (2) completed the hearing and appeals process within NERC, or (3) allowed the time for requesting a hearing or submitting an appeal to expire, or (4) admitted to the violation in a settlement agreement.
- 1.1.10** End Date: The last date of the period to be covered in a Compliance Audit.
- 1.1.11** Exception Reporting: Information provided to the Compliance Enforcement Authority by a Registered Entity indicating that a violation of a Reliability Standard has occurred (e.g., a system operating limit has been exceeded) or enabling the Compliance Enforcement Authority to ascertain the Registered Entity's compliance.
- 1.1.12** Mitigation Plan: An action plan, required when a Registered Entity violates a Reliability Standard as determined by any means including Compliance Enforcement Authority decision, settlement agreement, or otherwise, that is developed by the Registered Entity to (1) correct a violation of a Reliability Standard and (2) prevent re-occurrence of the violation.
- 1.1.13** NERC Compliance Registry: A list, maintained by NERC pursuant to Section 500 of the NERC Rules of Procedure and Appendix 5B, the NERC *Statement of Compliance Registry Criteria*, of the owners, operators and users of the Bulk Power System, and the entities registered as their designees, that perform one or more functions in support of reliability of the Bulk Power System and are required to comply with one or more requirements of Reliability Standards.
- 1.1.14** NERC Compliance Monitoring and Enforcement Program Implementation Plan or NERC Implementation Plan: The annual NERC Compliance Monitoring and Enforcement Program Implementation Plan that specifies the Reliability Standards that are subject to reporting by Registered Entities to the Compliance Enforcement Authority in order to verify compliance and identifies the appropriate monitoring procedures and reporting schedules for each such Reliability Standard.
- 1.1.15** Notice of Alleged Violation: A notice issued by the Compliance Enforcement Authority to a Registered Entity pursuant to Section 5.3.
- 1.1.16** Notice of Completion of Enforcement Action: A notice issued by the Compliance Enforcement Authority to a Registered Entity, pursuant to Section 5.10, stating that an enforcement action is closed.

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- 1.1.17** Notice of Confirmed Violation: A notice issued by the Compliance Enforcement Authority to a Registered Entity confirming the violation of one or more Reliability Standards, as a result of (1) the Registered Entity accepting a Notice of Alleged Violation and the proposed penalty or sanction, or (2) the finding of a violation through a hearing and appeal, or (3) the expiration of the period for requesting a hearing or an appeal, or (4) the Registered Entity admitting the violation as part of an executed settlement agreement.
- 1.1.18** Notice of Penalty: A notice prepared by NERC and filed with FERC, following approval by NERC of a Notice of Confirmed Violation or a settlement agreement, stating the penalty or sanction imposed or agreed to for the Confirmed Violation or as part of the settlement.
- 1.1.19** Notice of Possible Violation: A notice issued by the Compliance Enforcement Authority to a Registered Entity that (1) states a Possible Violation has been identified, (2) provides a brief description of the Possible Violation, including the Reliability Standard requirement(s) and the date(s) involved, and (3) instructs the Registered Entity to retain and preserve all data and records relating to the Possible Violation.
- 1.1.20** Periodic Data Submittals: Modeling, studies, analyses, documents, procedures, methodologies, operating data, process information or other information to demonstrate compliance with Reliability Standards and provided by Registered Entities to the Compliance Enforcement Authority on a time frame required by a Reliability Standard or an ad hoc basis.
- 1.1.21** Possible Violation: The identification, by the Compliance Enforcement Authority, using one of the Compliance Monitoring and Enforcement Processes in Section 3.0, of a possible failure by a Registered Entity to comply with a Reliability Standard that is applicable to the Registered Entity.
- 1.1.22** Preliminary Screen: An initial evaluation of evidence indicating potential noncompliance with a Reliability Standard has occurred or is occurring, conducted by the Compliance Enforcement Authority for the purpose of determining whether a Possible Violation exists, and consisting of an evaluation of whether (1) the entity allegedly involved in the potential noncompliance is registered, and (2) the Reliability Standard requirement to which the evidence of potential noncompliance relates is applicable to the entity and is enforceable.
- 1.1.23** Regional Implementation Plan: An annual plan, submitted by November 1 of each year to NERC for approval that, in accordance with NERC Rule of Procedure Section 401.6 and the NERC Compliance Monitoring and Enforcement Program Implementation Plan, identifies (1) all Reliability Standards identified by NERC to be actively

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monitored during each year, (2) other Reliability Standards proposed for active monitoring by the Regional Entity, (3) the methods to be used by the Regional Entity for reporting, monitoring, evaluation, and assessment of performance criteria with each Reliability Standard, and (4) the Regional Entity's Annual Audit Plan.

1.1.24 Registered Entity: An owner, operator, or user of the Bulk Power System, or the entity registered as its designee for the purpose of compliance, that is included in the NERC Compliance Registry.

1.1.25 Remedial Action Directive: An action (other than a penalty or sanction) required by a Compliance Enforcement Authority that (1) is to bring a Registered Entity into compliance with a Reliability Standard or to avoid a Reliability Standard violation, and (2) is immediately necessary to protect the reliability of the Bulk Power System from an imminent threat.

1.1.26 Required Date: The date given a Registered Entity in a notice from the Compliance Enforcement Authority by which some action by the Registered Entity is required.

1.1.27 Self-Certification: Attestation by a Registered Entity of compliance or non-compliance with a Reliability Standard for which Self-Certification is required by the Compliance Enforcement Authority and that is included for monitoring in the Regional Implementation Plan.

1.1.28 Self-Reporting: A report by a Registered Entity stating (1) that the Registered Entity believes it has violated a Reliability Standard, and (2) the actions that have been taken or will be taken to resolve the violation.

1.1.29 Spot Checking: A process in which the Compliance Enforcement Authority requests a Registered Entity to provide information (1) to support the Registered Entity's Self-Certification, Self-Reporting, or Periodic Data Submittal and to assess whether the Registered Entity complies with Reliability Standards, or (2) as a random check, or (3) in response to events, as described in the Reliability Standards or based on operating problems or system events.

2.0 IDENTIFICATION OF ORGANIZATIONS RESPONSIBLE FOR COMPLYING WITH RELIABILITY STANDARDS

NERC shall register the organizations responsible for complying with Reliability Standards, in accordance with Section 500 of the NERC Rules of Procedure and Appendix 5B, *Statement of Compliance Registry Criteria*. Organizations are responsible to register and to comply with Reliability Standards if they are owners, operators, and users of the Bulk Power System, perform a function listed in the functional types identified in Section II of Appendix 5B, and are material to the reliable operation of the Bulk Power System as defined by the criteria and notes in

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Appendix 5B. Regional Entities shall (i) develop and provide to NERC information to assist NERC to register organizations responsible for complying with Reliability Standards, and (ii) in the event of a registration appeal to NERC or an Applicable Governmental Authority, provide information requested by NERC concerning how the Registered Entity meets the registration criteria or is otherwise material to the reliability of the Bulk Power System.

NERC shall notify organizations of their inclusion on the NERC Compliance Registry and shall maintain the NERC Compliance Registry on its web site. NERC shall inform each Registered Entity at the time of registration of the Reliability Standards that are applicable to reliability functions for which the Registered Entity is registered. Each Registered Entity shall inform NERC or the applicable Regional Entity promptly of changes to the Registered Entity's registration information. NERC will provide FERC and Applicable Governmental Authorities monthly updates to the NERC Compliance Registry.

NERC and each Regional Entity will designate a contact person(s) and require each Registered Entity to designate a contact person(s) responsible for sending and receiving all necessary information and communications concerning compliance matters. NERC and the applicable Regional Entity will designate where Registered Entities are to send information, data, Mitigation Plans, or any other compliance-related correspondence.

NERC shall maintain on its website a current listing of Reliability Standards that are applicable to all Registered Entities.

As provided for herein, during the course of compliance monitoring and enforcement activities relating to U.S. entities, NERC may obtain information that it will provide to FERC and, if the information pertains to a Registered Entity or to a portion of the Bulk Power System over which another Applicable Governmental Authority has jurisdiction, to such other Applicable Governmental Authority. However, NERC will not provide non-public U.S. compliance information that is subject to 18 C.F.R. §39.7(b)(4) to Applicable Governmental Authorities other than FERC without first obtaining permission from FERC for such disclosures and subject to such limitations as FERC may place on such disclosures. Similarly, during the course of compliance monitoring and enforcement activities relating to non-U.S. entities, NERC may obtain information that it will provide to the Applicable Governmental Authorities, including FERC, that have jurisdiction over the Registered Entity or the portion of the Bulk Power System to which the information pertains, but subject to any limitations placed on the disclosure of non-public, non-U.S. compliance information by the Applicable Governmental Authority with jurisdiction or by other law of the applicable jurisdiction. In any notice to, and request for permission to disclose compliance information from, FERC or another Applicable Governmental Authority pursuant to any provision of this Compliance Program, NERC will identify each Applicable Governmental Authority to which it proposes to disclose the information and the specific procedures that will be used for protecting from public disclosure any non-public compliance information that will be transferred to the other Applicable Governmental Authority or Authorities. The provisions of this paragraph do not apply to the provision by NERC to an Applicable Governmental Authority of information that is not directly related to a specific Registered Entity's compliance with a requirement of a Reliability Standard.

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3.0 COMPLIANCE MONITORING AND ENFORCEMENT PROCESSES

The Compliance Enforcement Authority will monitor, assess, and enforce compliance with Reliability Standards using the compliance monitoring processes described in this Section 3.0 to collect information in order to make assessments of compliance. These processes are described in Sections 3.1 through 3.8 below.

Enforcement actions taken by the Compliance Enforcement Authority through the Compliance Program may include the imposition of remedial actions, sanctions, and penalties, where applicable, which shall be based on the schedule of penalties and sanctions approved for implementation by FERC and other Applicable Governmental Authorities. The imposition and acceptance of sanctions and penalties shall not be considered an acceptable alternative to any Registered Entity's continuing obligation to comply with the Reliability Standards. Registered Entities found in violation of a Reliability Standard will be required to mitigate the violation regardless of any enforcement actions taken.

The Compliance Program requires timely data from Registered Entities to effectively monitor compliance with Reliability Standards. If data, information or other reports to determine compliance requested from a Registered Entity are not received by the Required Date, the Compliance Enforcement Authority may execute the steps described in **Attachment 1, Process for Non-submittal of Requested Data**.

Parties engaged in the process described in this section should consult with each other on the data and information that would be appropriate for effectively addressing this section's process requirements. If a party believes that a request for data or information is unreasonable, the party may request a written determination from the NERC compliance program officer.

Any report or other submission of information by a Registered Entity required by the Compliance Program shall be signed by an officer, employee, attorney or other authorized representative of the Registered Entity. Electronic signatures are permitted in accordance with processes established by NERC and the Regional Entity. NERC or the Compliance Enforcement Authority may require the signer to provide a statement of the basis of his or her authority to sign on behalf of the Registered Entity.

3.1 Compliance Audits

All Registered Entities are subject to audit for compliance with all Reliability Standards applicable to the functions for which the Registered Entity is registered. Compliance Audits are conducted on the Registered Entity's site to the extent required by NERC Rule of Procedure 403.11.2. Compliance Audit processes for Compliance Audits conducted in the United States shall be based on professional auditing standards recognized in the U.S., including Generally Accepted Auditing Standards, Generally Accepted Government Auditing Standards and standards sanctioned by the Institute of Internal Auditors. Compliance Audit processes for Compliance Audits conducted outside the U.S. may be based on Canadian or other international standards. All Compliance Audits shall be conducted in accordance with audit guides established for the Reliability Standards included in the Compliance Audit, consistent with accepted auditing guidelines as approved by NERC. The audit guides will be posted on NERC's website.

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3.1.1 Compliance Audit Process Steps

The process steps for a Compliance Audit are as follows:¹

- The Compliance Enforcement Authority distributes the Annual Audit Plan (developed in coordination with NERC) to the Compliance Audit Participants and NERC. The Compliance Enforcement Authority provides additional information to the Compliance Audit Participants, including audit materials, coordinating agendas and changes to the audit schedule as required. Prior to the Compliance Audit, the Compliance Enforcement Authority informs the Registered Entity of the Reliability Standards to be evaluated. NERC or the Regional Entity provides the audit schedules to FERC and to any other Applicable Governmental Authority based upon the agreements in place with the other Applicable Governmental Authority.
- At least two (2) months prior to commencement of a regularly scheduled Compliance Audit, the Compliance Enforcement Authority notifies the Registered Entity of the Compliance Audit, identifies the audit team members and their recent employment history, and requests data, including a completed NERC pre-audit questionnaire. If the audit team members change from the time of the original notification, the Compliance Enforcement Authority will promptly notify the Registered Entity of the change and will allow time for the Registered Entity to object to the new audit team member(s) (see Section 3.1.5).
- The Registered Entity provides to the Compliance Enforcement Authority the required information in the format specified in the request.
- The audit team reviews the submitted information for conformance with the requirements of the Reliability Standards prior to performing the Compliance Audit. The audit team follows NERC audit guidelines in the implementation of the Compliance Audit. This shall include conducting an exit briefing with the Registered Entity, providing for a review of the audit report with the Registered Entity before it is finalized, and issuing an audit report, including an assessment of compliance with the Reliability Standards, to the Compliance Enforcement Authority.
- The Compliance Enforcement Authority reviews the report developed by the audit team and completes a Preliminary Screen for any Possible Violations of Reliability Standards, based on the potential noncompliances with Reliability Standards (if any) identified in the report.
- If the Compliance Enforcement Authority concludes that there is a Possible Violation of a Reliability Standard, it shall send the Registered Entity a Notice of Possible Violation.
- The Compliance Enforcement Authority provides the final audit report to the Registered Entity and to NERC.

¹This process normally completes within sixty (60) days of the completion of the on-site Compliance Audit work at the Registered Entity's site.

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3.1.2 Compliance Enforcement Authority Annual Audit Plan and Schedule

The Compliance Enforcement Authority shall develop an Annual Audit Plan. The Annual Audit Plan of Regional Entities will be included in the Regional Implementation Plans submitted to NERC for review and approval (see Section 4.2). NERC or the Regional Entity provides the Annual Audit Plans to FERC and to any other Applicable Governmental Authority consistent with the agreements in place with the Applicable Governmental Authority.

Prior to January 1 of the year covered by the Annual Audit Plan, the Compliance Enforcement Authority shall notify Registered Entities subject to Compliance Audits during the upcoming year, of the audit schedules, methods, and data requirements for the audit. The Compliance Enforcement Authority will give due consideration to any schedule changes requested by Registered Entities to avoid unnecessary burdens.

Revisions and additions to a Regional Entity Annual Audit Plan shall be approved by NERC and the Registered Entity shall be notified in a timely manner (normally 60 days in advance) of changes or revisions to scheduled audit dates.

3.1.3 Frequency of Compliance Audits

The Compliance Enforcement Authority will perform comprehensive Compliance Audits as required by the NERC Rules of Procedure based on criteria established by NERC. Additionally, an unscheduled Compliance Audit of any Registered Entity (i) may be initiated at any time by the Compliance Enforcement Authority if reasonably determined to be necessary to ensure the Registered Entity's compliance with Reliability Standards, and (ii) shall be initiated by the Compliance Enforcement Authority or by NERC if directed by FERC. Prior to or on the same date it notifies the Registered Entity that an unscheduled Compliance Audit is being initiated, the Compliance Enforcement Authority shall notify NERC and FERC that an unscheduled Compliance Audit is being initiated. The Registered Entity shall receive at least ten (10) business days advance notice that an unscheduled Compliance Audit is being initiated, which notice shall include identification of the members of the Compliance Audit team. The Registered Entity shall make any objections to the composition of the Compliance Audit team, which shall be based on failure to meet the criteria specified in Section 3.1.5.2, at least five (5) business days prior to the start of on-site audit work for the unscheduled Compliance Audit.

3.1.4 Scope of Compliance Audits

3.1.4.1 Reliability Standards

A Compliance Audit shall include those Reliability Standards applicable to the Registered Entity that are identified in the NERC Implementation Plan for the current year, and may include other Reliability Standards applicable to the Registered Entity that are identified in the Regional Entity's Regional Implementation Plan for the current year. The Compliance Audit may include any other Reliability Standards that are applicable to the Registered Entity.

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3.1.4.2 Period Covered

The Registered Entity's data and information should show compliance with the Reliability Standards that are the subject of the Compliance Audit for the period beginning with the day after the prior audit by the Compliance Enforcement Authority ended (or the later of June 18, 2007 or the Registered Entity's date of registration if the Registered Entity has not previously been subject to a Compliance Audit), and ending with the End Date for the Compliance Audit. However, if another Compliance Monitoring and Enforcement process has been conducted with respect to the Registered Entity subsequent to the date that would otherwise be the start of the period, the period covered by the Compliance Audit may, in the Regional Entity's discretion, begin with the completion of that Compliance Monitoring and Enforcement process for those Reliability Standards requirements that were the subject of the Compliance Monitoring and Enforcement process. The End Date will be stated in the Compliance Enforcement Authority's notification of the Compliance Audit issued to the Registered Entity pursuant to Section 3.1.1. The Registered Entity will be expected to demonstrate compliance for the entire period described above. However, if a Reliability Standard specifies a document retention period that does not cover the entire period described above, the Registered Entity will not be found in noncompliance solely on the basis of the lack of specific information that has rightfully not been retained based on the retention period specified in the Reliability Standard. However, in such cases, the Compliance Enforcement Authority will require the Registered Entity to demonstrate compliance through other means.

3.1.4.3 Mitigation Plans

The Compliance Audit will include a review of any Mitigation Plans which the Registered Entity has not yet completed, for the purpose of determining whether the Registered Entity is making adequate progress towards completion of the Mitigation Plan.

3.1.5 Conduct of Compliance Audits

3.1.5.1 Composition of Compliance Audit Teams

The audit team shall be comprised of staff from the Compliance Enforcement Authority and such other persons as are included in the audit team pursuant to Section 3.1.5.3, and may include contractors and industry subject matter experts as determined by the Compliance Enforcement Authority to be appropriate to comprise a sufficient audit team. The audit team leader shall be a staff member from the Compliance Enforcement Authority and is responsible for the conduct of the Compliance Audit and preparation of the audit report.

3.1.5.2 Requirements for Compliance Audit Team Members

Each audit team member must:

- Be free of conflicts of interests. For example, employees or contractors of the Registered Entity being audited shall not be allowed to participate as auditors in the Compliance Audit of the Registered Entity.
- Comply with the NERC Antitrust Compliance Guidelines and shall have either signed appropriate confidentiality agreements or acknowledgments that the confidentiality agreement signed by the Compliance Enforcement Authority is applicable.

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- Successfully complete all NERC or NERC-approved Regional Entity auditor training applicable to the Compliance Audit.
- Provide copies of executed confidentiality agreements or acknowledgements to be provided to the Registered Entity prior to the audit.

3.1.5.3 Compliance Audit Observers or Other Participants

In any Regional Entity Compliance Audit of a Registered Entity: (i) NERC Staff (which may include contractors to NERC) may participate either as observers or as audit team members; (ii) members of the Regional Entity's Compliance staff, in addition to the audit team, may participate as observers; (iii) with the permission of the Regional Entity, compliance staff members of other Regional Entities may participate either as observers or as audit team members; (iv) representatives of FERC and of other Applicable Governmental Authorities may participate either as observers or as audit team members so long as the Registered Entity is subject to the Applicable Governmental Authority's reliability jurisdiction; and (v) at the request of the Registered Entity, the Regional Entity may allow representatives of other Registered Entities to attend the audit for educational purposes.

The Compliance Audit team leader or other staff of the Regional Entity conducting the Compliance Audit will communicate in advance with any observers or other attendees to ensure there are no undue disruptions to the audit, such as space limitations, no conflicts of interest, and no other considerations that in the judgment of the Compliance Audit team leader may be detrimental to the conduct and quality of the audit. If the Compliance Audit team leader identifies any such issues, he/she shall work with the proposed observers or attendees to facilitate observation in a less disruptive manner; or, alternatively, the Regional Entity Compliance staff will work with the proposed observers or attendees to schedule their participation in, observation of, or attendance at a different Compliance Audit in which such issues are not presented.

3.1.5.4 Registered Entity Objections to Compliance Audit Team

A Registered Entity subject to a Compliance Audit may object to any member of the audit team on grounds of a conflict of interest or the existence of other circumstances that could interfere with the team member's impartial performance of his or her duties. Any such objections must be provided in writing to the Compliance Enforcement Authority no later than fifteen (15) days prior to the start of on-site audit work. This fifteen (15) day requirement shall not apply (i) where an audit team member has been appointed less than twenty (20) days prior to the start of on-site audit work, in which case the Registered Entity must provide any objections to the Compliance Enforcement Authority within five (5) business days after receiving notice of the appointment of the Compliance Audit team member; and (ii) in the case of an unscheduled Compliance Audit pursuant to Section 3.1.3, in which case the Registered Entity must provide any objections to the Compliance Enforcement Authority at least five (5) business days prior to the start of on-site audit work for the unscheduled Compliance Audit. The Compliance Enforcement Authority will make a final determination on whether the member will participate in the Compliance Audit of the Registered Entity. Nothing in this paragraph shall be read to limit the participation of NERC or FERC staff in the Compliance Audit.

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3.1.6 Compliance Audit Reports

The audit team shall develop a draft audit report that shall include a description of the objective, scope, and methodology of the Compliance Audit; identify any evidence of possible noncompliance with Reliability Standards by the Registered Entity found by the audit team; identify any Mitigation Plans or Remedial Action Directives which have been completed or pending in the year of the Compliance Audit; and identify the nature of any confidential information redacted. A separate document may be prepared that contains recommendations of the audit team. Any recommendations contained in that document will be considered non-binding. The draft report will be provided to the Registered Entity for comment.

The audit team will consider corrections based on comments of the Registered Entity and provide the final audit report to the Compliance Enforcement Authority who will review the report and assess compliance with the Reliability Standards and provide the Registered Entity with a copy of the final report. Regional Entities will provide the final report to NERC, which will in turn provide the report to FERC if the report pertains to a Registered Entity or to a portion of the Bulk Power System over which FERC has jurisdiction and/or to another Applicable Governmental Authority if the report pertains to a Registered Entity or to a portion of the Bulk Power System over which the other Applicable Governmental Authority has jurisdiction. Provided, that NERC will not disclose non-public U.S. compliance information that is subject to 18 C.F.R. §39.7(b)(4) to Applicable Governmental Authorities other than FERC without first obtaining permission from FERC for such disclosure and subject to such limitations as FERC may place on such disclosure; and NERC will not disclose non-public non-U.S. compliance information to an Applicable Governmental Authority (including FERC) without first obtaining permission for such disclosure from the Applicable Governmental Authority with jurisdiction over the Registered Entity or the portion of the Bulk Power System to which such non-public information pertains and subject to any limitations placed on such disclosure by such Applicable Governmental Authority or by other law of the applicable jurisdiction. The Registered Entity shall receive the final audit report at least five (5) business days prior to the release of the report to the public. Work papers and other documentation associated with the audit shall be maintained by the Compliance Enforcement Authority in accordance with NERC requirements.

In the event the audit report identifies any Possible Violations of one or more Reliability Standards, the final audit report, or pertinent part thereof identifying the Possible Violations, shall not be released to the public by NERC or the Compliance Enforcement Authority until (i) the Possible Violation is dismissed prior to becoming a Confirmed Violation, or (ii) NERC submits a Notice of Penalty to FERC or other Applicable Governmental Authority, or (iii) the Registered Entity admits to a violation or enters into a settlement agreement with the Compliance Enforcement Authority pursuant to Section 5.6.

Information deemed by a Compliance Enforcement Authority or the Registered Entity as critical energy infrastructure information or confidential information (as defined in Section 1501 of the NERC Rules of Procedure) shall be redacted from any public reports.

3.2 Self-Certification

The Compliance Enforcement Authority may require Registered Entities to self-certify their compliance with Reliability Standards.

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If a Self-Certification accurately identifies a violation of a Reliability Standard, an identification of the same violation in a subsequent Compliance Audit or Spot Check will not subject the Registered Entity to an escalated penalty as a result of the Compliance Audit process unless the severity of the violation is found to be greater than reported by the Registered Entity in the Self-Certification.

3.2.1 Self-Certification Process Steps

The process steps for the Self-Certification process are as follows:²

- The Compliance Enforcement Authority posts and updates the reporting schedule and informs Registered Entities. The Compliance Enforcement Authority ensures that the appropriate Reliability Standards, compliance procedures, and required submittal forms for the Reliability Standards being evaluated are maintained and available electronically.
- The Compliance Enforcement Authority requests the Registered Entity to make a Self-Certification within the advance notice period specified by the Reliability Standard. If the Reliability Standard does not specify the advance notice period, this request will be issued in a timely manner (normally thirty (30) days advance notice).
- The Registered Entity provides the required information to the Compliance Enforcement Authority.
- The Compliance Enforcement Authority reviews information to determine compliance with the Reliability Standards and may request additional data and/or information if necessary.
- The Compliance Enforcement Authority completes the assessment of the Registered Entity for compliance with the Reliability Standard (and with the Registered Entity's Mitigation Plan, if applicable). If the Compliance Enforcement Authority concludes, after completing a Preliminary Screen(s), that there is a Possible Violation of a Reliability Standard, it shall send the Registered Entity a Notice of Possible Violation.

3.3 Spot Checking

Spot Checking will be conducted by the Compliance Enforcement Authority. Spot Checking may be initiated by the Compliance Enforcement Authority at any time to verify or confirm Self-Certifications, Self Reporting, and Periodic Data Submittals. Spot Checking may also be random or may be initiated in response to events, as described in the Reliability Standards, or to operating problems, or system events. The Compliance Enforcement Authority then reviews the information submitted to verify the Registered Entity's compliance with the Reliability Standard. Compliance auditors may be assigned to the Spot Checking process by the Compliance Enforcement Authority as necessary.

²If no Possible Violations are found, this process normally completes within sixty (60) days of the Compliance Enforcement Authority's receipt of data.

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3.3.1 Spot Checking Process Steps

The process steps for Spot Checking are as follows:³

- The Compliance Enforcement Authority notifies the Registered Entity that Spot Checking will be performed and the reason for the Spot Checking within the advance notice period specified by the Reliability Standard. If the Reliability Standard does not specify an advance notice period, any information submittal request made by the Compliance Enforcement Authority will allow at least twenty (20) days for the Registered Entity to submit the information or make it available for review.
- The Compliance Enforcement Authority, during the advance notice period, notifies the Registered Entity of the names and employment histories of the persons who will be conducting the Spot Checking. The Registered Entity may object to inclusion of any individual on the Spot Checking team in accordance with Section 3.1.5.4. Any such objections must be submitted by the later of (i) five (5) business days before the information being requested by the Compliance Enforcement Authority is submitted and (ii) five (5) business days after the Registered Entity is notified of the persons on the Spot Checking team. Nothing in this step shall be read to limit the participation of NERC or FERC staff on the Spot Checking team.
- The Spot Checking may require submission of data, documentation, or possibly an on-site review.
- The Registered Entity provides the required information to the Compliance Enforcement Authority in the format specified in the request.
- The Compliance Enforcement Authority reviews the information to determine compliance with the Reliability Standards and may request additional data and/or information if necessary for a complete assessment of compliance.
- The Compliance Enforcement Authority reviews its draft assessment of the Registered Entity's compliance with the Reliability Standards and provides an opportunity for the Registered Entity to comment on the draft assessment.
- The Compliance Enforcement Authority completes and documents the assessment of the Registered Entity for compliance with the Reliability Standard and provides a report to the Registered Entity indicating the results of the Spot Checking.
- If the Compliance Enforcement Authority concludes, after completing a Preliminary Screen(s), that there is a Possible Violation of a Reliability Standard, it shall send the Registered Entity a Notice of Possible Violation.

³If no Possible Violations are found, this process normally completes within ninety (90) days of the Compliance Enforcement Authority's receipt of data.

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3.4 Compliance Investigations

A Compliance Investigation may be initiated at any time by the Compliance Enforcement Authority or NERC in response to a system disturbance, Complaint, or possible violation of a Reliability Standard identified by any other means.

Compliance Investigations will generally be led by the Regional Entity's staff. NERC reserves the right to assume the leadership of a Compliance Investigation.⁴ The Regional Entity shall not be entitled to appeal NERC's decision to lead a Compliance Investigation.

Compliance Investigations are confidential, unless FERC directs that a Compliance Investigation should be public or that certain information obtained in the Compliance Investigation should be publicly disclosed. Confirmed Violations resulting from a Compliance Investigation will be made public.

FERC or another Applicable Governmental Authority may initiate an investigation at any time in response to a system disturbance, Complaint, or possible violation of a Reliability Standard identified by any other means, or for any other purpose authorized by law. Investigations initiated by FERC or another Applicable Governmental Authority shall be governed by and conducted pursuant to the statutory authority and rules of the Applicable Governmental Authority and not the procedures set forth herein. If an Applicable Governmental Authority other than FERC initiates an investigation of a U.S.-related matter, NERC shall provide notice to FERC of the investigation prior to disclosure of any non-public U.S.-related compliance information regarding the matter to be investigated to the other Applicable Governmental Authority. NERC's notice to FERC shall identify the other Applicable Governmental Authority, shall describe the nature of the proposed disclosures to the other Applicable Governmental Authority, and shall state the procedures NERC will utilize in connection with the Compliance Investigation to ensure compliance with the requirements of 18 C.F.R. §39.7(b)(4) concerning nondisclosure of violations and Alleged Violations. If FERC initiates an investigation of a non-U.S.-related matter, NERC shall provide notice of the investigation to the Applicable Governmental Authority having jurisdiction over the Registered Entity or the portion of the Bulk Power System that is the subject of the investigation prior to disclosure to FERC of any non-public non-U.S.-related compliance information regarding the matter to be investigated. NERC's notice to the other Applicable Governmental Authority shall describe the nature of the proposed disclosures to FERC and shall state the procedures NERC will utilize in connection with the investigation to ensure compliance with regulations of the other Applicable Governmental Authority or other law of the applicable jurisdiction concerning disclosure of non-public compliance information.

⁴Examples of situations in which NERC may decide to lead a Compliance Investigation include: (i) to assure consistency in investigative processes, (ii) to coordinate Compliance Investigations into matters that may cross Regional Entity boundaries, (iii) where the potential noncompliance is related to the Regional Entity or one of its affiliates, divisions, committees or subordinate structures, or (iv) where the Regional Entity determines it cannot conduct the Compliance Investigation.

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3.4.1 Compliance Investigation Process Steps

The process steps for a Compliance Investigation are as follows:⁵

- The Compliance Enforcement Authority is notified or becomes aware of circumstances indicating a Reliability Standard may have been or is being violated and determines whether a Compliance Investigation is warranted. Within two (2) business days of the decision to initiate a Compliance Investigation, the Compliance Enforcement Authority: (i) notifies the Registered Entity of the initiation and initial scope of the Compliance Investigation, the requirements to preserve all records and information relevant to the Compliance Investigation and, where appropriate, the reasons for the Compliance Investigation, and (ii) notifies NERC of the initiation of and the reasons for the Compliance Investigation. While the Compliance Enforcement Authority may, at its discretion, notify the Registered Entity of the reasons for its Compliance Investigation, the Compliance Investigation, as it unfolds, need not be limited to this scope.
- NERC assigns a NERC staff member to the Compliance Investigation and to serve as a single point of contact for communications with NERC. Within two (2) business days after NERC is notified of the decision to initiate a Compliance Investigation, NERC will notify each Applicable Governmental Authority having jurisdiction over a Registered Entity or a portion of the Bulk Power System to which the Compliance Investigation relates. Provided, that NERC will not disclose non-public U.S. compliance information that is subject to 18 C.F.R. §39.7(b)(4) to an Applicable Governmental Authority other than FERC without first obtaining permission from FERC for such disclosure and subject to any limitations placed by FERC on such disclosure, and NERC will not disclose non-public non-U.S. compliance information to an Applicable Governmental Authority (including FERC) without first obtaining permission from the Applicable Governmental Authority that has jurisdiction over the Registered Entity or portion of the Bulk Power System to which the non-public information pertains and subject to any limitations placed on such disclosure by such Applicable Governmental Authority or by other law of the applicable jurisdiction.
- The Compliance Enforcement Authority requests data or documentation and provides a list of individuals on the Compliance Investigation team and their recent employment history. The Registered Entity may object to any individual on the Compliance Investigation team in accordance with Section 3.1.5.4; however, the Registered Entity may not object to participation by NERC, by FERC staff or by staff of another Applicable Governmental Authority on the Compliance Investigation team. If the Reliability Standard does not specify the advance notice period, a request is normally issued with no less than twenty (20) days advance notice.
- Within ten (10) business days of receiving the notification of a Compliance Investigation, a Registered Entity subject to a Compliance Investigation may object to any member of the Compliance Investigation team on grounds of a conflict of interest or the existence of other circumstances that could interfere with the team member's impartial performance

⁵If no Possible Violation(s) are found, this process normally completes within sixty (60) days following the decision to initiate a Compliance Investigation.

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of his or her duties. Such objections must be provided in writing to the Compliance Enforcement Authority within such ten (10) business day period. The Compliance Enforcement Authority will make a final determination as to whether the individual will participate in the Compliance Investigation of the Registered Entity.

- The Registered Entity provides the required information to the Compliance Enforcement Authority in the format as specified in the request.
- If necessary, the Compliance Investigation may include an on-site visit with interviews of the appropriate personnel and review of data.
- In conducting the Compliance Investigation, the Compliance Enforcement Authority may require the Registered Entity to (i) provide a verification under oath by an officer, employee, attorney or other authorized representative of the Registered Entity attesting to the accuracy, completeness and truth of the Registered Entity's responses to the Compliance Enforcement Authority's requests for information; and (ii) produce one or more officers, employees or other authorized representatives of the Registered Entity who are familiar with the matter(s) that are the subject of the Compliance Investigation, to be interviewed or to provide testimony under oath concerning such matters. The Compliance Enforcement Authority shall determine in each case (i) whether representatives of the Registered Entity shall be allowed to be present when an interview is taking place or testimony is being taken, and (ii) whether, and by what method, the interview or testimony shall be recorded; provided, that counsel for the person being interviewed or giving testimony may be present when the interview is being conducted or testimony is being taken (regardless of whether such counsel also represents the Registered Entity).
- The Compliance Enforcement Authority reviews information to determine compliance with the Reliability Standards. The Compliance Enforcement Authority may request additional data and/or information if necessary for a complete assessment or to demonstrate compliance.
- The Compliance Enforcement Authority completes the assessment of compliance with the Reliability Standard and/or approval of the applicable Mitigation Plan, writes and distributes the report, and notifies the Registered Entity.
- If the Compliance Enforcement Authority concludes, at any time during the Compliance Investigation, and after completing a Preliminary Screen(s), that there is a Possible Violation of a Reliability Standard, it shall send the Registered Entity a Notice of Possible Violation.
- If the Compliance Enforcement Authority determines that no violation occurred, it shall send the Registered Entity and NERC a notice that the Compliance Investigation has been completed. NERC will in turn notify FERC and, if the Compliance Investigation pertained to a Registered Entity or to a portion of the Bulk Power System over which another Applicable Governmental Authority has jurisdiction, will also notify such other Applicable Governmental Authority. Provided, however, that NERC will not disclose non-public U.S. compliance information that is subject to 18 C.F.R. §39.7(b)(4) to Applicable Governmental Authorities other than FERC without first obtaining permission

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from FERC for such disclosure and subject to any limitations placed by FERC on such disclosure, and NERC will not disclose non-public non-U.S. compliance information to an Applicable Governmental Authority (including FERC) without first obtaining permission from the Applicable Governmental Authority that has jurisdiction over the Registered Entity or portion of the Bulk Power System to which the non-public information pertains and subject to any limitations placed on such disclosure by such Applicable Governmental Authority or by other law of the applicable jurisdiction.

3.5 Self-Reporting

Self-Reporting is encouraged at the time a Registered Entity becomes aware (i) of a violation of a Reliability Standard, or (ii) a change in the violation severity level of a previously reported violation. Self-Reporting of a violation of a Reliability Standard is encouraged regardless of whether the Reliability Standard requires reporting on a pre-defined schedule in the Compliance Program and the violation is determined outside the pre-defined reporting schedule.

3.5.1 Self-Reporting Process Steps

The process steps for Self-Reporting are as follows:⁶

- The Compliance Enforcement Authority posts the Self-Reporting submittal forms and ensures they are maintained and available on its Web site.
- The Registered Entity provides the Self-Reporting information to the Compliance Enforcement Authority.
- The Compliance Enforcement Authority reviews the information to determine compliance with the Reliability Standards and may request the Registered Entity to provide clarification or additional data and/or information.
- The Compliance Enforcement Authority completes the assessment of the Registered Entity for compliance with the Reliability Standards and any Mitigation Plan, if applicable, and notifies the Registered Entity.
- If the Compliance Enforcement Authority concludes, after conducting a Preliminary Screen(s), that there is a Possible Violation of a Reliability Standard, it shall send the Registered Entity a Notice of Possible Violation.

3.6 Periodic Data Submittals

The Compliance Enforcement Authority requires Periodic Data Submittals in accordance with the schedule stated in the applicable Reliability Standard, established by the Compliance Enforcement Authority, or on an as-needed basis. Requests for data submittals will be issued by the Compliance Enforcement Authority to Registered Entities with at least the minimum advance notice period specified by the applicable Reliability Standard. If the Reliability Standard does

⁶This process normally completes within sixty (60) days following the Compliance Enforcement Authority's receipt of data.

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not specify an advance notice period, the request will normally be issued with no less than twenty (20) days advance notice.

3.6.1 Periodic Data Submittals Process Steps

The process steps for Periodic Data Submittal are as follows:⁷

- The Compliance Enforcement Authority posts the current data reporting schedule on its web site and keeps Registered Entities informed of changes and/or updates. The Compliance Enforcement Authority ensures that the appropriate Reliability Standard compliance procedures and the required submittal forms for the Reliability Standards being evaluated are maintained and available via its web site.
- The Compliance Enforcement Authority makes a request for a Periodic Data Submittal.
- The Registered Entity provides the required information to the Compliance Enforcement Authority in the format as specified in the request.
- The Compliance Enforcement Authority reviews the data submittal to determine compliance with the Reliability Standards and may request additional data and/or information for a complete assessment or to demonstrate compliance.
- If the Compliance Enforcement Authority's assessment of the Registered Entity's compliance indicates there may be a Possible Violation, the Compliance Enforcement Authority provides an opportunity for the Registered Entity to comment on the assessment before it is finalized.
- If the Compliance Enforcement Authority concludes, after conducting a Preliminary Screen(s), that there is a Possible Violation of a Reliability Standard, it shall send the Registered Entity a Notice of Possible Violation.

3.7 Exception Reporting

Some Reliability Standards require reporting of exceptions to compliance with the Reliability Standard as a form of compliance monitoring. The Compliance Enforcement Authority shall require Registered Entities to provide reports identifying any exceptions to the extent required by any Reliability Standard.

The Compliance Enforcement Authority shall also require Registered Entities to confirm the number of exceptions that have occurred in a given time period identified by NERC, even if the number of exceptions is zero.

3.8 Complaints

Either NERC or Regional Entities may receive Complaints alleging violations of a Reliability Standard. A Regional Entity will conduct a review of each Complaint it receives to determine if

⁷If no Possible Violation(s) are found, this process generally completes within ten (10) business days of the Compliance Enforcement Authority's receipt of data.

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the Complaint provides sufficient basis for initiating another Compliance Monitoring and Enforcement process, except that NERC will review any Complaint (1) that is related to a Regional Entity or its affiliates, divisions, committees or subordinate structures, (2) where the Regional Entity determines it cannot conduct the review, or (3) if the complainant wishes to remain anonymous or specifically requests NERC to conduct the review of the Complaint.

If the Complaint is submitted to NERC, NERC will forward the information to the Regional Entity, as appropriate.

All anonymous Complaints will be reviewed and any resulting Compliance Monitoring and Enforcement processes conducted by NERC will be conducted in accordance with Section 3.8.2 to prevent disclosure of the identity of the complainant.

The Compliance Enforcement Authority conducting the review will determine if the Complaint may be closed as a result of the initial review and assessment of the Complaint to determine if it provides sufficient basis for initiating another Compliance Monitoring and Enforcement process. The Regional Entity will report the results of its review of the Complaint to NERC. If, as a result of the initial review of the Complaint, the Compliance Enforcement Authority determines that initiating another Compliance Monitoring and Enforcement process is warranted, that Compliance Monitoring and Enforcement process will be conducted in accordance with the applicable provisions of Section 3.0.

3.8.1 Complaint Process Steps

The detailed process steps for the Complaint process are as follows:⁸

- The complainant notifies NERC or a Regional Entity using the NERC compliance hotline, submitting a NERC Complaint reporting form, or by other means. A link to the Complaint reporting form will be posted on the NERC and Regional Entity Web sites. The Complaint should include sufficient information to enable NERC or the Regional Entity to make an assessment of whether the initiation of another Compliance Monitoring and Enforcement process is warranted. NERC or the Regional Entity may not act on a Complaint if the Complaint is incomplete and does not include sufficient information.
- If the Compliance Enforcement Authority determines that initiation of another Compliance Monitoring and Enforcement process is warranted, it initiates the Compliance Monitoring and Enforcement process in accordance with the applicable provisions of Section 3.0; otherwise it takes no further action. The Compliance Enforcement Authority notifies the complainant, the Registered Entity, and NERC of the initiation of the Compliance Monitoring and Enforcement process. If the Compliance Enforcement Authority determines that initiation of another Compliance Monitoring and Enforcement process is not warranted, it will notify the complainant, NERC, and the Registered Entity that no further action will be taken.

⁸If no Possible Violations are found, this process normally completes within sixty (60) days following receipt of the Complaint.

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- The Compliance Enforcement Authority fully documents the Complaint and the Complaint review, whether another Compliance Monitoring and Enforcement process is initiated or not.

3.8.2 Anonymous Complainant Notification Procedure

An anonymous complainant who believes, or has information indicating, there has been a violation of a Reliability Standard, can report the information and request that the complainant's identity not be disclosed.⁹ All Complaints lodged by a person or entity requesting that the complainant's identity not be disclosed shall be investigated by NERC following the procedural steps described in Section 3.8.1. Anonymous Complaints received by a Regional Entity will either be directed to NERC or the Regional Entity will collect and forward the information to NERC, at the Regional Entity's discretion. Neither NERC nor the Regional Entity shall disclose the identity of any person or entity reporting information indicating violations of Reliability Standards to NERC or to a Regional Entity that requests that his/her/its identity not be revealed. The identity of the complainant will only be known by NERC and in the case where a Regional Entity collects the information, by NERC and the Regional Entity. If the Compliance Enforcement Authority determines that initiation of another Compliance Monitoring and Enforcement process is not warranted, it will notify the complainant, NERC, and the Registered Entity that no further action will be taken.

4.0 ANNUAL IMPLEMENTATION PLANS

4.1 NERC Compliance Monitoring and Enforcement Program Implementation Plan

NERC will maintain and update the NERC Implementation Plan, to be carried out by Compliance Enforcement Authorities in the performance of their responsibilities and duties in implementing the NERC Compliance Monitoring and Enforcement Program. The NERC Implementation Plan will be provided to the Regional Entities by October 1 of each year and will specify the Reliability Standards requiring reporting by Registered Entities to the Compliance Enforcement Authority to provide verification of compliance through one of the monitoring methods described in this Compliance Plan document. The NERC Implementation Plan will be posted on the NERC web site.

4.2 Regional Entity Implementation Plan

By November 1 of each year, Regional Entities will submit a Regional Implementation Plan for the following calendar year to NERC for approval. The Regional Implementation Plan and the Regional Entity's other relevant Compliance Program documents shall be posted on the Regional Entity's Web site.

⁹NERC has established a Compliance Hotline that may be used for the submission of Complaints by persons or entities that do not want his/her/its identity disclosed (see www.nerc.com for additional information).

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5.0 ENFORCEMENT ACTIONS

The Compliance Enforcement Authority shall determine (i) whether there have been violations of Reliability Standards by Registered Entities within the Compliance Enforcement Authority's area of responsibility, and (ii) if so, the appropriate remedial actions, and penalties and sanctions, as prescribed in the NERC *Sanction Guidelines* (Appendix 4B to the NERC Rules of Procedure). NERC will work to achieve consistency in the application of the *Sanction Guidelines* by Regional Entities by direct oversight and review of penalties and sanctions, and each Regional Entity shall provide to NERC such information as is requested by NERC concerning any penalty, sanction, or remedial actions imposed by the Regional Entity.

Parties engaged in the process described in this section should consult with each other on the data and information that would be appropriate for effectively addressing this section's process requirements. If a party believes that a request for data or information is unreasonable, the party may request a written determination from the NERC director of enforcement.

The following enforcement process is undertaken by the Compliance Enforcement Authority following identification, through one of the Compliance Monitoring and Enforcement processes set forth in Section 3.0, of evidence of noncompliance with a Reliability Standard by a Registered Entity.

5.1 Preliminary Screen

If the Compliance Enforcement Authority identifies or obtains evidence of potential noncompliance with a Reliability Standard, the Compliance Enforcement Authority shall perform a Preliminary Screen to determine whether there is a Possible Violation. A Preliminary Screen shall be limited to determining whether:

- (i) the entity allegedly involved in the potential noncompliance is a Registered Entity; and
- (ii) the Reliability Standard requirement to which the evidence of potential noncompliance relates is applicable to the entity, and is enforceable.

The Compliance Enforcement Authority shall maintain records of all Preliminary Screens.

If a Preliminary Screen results in an affirmative determination with respect to the above criteria, a Possible Violation exists. The Compliance Enforcement Authority shall issue a Notice of Possible Violation to the Registered Entity. The Notice of Possible Violation shall:

- (i) state that a Possible Violation by the Registered Entity has been identified;
- (ii) provide a brief description of the Possible Violation, including the Reliability Standard requirement(s) and date(s) involved; and
- (iii) instruct the Registered Entity to retain and preserve all data and records relating to the Possible Violation.

Upon issuing a Notice of Possible Violation, the Compliance Enforcement Authority enters the Possible Violation into the NERC compliance reporting and tracking system. NERC reports the Possible Violation to the NERC Board of Trustees Compliance Committee and submits a Notice of Possible Violation, on a confidential basis, to FERC.

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5.2 Assessment of Possible Violation

After issuing a Notice of Possible Violation, the Compliance Enforcement Authority shall conduct an assessment of the facts and circumstances surrounding the Possible Violation to determine whether evidence exists to indicate the Registered Entity has violated the Reliability Standard requirement(s) identified in the Notice of Possible Violation, or whether the Possible Violation should be dismissed. The Compliance Enforcement Authority may consider any additional information to demonstrate that the Possible Violation should be dismissed or modified.

5.3 Notification to Registered Entity of Alleged Violation

If the Compliance Enforcement Authority determines, based on an assessment of the facts and circumstances surrounding a Possible Violation, that evidence exists to indicate a Registered Entity has violated a Reliability Standard, and the Compliance Enforcement Authority and the Registered Entity have not entered into settlement negotiations pursuant to Section 5.6, the Compliance Enforcement Authority shall issue a Notice of Alleged Violation (signed by an officer or designee of the Compliance Enforcement Authority) to the Registered Entity (CEO or equivalent and compliance contact) and shall enter the Alleged Violation into the NERC compliance reporting and tracking system. The Notice of Alleged Violation shall state, at a minimum:

- (i) the Reliability Standard and requirement(s) thereof the Registered Entity has allegedly violated,
- (ii) the date and time the Alleged Violation occurred (or is occurring),
- (iii) the facts the Compliance Enforcement Authority believes demonstrate or constitute the Alleged Violation,
- (iv) the proposed penalty or sanction, if any, determined by the Compliance Enforcement Authority to be applicable to the Alleged Violation in accordance with the NERC *Sanction Guidelines*, including an explanation of the basis on which the particular penalty or sanction was determined to be applicable,
- (v) notice that the Registered Entity shall, within thirty (30) days, elect one of the following options or the Compliance Enforcement Authority will deem the Registered Entity to have accepted the determination of violation and proposed penalty or sanction:
 - 1. agree with the Alleged Violation and proposed penalty or sanction, and agree to submit and implement a Mitigation Plan to correct the violation and its underlying causes, and may provide a response in accordance with Section 5.4, or
 - 2. agree with the Alleged Violation and agree to submit and implement a Mitigation Plan to eliminate the violation and its underlying causes, but contest the proposed penalty or sanction, and may provide a response in accordance with Section 5.4, or

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3. contest both the Alleged Violation and proposed penalty or sanction,
 - (vi) notice that the Registered Entity may elect to submit a Mitigation Plan while contesting the Alleged Violation and/or the proposed penalty or sanction, and that submission of a Mitigation Plan will not waive the Registered Entity's right to contest the Alleged Violation and/or the proposed penalty or sanction;
 - (vii) notice that if the Registered Entity elects to contest the Alleged Violation and/or the proposed penalty or sanction, the Registered Entity may elect to have a hearing conducted pursuant to either (i) the short-form procedure in Section 1.3.2, or (ii) the full hearing procedure, in **Attachment 2, Hearing Procedures**, and
 - (viii) required procedures to submit the Registered Entity's Mitigation Plan.

NERC shall forward a copy of the Notice of Alleged Violation to FERC and, if the Alleged Violation pertains to a Registered Entity or to a portion of the Bulk Power System over which another Applicable Governmental Authority has jurisdiction, to such other Applicable Governmental Authority, within two (2) business days of receipt from the Compliance Enforcement Authority, provided, that NERC will not disclose non-public U.S. compliance information that is subject to 18 C.F.R. §39.7(b)(4) to Applicable Governmental Authorities other than FERC without first obtaining permission from FERC for such disclosure and subject to any limitations placed by FERC on such disclosure, and NERC will not disclose non-public non-U.S. compliance information to an Applicable Governmental Authority (including FERC) without first obtaining permission from the Applicable Governmental Authority that has jurisdiction over the Registered Entity or portion of the Bulk Power System to which the non-public information pertains and subject to any limitations placed on such disclosure by such Applicable Governmental Authority or by other law of the applicable jurisdiction.

Upon acceptance by the Registered Entity of the Alleged Violation and proposed penalty or sanction, the Notice of Confirmed Violation or other enforcement action will then be processed and issued to the Registered Entity.

5.4 Registered Entity Response

If the Registered Entity does not contest or does not respond to the Notice of Alleged Violation within thirty (30) days, it shall be deemed to have accepted the Compliance Enforcement Authority's determination of violation and penalty or sanction, in which case the Compliance Enforcement Authority shall issue a Notice of Confirmed Violation to the Registered Entity and shall enter the Confirmed Violation into the NERC compliance reporting and tracking system. At the time of issuing the Notice of Confirmed Violation to the Registered Entity, the Regional Entity shall also provide notice to the Registered Entity that it may provide a written explanatory statement to accompany the Notice of Confirmed Violation. The Registered Entity's statement must include the name, title, and signature of an officer, employee, attorney or other authorized representative of the Registered Entity.

If the Registered Entity contests the Alleged Violation or the proposed penalty or sanction, the Registered Entity shall submit to the Compliance Enforcement Authority a response explaining its position, signed by an officer, employee, attorney or other authorized representative together with any supporting information and documents. The Compliance Enforcement Authority shall

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schedule a conference with the Registered Entity within ten (10) business days after receipt of the response. If the Compliance Enforcement Authority and the Registered Entity are unable to resolve all issues within forty (40) days after the Registered Entity's response, the Registered Entity may request a hearing. The Compliance Enforcement Authority and the Registered Entity may agree in writing to extend the forty (40) day period. If no hearing request is made prior to the end of the forty (40) day period, the violation will become a Confirmed Violation, in which case the Compliance Enforcement Authority shall issue a Notice of Confirmed Violation to the Registered Entity and to NERC..

If a hearing is requested the Compliance Enforcement Authority shall initiate the hearing process by convening a hearing body and issuing a written notice of hearing to the Registered Entity and the hearing body and identifying the Compliance Enforcement Authority's designated hearing representative.¹⁰

5.5 Hearing Process for Compliance Hearings

The Compliance Enforcement Authority hearing process is set forth in **Attachment 2**.

5.6 Settlement Process

The Registered Entity can request settlement negotiations at any time, including prior to the issuance of a Notice of Alleged Violation; however, the Compliance Enforcement Authority may decline to engage in or continue settlement negotiations after a Possible Violation or Alleged Violation becomes a Confirmed Violation in accordance with Section 5.4. NERC shall be notified of all settlement negotiations and may participate in any settlement negotiations. All settlement negotiations will be confidential until such time as the settlement is approved by NERC. For all settlement discussions, the Compliance Enforcement Authority shall require the Registered Entity to designate an individual(s) authorized to negotiate on its behalf.

The Compliance Enforcement Authority may consider all relevant facts in settlement negotiations. A settlement agreement must ensure that the reliability of the Bulk Power System will not be compromised by the settlement and that a violation of a Reliability Standard will not occur as a result of the settlement. All settlement agreements must provide, if the settlement is approved, for waiver of the Registered Entity's right to further hearings and appeal.

The Compliance Enforcement Authority will issue a letter setting forth the final settlement terms including all penalties, sanctions and mitigation requirements provided for in the final settlement.

The Regional Entity shall report the terms of all settlements of compliance matters to NERC. NERC will review the settlement for the purpose of evaluating its consistency with other settlements entered into for similar violations or under other, similar circumstances. The Registered Entity may submit an explanatory statement, conforming to the requirements of Section 5.4, to be included in the settlement agreement and which shall be subject to consent of the Compliance Enforcement Authority as part of the settlement agreement. The settlement

¹⁰If the dispute involves a proposed Mitigation Plan, which has not been accepted by the Compliance Enforcement Authority, the Registered Entity may file a request for hearing with the Compliance Enforcement Authority.

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agreement may state that the Registered Entity (i) admits the Alleged Violation, or (ii) does not contest the Alleged Violation, or (iii) neither admits nor denies the Alleged Violation, but may not state that the Registered Entity denies the Alleged Violation. Based on this review, NERC will either approve the settlement or reject the settlement and notify the Regional Entity and the Registered Entity of any changes to the settlement that would result in approval. If NERC rejects the settlement, the Regional Entity will attempt to negotiate a revised settlement agreement with the Registered Entity including any changes to the settlement specified by NERC.

NERC will report the approved settlement of the violation to FERC and, if the settlement relates to a Registered Entity or to a portion of the Bulk Power System over which another Applicable Governmental Authority has jurisdiction, to such other Applicable Governmental Authority, provided, that NERC will not disclose non-public U.S. compliance information that is subject to 18 C.F.R. §39.7(b)(4) to Applicable Governmental Authorities other than FERC without first obtaining permission from FERC for such disclosure and subject to any limitations placed by FERC on such disclosure, and NERC will not disclose non-public non-U.S. compliance information to an Applicable Governmental Authority (including FERC) without first obtaining permission from the Applicable Governmental Authority that has jurisdiction over the Registered Entity or portion of the Bulk Power System to which the non-public information pertains and subject to any limitations placed on such disclosure by such Applicable Governmental Authority or by other law of the applicable jurisdiction. NERC will also publicly post the violation settled (regardless of whether the settlement includes or does not include an admission of a violation) and the resulting penalty or sanction provided for in the settlement. This posting shall include a copy of the settlement or a description of the terms of the settlement, and a copy of any Mitigation Plan that is agreed to as part of the settlement. The Compliance Enforcement Authority will issue a letter setting forth the final settlement terms including all penalties, sanctions and mitigation requirements provided for in the final settlement. Postings of Notices of Confirmed Violations are addressed in Section 8.0.

5.7 NERC Appeal Process

The Registered Entity may appeal the hearing body's decision to NERC, as provided for in NERC Rules of Procedure, Section 409.¹¹

On appeal, NERC shall either affirm the Regional Entity decision or remand to the Regional Entity with reasons for its remand, which may include a direction to the Regional Entity to revise the decision. If NERC affirms the Regional Entity decision, the Regional Entity shall issue a Notice of Confirmed Violation to the Registered Entity. If NERC directs the Regional Entity to revise its decision, the Registered Entity that was the subject of the decision or the Compliance Staff of the Regional Entity whose interests are adversely affected by the directed revision may reopen the proceeding on any issue whose resolution is affected by NERC's directive, irrespective of whether the issue was previously litigated, settled or unopposed.

¹¹This process generally completes within ninety (90) days of NERC's receipt of request for appeal.

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5.8 Approval of a Notice of Confirmed Violation

A Notice of Confirmed Violation issued to a Registered Entity pursuant to Sections 5.4 or 5.7 shall include a detailed record of the enforcement action, including the facts and circumstances analyzed and the information on which the Compliance Enforcement Authority relied in proposing a penalty or sanction.

After receiving a Notice of Confirmed Violation through the NERC compliance reporting and tracking system, NERC shall review the Notice of Confirmed Violation and utilize the information therein to prepare a Notice of Penalty. NERC shall advise the Regional Entity of any additional detail or further development of the factual findings that NERC deems necessary before the Notice of Penalty can be issued.

NERC may direct the Regional Entity to revise a penalty determination, in which case the Registered Entity subject to the penalty, or the Compliance Staff of the Regional Entity, may reopen the proceedings on any issue on which the penalty was based, irrespective of whether the issue was previously litigated, settled or unopposed.

5.9 Notice of Penalty

If (i) the Registered Entity does not dispute the Notice of Alleged Violation and the proposed penalty or sanction, or (ii) a decision has been entered finding a violation and all appeals have been concluded, or (iii) a settlement agreement has been reached addressing the Possible Violation or Alleged Violation(s), NERC shall prepare a draft Notice of Penalty and provide a copy to the Regional Entity. The Regional Entity shall inform the Registered Entity that a Notice of Penalty is pending public filing. NERC will file the Notice of Penalty with FERC and any other Applicable Governmental Authority, as provided in the next paragraph, no sooner than five (5) business days after NERC approves the Notice of Confirmed Violation or settlement agreement.

NERC shall file the Notice of Penalty with FERC and, if the Possible Violation or Alleged Violation pertains to a Registered Entity or to a portion of the Bulk Power System over which another Applicable Governmental Authority has jurisdiction, to such other Applicable Governmental Authority; provided, that NERC will not disclose any non-public U.S. compliance information that is subject to 18 C.F.R. §39.7(b)(4) to Applicable Governmental Authorities other than FERC without first obtaining permission from FERC for such disclosure and subject to any limitations placed by FERC on such disclosure, and NERC will not disclose non-public non-U.S. compliance information to an Applicable Governmental Authority (including FERC) without first obtaining permission from the Applicable Governmental Authority that has jurisdiction over the Registered Entity or portion of the Bulk Power System to which the non-public information pertains and subject to any limitations placed on such disclosure by such Applicable Governmental Authority or by other law of the applicable jurisdiction. NERC will include with the Notice of Penalty any statement provided by the Registered Entity as set forth in Sections 5.4 or 5.7.

The penalty or sanction will be effective upon expiration of the thirty (30) day period following filing with FERC of the Notice of Penalty (or such longer period as ordered by FERC) or, if FERC decides to review the penalty or sanction, upon final determination by FERC.

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5.10 Closure of Enforcement Action

Following FERC approval of, or expiration of the period for action by FERC on, a Notice of Penalty filed by NERC, the Compliance Enforcement Authority shall issue a payment due notice and invoice to the Registered Entity. The payment due notice and invoice shall state the payment due date which shall be thirty (30) days from the date of the payment due notice and invoice. Upon payment of all monetary penalties by the Registered Entity, the Compliance Enforcement Authority shall issue a notice confirming payment to the Registered Entity, and provide a copy of the notice confirming payment to NERC. Following the completion by the Registered Entity of all requirements set forth in the Notice of Penalty and any settlement agreement, the Compliance Enforcement Authority shall issue the Registered Entity a Notice of Completion of Enforcement Action.

If the Compliance Enforcement Authority dismisses or disposes of a Possible Violation or Alleged Violation that does not become a Confirmed Violation, the Compliance Enforcement Authority shall issue a Notice of Completion of Enforcement Action to the Registered Entity.

A copy of the Notice of Completion of Enforcement Action shall also be provided to NERC by the Compliance Enforcement Authority.

The Notice of Completion of Enforcement Action shall include a release of any data retention directives that were previously issued to the Registered Entity in connection with the matter. Upon issuance of a Notice of Completion of Enforcement Action, tracking of the violation is completed, and the enforcement action shall be closed.

6.0 MITIGATION OF VIOLATIONS OF RELIABILITY STANDARDS

Parties engaged in the process described in this section should consult with each other on the data and information that would be appropriate for effectively addressing this section's process requirements. If a party believes that a request for data or information is unreasonable, the party may request a written determination from the NERC director of enforcement.

6.1 Requirement for Submission of Mitigation Plans

A Registered Entity found to be in violation of a Reliability Standard shall file with the Compliance Enforcement Authority (i) a proposed Mitigation Plan to correct the violation, or (ii) a description of how the violation has been mitigated, and any requests for extensions of Mitigation Plans or a report of completed mitigation. A Registered Entity may also submit a proposed Mitigation Plan at any other time, including with a Self-Report, or, without admitting it has committed a violation, in response to a Notice of Possible Violation or Notice of Alleged Violation.

6.2 Contents of Mitigation Plans

A Mitigation Plan shall include the following information:

- The Registered Entity's point of contact for the Mitigation Plan, who shall be a person (i) responsible for filing the Mitigation Plan, (ii) technically knowledgeable regarding the Mitigation Plan, and (iii) authorized and competent to respond to questions regarding the status of the Mitigation Plan. This person may be the Registered Entity's point of contact described in Section 2.0.

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- The Possible, Alleged or Confirmed Violation(s) of Reliability Standard(s) the Mitigation Plan will correct.
- The cause of the Possible, Alleged or Confirmed Violation(s).
- The Registered Entity's action plan to correct the Possible, Alleged or Confirmed Violation(s).
- The Registered Entity's action plan to correct the cause of the Possible, Alleged or Confirmed Violation.
- The Registered Entity's action plan to prevent recurrence of the Possible, Alleged or Confirmed Violation(s).
- The anticipated impact of the Mitigation Plan on the Bulk Power System reliability and an action plan to mitigate any increased risk to the reliability of the Bulk Power System while the Mitigation Plan is being implemented.
- A timetable for completion of the Mitigation Plan including the completion date by which the Mitigation Plan will be fully implemented and the Possible, Alleged or Confirmed Violation(s) corrected.
- Implementation milestones no more than three (3) months apart for Mitigation Plans with expected completion dates more than three (3) months from the date of submission. Additional violations could be determined for not completing work associated with accepted milestones.
- Any other information deemed necessary or appropriate

The Mitigation Plan shall be signed by an officer, employee, attorney or other authorized representative of the Registered Entity, which if applicable, shall be the person that signed the Self-Certification or Self Reporting submittals.

6.3 Timetable for Completion of Mitigation Plans

The Mitigation Plan shall be completed in time to have a reasonable potential to correct all of the violation(s) prior to the next applicable compliance reporting/assessment period after occurrence of the violation for which the Mitigation Plan is submitted. In all cases the Mitigation Plan should be completed without delay, and should encompass actions necessary to prevent a recurring violation of the Reliability Standard requirements underlying the Possible, Alleged or Confirmed Violation(s). The Compliance Enforcement Authority will expect full compliance with the Reliability Standard to which the Mitigation Plan is applicable at the next report or assessment of the Registered Entity. At the Compliance Enforcement Authority's discretion, the completion deadline may be extended for good cause including: (i) short assessment periods (i.e., event driven or monthly assessments), and (ii) construction requirements in the Mitigation Plan that extend beyond the next assessment period or other extenuating circumstances. If the Mitigation Plan extends beyond the next applicable reporting/assessment period, sanctions for any violation of the applicable Reliability Standard(s) occurring during the implementation

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period will be held in abeyance and will be waived if the Mitigation Plan is satisfactorily completed.

Any violations assessed during the period of time the accepted Mitigation Plan is being implemented will be recorded by the Compliance Enforcement Authority with associated sanctions or penalties. Regional Entities will report any findings of violations recorded during this time period to NERC with the notation that the Registered Entity is working under an accepted Mitigation Plan with an extended completion date with penalties and sanctions held in abeyance until completion of the Mitigation Plan. Upon completion of the accepted Mitigation Plan in accordance with Section 6.6, the Compliance Enforcement Authority will notify the Registered Entity that any findings of violations of the applicable Reliability Standard during the period that the accepted Mitigation Plan was being implemented have been waived and no penalties or sanctions will apply. Regional Entities will also notify NERC of any such waivers of violations of Reliability Standards.

A request for an extension of any milestone or the completion date of the accepted Mitigation Plan by a Registered Entity must be received by the Compliance Enforcement Authority at least five (5) business days before the original milestone or completion date. The Compliance Enforcement Authority may accept a request for an extension or modification of a Mitigation Plan if the Compliance Enforcement Authority determines the request is justified, and shall notify NERC of the extension or modification within five (5) business days.

If a Mitigation Plan submitted by a Registered Entity is rejected by the Regional Entity acting as Compliance Enforcement Authority or the hearing body in accordance with Section 6.5, the Registered Entity shall be subject to any findings of violation of the applicable Reliability Standards during the period the Mitigation Plan was under consideration and to imposition of any penalties or sanctions imposed for such violations.

6.4 Submission of Mitigation Plans

A Mitigation Plan may be submitted at any time but shall have been submitted by the Registered Entity within thirty (30) days after being served the Notice of Alleged Violation, if the Registered Entity does not contest the Alleged Violation and penalty or sanction. If the Registered Entity disputes the Notice of Alleged Violation or the penalty or sanction, the Registered Entity shall submit its Mitigation Plan within ten (10) business days following issuance of the written decision of the hearing body, unless the Registered Entity elects to appeal the hearing body's determination to NERC. The Registered Entity may choose to submit a Mitigation Plan while it contests an Alleged Violation or penalty or sanction or in response to a Notice of Possible Violation; such submission shall not be deemed an admission of a violation or the appropriateness of a penalty or sanction. If the Registered Entity has not yet submitted a Mitigation Plan, or the Registered Entity submits a Mitigation Plan but it is rejected by the Regional Entity acting as Compliance Enforcement Authority or the hearing body in accordance with Section 6.5, any subsequent violations of the Reliability Standard identified by the Compliance Enforcement Authority before the hearing body renders its decision will not be held in abeyance and will be considered as repeat violations of the Reliability Standard.

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6.5 Review and Acceptance or Rejection of Proposed Mitigation Plans

Unless the time period is extended by the Compliance Enforcement Authority, it will complete its review of the Mitigation Plan, and will issue a written statement accepting or rejecting the Mitigation Plan, within thirty (30) days of receipt; otherwise the Mitigation Plan will be deemed accepted. In order to extend the initial or an extended period for review of the Mitigation Plan, the Compliance Enforcement Authority shall, within the initial or extended review period, notify the Registered Entity (and NERC if NERC is not the Compliance Enforcement Authority) that the review period is being extended and identify the date by which the Compliance Enforcement Authority will complete its review of the Mitigation Plan. The Compliance Enforcement Authority's extension notice shall also state that if the Compliance Enforcement Authority has not issued a notice by the end of the extended review period either stating that the Compliance Enforcement Authority accepts or rejects the proposed Mitigation Plan or further extending the Compliance Enforcement Authority's period for review of the Mitigation Plan, the Mitigation Plan will be deemed accepted.

If the Compliance Enforcement Authority rejects a Mitigation Plan, the Compliance Enforcement Authority will provide the Registered Entity with a written statement describing the reasons for the rejection, and will require the Registered Entity to submit a revised Mitigation Plan by the Required Date. The Compliance Enforcement Authority will notify the Registered Entity within ten (10) business days after receipt of a revised Mitigation Plan whether the Compliance Enforcement Authority will accept or reject the revised Mitigation Plan and provide a written statement describing the reasons for rejection and the Required Date for the second revised Mitigation Plan. If the second review results in rejection of the Mitigation Plan, the Registered Entity may request a hearing in accordance with the Hearing Procedures, by submitting to the Compliance Enforcement Authority a written request for hearing including an explanation of why the Mitigation Plan should be accepted. After the hearing is completed, the Compliance Enforcement Authority will issue a written statement accepting a Mitigation Plan it deems as appropriate.

Within five (5) business days after a Regional Entity accepts a Mitigation Plan, the Regional Entity (i) will notify NERC and the Registered Entity of the acceptance of the Mitigation Plan and (ii) will provide the accepted Mitigation Plan to NERC. NERC will review the accepted Mitigation Plan and, within thirty (30) days following its receipt of the Mitigation Plan from the Regional Entity, will notify the Regional Entity and the Registered Entity, on a contemporaneous basis, as to whether the Mitigation Plan is approved or disapproved by NERC. If NERC disapproves a Mitigation Plan that was accepted by the Regional Entity, NERC shall state its reasons for the rejection, and may state the changes to the Mitigation Plan that would result in approval by NERC. The Registered Entity shall not be subject to findings of violations of the specific requirements of Reliability Standards that are the subject of the Mitigation Plan or to imposition of penalties or sanctions for such violations with respect to the period of time the Mitigation Plan was under consideration by NERC and for a reasonable period following NERC's disapproval of the Mitigation Plan, so long as the Registered Entity promptly submits a modified Mitigation Plan that addresses the concerns identified by NERC.

If a Registered Entity submits a Mitigation Plan prior to issuance of a Notice of Confirmed Violation or entry into a settlement, such as with a Self-Report or in response to a Notice of Possible Violation, the Regional Entity may provisionally accept the proposed Mitigation Plan. If the Regional Entity subsequently determines, upon completing its assessment of the Possible

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Violation, that the facts and circumstances are different than those on which the accepted Mitigation Plan was based, the Regional Entity may, by notice to the Registered Entity and to NERC, require the Registered Entity to submit a revised Mitigation Plan that fully addresses the facts and circumstances of the violation. The Regional Entity's notice shall state the additional or different facts and circumstances that need to be addressed in the revised Mitigation Plan. The Registered Entity shall submit a revised Mitigation Plan in response to the notice within thirty (30) days following the date of the notice, unless the Regional Entity specifies or allows a longer time period. The Registered Entity's revised Mitigation Plan shall be subject to review and acceptance or rejection by the Regional Entity and by NERC in accordance with this Section 6.5. If the Regional Entity issues a Notice of Confirmed Violation or enters into a settlement with the Registered Entity and does not identify a need to request modifications to the provisionally-accepted Mitigation Plan based on additional or different facts and circumstances, the Regional Entity shall issue a notice to the Registered Entity, with a copy to NERC, stating that the "provisional" nature of the acceptance is terminated and the acceptance is final. The Regional Entity shall issue such notice within five (5) business days of issuance of the Notice of Confirmed Violation or entry into the settlement.

NERC will submit to FERC, as non-public information, an approved Mitigation Plan relating to violations of Reliability Standards within seven (7) business days after NERC approves the Mitigation Plan. NERC shall publicly post the approved Mitigation Plan as part of the public posting of the related Notice of Penalty in accordance with Section 8.0 or settlement in accordance with Section 5.6.

6.6 Completion/Confirmation of Implementation of Mitigation Plans

The Registered Entity shall provide updates at least quarterly to the Compliance Enforcement Authority on the progress of the Mitigation Plan. The Compliance Enforcement Authority will track the Mitigation Plan to completion and may conduct on-site visits and review status during audits to monitor Mitigation Plan implementation.

Upon completion of the Mitigation Plan, the Registered Entity shall provide to the Compliance Enforcement Authority certification, signed by an officer, employee, attorney or other authorized representative of the Registered Entity, that all required actions described in the Mitigation Plan have been completed and shall include data or information sufficient for the Compliance Enforcement Authority to verify completion. The Compliance Enforcement Authority shall request such data or information and conduct follow-up assessments, on-site or other Spot Checking, or Compliance Audits as it deems necessary to verify that all required actions in the Mitigation Plan have been completed and the Registered Entity is in compliance with the subject Reliability Standard requirement(s).

In the event all required actions in the Mitigation Plan are not completed within the applicable deadline including any extensions of the original deadline granted under Section 6.3, any violation(s) of a Reliability Standard subject to the Mitigation Plan that occurred during the originally scheduled time period for completion will be enforced immediately and a new Mitigation Plan must be submitted for acceptance by the Compliance Enforcement Authority. In addition, the Compliance Enforcement Authority may conduct a Compliance Audit of, or issue a Remedial Action Directive to, the Registered Entity.

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Regional Entities will provide to NERC the quarterly status reports and such other information as NERC requests, and will notify NERC when each Mitigation Plan is verified to have been completed.

6.7 Recordkeeping

The Compliance Enforcement Authority will maintain a record containing the following information for each Mitigation Plan:

- Name of Registered Entity.
- The date of the violation.
- Monitoring method by which the violation was detected, i.e., Self-Certification, Self-Reporting, Compliance Audit, Compliance Investigation, Complaint, etc.
- Date(s) of Notice of Possible Violation and Notice of Alleged Violation (if applicable).
- Expected and actual completion date of the Mitigation Plan and major milestones.
- Expected and actual completion date for each required action.
- Accepted changes to milestones, completion dates, or scope of Mitigation Plan.
- Registered Entity's completion notice and data submitted as evidence of completion.

7.0 REMEDIAL ACTION DIRECTIVES

The Compliance Enforcement Authority may issue a Remedial Action Directive when such action is immediately necessary to protect the reliability of the Bulk Power System from an imminent threat. A Remedial Action Directive may include, but is not limited to, any of the following: specifying operating or planning criteria, limits, or limitations; requiring specific system studies; defining operating practices or guidelines; requiring confirmation of data, practices, or procedures through inspection testing or other methods; requiring specific training for personnel; requiring development of specific operating plans; directing a Registered Entity to develop and comply with a plan to remediate a violation; imposing increased auditing or additional training requirements; and requiring a Registered Entity to cease an activity that may constitute a violation of a Reliability Standard.

A Remedial Action Directive may be issued to a Registered Entity at any time, including during any procedures relating to a Possible Violation or an Alleged Violation of a Reliability Standard. The Compliance Enforcement Authority will specify if a Remedial Action Directive obviates the need for a Mitigation Plan.

Prior to issuing a Remedial Action Directive, the Regional Entity shall consult the Reliability Coordinator for the Registered Entity, if applicable, to ensure that the Remedial Action Directive is not in conflict with directives issued by the Reliability Coordinator.

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Any Remedial Action Directive must be provided in a notice to the Registered Entity and shall include: (i) a list of the Possible Violation(s) or Alleged Violation(s) of Reliability Standards that are the basis for issuance of the Remedial Action Directive; (ii) a discussion of the factual basis for the Remedial Action Directive; (iii) a deadline for compliance and (iv) notice to the Registered Entity that failure to comply with the directive by the Required Date may result in further Remedial Action Directives or significantly increased sanctions. The Compliance Enforcement Authority will cause the notice of the Remedial Action Directive to be delivered to the Registered Entity by (i) electronic means to the Registered Entity's designated contact person and (ii) by a recognized express courier service that provides tracking and verification of delivery to the recipient. The date of delivery as specified by the express courier service's verification of delivery shall be the date of actual receipt of the Remedial Action Directive. The Compliance Enforcement Authority will monitor implementation of Remedial Action Directives as necessary to verify compliance.

The Regional Entity will notify NERC within two (2) business days after issuing a Remedial Action Directive.

Once the Compliance Enforcement Authority has given the Registered Entity notice of the Remedial Action Directive, the Registered Entity may contest the Remedial Action Directive by giving written notice to the Compliance Enforcement Authority within two (2) business days following the date of actual receipt of notice of the Remedial Action Directive. Due to the urgency of resolving any objections to a Remedial Action Directive, the hearing shall be conducted under the expedited hearing process set forth in Section 1.9 of **Attachment 2, Hearing Procedures**. Notice to contest the Remedial Action Directive and participation in the hearing process set forth in Section 1.9 of **Attachment 2, Hearing Procedures** shall constitute the Registered Entity's right to appeal the Remedial Action Directive. The Registered Entity may elect not to implement the Remedial Action Directive until the hearing process is completed, or may proceed with implementing the Remedial Action Directive even if it is contesting the Remedial Action Directive.

8.0 REPORTING AND DISCLOSURE

Regional Entities shall prepare and submit to NERC all required reports, containing current information concerning (1) Registered Entity compliance with Reliability Standards, (2) all Possible Violations, Alleged Violations and Confirmed Violations of Reliability Standards by Registered Entities, (3) the status of Possible Violations and Alleged Violations, (4) sanctions and penalties, (5) Remedial Action Directives imposed, and (6) Mitigation Plan(s) accepted including dates for all required actions and for completion.

Regional Entities shall report all Possible Violations, Alleged Violations and Confirmed Violations to NERC by promptly entering the Possible Violation, Alleged Violation or Confirmed Violation into the NERC compliance reporting and tracking system. NERC shall notify FERC and, where the report pertains to a Registered Entity or to a portion of the Bulk Power System over which another Applicable Governmental Authority has jurisdiction, shall also notify such other Applicable Governmental Authority, within two (2) business days of receiving a report of a Possible Violation, Alleged Violation or Confirmed Violation from the Regional Entity; provided, that NERC will not disclose any non-public U.S. compliance information that is subject to 18 C.F.R. §39.7(b)(4) to an Applicable Governmental Authority

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other than FERC without first obtaining permission from FERC for such disclosure and subject to any limitations placed by FERC on such disclosure, and NERC will not disclose non-public non-U.S. compliance information to an Applicable Governmental Authority (including FERC) without first obtaining permission from the Applicable Governmental Authority that has jurisdiction over the Registered Entity or portion of the Bulk Power System to which the non-public information pertains and subject to any limitations placed on such disclosure by such Applicable Governmental Authority or by other law of the applicable jurisdiction. Such reports shall include information regarding the nature of the Possible Violation, Alleged Violation or Confirmed Violation, the name of the Registered Entity involved, the status of any ongoing review and assessment of the Possible Violation, Alleged Violation, or Confirmed Violation, the name of a Regional Entity staff person knowledgeable about the information to serve as a point of contact, as required by 18 C.F.R. §39.7(b), and, in the case of an Alleged Violation or Confirmed Violation, its potential impact on the reliability of the Bulk Power System.

Regional Entities shall report to NERC, through the NERC compliance reporting and tracking system, the status of Possible Violations and Alleged Violations, regardless of significance, that have not yet resulted in a Notice of Confirmed Violation or have not completed the hearing process, or for which mitigation activities (including activities being carried out pursuant to a settlement agreement) have not been completed. Regional Entities will ensure the information is current when these reports are provided.

Regional Entities shall report a Confirmed Violation to NERC at the same time the Notice of Confirmed Violation is issued to the Registered Entity. NERC will publicly post on its Web site each Notice of Penalty, with the identify of the violator, together with any statement submitted by the Registered Entity, when NERC files the Notice of Penalty with FERC.

NERC will provide reports quarterly to FERC and, where a report contains information pertaining to a Registered Entity or to a portion of the Bulk Power System over which another Applicable Governmental Authority has jurisdiction, to such other Applicable Governmental Authority, on the status of all Possible, Alleged and Confirmed Violations for which mitigation activities have not been completed; provided, that NERC will not disclose any non-public U.S. compliance information that is subject to 18 C.F.R. §39.7(b)(4) to an Applicable Governmental Authority other than FERC without first obtaining permission from FERC for such disclosure and subject to any limitations placed by FERC on such disclosure, and NERC will not disclose non-public non-U.S. compliance information to an Applicable Governmental Authority (including FERC) without first obtaining permission from the Applicable Governmental Authority that has jurisdiction over the Registered Entity or portion of the Bulk Power System to which the non-public information pertains and subject to any limitations placed on such disclosure by such Applicable Governmental Authority or by other law of the applicable jurisdiction.

9.0 DATA RETENTION AND CONFIDENTIALITY

9.1 Records Management

The Compliance Enforcement Authority records management policy shall provide for a routine and orderly process for the retention and disposal of electronic and paper records related to the Compliance Program, ensure verification of compliance with appropriate business, regulatory,

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and legal requirements and at a minimum conform to the data retention requirements of the Reliability Standards. The policy shall allow for the maintenance of records as required to implement the Compliance Program.

9.2 Retention Requirements

The Compliance Enforcement Authority records management policy will require that information and data generated or received pursuant to Compliance Program activities, including Compliance Audits, Self-Certifications, Spot Checking, Compliance Investigations, Self-Reporting, Periodic Data Submittals, Exception Reporting, and Complaints, as well as a hearing process, will be retained for the longer of (i) five (5) years or (ii) any retention period specified in a Reliability Standard or by FERC or another Applicable Governmental Authority. The obligation to retain information and data commences upon the initiation of the Compliance Program activity that produces the data or information. If the information or data is material to the resolution of a controversy, the retention period for such data shall not commence until after the controversy is resolved.

Upon request from NERC, Regional Entities will provide to NERC copies of such information and data. NERC will retain the information and data in order to maintain a record of activity under the Compliance Program. In providing the information and data to NERC, the Regional Entity shall preserve any mark of confidentiality.

9.3 Confidentiality and Critical Energy Infrastructure Information

9.3.1 Definitions

Information or data generated or received pursuant to Compliance Program activities, including a hearing process, shall be treated in a confidential manner pursuant to the provisions of Section 1500 of the NERC Rules of Procedure. The terms “confidential information,” “confidential business and market information,” “critical energy infrastructure information,” and “critical infrastructure” shall have the meanings stated in Section 1501 of the NERC Rules of Procedure.

9.3.2 Protection of Confidential Information

The Compliance Enforcement Authority personnel (including any contractors, consultants and industry subject matter experts) and committee members, and participants in Compliance Program activities shall be informed of, and agree to comply with, Section 1500 of the NERC Rules of Procedure concerning confidential information.

9.3.3 Critical Energy Infrastructure Information

The Compliance Enforcement Authority will keep confidential all critical energy infrastructure information in accordance with Section 1500 of the NERC Rules of Procedures. Information deemed to be critical energy infrastructure information shall be redacted, in accordance with Section 1500 of the NERC Rules of Procedure, and shall not be released publicly.

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ATTACHMENT 1

PROCESS FOR NON-SUBMITTAL OF REQUESTED DATA

If data, information, or other reports (including Mitigation Plans) requested from a Registered Entity are not received by the Required Date, the Compliance Enforcement Authority may sequentially execute the following steps for each Reliability Standard for which the Compliance Enforcement Authority has requested data, information, or other reports. The Compliance Enforcement Authority however will afford the Registered Entity reasonable opportunity to resolve a difficulty submitting data due to time or format issues.

Step 1: The Compliance Enforcement Authority will issue a follow-up notification to the Registered Entity's designated contact.

Step 2: The Compliance Enforcement Authority will issue a follow-up notification to the Registered Entity's vice president or equivalent responsible for compliance (with a copy to NERC and the Registered Entity's designated contact).

Step 3: The Compliance Enforcement Authority will issue a follow-up notification to the Registered Entity's chief executive officer or equivalent (with a copy to NERC, the Registered Entity's vice president or equivalent responsible for compliance and the Registered Entity's designated contact).

A full Compliance Audit may be scheduled at this step.

Step 4: Thirty (30) days after the Required Date, a Reliability Standard violation may be applied at the Severe Violation Severity Level.

Step 4 does not apply to Compliance Audits and Mitigation Plan tracking requests.

ATTACHMENT 2 - HEARING PROCEDURES

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ATTACHMENT 2 - HEARING PROCEDURES

1.1 Applicability, Definitions and Interpretation

1.1.1 Procedure Governed

The provisions set forth in this **Attachment 2** (“Hearing Procedures”) shall apply to and govern practice and procedure before the Compliance Enforcement Authority in hearings in the United States conducted into (i) whether Registered Entities within the Compliance Enforcement Authority’s area of responsibility have violated Reliability Standards, and (ii) if so, to determine the appropriate Mitigation Plans as well as any remedial actions, penalties or sanctions in accordance with the NERC *Sanction Guidelines* and other applicable penalty guidelines approved by FERC pursuant to 18 C.F.R. Section 39.7(g)(2). Any hearing conducted pursuant to these Hearing Procedures shall be conducted before a [HEARING BODY] established by the Compliance Enforcement Authority. The composition of the [HEARING BODY], after any recusals or disqualifications, shall be such that no two industry segments may control, and no single industry segment may veto, any decision by the [HEARING BODY] on any matter brought before it for decision.

The standard of proof in any proceeding under these Hearing Procedures shall be by a preponderance of the evidence. The burden of persuasion on the merits of the proceedings shall rest upon the Compliance Staff alleging noncompliance with a Reliability Standard, proposing a penalty, opposing a Registered Entity’s Mitigation Plan, or requiring compliance with a Remedial Action Directive.

1.1.2 Deviation

To the extent permitted by law, any provision in these Hearing Procedures may be waived, suspended or modified by the Hearing Officer, as defined in Paragraph 1.1.5, or the [HEARING BODY], for good cause shown, either upon the Hearing Officer’s or the [HEARING BODY]’s own motion or upon the motion of any Participant.

1.1.3 Standards for Discretion

The Compliance Enforcement Authority’s discretion under these Hearing Procedures shall be exercised to accomplish the following goals:

- a) Integrity of the Fact-Finding Process - The principal goal of the hearing process is to assemble a complete factual record to serve as a basis for a correct and legally sustainable ruling, decision or order.
- b) Fairness - Persons appearing in Compliance Enforcement Authority proceedings should be treated fairly. To this end, Participants should be given fair notice and opportunity to present explanations, factual information, documentation and legal argument. Action shall be taken as necessary to eliminate any disadvantage or prejudice to a Participant that would otherwise result from another Participant’s failure to act diligently and in good faith.
- c) Independence - The hearing process should be tailored to protect against undue influence from any Person, Participant or interest group.

- d) **Balanced Decision-Making** - Decisions should be based solely on the facts and arguments of record in a proceeding and by individuals who satisfy the Compliance Enforcement Authority's conflict of interest policy.
- e) **Impartiality** - Persons appearing before the [HEARING BODY] should not be subject to discriminatory or preferential treatment. Registered Entities should be treated consistently unless a reasonable basis is shown in any particular proceeding to depart from prior rulings, decisions or orders.
- f) **Expedition** - Proceedings shall be brought to a conclusion as swiftly as is possible in keeping with the other goals of the hearing process.

1.1.4 Interpretation

- a) These Hearing Procedures shall be interpreted in such a manner as will aid in effectuating the Standards for Discretion set forth in Paragraph 1.1.3, and so as to require that all practices in connection with the hearings shall be just and reasonable.
- b) Unless the context otherwise requires, the singular of a term used herein shall include the plural and the plural of a term shall include the singular.
- c) To the extent that the text of a rule is inconsistent with its caption, the text of the rule shall control.

1.1.5 Definitions

Unless otherwise defined, as used in these Hearing Procedures (i) definitions in Section 1.1 of the NERC Compliance Monitoring and Enforcement Program shall apply, and (ii) the following terms shall have the following meanings:

“Clerk,” as designated by the Compliance Enforcement Authority.

“Compliance Enforcement Authority’s area of responsibility” means the Compliance Enforcement Authority’s corporate region. If a Regional Entity is the Compliance Enforcement Authority, the Compliance Enforcement Authority’s area of responsibility is shown in Exhibit A to the delegation agreement between the Regional Entity and NERC.

“Critical Energy Infrastructure Information” means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (i) relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person in planning an attack on critical infrastructure; and (iii) does not simply give the location of the critical infrastructure.

“Critical infrastructure” means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.

“Cybersecurity Incident” means a malicious act or suspicious event that disrupts, or was an attempt to disrupt, the operation of those programmable electronic devices and

communications networks including hardware, software and data that are essential to the Reliable Operation of the Bulk-Power System.

“Director of Compliance” means the Director of Compliance of the Compliance Enforcement Authority, who is responsible for the management and supervision of Compliance Staff.

“Document” means, in addition to the commonly understood meaning of the term as information written or printed on paper, any electronically stored information, including writings, drawings, graphs, charts, photographs, sound recordings, images and other data or data compilations stored in any medium from which information can be obtained, and shall be translated by the producing party into reasonably usable form.

“ERO” means the Electric Reliability Organization, currently the North American Electric Reliability Corporation, or any successor organization, certified by FERC pursuant to 18 C.F.R. Section 39.3.

“FERC” means the Federal Energy Regulatory Commission.

“Hearing Officer” means an individual employed or contracted by the Compliance Enforcement Authority and designated by the Compliance Enforcement Authority to preside over hearings conducted pursuant to these Hearing Procedures.

“Participant” means a Respondent and any other Person who is allowed or required by FERC to participate as an intervenor in a proceeding conducted pursuant to these Hearing Procedures, and as used herein shall include the members of the Compliance Staff of the Compliance Enforcement Authority that participate in a proceeding.

“Penalty” as used herein includes all penalties and sanctions, including but not limited to a monetary or non-monetary penalty; a limitation on an activity, function, operation or other appropriate sanction; or the addition of the Registered Entity to a reliability watch list composed of major violators. Penalties must be within the range set forth in the NERC *Sanction Guidelines* approved by FERC pursuant to 18 C.F.R. Section 39.7(g)(2), and shall bear a reasonable relation to the seriousness of a Registered Entity’s violation and take into consideration any timely efforts made by the Registered Entity to remedy the violation.

“Person” means any individual, partnership, corporation, limited liability company, governmental body, association, joint stock company, public trust, organized group of persons, whether incorporated or not, or any other legal entity.

“Respondent” means the Registered Entity who is the subject of the Notice of Alleged Violation, contested Mitigation Plan or contested Remedial Action Directive that is the basis for the proceeding, whichever is applicable.

“Staff” or “Compliance Staff” means individuals employed or contracted by the Compliance Enforcement Authority who have the authority to make initial determinations of compliance or violation with Reliability Standards by Registered Entities and associated Penalties and Mitigation Plans.

“Technical Advisor” means any Staff member, third-party contractor, or industry stakeholder who satisfies the Compliance Enforcement Authority’s conflict of interest policy and is selected to assist in a proceeding by providing technical advice to the Hearing Officer and/or the [HEARING BODY].

1.2 General Provisions including Filing, Service, Transcription and Participation

1.2.1 Contents of Filings

All filings made with [HEARING BODY] must contain:

- a) A caption that sets forth the title of the proceeding and the designated docket number or, if the filing initiates a proceeding, a space for the docket number;
- b) A heading that describes the filing and the Participant on whose behalf the filing is made;
- c) The full name, address, telephone number and email address of the Participant or the representative of the Participant making the filing;
- d) A plain and concise statement of any facts upon which the filing is based, which facts shall be supported by citations to the record of the hearing, if available, or other documents; and
- e) The specific relief sought, which may be in the alternative, and the authority that provides for or otherwise allows the relief sought.

1.2.2 Form of Filings

- a) All filings shall be typewritten, printed, reproduced or prepared using a computer or other word or data processing equipment on white paper 8½ inches by 11 inches with inside text margins of not less than one inch. Page numbers shall be centered and have a bottom margin of not less than ½ inch. Line numbers, if any, shall have a left-hand margin of not less than ½ inch. The impression shall be on one side of the paper only and shall be double spaced; footnotes may be single spaced and quotations may be single spaced and indented.
- b) All pleadings shall be composed in either Arial or Times New Roman font, black type on white background. The text of pleadings or documents shall be at least 12-point. Footnotes shall be at least 10-point. Other material not in the body of the text, such as schedules, attachments and exhibits, shall be at least 8-point.
- c) Reproductions may be by any process provided that all copies are clear and permanently legible.
- d) Testimony prepared for the purpose of being entered into evidence shall include line numbers on the left-hand side of each page of text. Line numbers shall be continuous.
- e) Filings may include schedules, attachments or exhibits of a numerical or documentary nature which shall, whenever practical, conform to these requirements; however, any log,

graph, map, drawing, chart or other such document will be accepted on paper larger than prescribed in subparagraph (a) if it cannot be provided legibly on letter size paper.

1.2.3 Submission of Documents

a) Where to File

Filings shall be made with the Clerk of the Compliance Enforcement Authority located at its principal office. The office will be open from [*Compliance Enforcement Authority business hours*] local time each day except Saturday, Sunday, legal holidays and any other day declared by the Compliance Enforcement Authority.

b) When to File

Filings shall be made within the time limits set forth in these Hearing Procedures or as otherwise directed by the Hearing Officer or the [HEARING BODY]. Filings will be considered made when they are date stamped received by the Clerk. To be timely, filings must be received no later than [*Compliance Enforcement Authority close of business*] local time on the date specified.

c) How to File

Filings may be made by personal delivery, mailing documents that are properly addressed with first class postage prepaid, or depositing properly addressed documents with a private express courier service with charges prepaid or payment arrangements made. Alternatively, filing by electronic means will be acceptable upon implementation of a suitable and secure system by the Compliance Enforcement Authority.

d) Number of Copies to File

One original and five exact copies of any document shall be filed. The Clerk will provide each member of the [HEARING BODY] with a copy of each filing.

e) Signature

The original of every filing shall be signed by the Participant on whose behalf the filing is made, either by an attorney of the Participant or, by the individual if the Participant is an individual, by an officer of the Participant if the Participant is not an individual, or if the Participant is Staff, by a designee authorized to act on behalf of Staff. The signature on a filing constitutes a certificate that the signer has read the filing and knows its contents, and that the contents are true to the best of the signer's knowledge and belief.

f) Verification

The facts alleged in a filing need not be verified unless required by these Hearing Procedures, the Hearing Officer or the [HEARING BODY]. If verification is required, it must be under oath by a person having knowledge of the matters set forth in the filing. If any verification is made by an individual other than the signer, a statement must be included in or attached to the verification explaining why a person other than the signer is providing verification.

g) Certificate of Service

Filings shall be accompanied by a certificate of service stating the name of the individuals served, the Participants whose interests the served individuals represent, the date on which service is made, the method of service and the addresses to which service is made. The certificate shall be executed by the individual who caused the service to be made.

1.2.4 Service

a) Service List

For each proceeding, the Clerk shall prepare and maintain a list showing the name, address, telephone number, and facsimile number and email address, if available, of each individual designated for service. The Hearing Officer, Director of Compliance and the Registered Entity's designated agent for service [as registered with the Compliance Enforcement Authority] shall automatically be included on the service list. Participants shall identify all other individuals whom they would like to designate for service in a particular proceeding in their appearances or other filings. Participants may change the individuals designated for service in any proceeding by filing a notice of change in service list in the proceeding. Participants are required to update their service lists to ensure accurate service throughout the course of the proceeding. Copies of the service list may be obtained from the Clerk.

b) By Participants

Any Participant filing a document in a proceeding must serve a copy of the document on each individual whose name is on the service list for the proceeding. Unless otherwise provided, service may be made by personal delivery, email, deposit in the United States mail properly addressed with first class postage prepaid, registered mail properly addressed with postage prepaid or deposit with a private express courier service properly addressed with charges prepaid or payment arrangements made.

c) By the Clerk

The Clerk shall serve all issuances of the Hearing Officer and [HEARING BODY] upon the members of the [HEARING BODY] and each individual whose name is on the service list for the proceeding. Service may be made by personal delivery, email, deposit in the United States mail properly addressed with first class postage prepaid, registered mail properly addressed with postage prepaid or deposit with a private express courier service properly addressed with charges prepaid or payment arrangements made. The Clerk shall transmit a copy of the record of a proceeding to the ERO at the time it serves the ERO with either (1) a Notice of Penalty, or (2) a [HEARING BODY] final order that includes a Notice of Penalty.

d) Effective Date of Service

Service by personal delivery or email is effective immediately. Service by mail or registered mail is effective upon mailing; service by a private express courier service is effective upon delivery to the private express courier service. Unless otherwise provided, whenever a Participant has the right or is required to do some act within a prescribed period after the service

of a document upon the Participant, four (4) days shall be added to the prescribed period when the document is served upon the Participant by mail or registered mail.

1.2.5 Computation of Time

The time in which any action is required to be done shall be computed by excluding the day of the act or event from which the time period begins to run, and by including the last day of the time period, unless the last day is a Saturday, Sunday, legal holiday or any other day upon which the office of the Compliance Enforcement Authority is closed, in which event it also shall be excluded and the date upon which the action is required shall be the first succeeding day that is not a Saturday, Sunday, legal holiday, or day upon which the office of the Compliance Enforcement Authority is closed.

1.2.6 Extensions of Time

Except as otherwise provided by law, the time by which a Participant is required or allowed to act may be extended by the Hearing Officer or [HEARING BODY] for good cause upon a motion made before the expiration of the period prescribed. If any motion for extension of time is made after the expiration of the period prescribed, the Hearing Officer or [HEARING BODY] may permit performance of the act if the movant shows circumstances sufficient to justify the failure to act in a timely manner.

1.2.7 Amendments

Amendments to any documents filed in a proceeding may be allowed by the Hearing Officer or the [HEARING BODY] upon motion made at any time on such terms and conditions as are deemed to be just and reasonable.

1.2.8 Transcripts

A full and complete record of all hearings, including any oral argument, shall be transcribed verbatim by a certified court reporter, except that the Hearing Officer may allow off-the-record discussion of any matter provided the Hearing Officer states the ruling on any such matter, and the Participants state their positions or agreement in relation thereto, on the record. Unless otherwise prescribed by the Hearing Officer, a Participant may file and serve suggested corrections to any portion of the transcript within thirty-five (35) days from the date on which the relevant portion of the transcript was taken, and any responses shall be filed within ten (10) days after service of the suggested corrections. The Hearing Officer shall determine what changes, if any, shall be made, and shall only allow changes that conform the transcript to the truth and ensure the accuracy of the record.

The Compliance Enforcement Authority will pay for transcription services, for a copy of the transcript for the record and for a copy of the transcript for Staff. Any other Participant shall pay for its own copy of the transcript if it chooses to obtain one and, should any Participant seek to obtain a copy of the transcript on an expedited basis, it shall pay for the expedited transcription services.

1.2.9 Rulings, Notices, Orders and Other Issuances

Any action taken by the Hearing Officer or the [HEARING BODY] shall be recorded in a ruling, notice, order or other applicable issuance, or stated on the record for recordation in the transcript, and is effective upon the date of issuance unless otherwise specified by the Hearing Officer or the [HEARING BODY]. All notices of hearings shall set forth the date, time and place of hearing.

1.2.10 Location of Hearings and Conferences

All hearings and oral arguments shall be held at the principal office of the Compliance Enforcement Authority unless the Hearing Officer or [HEARING BODY] designates a different location.

1.2.11 Participant Participation

Participants may appear at any hearing via teleconference subject to the approval of the Hearing Officer and, in the event of oral argument, the [HEARING BODY], except that witnesses shall personally appear at the evidentiary hearing if required by Paragraph 1.6.6. Staff may participate and be represented by counsel in hearings, and shall have the rights and duties of any Participant.

1.2.12 Interventions Are Not Permitted

The Respondent(s) and Staff shall be Participants to the proceeding. Unless otherwise authorized by FERC, no other Persons shall be permitted to intervene or otherwise become a Participant to the proceeding.

1.2.13 Proceedings Closed to the Public

No hearing, oral argument or meeting of the [HEARING BODY] shall be open to the public, and no notice, ruling, order or any other issuance of the Hearing Officer or [HEARING BODY], or any transcript, made in any proceeding shall be publicly released unless the ERO (within the U.S., in accordance with the authorization previously granted by FERC to release information about a non-public proceeding) or FERC (in the case of U.S.-related information) or another Applicable Governmental Authority (in the case of non-U.S.-related information) determine that public release is appropriate. Only the members of the [HEARING BODY], the Participants, the Hearing Officer and the Technical Advisors, if any, shall be allowed to participate in or obtain information relating to a proceeding.

1.2.14 Docketing System

The Clerk shall maintain a system for docketing proceedings. A docketed proceeding shall be created upon the issuance of a Notice of Alleged Violation. Unless NERC provides a different docketing system that will be used uniformly by the Compliance Enforcement Authorities, docket numbers shall be assigned sequentially beginning with a two digit number that relates to the last two digits of the year in which the docket is initiated, followed by a dash (“-”), followed by the letters “[RE]”, followed by a dash (“-”), followed by a four digit number that will be “0001” on January 1 of each calendar year and ascend sequentially until December 31 of the same calendar year.

1.2.15 Hold Harmless

A condition of a Participant invoking these Hearing Procedures and participating in a hearing is that the Participant agrees that the Compliance Enforcement Authority, including without limitation its members, board of directors or trustees, compliance committee, any other committees or subcommittees, Staff, contracted employees, [HEARING BODY] members, Hearing Officers and Technical Advisors, shall not be liable, and shall be held harmless against the consequences of, or any action or inaction arising out of, the hearing process, or of any agreement reached in resolution of a dispute or any failure to reach agreement as a result of a proceeding. This “hold harmless” provision does not extend to matters constituting gross negligence, intentional misconduct or breach of confidentiality.

1.3 Initiation of the Hearing Process

1.3.1 Registered Entity’s Option to Request a Hearing

Except when contesting a Remedial Action Directive pursuant to section 1.9 of these Hearing Procedures, a Registered Entity may file a statement with the Compliance Enforcement Authority requesting a hearing if either:

- a) The Registered Entity files a response to a Notice of Alleged Violation that contests either the Alleged Violation, the proposed Penalty, or both; or
- b) The Compliance Staff submits to the Registered Entity a statement rejecting the Registered Entity’s proposed revised Mitigation Plan submitted after Compliance Staff rejected the Registered Entity’s initial proposed Mitigation Plan.

A Registered Entity must file its hearing request within forty (40) days after (i) the Registered Entity files its response to the Notice of Alleged Violation; or (ii) the Compliance Staff submits to the Registered Entity its statement identifying a disagreement with the Registered Entity’s proposed Mitigation Plan, whichever is applicable. If the Registered Entity does not file a hearing request within the time period set forth in this Paragraph, then the Registered Entity will be deemed to have agreed and waived any objection to the proposed Penalty, the Alleged Violation or the Compliance Staff’s rejection of the revised Mitigation Plan, whichever is applicable.

Either a Notice of Alleged Violation issued to a Registered Entity or a Staff statement setting forth its rejection of a Registered Entity’s proposed revised Mitigation Plan shall clearly state that the Registered Entity has the option to contest the Alleged Violation, proposed Penalty, or both, or the Compliance Staff’s rejection of the proposed revised Mitigation Plan, using either the shortened hearing procedure pursuant to Paragraph 1.3.2 or the full hearing procedure described in Sections 1.4 to 1.7. If the Registered Entity files a hearing request within the requisite time period, it shall state within its hearing request whether it requests the shortened hearing procedure pursuant to Paragraph 1.3.2 or the full hearing procedure described in Sections 1.4 to 1.7. If the Registered Entity (or any Respondent if there are more than one Respondent) requests the full hearing procedure, the full hearing procedure shall apply. If the Registered Entity (or all Respondents if there are more than one Respondent) requests the shortened hearing procedure, Compliance Staff and any other Participant shall submit a filing within five (5) days of the Registered Entity’s hearing request that states whether Staff or such other Participant

agrees to use the shortened hearing procedure. If Staff or another Participant makes a filing requesting the full hearing procedure, then the full hearing procedure shall apply; otherwise the shortened hearing procedure requested by the Registered Entity or Entities shall be used. Once either the full or shortened hearing procedure has been selected, the Participants shall not be allowed to revert to the non-selected hearing procedure unless the Participants mutually agree.

A Registered Entity shall attach to a request for hearing whichever of the following are applicable:

- a) The Registered Entity's Self-Reporting of a violation;
- b) The Notice of Alleged Violation and the Registered Entity's response thereto; and/or
- c) The Registered Entity's proposed revised Mitigation Plan and the Compliance Staff's statement rejecting the proposed revised Mitigation Plan.

1.3.2 Shortened Hearing Procedure

The shortened hearing procedure shall be as set forth in this Paragraph. The rules applicable to the full hearing procedure shall apply to the shortened hearing procedure unless the context of such a rule is inconsistent with the procedure set forth in this Paragraph or otherwise renders it inapplicable to the shortened hearing procedure. The rules concerning ex parte communications in Paragraph 1.4.7 are hereby expressly made applicable to the shortened hearing procedure under this Paragraph.

The [HEARING BODY] may utilize a Hearing Officer to preside over the shortened hearing procedure in accordance with Paragraph 1.4.2. But, no evidentiary hearing will be held in the shortened hearing procedure and the Participants will not present witness testimony or file briefs, except that briefs on exceptions and briefs in reply to exceptions may be allowed pursuant to Subparagraph (g). Instead, the following events shall take place within the following periods:

- a) The prehearing conference shall be held within seven (7) days after the date on which the notice of hearing is issued. In addition to any other matters set forth in Paragraph 1.5.2 that may apply, the prehearing conference will be used to develop a schedule for the preparation and submission of comments in accordance with Subparagraphs (c) through (e).
- b) Within five (5) days after the date on which the notice of hearing is issued, Staff shall make documents available to the Registered Entity for inspection and copying pursuant to Paragraph 1.5.7.
- c) Within twenty-one (21) days after the prehearing conference, the Staff shall file:
 - 1) initial comments stating Staff's position on all issues and the rationale in support of its position, including all factual and legal argument;
 - 2) all documents that Staff seeks to introduce in support of its position that have not already been submitted in the proceeding; and

- 3) a verification attesting to the truthfulness of the facts alleged in the filing.
- d) Within fourteen (14) days of Staff's initial comment filing pursuant to Subparagraph (c), the Registered Entity shall file:
 - 1) responsive comments stating the Registered Entity's position on all issues and the rationale in support of its position, including all factual and legal argument, which comment also may respond to Staff's initial comments;
 - 2) all documents that the Registered Entity seeks to introduce in support of its position that have not already been submitted in the proceeding; and
 - 3) a verification attesting to the truthfulness of the facts alleged in the filing.
- e) Within seven (7) days after the Registered Entity's responsive comment filing pursuant to Subparagraph (d), Staff shall file reply comments that shall be limited in scope to responding to the Registered Entity's responsive comments and be supported by a verification attesting to the truthfulness of the facts alleged in the filing. Staff shall not submit any additional documents in support of its position as part of this filing except upon motion and good cause shown. If Staff is allowed to file additional documents in support of its position based upon such a motion, the Registered Entity shall have the right to file additional documents in support of its position that are responsive to the additional documents that Staff is allowed to file provided that any additional Registered Entity filing also shall be verified.
- f) The Hearing Officer shall issue an initial opinion within twenty-one (21) days after the Staff's reply comments filing or any additional filing by the Registered Entity pursuant to Subparagraph (e).
- g) If either Participant requests, the Hearing Officer shall allow each Participant to file, within seven (7) days after the Hearing Officer's initial opinion, exceptions to the Hearing Officer's initial opinion in a brief designated "brief on exceptions" in accordance with Paragraph 1.7.5 and within seven (7) days thereafter, a reply brief designated "Brief in Reply to Exceptions."
- h) The [HEARING BODY] shall strive, but is not required, to issue a final order within ninety (90) days of the notice of hearing.

The Hearing Officer or [HEARING BODY] may modify any time period set forth within this Paragraph as warranted by the circumstances but it will be the objective of the [HEARING BODY] to issue the final order within ninety (90) days of the notice of hearing.

1.4 General Hearing Procedure

1.4.1 Notice of Hearing

Within seven (7) days of a Registered Entity requesting a hearing pursuant to Paragraph 1.3, the Clerk shall issue a notice of hearing in the docket. The notice of hearing shall identify the Hearing Officer, if designated at that time, and the date, time, and place for the prehearing

conference, which should occur no later than fourteen (14) days after the notice of hearing is issued.

1.4.2 Hearing Officer

The Compliance Enforcement Authority may utilize a Hearing Officer to preside over each hearing conducted pursuant to these Hearing Procedures, provided that the Hearing Officer's actions shall be subject to the authority of the [HEARING BODY] as set forth in Paragraph 1.4.3. Members of the [HEARING BODY] may attend any aspect of the hearing.

The [HEARING BODY] may delegate to the Hearing Officer authority over the conduct of the hearing, including administering the hearing from the prehearing conference through the issuance of the initial opinion and any administrative hearing functions thereafter, and the responsibility for submission of the matter to the [HEARING BODY] for final decision through the presentation to the [HEARING BODY] of an initial opinion. The Hearing Officer shall have those duties and powers necessary to those ends, consistent with and as further enumerated in these Hearing Procedures, including the following:

- 1) To administer oaths and affirmations;
- 2) To schedule and otherwise regulate the course of the hearing, including the ability to call to recess, reconvene, postpone or adjourn a hearing;
- 3) Consistent with any timing or deadline requirements imposed by these Hearing Procedures or by applicable law, to separate any issue or group of issues from other issues in a proceeding and treat such issue(s) as a separate phase of the proceeding;
- 4) Consistent with any timing or deadline requirements imposed by these Hearing Procedures or by applicable law, to modify any time period, if such modification is in the interest of justice and will result in no undue prejudice to any other Participant;
- 5) To supervise and issue orders concerning discovery;
- 6) To conduct prehearing conferences, status hearings and evidentiary hearings;
- 7) To rule upon all objections, motions and other requests that do not result in the final determination of the proceeding;
- 8) To rule on and receive evidence;
- 9) To call upon a Participant to produce further evidence that is material and relevant to any issue;
- 10) To issue protective orders pursuant to Paragraph 1.5.10;
- 11) To issue initial opinions; and

- 12) To ensure that hearings are conducted in a full, fair and impartial manner, that order is maintained and that unnecessary delay is avoided in the disposition of the proceedings.

If the [HEARING BODY] uses a Hearing Officer to preside over a hearing, the [HEARING BODY] shall disclose the identity, employment history and professional affiliations of the Hearing Officer within two (2) days of the Hearing Officer's assignment to the proceeding, and Participants to the hearing may raise objections to the Hearing Officer's participation in accordance with Paragraph 1.4.5.

1.4.3 [HEARING BODY]

The [HEARING BODY] is vested with the authority to issue a final order resolving the issue(s) in all cases. To that end:

- 1) The [HEARING BODY] shall receive all filings in a hearing, including but not limited to all issuances of the Hearing Officer, all motions and responses thereto, and all written comments, testimony and evidence. The Hearing Body shall not receive documents made available by Staff for inspection and copying by the Respondent, or other responses to discovery between the Participants, unless such documents are placed into the record pursuant to Paragraph 1.6.7.
- 2) The [HEARING BODY] or any individual member thereof may, but is not required to, attend any prehearing conference, status hearing or evidentiary hearing, and/or to submit questions to the Hearing Officer to submit to a Participant or any witness at any such hearing.
- 3) The [HEARING BODY] shall have the same authority as the Hearing Officer, as set forth in these Hearing Procedures, to require the Participants or any individual Participant to: (i) address a specific issue in testimony, evidence or briefs; (ii) present oral argument on an issue; (iii) file pre-evidentiary hearing memorandums; or (iv) produce further evidence that is material and relevant to any issue. To this end, the [HEARING BODY] shall be entitled to issue questions or requests for information to any Participant or any witness at any time until the issuance of a final order.
- 4) To the extent that the [HEARING BODY] disagrees with any issuance or ruling of the Hearing Officer, it may, on its own motion or upon petition for interlocutory review meeting the requirements of Paragraph 1.4.4, reverse or modify the issuance or ruling in whole or in part, or take any other action as may be appropriate.
- 5) The [HEARING BODY] shall resolve the issue(s) in every hearing through the issuance of a final order. In issuing a final order, the [HEARING BODY] shall consider the Hearing Officer's initial opinion but shall have the authority to reject, modify or approve the initial opinion in whole or in part.

1.4.4 Interlocutory Review

A Participant shall be allowed to seek interlocutory review by the [HEARING BODY] of any ruling of the Hearing Officer where the ruling for which interlocutory review is sought presents an extraordinary circumstance which makes prompt review necessary to prevent prejudice to a Participant's ability to present its position in the proceeding. Failure to seek such review shall not operate as a waiver of any objection to such ruling. Unless good cause is shown or unless otherwise ordered by the Hearing Officer or the [HEARING BODY], the Participant seeking review shall file a petition for interlocutory review within fourteen (14) days after the date of the action that is the subject of the petition. The petition shall contain, in a separately identified section, a demonstration that the ruling for which interlocutory review is sought presents an extraordinary circumstance which makes prompt review necessary to prevent prejudice to the Participant's ability to present its position in the proceeding. The petition shall be filed with any offer of proof and supported by affidavit if based on facts that do not appear of record. Responses to petitions for interlocutory review shall be filed within seven (7) days after service of the petition. No replies to responses are allowed.

The Hearing Officer shall file a report to the [HEARING BODY] within fourteen (14) days from the filing of the petition. The Hearing Officer's report shall set forth the relevant facts and other background information relating to the ruling on which interlocutory review is sought, the basis for the Hearing Officer's ruling, a summary of the Participants' arguments on the petition for interlocutory review, and the recommendation of the Hearing Officer for the disposition of the petition by the [HEARING BODY].

On review of a Hearing Officer's ruling, the [HEARING BODY] may affirm or reverse the ruling in whole or in part, and may take any other just and reasonable action with respect to the ruling, such as declining to act on an interlocutory basis. The [HEARING BODY] may reject the petition for interlocutory review on the grounds that the ruling for which review is sought does not present an extraordinary circumstance which makes prompt review necessary to prevent prejudice to a Participant's ability to present its position in the proceeding, without considering or ruling on the substance of the petitioner's arguments. Issuance of a ruling on a petition for interlocutory review shall require (i) a quorum (as defined in Paragraph 1.7.8) of the [HEARING BODY], and (ii) majority vote of the members of the [HEARING BODY] voting on the final order (which number of members voting shall not be less than a quorum). Petitions to rehear or reconsider the [HEARING BODY'S] action taken on interlocutory review shall not be allowed. Filing and disposition of a petition for interlocutory review of a ruling of the Hearing Officer shall not suspend or otherwise delay a hearing or any other scheduled dates in the proceeding except as authorized by the Hearing Officer or the [HEARING BODY] based on a finding of exceptional circumstances.

A non-Participant that has been ordered by the Hearing Officer pursuant to paragraph 1.5.8 to produce or provide documents, information or testimony, and has failed to obtain the relief sought from the Hearing Officer through filing objections to or a motion to quash the order, shall also be entitled to seek interlocutory review by the [HEARING BODY] of the Hearing Officer's order, with respect to (i) whether the non-Participant is within the class of Persons subject to such orders pursuant to paragraph 1.5.8, and (ii) the reasonableness of the Hearing Officer's order to produce or provide document, information or testimony.

1.4.5 Disqualification

A Hearing Officer, Technical Advisor or member of the [HEARING BODY] shall recuse himself or herself from a proceeding if participation would violate the Compliance Enforcement Authority's applicable conflict of interest policy.

Any Participant may file a motion to disqualify or for recusal of a Hearing Officer, Technical Advisor or member of the [HEARING BODY] from a proceeding on grounds of a conflict of interest, an ex parte communication prohibited by section 1.4.7, or the existence of other circumstances that could interfere with the impartial performance of his or her duties. The Participant shall set forth and support its alleged grounds for disqualification by affidavit. A motion for disqualification shall be filed within fifteen (15) days after the later of: (1) the time when the Participant learns of the facts believed to constitute the basis for disqualification; or (2) the time when the Participant is notified of the assignment of the Hearing Officer or Technical Advisor.

The Hearing Officer shall issue a proposed ruling for the [HEARING BODY]'s consideration upon the filing of a motion for disqualification unless the Hearing Officer is the subject of the motion. The [HEARING BODY], without the participation of any member who is the subject of the motion, shall issue a final ruling on the motion. If the Hearing Officer is recused or disqualified, the [HEARING BODY] will appoint a replacement Hearing Officer. To ensure fairness to the Participants and expedite completion of the proceeding when a replacement Hearing Officer is appointed after a hearing has commenced, the replacement Hearing Officer may recall any witness or may certify familiarity with any part or all of the record.

If a quorum (as defined in Paragraph 1.7.8) of the [HEARING BODY] does not remain after any recusals and rulings on motions for disqualification, then the Compliance Enforcement Authority shall appoint a new member(s) to the [HEARING BODY] to create a quorum, which new member(s) shall serve on the [HEARING BODY] through the conclusion of the proceeding but not thereafter. The Compliance Enforcement Authority shall only appoint the number of new members as are necessary to create a quorum. Any new member of the [HEARING BODY] shall be subject to the provisions applicable herein to all [HEARING BODY] members.

1.4.6 Technical Advisor

The Hearing Officer and/or the [HEARING BODY] may elect to use one or more Technical Advisors to assist in any proceeding. Such an election may be made at any time during the course of a proceeding. Any Staff member who serves as a Technical Advisor shall not have been involved in or consulted at any time in regard to any Compliance Staff investigation, determination of a Possible Violation, Alleged Violation or Penalty, or assessment of a Registered Entity's proposed Mitigation Plan that resulted in the proceeding in which technical advice would be rendered, and shall not be a member of Staff participating in the proceeding on which such technical advice would be rendered.

If the Hearing Officer or [HEARING BODY] uses a Technical Advisor to assist in any hearing, the Hearing Officer or [HEARING BODY] shall disclose the identity, employment history and professional affiliations of the Technical Advisor within two (2) days of the Technical Advisor's assignment to the proceeding, and Participants to the hearing may raise objections to the Technical Advisor's participation in accordance with Paragraph 1.4.5.

1.4.7 No Ex Parte Communications

- a) Once a Registered Entity requests a hearing pursuant to Paragraph 1.3:
 - 1) neither the [HEARING BODY], the Hearing Officer, nor the Technical Advisor(s), if any, may communicate either directly or indirectly with any Person concerning any issue in the proceeding outside of the hearing process; except that
 - 2) the [HEARING BODY], the Hearing Officer, and the Technical Advisor(s), if any, may communicate outside of the hearing process either directly or indirectly with a Participant or a Participant's representative:
 - A) in writing if the writing is simultaneously provided to all Participants; or
 - B) orally if a representative for every Participant is present in person or by telephone;
 - C) subject to the requirement that the substance of any ruling on any issue discussed shall be memorialized on the record or by the issuance of a notice or ruling, and that any Participant objecting to the ruling shall have the opportunity to state its objection on the record.
- b) The proscription in Subparagraph (a)(1) does not prohibit members of the Compliance Staff from communicating with the Registered Entity, and representatives, agents or employees thereof on any topic, provided that any member of the Compliance Staff involved in any such communication relating to the subject matter of the proceeding may not be, and may not subsequently serve as, a Technical Advisor.
- c) The proscription in Subparagraph (a)(1) also does not prohibit communications between members of the [HEARING BODY], the Hearing Officer and any Technical Advisor.
- d) Any member of the [HEARING BODY], the Hearing Officer or any Technical Advisor who receives or who makes or knowingly causes to be made a communication prohibited by this Paragraph shall, within seven (7) days of the communication, file and serve on the Participants in the proceeding a notice of ex parte communication setting forth the date, time and place of communication, a summary of the substance and nature of the communication and all responses thereto, and a list of each Person who made or received the communication and, if the communication or any response thereto was in writing, a copy of the written communication shall be attached.

1.4.8 Appearances

Participants shall file written appearances within seven (7) days after the notice of hearing is issued. A Participant's written appearance shall identify the name(s) of each individual authorized to represent the Participant in the proceeding exclusive of witnesses. An individual may appear on his or her own behalf. A corporation, limited liability company, association, partnership or governmental body may appear by any bona fide officer or designee who has the authority to act on behalf of the Participant. A Participant also may appear by an attorney.

A Participant's written appearance shall state, with respect to each individual that the Participant identifies for service, the individual's name, address, telephone number, and facsimile number and email address, if available, where service shall be made.

A Participant may withdraw any individual from the Participant's representation or otherwise change the identity of individuals authorized to represent the Participant in a proceeding by filing a notice of a change in service list.

Any attorney appearing on behalf of a Participant shall be licensed to practice and in good standing before the Supreme Court of the United States or the highest court of any State, territory of the United States or the District of Columbia.

Individuals representing Participants in any hearing also shall enter their appearances at the beginning of the hearing by stating their names, addresses, telephone numbers and email addresses orally on the record.

1.4.9 Failure to Appear or Exercise Diligence

The failure of any Participant to appear during any hearing without good cause and without notification may be grounds for dismissal or deciding against the interests of such Participant.

1.4.10 Consolidation of Proceedings

In the event that more than one Registered Entity receives a Notice of Alleged Violation for the same event or transaction, and each Registered Entity selects the full hearing procedure described in Sections 1.4 to 1.7, the Hearing Body on its own motion may exercise its discretion to examine the actions of all Registered Entities in a single proceeding as long as an initial opinion has not been rendered by the Hearing Officer pursuant to Section 1.7.4 in any proceeding to be consolidated.

A Participant may file a motion pursuant to Paragraph 1.5.5 to consolidate into a single proceeding Allegations of Violations of different Reliability Standards against a single Respondent, and related contests of Penalties or Mitigation Plans, arising out of the same event or transaction. Such consolidation may be allowed in the discretion of the Hearing Officer or [HEARING BODY], as applicable.

1.5 Prehearing Procedure

1.5.1 [Intentionally left blank]

1.5.2 Prehearing Conference

The purpose of the prehearing conference shall be to:

- 1) Preliminarily identify the issues;
- 2) Discuss a schedule for any discovery to be conducted and address any discovery issues that are raised at that time;

- 3) Explore the possibility of obtaining admissions of fact and of the genuineness of documents that would avoid unnecessary proof;
- 4) Develop a schedule for the preparation and submission of evidence and witness testimony in advance of the evidentiary hearing;
- 5) Schedule a date(s) for the evidentiary hearing; and
- 6) Address such other matters as may aid in the simplification of the evidence and disposition of the proceeding.

1.5.3 Summary Disposition

A Hearing Officer, on the Hearing Officer's own motion or on the motion of a Participant, may issue an initial opinion granting, in whole or in part, summary disposition if it appears that there are no issues of material fact. If the Hearing Officer is considering summary disposition in the absence of a Participant motion, the Hearing Officer shall request the Participants to identify in writing any issues of material fact and to comment on the proposed disposition. Factual information in the Participants' comments shall be supported by affidavit. Following review of the Participants' comments, if it still appears to the Hearing Officer that there are no genuine issues of material fact, the Hearing Officer may proceed without an evidentiary hearing. The Hearing Officer shall, however, allow the Participants the opportunity to file briefs. When the Hearing Officer issues an initial opinion granting a motion for summary disposition in whole or in part, the ruling shall set forth the rationale for the grant. An initial opinion of the Hearing Officer granting summary disposition shall be confirmed, rejected or modified in a final order issued by the [HEARING BODY].

1.5.4 Status Hearings

Any Participant may request, and the Hearing Officer may call, a status hearing at any time subsequent to the prehearing conference to address issues that have arisen between the Participants. Such issues may include, but are not limited to, discovery disputes and scheduling matters. The Hearing Officer shall direct the Clerk to issue a notice of status hearing that sets forth the date, time and place for the hearing, and identifies the matters to be addressed at the hearing.

1.5.5 Motions

Unless otherwise provided, a Participant may file a motion at any time requesting any relief as may be appropriate. Unless a Hearing Officer allows a motion to be made orally on the record, motions shall be filed in writing. Motions based on facts that do not appear of record shall be supported by affidavit. Unless otherwise specified by the Hearing Officer, responses to motions shall be filed within fourteen (14) days after service of the motion, and replies to responses shall be filed within seven (7) days after service of the responses; however, a Hearing Officer may deny dilatory, repetitive, or frivolous motions without awaiting a response. Unless otherwise ordered by a Hearing Officer, the filing of a motion does not stay the proceeding or extend any scheduled dates in the proceeding.

1.5.6 Experts

A Participant may employ an expert(s) to testify or consult in a proceeding. Any expert utilized in either capacity shall sign an agreement evidencing the expert's understanding and acknowledgement of the non-public nature of the proceeding and that unauthorized public disclosure of information obtained in connection with the expert's participation in the proceeding is prohibited. The Participant employing the expert shall propose the agreement for approval via a motion, and its approval shall be subject, in addition to consideration of any objections by other Participants, to ensuring that appropriate safeguards are maintained to protect the confidentiality of the proceeding and the information disclosed therein.

1.5.7 Inspection and Copying of Documents in Possession of Staff

(a) Documents to be Available for Inspection and Copying

(1) Within five (5) days after issuance of the notice of hearing, Staff shall make available for inspection and copying by the Respondent, all Documents prepared or obtained by Staff through or in connection with any compliance monitoring process(es) that led to the institution of proceedings. Such Documents shall include but are not limited to:

(A) requests for information to the Respondent;

(B) every written request, including e-mail, directed to persons not employed by the Compliance Enforcement Authority to provide information or Documents or to be interviewed;

(C) the Documents provided in response to any such requests described in (A) and (B) above;

(D) all transcripts of testimony recorded during the Staff investigation and all exhibits to the transcript;

(E) all other Documents obtained from the Respondent; and

(F) all other Documents obtained from persons not employed by the Compliance Enforcement Authority.

The sole bases pursuant to which Staff shall be authorized to withhold Documents from inspection and copying shall be the bases set forth in Paragraph 1.5.7(b); provided, however, that the Documents made available for inspection and copying need not include (i) exact copies of Documents the Respondent previously provided to Staff, and (ii) any Documents provided to the Respondent with or as part of the Notice of Alleged Violation, Notice of Penalty, assessment of proposed Mitigation Plan or Remedial Action Directive.

(2) Where there are Participants in a proceeding in addition to a single Respondent and Compliance Staff, the Hearing Officer or [HEARING BODY] shall oversee the Staff's designation of Documents to be produced to such other Participants and the development, execution and enforcement of any protective order deemed necessary.

(3) Staff shall promptly inform the Hearing Officer and each other Respondent if, after the issuance of a notice of hearing, requests for information are issued by Staff related to the same compliance monitoring process(es) that led to the institution of the proceeding. If Staff receives Documents pursuant to a request for information after Documents have been made available to a Respondent for inspection and copying as set forth in Subparagraph (a), the additional Documents shall be made available to the Respondent not later than fourteen (14) days after Staff receives such Documents. If a date for the evidentiary hearing has been scheduled, Staff shall make the additional Documents available to the Respondent not less than ten (10) days before the hearing. If Staff receives such Documents ten or fewer days before the hearing is scheduled to begin or after the hearing begins, Staff shall make the additional Documents available immediately to the Respondent.

(4) Nothing in subparagraph (a)(1) shall limit the discretion of the Compliance Enforcement Authority to make any other Document available to the Respondent or the authority of the Hearing Officer to order the production of any other Documents or information by any Participant.

(b) Documents That May Be Withheld by Staff

(1) Staff may withhold a Document from inspection and copying by the Respondent if:

(A) the Document is privileged to Staff or constitutes attorney work product of Staff's counsel (in applying this provision, the attorney-client privilege shall be recognized as absolute and any demand for production of attorney work product shall be granted only after a showing of substantial need by the Respondent);

(B) the Document is an examination or inspection report, an internal memorandum, or other note or writing prepared by a Staff member that shall not be offered in evidence;

(C) the Document would disclose (i) an examination, investigatory or enforcement technique or guideline of the Compliance Enforcement Authority, a federal, state, or foreign regulatory authority, or a self-regulatory organization; (ii) the identity of a source, including a federal, state, or foreign regulatory authority or a self-regulatory organization, that furnished information or was furnished information on a confidential basis regarding an investigation, an examination, an enforcement proceeding, or any other type of civil or criminal enforcement action; or (iii) an examination, an investigation, an enforcement proceeding, or any other type of civil or criminal enforcement action under consideration by, or initiated by, the Compliance Enforcement Authority, a federal, state, or foreign regulatory authority, or a self-regulatory organization; or

(D) the Hearing Officer grants leave to withhold a Document or category of Documents as not relevant to the subject matter of the proceeding, or for other good cause shown.

Provided, that where a Document contains information of the type listed in Subparagraphs (A), (B), (C) or (D) that is capable of being redacted, Staff shall make the document available for inspection and copying by Respondent in redacted form.

(2) Nothing in Subparagraph (b)(1)(B), (C) or (D) authorizes Staff to withhold a Document, or a part thereof, that contains exculpatory evidence. Nothing in Subparagraph (b)(1) requires Staff to withhold a Document from disclosure.

(c) Withheld Document List

At the time it is required to make Documents available for inspection and copying, Staff shall also provide to the Hearing Officer, the Respondent and any other Participant to which Documents are being made available, a list of Documents withheld by Staff pursuant to Subparagraph (b)(1). Upon review, the Hearing Officer may order Staff to make any Document withheld available to the Respondent(s) for inspection and copying.

(d) Timing of Inspection and Copying

Except as set forth in this Paragraph, the Hearing Officer shall determine the schedule of production of Documents for inspection and copying, provided that the Hearing Officer may modify any time period for production set forth in this Paragraph as warranted by the circumstances.

(e) Place and Time of Inspection and Copying

Documents subject to inspection and copying pursuant to this Paragraph shall be made available to the Respondent for inspection and copying at the Compliance Enforcement Authority office where the Documents are ordinarily maintained, or at such other office as the Hearing Officer, in his or her discretion, shall designate, or as the Participants otherwise agree. A Respondent shall be given access to the Documents at the Compliance Enforcement Authority's offices during normal business hours. A Respondent shall not be given custody of the Documents or be permitted to remove the Documents from the Compliance Enforcement Authority's offices.

(f) Copying Costs

A Respondent may obtain a photocopy of all Documents made available for inspection. A Respondent shall be responsible for the cost of photocopying. Unless otherwise ordered by the Hearing Officer, charges for copies made at the request of a Respondent shall be at a rate to be established by the Compliance Enforcement Authority.

(g) Failure to Make Documents Available — Harmless Error

In the event that a Document required to be made available to a Respondent pursuant to this Paragraph is not made available by Staff, no rehearing or amended decision of a proceeding already heard or decided shall be required where the failure to make the Document available was harmless error. Should a dispute arise as to whether a rehearing or amended decision is required due to the failure of Staff to produce a Document, the burden shall be on Staff to show that such failure was harmless error. The Hearing Officer, or, upon review, the [HEARING BODY] shall determine whether the failure to make the Document available was harmless error.

1.5.8 Other Discovery Procedures

In addition to the production of Documents by Staff for inspection and copying by Respondent pursuant to Paragraph 1.5.7, the Participants shall be entitled to utilize all other discovery methods provided for in Rules 402 through 409 of the FERC Rules of Practice and Procedure, 18 C.F.R. §385.402 through 385.409, including data requests, written interrogatories and requests for production of Documents or things, depositions by oral examination, requests for inspection of Documents and other property, requests for admissions, and requests for issuance of orders to one or more Registered Entities to produce Documents for inspection and copying or at the hearing or to provide testimony by an authorized representative in deposition or at the hearing. Unless otherwise directed by the Hearing Officer or [HEARING BODY] upon motion by a Participant or by the Hearing Officer, or by the [HEARING BODY] on its own motion, such discovery, and the resolution of any disputes concerning such discovery, shall be conducted in accordance with the provisions of Rules 402 through 410 and 510(e) of the FERC Rules of Practice and Procedure, 18 C.F.R. §385.402 through 385.410 and 385.510(e), which are hereby incorporated by reference into these Hearing Procedures, subject to the following limitations and modifications to such Rules:

- (a) The provisions of Subparagraphs (d), (e) and (f) of Paragraph 1.5.7 shall apply to any such discovery.
- (b) Rule 403(b)(2) (18 C.F.R. §385.403(b)(2)) and Rule 410(d)(2) (18 C.F.R. §385.410(b)(2)) shall not be applicable.
- (c) The Hearing Officer and the [HEARING BODY] have the authority to issue orders to compel the appearance by or production of Documents or information by, only a Person that (i) is a Participant or (ii) is a Registered Entity (including an authorized representative thereof) that is not a Participant. The Hearing Officer and the [HEARING BODY] do not have authority to require a United States marshal or deputy marshal to serve an order to produce or provide Documents, information or testimony.
- (d) References to “subpoena” in Rules 404, 409, 410 and 510(e) shall be deemed to be to an order to a non-Participant Registered Entity to produce or provide Documents, information or testimony.
- (e) References to the “Commission” in Rules 402 through 410 and 510(e) shall be to FERC except as follows: (i) the references in Rules 402(a), 404(b)(1) and 405(b), the second reference in Rule 410(d), and the references in Rule 510(e)(1) and (2) shall be deemed to be to the [HEARING BODY], (ii) the reference in Rule 385.406(b)(4) to “Commission trial staff” shall be deemed to be to Compliance Staff, and (iii) the reference in Rule 510(e)(3) shall be deemed to be to the Hearing Officer or [HEARING BODY].
- (f) Unless otherwise ordered by the Hearing Officer or [HEARING BODY], a data request, set of interrogatories, request for production of Documents or things, request for inspection of Documents or other property, request for admissions, or order to produce or provide Documents, information or testimony, shall not

specify a due date or response date that is fewer than 21 days from the date of service of the request or date of the order.

- (g) A list of withheld Documents, if any, shall be provided by any Participant required to produce Documents, at the time the documents are required to be produced, to the Hearing Officer and to each Participant entitled to receive production of the Documents. Upon review, the Hearing Officer may order the Participant to make any Document withheld available to any other Participant or Participants for inspection and copying.
- (h) In the event a Document or information required to be produced or provided by a Participant pursuant to discovery is not produced or provided by the Participant, no rehearing or amended decision of a proceeding already heard or decided shall be required where the failure to produce or provide the Document or information was harmless error. Should a dispute arise as to whether a rehearing or amended decision is required due to the failure of a Participant to produce or provide a Document or information, the burden shall be on the Participant that failed to produce or provide the Document or information to show that such failure was harmless error. The Hearing Officer or, upon review, the [HEARING BODY] shall determine whether the failure to make the Document available was harmless error.
- (i) Unless otherwise ordered by the Hearing Officer or [HEARING BODY], all such discovery shall be requested, scheduled and conducted so as to be completed within six (6) months following the date of the initial prehearing conference held pursuant to Paragraphs 1.4.1 and 1.5.2.
- (j) Notwithstanding (f) and (i), however, if the shortened hearing procedure in Paragraph 1.3.2 is used in a proceeding, the Hearing Officer, on his or her own motion or on motion of a Participant, shall establish a schedule for discovery, including response periods for responding to discovery requests, that are consistent with the expedited nature of the proceeding contemplated by the shortened hearing procedure.

The Hearing Officer's ruling on all motions relating to disputes concerning such discovery shall consider the following objectives: (i) full disclosure of all relevant Documents and information; (ii) the exercise of due diligence in the conduct of discovery by a Participant; and (iii) disallowing use of discovery as a means to delay the proceeding or to harass or burden any other Participant.

1.5.9 Pre-Evidentiary Hearing Submission of Testimony and Evidence

Unless the Hearing Officer orders otherwise and with the exception of (i) any adverse Participant examination pursuant to Paragraph 1.6.16 and (ii) the testimony and Documents of a non-Participant provided pursuant to an order to produce or provide Documents, information or testimony, all witness testimony in a hearing must be prepared in written form, may have exhibits, schedules and attachments thereto, and shall be filed in advance of the evidentiary hearing pursuant to a schedule determined by the Hearing Officer, as it may be amended. Where

a Participant intends to use a Document or other demonstrative evidence that has not been filed as part of written testimony in the conduct of cross-examination (other than Documents that are to be produced by a non-Participant at the hearing pursuant to an order to produce Documents), the Participant intending to use such Document or demonstrative evidence shall provide it to the other Participants and the Hearing Officer at least three (3) business days prior to the date at which the witness will be cross-examined at the evidentiary hearing.

Compliance Staff shall file the Documents it intends to offer into evidence as its direct case, including the written testimony of its witnesses along with exhibits, schedules and attachments thereto, first. The Registered Entity shall file the Documents it intends to offer into evidence as its direct case, which also may be responsive to Staff's direct case, including the written testimony of its witnesses along with exhibits, schedules and attachments thereto, second. Staff shall file as its rebuttal case the Documents it intends to offer into evidence in response to the Registered Entity's direct case, including the written testimony of its witnesses along with exhibits, schedules and attachments thereto, third.

If appropriate due to the number and/or complexity of the issues, the Hearing Officer may allow for the Registered Entity to submit a rebuttal case that responds to Staff's rebuttal case, in which event the Hearing Officer shall also allow Staff to submit a surrebuttal case that responds to the Registered Entity's rebuttal case.

Each round of evidence shall be limited in scope to responding to the preceding round of evidence, except that the Registered Entity's direct case may exceed the scope of Staff's direct case if necessary for the Registered Entity to set forth its direct case fully.

The Participants shall file the Documents they intend to offer into evidence in accordance with the Hearing Officer's schedule, as it may be amended. Such filings of written testimony and other evidence in advance of the evidentiary hearing shall not entitle the Documents to be admitted into the evidentiary record. The Participants must offer their witnesses' testimony and other proposed evidence for admission into the evidentiary record during the evidentiary hearing.

Any Participant who fails, without good cause shown, to comply with the Hearing Officer's schedule for the filing of written testimony and other evidence in advance of the evidentiary hearing may be limited in the presentation of its evidence during the evidentiary hearing or have its participation in the evidentiary hearing otherwise restricted by the Hearing Officer to avoid undue prejudice and delay.

1.5.10 Protective Orders

- a) All proceedings conducted pursuant to these Hearing Procedures, and any written testimony, exhibits, other evidence, transcripts, comments, briefs, rulings and other issuances, shall be non-public and shall be held in confidence by all Participants, except as the ERO (within the U.S., in accordance with the authorization previously granted by FERC to release information about a non-public proceeding) or FERC (in the case of U.S.-related information) or another Applicable Governmental Authority (in the case of non-U.S.-related information) authorizes or directs public disclosure of any portion of the record. In addition to this general proscription, at any time during a proceeding, the Hearing Officer, on his or her own motion or on the motion of any Participant or of any non-Participant ordered to produce Documents, information or testimony, may enter a

protective order to designate as proprietary and protect the confidential, proprietary or trade secret nature of any data, information or studies, or any other information the public release of which may cause a security risk or harm to a Participant.

- b) The following types of information will be considered entitled to protection through a protective order: (i) confidential business and market information, including information that is proprietary, commercially valuable, or competitively sensitive; (ii) Critical Energy Infrastructure Information; (iii) information related to a Cybersecurity Incident; (iv) personnel information that identifies or could be used to identify a specific individual, or that reveals personnel, financial, medical or other personal information; (v) audit work papers; (vi) investigative files or Documents that would disclose investigative techniques of Staff, any Compliance Enforcement Authority, the ERO or any federal, state or foreign regulatory authority. Nothing in this Subparagraph 1.5.10(b) shall require Staff to produce any Documents it is entitled to withhold under Subparagraph 1.5.7(b).
- c) A motion for a protective order shall specify the proposed expiration date for the proprietary status of the data, Documents or information, if any, and shall propose requirements or safeguards to be met for individuals participating in the proceeding to review the protected information while maintaining its proprietary status.
- d) A Document submitted and marked as proprietary, or a statement made at a hearing and identified as proprietary, shall be afforded proprietary treatment pending the timely submission of a motion to protect the confidential, proprietary or trade secret nature of that Document or statement and a ruling on such a motion by the Hearing Officer.
- e) The protective order shall identify the data, Documents or information that will be accorded proprietary treatment; the individuals participating in the proceeding, by category or otherwise, entitled to view the proprietary information; and the requirements, conditions or safeguards that must be met before an individual may view the information.
- f) A public redacted version of each Document and transcript that contains information that is protected pursuant to this Paragraph must be filed with the proprietary version and must be served on each Participant for distribution to those individuals participating in the proceeding who are not entitled to view the proprietary information.
- g) Should it be necessary to address proprietary information during a hearing, the Hearing Officer shall, while the information is being addressed, close the hearing to all individuals other than those entitled to view the proprietary information in accordance with the protective order.

1.5.11 Pre-Evidentiary Hearing Memorandum

The Hearing Officer or the [HEARING BODY] may request, as needed on a case by case basis due to the number or complexity of the issue(s), the submission of memoranda prior to the evidentiary hearing that outline each Participant's position on the issue(s) in dispute, the key facts and arguments, and the applicable Reliability Standard, rules, orders or other authority. The purpose of such memoranda will be to aid the Hearing Officer and [HEARING BODY] in preparation for the evidentiary hearing. A Participant will not be deemed to have waived any

issue, fact or argument that is not set forth in a pre-evidentiary hearing memorandum. The Hearing Officer may establish page limitations on such submissions.

1.6 Evidentiary Hearing Procedure

1.6.1 Evidentiary Hearings

The purpose of the evidentiary hearing shall be to admit the Participants' evidence into the record, and for each Participant to have the opportunity to cross-examine the other Participant's witnesses. A schedule for briefs, unless waived by the Participants, shall be set at the conclusion of the evidentiary hearing. The evidentiary hearing also may be used to address any other issue pending between the Participants.

1.6.2 Order of Receiving Evidence

In all proceedings Compliance Staff shall open and close.

1.6.3 Opening and Closing Statements

Opening and closing statements will not be made during the evidentiary hearing as a matter of course except that such statements may be allowed when requested by a Participant, and shall be required when requested by the Hearing Officer or the [HEARING BODY]. Any Participant's request for such statements, or a Hearing Officer or [HEARING BODY] notice requiring such statements, shall be made at least ten (10) days in advance of the start of the evidentiary hearing.

1.6.4 Right of Participant to Present Evidence

Subject to compliance with the requirements of these Hearing Procedures concerning the timing of submission of written testimony and other evidence, a Participant has the right to present such evidence, to make such objections and arguments, and to conduct such cross-examination as may be necessary to assure the true and full disclosure of the facts.

1.6.5 Exhibits

All material offered in evidence, except oral testimony allowed by the Hearing Officer or the testimony of a non-Participant pursuant to an order to produce or provide Documents, information or testimony, shall be offered in the form of an exhibit. Each exhibit must be marked for identification. A Participant must provide the court reporter with two (2) copies of every exhibit that the Participant offers into evidence, and will provide copies of any exhibit not served in advance of the evidentiary hearing to the Participants and the Hearing Officer.

1.6.6 Witness Attendance at Evidentiary Hearing

Each witness shall attend the evidentiary hearing in person unless a Participant has been informed in advance of the evidentiary hearing that all other Participants waive cross-examination of the witness and neither the Hearing Officer nor the members of the [HEARING BODY] have any questions for the witness, in which event the witness does need not be present at the evidentiary hearing. All testimony offered at the evidentiary hearing is to be under oath or affirmation. If a witness is not required to attend the evidentiary hearing, then the Participant on whose behalf the witness prepared testimony shall submit an affidavit of the witness attesting to

the veracity of the witness' testimony, and the Participant shall be allowed to introduce the witness' testimony, and the exhibits, schedules and attachments thereto, into the evidentiary record based on such affidavit.

1.6.7 Admission of Evidence

Compliance Staff shall offer its exhibits into evidence first and the Registered Entity second, unless the Participants agree otherwise.

Except for witnesses who are not required to attend the evidentiary hearing, the Participants shall call each witness in turn. Following the witness' swearing in, the witness shall attest to the veracity of his or her written testimony. The witness may identify any language and/or figures in his or her written testimony or exhibits that the witness would like to change or correct. Subject to objection, such changes or corrections may be allowed at the Hearing Officer's discretion for the purpose of obtaining a full, accurate and complete record without imposing undue delay or prejudice on any Participant. The Participant whose witness has made changes or written corrections to written testimony and exhibits shall file corrected copies with the Clerk and provide corrected copies to the Hearing Officer and other Participant.

Once a witness has attested to the veracity of his or her testimony, the Participant on whose behalf the witness is testifying shall move for admission of the witness' testimony, including all exhibits, schedules and attachments thereto, into evidence. Other Participants may object to the introduction of the witness' testimony, or any part thereof, as set forth in Paragraph 1.6.11. Subject to the Hearing Officer's ruling on the objection, the witness' testimony shall be admitted into evidence. The witness shall then be turned over for cross-examination by other Participants, and for any questions by the Hearing Officer or any member of the [HEARING BODY], in accordance with Paragraph 1.6.14, and then for redirect examination in accordance with Paragraph 1.6.15. Witnesses shall be cross-examined on all previously-served testimony (direct, rebuttal or surrebuttal) when they first take the witness stand.

Except (i) in exceptional cases and upon a showing of good cause and (ii) witnesses testifying pursuant to an order to produce or provide Documents, information or testimony issued to a non-Participant, no witness shall be allowed to testify during the evidentiary hearing unless a Participant has served the witness' written testimony in advance of the evidentiary hearing in accordance with the schedule established by the Hearing Officer. Due to the undue prejudice such surprise witness testimony would impose on other Participants, it is the Compliance Enforcement Authority's policy to discourage witness testimony at an evidentiary hearing when a Participant has not served the witness' written testimony in advance of the evidentiary hearing. If such testimony is allowed, sufficient procedural steps shall be taken by the Hearing Officer to provide the other Participants with a fair opportunity for response and cross-examination.

1.6.8 Evidence that is Part of a Book, Paper or Document

When relevant and material matter offered in evidence is embraced in a book, paper or Document containing other matter that is not material or relevant, the Participant offering the same must plainly designate the matter offered as evidence, and segregate and exclude the material not offered to the extent practicable. If the material not offered is in such volume as would unnecessarily encumber the record, such book, papers or Document will not be received in evidence but may be marked for identification and, if properly authenticated, the relevant or

material matter may be read into the record, or, if the Hearing Officer so directs, a separate copy of such matter in proper form shall be offered as an exhibit. All other Participants shall be afforded an opportunity to examine the book, paper or Document and to offer in evidence in like manner other portions thereof if found to be material and relevant.

1.6.9 Stipulations

The Participants may stipulate to any relevant fact or the authenticity of any relevant Document. Stipulations may be made in writing or entered orally in the record. Notwithstanding stipulation, the Hearing Officer may require evidence of the facts stipulated in order to provide a complete evidentiary record on which to base the final order.

1.6.10 Official Notice

Where relevant and material to the subject matter of the proceeding, the Hearing Officer may, upon request of a Participant, take official notice of any of the following:

- 1) Rules, regulations, administrative rulings and orders, written policies of governmental bodies, and rulings and orders of other Compliance Enforcement Authorities.
- 2) The orders, transcripts, exhibits, pleadings or any other matter contained in the record of other docketed proceedings of the Compliance Enforcement Authority.
- 3) State, provincial and federal statutes and municipal and local ordinances.
- 4) The decisions of state, provincial and federal courts.
- 5) Generally recognized scientific or technical facts within the specialized knowledge of the Compliance Enforcement Authority.
- 6) All other matters of which the courts of the United States may take judicial notice.

All requests to take official notice shall be submitted in advance of the evidentiary hearing in accordance with a schedule established by the Hearing Officer. Before ruling on a request to take official notice, the Hearing Officer shall afford the other Participant opportunity to object or to show the contrary to the matter for which official notice is requested. An accurate copy of any item officially noticed shall be introduced into the record in the form of an exhibit presented by the Participant requesting official notice unless waived by the Participants and approved by the Hearing Officer. Any information officially noticed and not presented as an exhibit shall be set forth in a statement on the record.

1.6.11 Admissibility of Evidence

Any evidence offered, including that included in a book, paper or Document pursuant to Paragraph 1.6.8, shall be subject to appropriate and timely objections. Any Participant objecting to the admission or exclusion of evidence must state the grounds for objection.

The admission of evidence shall not be limited by the generally recognized rules of evidence as applied in the courts of the United States or of the states, although the Hearing Officer may take

such rules of evidence into consideration in ruling on the admissibility of evidence. The Hearing Officer will exercise discretion in the admission of evidence based upon arguments advanced by the Participants, and shall admit evidence if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. The Hearing Officer may only exclude material from the record in response to a motion or objection by a Participant.

Formal exception to a ruling on admissibility of evidence need not be taken to be preserved.

1.6.12 Offer of Proof

Any Participant who has had evidence excluded may make an offer of proof on the record. The offer of proof may consist of a statement made on the record of the substance of the evidence that the Participant claims would have been adduced, or any written or documentary exhibit that the Participant sought to introduce. Any such exhibit shall be retained as part of the record.

1.6.13 Reservation of Evidentiary Ruling

The Hearing Officer shall rule upon any objection to the admissibility of evidence at the time the objection is made; provided that the Hearing Officer has discretion to reserve such a ruling or to require the Participants to file written arguments in relation thereto. If the Hearing Officer reserves the ruling, appropriate steps shall be taken during the evidentiary hearing to ensure a full, complete and accurate record in relation to the objected to evidence in the event the objection to the evidence's admissibility is overruled.

1.6.14 Cross-Examination

Each witness shall be tendered for cross-examination subsequent to the admission of the witness' testimony into the evidentiary record. Each Participant shall have the right to cross-examine each witness of any other Participants. A Participant may waive cross-examination of any witness. The Hearing Officer and any member of the [HEARING BODY] may ask the witness questions following the conclusion of the witness' cross-examination by the other Participant, and prior to the witness' redirect examination pursuant to Paragraph 1.6.15. If a member of the [HEARING BODY] seeks to ask a witness questions, the member shall do so by submitting the question in writing to the Hearing Officer, and the Hearing Officer shall ask the question of the witness.

1.6.15 Redirect Examination

A Participant shall be entitled to conduct redirect examination of each of the Participant's witnesses who are subject to cross-examination or questions of the Hearing Officer or a member of the [HEARING BODY]. Any redirect examination shall be limited in scope to the witness' cross-examination and questions of the Hearing Officer and members of the [HEARING BODY]. If a member of the Hearing Body seeks to ask a witness questions, the member shall do so by submitting the question in written form to the Hearing Officer, and the Hearing Officer shall ask the question of the witness.

1.6.16 Examination of Adverse Participant

Any Participant may call any adverse Participant, or any employee or agent thereof, during the evidentiary hearing to provide oral testimony on the Participant's behalf, and may conduct such

oral examination as though the witness were under cross-examination. If a Participant intends to call an adverse Participant for examination, it shall give notice to the Hearing Officer and all other Participants setting forth the grounds for such examination at least fourteen (14) days in advance of the evidentiary hearing, and the Participant who, or whose employee or agent, is sought to be called shall file any objection at least seven (7) days in advance of the evidentiary hearing. Any Participant may conduct oral examination of a witness testifying pursuant to an order to produce or provide Documents, information or testimony issued to a non-Participant, as though the witness were under cross-examination.

1.6.17 Close of the Evidentiary Record

The Hearing Officer shall designate the time at which the evidentiary record will be closed, which will typically be at the conclusion of the evidentiary hearing. Evidence may not be added to the evidentiary record after it is closed, provided that the Hearing Officer may reopen the evidentiary record for good cause shown by any Participant.

1.7 Post- Evidentiary Hearing Procedure

1.7.1 Briefs

- a) At the close of the evidentiary hearing, Participants may file initial and reply briefs.
- b) Briefs shall be concise, and, if in excess of twenty (20) pages, excluding appendices, shall contain a table of contents. Statements of fact should be supported by record citations.
- c) The Hearing Officer will prescribe the time for filing briefs, giving due regard to the nature of the proceeding, the extent of the record, the number and complexity of the issues, and the objective of expedition.
- d) Unless the Hearing Officer prescribes otherwise, all Participants shall file initial and reply briefs simultaneously.
- e) Participants' reply briefs shall be limited in scope to responding to arguments and issues raised in other Participants' initial briefs.
- f) The Hearing Officer may, with the agreement of the Participants, allow oral closing statements to be made on the record in lieu of briefs.
- g) The Hearing Officer may establish reasonable page limitations applicable to briefs.

1.7.2 Other Pleadings

Post-hearing pleadings other than briefs are permitted, but, absent good cause shown, such pleadings may not seek to introduce additional evidence into the record.

1.7.3 Draft Initial Opinions

The Hearing Officer may permit or require Participants to file draft initial opinions that set forth the Participants' proposed findings of fact and conclusions.

1.7.4 Hearing Officer's Initial Opinion

Except as otherwise ordered by the [HEARING BODY], at the conclusion of the evidentiary hearing, and following the submission of initial and reply briefs and draft orders, if any, the Hearing Officer shall prepare an initial opinion for the [HEARING BODY]'s review and consideration. The initial opinion shall include a statement of each finding and conclusion, and the reasons or basis therefore, for all material issues of fact, law or discretion presented on the record. The initial opinion also shall contain the appropriate orders to dispose of the proceeding, including any Penalty, Mitigation Plan or Remedial Action Directive that the Hearing Officer proposes the [HEARING BODY] require. If the initial opinion proposes a Penalty, the initial opinion shall include a proposed Notice of Penalty. The initial opinion shall note if the subject of the proceeding has been deemed to involve a Cybersecurity Incident, if any information in the proceeding was deemed to be Critical Energy Infrastructure Information, or if any information in the proceeding is the subject of a protective order pursuant to Paragraph 1.5.10.

1.7.5 Exceptions

- a) Within twenty-one (21) days after service of the initial opinion, or such other time as is fixed by the Hearing Officer, any Participant may file exceptions to the initial opinion in a brief designated "brief on exceptions" and, within fourteen (14) days after the time for filing briefs on exceptions or such other time as is set by the Hearing Officer, any Participant may file as a reply, a "brief in reply to exceptions."
- b) Exceptions and replies thereto with respect to statements, findings of fact or conclusion in the initial opinion must be specific and must be stated and numbered separately in the brief. With regard to each, the Participant must specify each error asserted, and include a concise discussion of any policy considerations applicable and any other arguments in support of the Participant's position. Suggested replacement language for all statements to which exception is taken must be provided. Exceptions and arguments may be filed (1) together in one brief; or (2) in two separate documents, one designated as the brief containing arguments, and the other designed "Exceptions," containing the suggested replacement language.
- c) Arguments in briefs on exceptions and replies thereto shall be concise and, if in excess of twenty (20) pages, shall contain a table of contents.
- d) Participants shall not raise arguments in their briefs in reply to exceptions that are not responsive to any argument raised in any other Participant's brief on exceptions.
- e) Statements of fact should be supported by citation to the record.
- f) The Hearing Officer may establish reasonable page limitations applicable to arguments included in briefs on exception and briefs in reply to exceptions. Such page limitations shall not apply to a Participant's proposed replacement language.
- g) Unless good cause is shown, if a Participant does not file a brief on exceptions, or if a Participant filed a brief on exceptions that does not object to a part of the initial opinion, the Participant shall be deemed to have waived any objection to the initial opinion in its entirety, or to the part of the initial opinion to which the Participant did not object,

whichever applies. This provision shall not prohibit the Participant, in its brief in reply to exceptions, from responding to another Participant's exceptions to such part of the initial opinion or from proposing alternative replacement language to the replacement language proposed by the other Participant for such part of the initial opinion.

1.7.6 Oral Argument

The [HEARING BODY] may elect to hear oral argument. If oral argument is held without briefs having been filed, Participants will be given the opportunity to present argument on all issues. If oral argument is held where briefs have been filed, argument may be limited to issues identified by the [HEARING BODY]. The [HEARING BODY] will direct the Clerk to issue a notice of oral argument that identifies the date, time, place and issues for the argument.

The presentation of written materials or visual aids is permitted at oral argument. To the extent such materials or aids contain factual information, they shall be supported by the record, and shall contain accurate record citations. Such materials or aids may not contain new calculations or quantitative analyses not presented in the record, unless they are based on underlying data contained in the record. Copies of all written materials or visual aids to be presented at oral argument shall be served on all Participants not less than 48 hours prior to the time and date of oral argument.

1.7.7 Additional Hearings

After the evidentiary record has been closed but before issuance of an initial opinion, the Hearing Officer may reopen the evidentiary record and hold additional hearings. Such action may be taken on the Hearing Officer's or the [HEARING BODY]'s own motion if there is reason to believe that reopening is warranted by any changes in conditions, or by the need to compile a complete evidentiary record on which to base the final order. Any Participant may file a motion to reopen the record, which shall contain the reasons for reopening, including material changes in conditions or the identification of additional evidence that should be included in the record, and a brief statement of proposed additional evidence and an explanation why such evidence was not previously adduced.

1.7.8 [HEARING BODY] Final Order

Following the receipt of the initial opinion, any exceptions and replies thereto, and oral argument, if any, the [HEARING BODY] shall issue its final order. Issuance of a final order shall require (i) a quorum of the [HEARING BODY], which shall be (after any recusals, disqualifications and appointments of replacement members) at least fifty (50) percent of the number of members normally assigned to the [HEARING BODY], and (ii) majority vote of the members of the [HEARING BODY] voting on the final order (which number of members voting shall not be less than a quorum). The [HEARING BODY] shall strive, but shall not be required, to issue its final order within thirty (30) days following the last to occur of the initial opinion, exceptions or replies thereto, or oral argument. The final order may adopt, modify, amend or reject the initial opinion in its entirety or in part. The final order shall include a statement of each finding and conclusion, and the reasons or basis therefore, for all material issues of fact, law or discretion presented on the record. The [HEARING BODY] will base its determinations in the final order on the record. The final order also shall contain the appropriate orders to dispose of the proceeding, including any Penalty, sanction, Remedial Action Directive or Mitigation Plan

required. If the final order imposes a Penalty, it shall be entitled “Final Order and Notice of Penalty”. The final order shall note if the subject of the proceeding has been deemed to involve a Cybersecurity Incident, if any information in the proceeding was deemed to be Critical Energy Infrastructure Information, or if any information in the proceeding is the subject of a protective order issued pursuant to Paragraph 1.5.10. The [HEARING BODY] shall direct the Clerk to serve the final order on the Participants. The service of the final order shall include a notice informing the Participants of their appeal rights to the ERO or to FERC, as applicable.

1.7.9 The Record

The Clerk shall maintain the record for all dockets. The record shall include any of the following, including all attachments thereto and documents filed therewith, that exist in any docket:

- 1) Notice of Alleged Violation and Registered Entity’s response thereto;
- 2) Registered Entity’s proposed Mitigation Plan and Staff’s statement identifying its disagreement(s) therewith;
- 3) Remedial Action Directives and the Registered Entity’s notice contesting the Remedial Action Directive;
- 4) Registered Entity’s request for a hearing;
- 5) Participant filings, motions, and responses;
- 6) Notices, rulings, orders and other issuances of the Hearing Officer and [HEARING BODY];
- 7) Transcripts;
- 8) Evidence received;
- 9) Written comments submitted in lieu of written testimony;
- 10) Matters officially noticed;
- 11) Offers of proof, objections and rulings thereon, and any written or documentary evidence excluded from the evidentiary record;
- 12) Briefs, pre-evidentiary hearing memorandums, and draft opinions;
- 13) Post-hearing pleadings other than briefs;
- 14) The Hearing Officer’s initial opinion;
- 15) Exceptions to the Hearing Officer’s initial opinion, and any replies thereto;
- 16) The [HEARING BODY]’s final order, any Notice of Penalty issued therewith, and the Clerk’s notice transmitting the final order to the Participants;

- 17) All notices of ex parte communications; and
- 18) Any notifications of recusal and motions for disqualification of a member of the [HEARING BODY] or Hearing Officer of Technical Advisor and any responses or replies thereto.

1.7.10 Appeal

A Final Order of the [HEARING BODY] may be appealed to NERC in accordance with NERC's Rules of Procedure, Section 409. The Clerk shall transmit to NERC the record of any docket that is the subject of an appealed final order.

1.8 Settlement

Settlements may be entered into at any time pursuant to Section 5.6 of the NERC Compliance Monitoring and Enforcement Program and the Compliance Enforcement Authority's settlement procedures, provided, that the Compliance Enforcement Authority may decline to engage in or continue settlement negotiations after a Possible Violation or Alleged Violation becomes a Confirmed Violation.

1.9 Remedial Action Directives

1.9.1 Initiation of Remedial Action Directive Hearing

Staff] may issue a Remedial Action Directive to a Registered Entity at any time, including during any proceeding related to an Alleged Violation of a Reliability Standard. The Remedial Action Directive shall be delivered to the Registered Entity in accordance with Section 7.0 of the NERC Compliance Monitoring and Enforcement Program. The Compliance Enforcement Authority will notify NERC within two (2) days after its Staff issues a Remedial Action Directive.

The Registered Entity may contest the Remedial Action Directive by filing a written notice with the Clerk of the Compliance Enforcement Authority that states that the Registered Entity contests the Remedial Action Directive and that the Registered Entity requests a Remedial Action Directive hearing. The Registered Entity shall attach a copy of the Remedial Action Directive to its written notice. The Registered Entity must provide such notice within two (2) business days following the date of actual receipt (as defined in Section 7.0 of the NERC Compliance Monitoring and Enforcement Program) of the Remedial Action Directive. If the Registered Entity does not give written notice to the Compliance Enforcement Authority within the required time period, the Registered Entity shall be deemed to have waived its right to contest the Remedial Action Directive.

The Clerk shall assign a docket number, and issue a notice of hearing that sets forth the date, time and place at which the hearing will convene pursuant to Paragraph 1.4.1.

1.9.2 Remedial Action Directive Hearing Procedure

Hearings to address Remedial Action Directives shall be conducted only under the expedited hearing process set forth in this Paragraph 1.9.2. The full hearing procedures described in Sections 1.4 to 1.7 are applicable to the Remedial Action Directive hearing unless the context

of a provision is inconsistent with or otherwise renders it inapplicable to the procedures set forth in this Paragraph.

The Remedial Action Directive hearing may be presided over by a Hearing Officer and will be conducted according to the following guidelines:

- a) The Hearing Officer or the [HEARING BODY] will hold a prehearing conference within two (2) business days after receipt of the Registered Entity's request for a hearing.
- b) An evidentiary hearing will be conducted on the matter, in person or by teleconference, within seven (7) business days after the prehearing conference.
- c) At the evidentiary hearing, Staff shall present oral witness testimony and evidence to show why the Remedial Action Directive should be complied with, and the Registered Entity shall present oral witness testimony and evidence to show why the Remedial Action Directive is not necessary or should be modified. All witness testimony shall be rendered under oath.
- d) At the evidentiary hearing, the Participants shall have the opportunity to make opening statements. In addition, the Participants shall have the opportunity to make closing arguments, and Staff shall have the opportunity to make a rebuttal to the Registered Entity's closing argument.
- e) The Participants may file initial briefs and reply briefs, and/or draft opinions, on an expedited schedule set by the Hearing Officer or the [HEARING BODY]. Oral argument shall not be held.
- f) The [HEARING BODY] shall issue a summary written decision within ten (10) days following the hearing, stating whether the Registered Entity shall or shall not be required to comply with the Remedial Action Directive and identifying any modifications to the Remedial Action Directive that it finds appropriate.

Within thirty (30) days following issuance of its summary written decision, the [HEARING BODY] shall issue a full written decision. The written decision shall state the conclusions of the [HEARING BODY] with respect to the Remedial Action Directive, and shall explain the reasons for the [HEARING BODY]'s conclusions.

ATTACHMENT 14B

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

REVISED APPENDIX 4C

TO THE

RULES OF PROCEDURE

COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

REDLINED VERSION

Proposed Revised Version

North American Electric Reliability Corporation
Compliance Monitoring and Enforcement Program
APPENDIX 4C TO THE RULES OF PROCEDURE

Effective: ~~October 2, 2009~~ [DATE]

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ATTACHMENT 1 – PROCESS FOR NON-SUBMITTAL OF REQUESTED DATA

**ATTACHMENT 2 – COMPLIANCE ENFORCEMENT AUTHORITY HEARING
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Compliance Monitoring and Enforcement Program

COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

1.0 INTRODUCTION

This Compliance Monitoring and Enforcement Program (“Compliance Program”) is the program to be used by the North American Electric Reliability Corporation (“NERC”) and the Regional Entities to monitor, assess, and enforce compliance with Reliability Standards within the United States. ~~This is accomplished through compliance monitoring and rigorous proactive Compliance Audits.~~ Compliance monitoring and enforcement programs also will be implemented in Canada consistent with Canadian laws and agreements.

1.1 Definitions

Capitalized terms used in this Compliance Program shall have the meanings set forth in Section 200 of the NERC Rules of Procedure or as set forth below:

- 1.1.1 Alleged Violation: A ~~potential violation~~Possible Violation for which the Compliance Enforcement Authority has determined, based on an assessment of the facts and circumstances surrounding the Possible Violation, that evidence exists to indicate a Registered Entity has violated a Reliability Standard.
- 1.1.2 Annual Audit Plan: A plan developed annually by the Compliance Enforcement Authority that includes the Reliability Standards and Registered Entities to be audited, the schedule of Compliance Audits, and Compliance Audit Participant requirements for the calendar year.
- 1.1.3 Applicable Governmental Authority: The Federal Energy Regulatory Commission (“FERC”) within the United States and the appropriate governmental authority with subject matter jurisdiction over reliability in Canada and Mexico.
- 1.1.4 Complaint: An allegation that a Registered Entity violated a Reliability Standard.
- 1.1.5 Compliance Audit: A systematic, objective review and examination of records and activities to determine whether a Registered Entity meets the requirements of applicable Reliability Standards.
- 1.1.6 Compliance Audit Participants: Registered Entities scheduled to be audited and the audit team members.
- 1.1.7 Compliance Enforcement Authority: NERC or the Regional Entity in their respective roles of monitoring and enforcing compliance with the NERC Reliability Standards.
- 1.1.8 Compliance ~~Violation~~-Investigation: A comprehensive investigation, which may include an on-site visit with interviews of the appropriate personnel, to determine if a violation of a Reliability Standard has occurred.

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~~1.1.9~~ 1.1.9 Confirmed Violation: An Alleged Violation for which an entity has: (1) accepted the finding of the violation by a Regional Entity or NERC and will not seek an appeal, or (2) completed the hearing and appeals process within NERC, or (3) allowed the time for requesting a hearing or submitting an appeal to NERC to expire, or (4) admitted to the violation in a settlement agreement.

1.1.10 End Date: The last date of the period to be covered in a Compliance Audit.

~~1.1.10~~ 1.1.11 Exception Reporting: Information provided to the Compliance Enforcement Authority by a Registered Entity indicating that a violation of a Reliability Standard has occurred (e.g., a system operating limit has been exceeded) or enabling the Compliance Enforcement Authority to ascertain the Registered Entity's compliance. ~~Some Reliability Standards require Exception Reporting.~~

1.1.12 ~~1.1.11~~ Mitigation Plan: An action plan ~~developed by a Registered Entity to (i) correct a violation of a Reliability Standard and (ii) prevent re-occurrence of the violation. A Mitigation Plan is~~ required when a Registered Entity violates a Reliability Standard as determined by any means including Compliance Enforcement Authority decision, ~~Settlement Agreement, or otherwise~~ settlement agreement, or otherwise, that is developed by the Registered Entity to (1) correct a violation of a Reliability Standard and (2) prevent re-occurrence of the violation.

~~1.1.12~~ ~~NERC Compliance Registry: A compilation of the Regional Compliance Registries from each Regional Entity plus the entities for which NERC serves as the Compliance Enforcement Authority.~~

1.1.13 NERC Compliance Registry: A list, maintained by NERC pursuant to Section 500 of the NERC Rules of Procedure and Appendix 5B, the NERC Statement of Compliance Registry Criteria, of the owners, operators and users of the Bulk Power System, and the entities registered as their designees, that perform one or more functions in support of reliability of the Bulk Power System and are required to comply with one or more requirements of Reliability Standards.

1.1.14 ~~1.1.13~~ NERC Compliance Monitoring and Enforcement Program Implementation Plan or NERC Implementation Plan: The annual NERC Compliance Monitoring and Enforcement Program Implementation Plan that specifies the Reliability Standards that are subject to reporting by Registered Entities to the Compliance Enforcement Authority in order to verify compliance and identifies the appropriate monitoring procedures and reporting schedules for each such Reliability Standard.

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- 1.1.15 Notice of Alleged Violation: A notice issued by the Compliance Enforcement Authority to a Registered Entity pursuant to Section 5.3.
- 1.1.16 Notice of Completion of Enforcement Action: A notice issued by the Compliance Enforcement Authority to a Registered Entity, pursuant to Section 5.10, stating that an enforcement action is closed.
- 1.1.17 Notice of Confirmed Violation: A notice issued by the Compliance Enforcement Authority to a Registered Entity confirming the violation of one or more Reliability Standards, as a result of (1) the Registered Entity accepting a Notice of Alleged Violation and the proposed penalty or sanction, or (2) the finding of a violation through a hearing and appeal, or (3) the expiration of the period for requesting a hearing or an appeal, or (4) the Registered Entity admitting the violation as part of an executed settlement agreement.
- 1.1.18 Notice of Penalty: A notice prepared by NERC and filed with FERC, following approval by NERC of a Notice of Confirmed Violation or a settlement agreement, stating the penalty or sanction imposed or agreed to for the Confirmed Violation or as part of the settlement.
- 1.1.19 Notice of Possible Violation: A notice issued by the Compliance Enforcement Authority to a Registered Entity that (1) states a Possible Violation has been identified, (2) provides a brief description of the Possible Violation, including the Reliability Standard requirement(s) and the date(s) involved, and (3) instructs the Registered Entity to retain and preserve all data and records relating to the Possible Violation.
- 1.1.20 ~~1.1.14~~ Periodic Data Submittals: Modeling, studies, analyses, documents, procedures, methodologies, operating data, process information or other information to demonstrate compliance with Reliability Standards and provided by Registered Entities to the Compliance Enforcement Authority on a time frame required by a Reliability Standard or an ad hoc basis.
- ~~1.1.15~~ ~~Regional Compliance Registry: A list, pursuant to Section 500 of the NERC Rules of Procedure and the NERC Statement of Compliance Registry Criteria of the owners, operators or users of the bulk power system or the entities registered as their designees for the purpose of compliance within a Regional Entity's geographic footprint that perform one or more functions in support of reliability of the bulk power system. The Registry is used to determine the Reliability Standards applicable to the Registered Entity.~~
- 1.1.21 Possible Violation: The identification, by the Compliance Enforcement Authority, using one of the Compliance Monitoring and Enforcement Processes in Section 3.0, of a possible failure by a

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Registered Entity to comply with a Reliability Standard that is applicable to the Registered Entity.

1.1.22 Preliminary Screen: An initial evaluation of evidence indicating potential noncompliance with a Reliability Standard has occurred or is occurring, conducted by the Compliance Enforcement Authority for the purpose of determining whether a Possible Violation exists, and consisting of an evaluation of whether (1) the entity allegedly involved in the potential noncompliance is registered, and (2) the Reliability Standard requirement to which the evidence of potential noncompliance relates is applicable to the entity and is enforceable.

1.1.23 ~~1.1.16~~ Regional Implementation Plan: An annual plan, submitted by November 1 of each year to NERC for approval that, in accordance with NERC Rule of Procedure Section 401.6 and the NERC Compliance Monitoring and Enforcement Program Implementation Plan, identifies (1) all Reliability Standards identified by NERC to be actively monitored during each year, (2) other Reliability Standards proposed for active monitoring by the Regional Entity, (3) the methods to be used by the Regional Entity for reporting, monitoring, evaluation, and assessment of performance criteria with each Reliability Standard, and (4) the Regional Entity's Annual Audit Plan.

1.1.24 ~~1.1.17~~ Registered Entity: An owner, operator, or user of the ~~bulk power system~~ Bulk Power System, or the ~~entities~~ entity registered as ~~their designees~~ its designee for the purpose of compliance, that is included in the NERC ~~and Regional~~ Compliance Registry.

1.1.25 ~~1.1.18~~ Remedial Action Directive: An action (other than a penalty or sanction) required by a Compliance Enforcement Authority that (1) is to bring a Registered Entity into compliance with a Reliability Standard or to avoid a Reliability Standard violation, and (2) is immediately necessary to protect the reliability of the ~~bulk power system~~ Bulk Power System from an imminent threat.

1.1.26 ~~1.1.19~~ Required Date: The date given a Registered Entity in a notice from the Compliance Enforcement Authority by which some action by the Registered Entity is required. ~~—Such date shall provide the Registered Entity a reasonable period of time in which to take the required action, given the circumstances and the action required.~~

1.1.27 ~~1.1.20~~ Self-Certification: Attestation by a Registered Entity of compliance or non-compliance with a Reliability ~~Standards~~ Standard for which Self-Certification is required by the Compliance Enforcement Authority and that ~~are~~ is included for monitoring in the Regional Implementation Plan.

1.1.28 ~~1.1.21~~ Self-Reporting: A report by a Registered Entity ~~of a violation~~ of stating (1) that the Registered Entity believes it has violated a

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Reliability Standard, ~~based on its own assessment, in order to provide prompt reports of any Reliability Standard violation~~ and (2) the actions that ~~were~~have been taken or will be taken to resolve the violation.

1.1.29 ~~1.1.22~~ Spot Checking: A process in which the Compliance Enforcement Authority requests a Registered Entity to provide information (1) to support the Registered Entity's Self-Certification, Self-Reporting, or Periodic Data Submittal and to assess whether the Registered Entity complies with Reliability Standards. ~~Spot Checking may also be, or (2) as a random check, or initiated (3) in response to events, as described in the Reliability Standards; or by based on operating problems or system events. Spot Checking may require an on-site review to complete.~~

2.0 IDENTIFICATION OF ORGANIZATIONS RESPONSIBLE FOR COMPLYING WITH RELIABILITY STANDARDS

~~The Compliance Enforcement Authority~~NERC shall register the organizations responsible for complying with Reliability Standards, in accordance with Section 500 of the NERC Rules of Procedure. ~~The Compliance Enforcement Authority shall identify the and Appendix 5B, Statement of Compliance Registry Criteria. Organizations are responsible to register and to comply with Reliability Standards if they are owners, operators, and users of the bulk power system that meet the definition of Registered Entities within the Compliance Enforcement Authority's area of responsibility~~Bulk Power System, perform a function listed in the functional types identified in Section II of Appendix 5B, and are material to the reliable operation of the Bulk Power System as defined by the criteria and notes in Appendix 5B. Regional Entities shall (i) develop and provide to NERC information to assist NERC to register organizations responsible for complying with Reliability Standards, and (ii) in the event of a registration appeal to NERC or an Applicable Governmental Authority, provide information requested by NERC concerning how the Registered Entity meets the registration criteria or is otherwise material to the reliability of the Bulk Power System.

NERC shall notify organizations of their inclusion on the NERC Compliance Registry and shall maintain the NERC Compliance Registry on its web site. NERC shall inform each Registered Entity at the time of registration of the Reliability Standards that are applicable to reliability functions for which the Registered Entity is registered. Each Registered Entity shall inform the Compliance Enforcement Authority~~NERC or the applicable Regional Entity~~ promptly of changes to ~~its~~the Registered Entity's registration information. ~~The Compliance Enforcement Authority shall inform each Registered Entity at the time of registration of the Reliability Standards that are applicable to the Registered Entity. The Compliance Enforcement Authority shall maintain on its website a current listing of Reliability Standards that are applicable to all Registered Entities.~~NERC will provide FERC and Applicable Governmental Authorities monthly updates to the NERC Compliance Registry.

~~The Compliance Enforcement Authority~~NERC and each Regional Entity will designate a contact person(s) and require each Registered Entity to designate a contact person(s) responsible for sending and receiving all necessary information and communications concerning compliance matters. ~~The Compliance Enforcement Authority~~ NERC and the applicable Regional Entity

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will designate where Registered Entities are to send information, data, Mitigation Plans, or any other compliance-related correspondence.

~~Each Regional Entity shall develop, maintain, and provide to NERC a Regional Compliance Registry with updates as changes occur to the registry. NERC shall maintain the NERC Compliance Registry on its web site. NERC will provide FERC and Applicable Governmental Authorities monthly updates to the NERC Compliance Registry.~~

NERC shall maintain on its website a current listing of Reliability Standards that are applicable to all Registered Entities.

As provided for herein, during the course of compliance monitoring and enforcement activities relating to U.S. entities, NERC may obtain information that it will provide to FERC and, if the information pertains to a Registered Entity or to a portion of the ~~bulk power system~~Bulk Power System over which another Applicable Governmental Authority has jurisdiction, to such other Applicable Governmental Authority. However, NERC will not provide non-public U.S. compliance information that is subject to 18 C.F.R. §39.7(b)(4) to Applicable Governmental Authorities other than FERC without first obtaining permission from FERC for such disclosures and subject to such limitations as FERC may place on such disclosures. Similarly, during the course of compliance monitoring and enforcement activities relating to non-U.S. entities, NERC may obtain information that it will provide to the Applicable Governmental Authorities, including FERC, that have jurisdiction over the Registered Entity or the portion of the ~~bulk power system~~Bulk Power System to which the information pertains, but subject to any limitations placed on the disclosure of non-public, non-U.S. compliance information by the Applicable Governmental Authority with jurisdiction or by other law of the applicable jurisdiction. In any notice to, and request for permission to disclose compliance information from, FERC or another Applicable Governmental Authority pursuant to any provision of this Compliance Program, NERC will identify each Applicable Governmental Authority to which it proposes to disclose the information and the specific procedures that will be used for protecting from public disclosure any non-public compliance information that will be transferred to the other Applicable Governmental Authority or Authorities. The provisions of this paragraph do not apply to the provision by NERC to an Applicable Governmental Authority of information that is not directly related to a specific Registered Entity's compliance with a requirement of a Reliability Standard.

3.0 COMPLIANCE MONITORING AND ENFORCEMENT PROCESSES

The Compliance Enforcement Authority will monitor, assess, and enforce compliance with Reliability Standards using ~~eight (8)~~the compliance monitoring processes described in this Section 3.0 to collect information in order to make assessments of compliance: ~~(1) Compliance Audits, (2) Self-Certifications, (3) Spot-Checking, (4) Compliance Violation Investigations, (5) Self-Reporting, (6) Periodic Data Submittals, (7) Exception Reporting, and (8) Complaints.~~ These processes are described in Sections 3.1 through 3.8 below.

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Enforcement actions taken by the Compliance Enforcement Authority through the Compliance Program may include the imposition of remedial actions, sanctions, and penalties, where applicable, which shall be based on the schedule of penalties and sanctions approved for implementation by FERC and other Applicable Governmental Authorities. The imposition and acceptance of sanctions and penalties shall not be considered an acceptable alternative to any Registered Entity's continuing obligation to comply with the Reliability Standards. Registered Entities found in violation of a Reliability Standard will be required to mitigate the violation regardless of any enforcement actions taken.

The Compliance Program requires timely data from Registered Entities to effectively monitor compliance with Reliability Standards. If data, information or other reports to determine compliance requested from a Registered Entity are not received by the Required Date, the Compliance Enforcement Authority may execute the steps described in **Attachment 1, Process for Non-submittal of Requested Data**.

Parties engaged in the process described in this section should consult with each other on the data and information that would be appropriate for effectively addressing this section's process requirements. If a party believes that a request for data or information is unreasonable, the party may request a written determination from the NERC compliance program officer.

Any report or other submission of information by a Registered Entity required by the Compliance Program shall be signed by an officer, employee, attorney or other authorized representative of the Registered Entity. Electronic signatures are permitted in accordance with processes established by NERC and the Regional Entity. NERC or the Compliance Enforcement Authority may require the signer to provide a statement of the basis of his or her authority to sign on behalf of the Registered Entity.

~~Figure 3.0 NERC Compliance Program Process depicts the overall process steps for the Compliance Program and each of the subsequent process diagrams are either inputs to the overall process or represent an expansion of a single process (e.g., hearing process) shown on this diagram.~~

~~1.1~~

3.1 Compliance Audits

All Registered Entities are subject to audit for compliance with all Reliability Standards applicable to the functions for which the Registered Entity is registered. Compliance Audits are conducted on the Registered Entity's site to the extent required by NERC Rule of Procedure 403.11.2. Compliance Audit processes for Compliance Audits conducted in the United States shall be based on professional auditing standards recognized in the U.S., including Generally Accepted Auditing Standards, Generally Accepted Government Auditing Standards and standards sanctioned by the Institute of Internal Auditors. Compliance Audit processes for Compliance Audits conducted outside the U.S. may be based on Canadian or other international standards. All Compliance Audits shall be conducted in accordance with audit guides established for the Reliability Standards included in the Compliance Audit, consistent with accepted auditing guidelines as approved by NERC. The audit guides will be posted on NERC's website.

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3.1.1 Compliance Audit Process Steps

The process steps for a Compliance Audit are as follows ~~and as shown on Figure 3.1:~~¹

- The Compliance Enforcement Authority distributes the Annual Audit Plan (developed in coordination with NERC) to the Compliance Audit Participants and NERC. The Compliance Enforcement Authority provides additional information to the Compliance Audit Participants, including audit materials, coordinating agendas and changes to the audit schedule as required. Prior to the Compliance Audit, the Compliance Enforcement Authority informs the Registered Entity of the Reliability Standards to be evaluated. NERC or the Regional Entity provides the audit schedules to FERC and to any other Applicable Governmental Authority based upon the agreements in place with the other Applicable Governmental Authority.
- At least two (2) months prior to commencement of a regularly scheduled Compliance Audit, the Compliance Enforcement Authority notifies the Registered Entity of the Compliance Audit, identifies the audit team members and their recent employment history, and requests data, including a completed NERC pre-audit questionnaire. If the audit team members change from the time of the original notification, the Compliance Enforcement Authority will promptly notify the Registered Entity of the change and will allow time for the Registered Entity to object to the new audit team member(s) (see Section 3.1.5).
- The Registered Entity provides to the Compliance Enforcement Authority the required information in the format specified in the request.
- The audit team reviews the submitted information for conformance with the requirements of the Reliability Standards prior to performing the Compliance Audit. The audit team follows NERC audit guidelines in the implementation of the Compliance Audit. This shall include conducting an exit briefing with the Registered Entity, providing for a review of the audit report with the Registered Entity before it is finalized, and issuing an audit report, including an assessment of compliance with the Reliability Standards, to the Compliance Enforcement Authority.
- The Compliance Enforcement Authority reviews the report developed by the audit team and completes ~~an assessment of a~~ Preliminary Screen for any ~~Alleged~~ Possible Violations ~~with the of~~ Reliability Standards, based on the potential noncompliances with Reliability Standards (if any) identified in the report.
- ~~• The Compliance Enforcement Authority provides the final audit report to the Registered Entity and to NERC.~~
- If the Compliance Enforcement Authority concludes that ~~a reasonable basis exists for believing a violation~~ there is a Possible Violation of a Reliability Standard ~~has occurred~~, it shall send the Registered Entity a ~~notice containing the information set forth in Section~~

¹This process normally completes within sixty (60) days of the completion of the on-site Compliance Audit work at the Registered Entity's site.

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~~5.1 and the process moves to step 3 (Notice of Alleged Violation) of the Compliance Program Process shown in Figure 3.0. [Notice of Possible Violation.](#)~~

- ~~• [Regional Entities will notify NERC of any Alleged Violations as required by Section 8.0. The Compliance Enforcement Authority provides the final audit report to the Registered Entity and to NERC.](#)~~

~~Figure 3.1—Compliance Audit Process~~

3.1.2 Compliance Enforcement Authority Annual Audit Plan and Schedule

The Compliance Enforcement Authority shall develop an Annual Audit Plan. The Annual Audit Plan of Regional Entities will be included in the Regional Implementation Plans submitted to NERC for review and approval (see Section 4.2). NERC or the Regional Entity provides the Annual Audit Plans to FERC and to any other Applicable Governmental Authority consistent with the agreements in place with the Applicable Governmental Authority.

Prior to January 1 of the year covered by the Annual Audit Plan, the Compliance Enforcement Authority shall notify Registered Entities subject to Compliance Audits during the upcoming year, of the audit schedules, methods, and data requirements for the audit. The Compliance Enforcement Authority will give due consideration to any schedule changes requested by Registered Entities to avoid unnecessary burdens.

Revisions and additions to a Regional Entity Annual Audit Plan shall be approved by NERC and the Registered Entity shall be notified in a timely manner (normally 60 days in advance) of changes or revisions to scheduled audit dates.

3.1.3 Frequency of Compliance Audits

The Compliance Enforcement Authority will perform comprehensive Compliance Audits as required by the NERC Rules of Procedure based on criteria established by NERC. Additionally, an unscheduled Compliance Audit of any Registered Entity (i) may be initiated at any time by the Compliance Enforcement Authority if reasonably determined to be necessary to ensure the Registered ~~Entities~~[Entity's](#) compliance with Reliability Standards, and (ii) shall be initiated by the Compliance Enforcement Authority or by NERC if directed by FERC. Prior to or on the same date it notifies the Registered Entity that an unscheduled Compliance Audit is being initiated, the Compliance Enforcement Authority shall notify NERC and FERC that an unscheduled Compliance Audit is being initiated. The Registered Entity shall receive at least ten (10) business days advance notice that an unscheduled Compliance Audit is being initiated, which notice shall include identification of the members of the Compliance Audit team. The Registered Entity shall make any objections to the composition of the Compliance Audit team, which shall be based on failure to meet the criteria specified in Section ~~3.1.5~~[3.1.5.2](#), at least five (5) business days prior to the start of on-site audit work for the unscheduled Compliance Audit.

3.1.4 Scope of Compliance Audits

[3.1.4.1 Reliability Standards](#)

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A Compliance Audit ~~will~~shall include ~~all~~those Reliability Standards applicable to the Registered Entity ~~monitored~~that are identified in the NERC Implementation ~~Plans~~in Plan for the current ~~and three previous years~~year, and may include other Reliability Standards applicable to the Registered Entity. ~~If a Reliability Standard does not require retention of data for the full period of the Compliance Audit, the Compliance Audit will be applicable to the data retention period specified in the Reliability Standard~~ that are identified in the Regional Entity's Regional Implementation Plan for the current year. The Compliance Audit may include any other Reliability Standards that are applicable to the Registered Entity.

3.1.4.2 Period Covered

The Registered Entity's data and information should show compliance with the Reliability Standards that are the subject of the Compliance Audit for the period beginning with the day after the prior audit by the Compliance Enforcement Authority ended (or the later of June 18, 2007 or the Registered Entity's date of registration if the Registered Entity has not previously been subject to a Compliance Audit), and ending with the End Date for the Compliance Audit. However, if another Compliance Monitoring and Enforcement process has been conducted with respect to the Registered Entity subsequent to the date that would otherwise be the start of the period, the period covered by the Compliance Audit may, in the Regional Entity's discretion, begin with the completion of that Compliance Monitoring and Enforcement process for those Reliability Standards requirements that were the subject of the Compliance Monitoring and Enforcement process. The End Date will be stated in the Compliance Enforcement Authority's notification of the Compliance Audit issued to the Registered Entity pursuant to Section 3.1.1. The Registered Entity will be expected to demonstrate compliance for the entire period described above. However, if a Reliability Standard specifies a document retention period that does not cover the entire period described above, the Registered Entity will not be found in noncompliance solely on the basis of the lack of specific information that has rightfully not been retained based on the retention period specified in the Reliability Standard. However, in such cases, the Compliance Enforcement Authority will require the Registered Entity to demonstrate compliance through other means.

3.1.4.3 Mitigation Plans

The Compliance Audit will include a review of any Mitigation Plans which the Registered Entity has not yet completed, for the purpose of determining whether the Registered Entity is making adequate progress towards completion of the Mitigation Plan.

3.1.5 Conduct of Compliance Audits

3.1.5.1 Composition of Compliance Audit Teams

The audit team shall be comprised of staff ~~personnel~~and such other persons as are included in the audit team pursuant to Section 3.1.5.3, and may include contractors and industry ~~volunteers~~subject matter experts as determined by the Compliance Enforcement Authority to be appropriate to comprise a sufficient audit team. The audit team leader shall be a staff member from the Compliance Enforcement Authority and is responsible for the conduct of the Compliance Audit and preparation of the audit report. ~~At their discretion, NERC Compliance Staff may participate on any Regional Entity Compliance Audit~~

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~~team either as an observer or as an audit team member as determined by the Regional Entity. Additionally, FERC and other regulatory bodies with regulatory authority for the Registered Entity may participate on the audit team for any Compliance Audit of a Registered Entity.~~

3.1.5.2 Requirements for Compliance Audit Team Members

Each audit team member must:

- Be free of conflicts of interests. For example, employees or contractors of the Registered Entity being audited shall not be allowed to participate as auditors in the Compliance Audit of the Registered Entity.
- Comply with the NERC Antitrust Compliance Guidelines and shall have either signed appropriate confidentiality agreements or acknowledgments that the confidentiality agreement signed by the Compliance Enforcement Authority is applicable.
- Successfully complete all NERC or NERC-approved Regional Entity auditor training applicable to the Compliance Audit. ~~As a transitional matter, for Compliance Audits conducted prior to January 1, 2008, at least a majority of audit team members must have successfully completed such training.~~
- ~~Prior to the Compliance Audit,~~ Provide copies of executed confidentiality agreements or acknowledgments ~~will~~to be provided to the Registered Entity prior to the audit.

3.1.5.3 Compliance Audit Observers or Other Participants

In any Regional Entity Compliance Audit of a Registered Entity: (i) NERC Staff (which may include contractors to NERC) may participate either as observers or as audit team members; (ii) members of the Regional Entity's Compliance staff, in addition to the audit team, may participate as observers; (iii) with the permission of the Regional Entity, compliance staff members of other Regional Entities may participate either as observers or as audit team members; (iv) representatives of FERC and of other Applicable Governmental Authorities may participate either as observers or as audit team members so long as the Registered Entity is subject to the Applicable Governmental Authority's reliability jurisdiction; and (v) at the request of the Registered Entity, the Regional Entity may allow representatives of other Registered Entities to attend the audit for educational purposes.

The Compliance Audit team leader or other staff of the Regional Entity conducting the Compliance Audit will communicate in advance with any observers or other attendees to ensure there are no undue disruptions to the audit, such as space limitations, no conflicts of interest, and no other considerations that in the judgment of the Compliance Audit team leader may be detrimental to the conduct and quality of the audit. If the Compliance Audit team leader identifies any such issues, he/she shall work with the proposed observers or attendees to facilitate observation in a less disruptive manner; or, alternatively, the Regional Entity Compliance staff will work with the proposed observers or attendees to schedule their participation in, observation of, or attendance at a different Compliance Audit in which such issues are not presented.

3.1.5.4 Registered Entity Objections to Compliance Audit Team

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A Registered Entity subject to a Compliance Audit may object to any member of the audit team on grounds of a conflict of interest or the existence of other circumstances that could interfere with the team member's impartial performance of his or her duties. ~~Such~~Any such objections must be provided in writing to the Compliance Enforcement Authority no later than fifteen (15) days prior to the start of on-site audit work. This fifteen (15) day requirement shall not apply (i) where an audit team member has been appointed less than twenty (20) days prior to the start of on-site audit work, in which case the Registered Entity must provide any objections to the Compliance Enforcement Authority within five (5) business days after receiving notice of the appointment of the Compliance Audit team member; and (ii) in the case of an unscheduled Compliance Audit pursuant to Section 3.1.3, in which case the Registered Entity must provide any objections to the Compliance Enforcement Authority at least five (5) business days prior to the start of ~~start of~~ on-site audit work for the unscheduled Compliance Audit. The Compliance Enforcement Authority will make a final determination on whether the member will participate in the Compliance Audit of the Registered Entity. Nothing in this paragraph shall be read to limit the participation of NERC or FERC staff in the Compliance Audit.

3.1.6 Compliance Audit Reports

The audit team shall develop a draft audit report that shall include a description of the objective, scope, and methodology of the Compliance Audit; identify any ~~Alleged Violations of evidence of possible noncompliance with~~ Reliability Standards by the Registered Entity found by the audit team; identify any Mitigation Plans or Remedial Action Directives; which have been completed or pending in the year of the Compliance Audit; and identify the nature of any confidential information redacted. A separate document may be prepared that contains recommendations of the audit team. Any recommendations contained in that document will be considered non-binding. The draft report will be provided to the Registered Entity for comment.

The audit team will consider corrections based on comments of the Registered Entity and provide the final audit report to the Compliance Enforcement Authority who will review the report and assess compliance with the Reliability Standards and provide the Registered Entity with a copy of the final report. Regional Entities will provide the final report to NERC, which will in turn provide the report to FERC if the report pertains to a Registered Entity or to a portion of the ~~bulk power system~~ Bulk Power System over which FERC has jurisdiction and/or to another Applicable Governmental Authority if the report pertains to a Registered Entity or to a portion of the ~~bulk power system~~ Bulk Power System over which the other Applicable Governmental Authority has jurisdiction. Provided, that NERC will not disclose non-public U.S. compliance information that is subject to 18 C.F.R. §39.7(b)(4) to Applicable Governmental Authorities other than FERC without first obtaining permission from FERC for such disclosure and subject to such limitations as FERC may place on such disclosure; and NERC will not disclose non-public non-U.S. compliance information to an Applicable Governmental Authority (including FERC) without first obtaining permission for such disclosure from the Applicable Governmental Authority with jurisdiction over the Registered Entity or the portion of the ~~bulk power system~~ Bulk Power System to which such non-public information pertains and subject to any limitations placed on such disclosure by such Applicable Governmental Authority or by other law of the applicable jurisdiction. The Registered Entity shall receive the final audit report at least five (5) business days prior to the release of the report to the public. Work papers and

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other documentation associated with the audit shall be maintained by the Compliance Enforcement Authority in accordance with NERC requirements.

In the event the audit report identifies ~~Alleged~~any Possible Violations of one or more Reliability Standards, the final audit report, or pertinent part thereof identifying the ~~Alleged Violation(s) and any proposed penalty or sanction(s)~~Possible Violations, shall not be released to the public by NERC or the Compliance Enforcement Authority until (i) the Possible Violation is dismissed prior to becoming a Confirmed Violation, or (ii) NERC submits a ~~notice~~Notice of ~~penalty to FERC, or~~ (ii) ~~such Alleged Violation(s) have been admitted by~~Penalty to FERC or other Applicable Governmental Authority, or (iii) the Registered Entity ~~or resolved by~~admits to a violation or enters into a settlement agreement with the Compliance Enforcement Authority pursuant to ~~the provisions of~~ Section ~~5.0.5.6.~~

Information deemed by a Compliance Enforcement Authority or the Registered Entity as critical energy infrastructure information or confidential information (as defined in Section 1501 of the NERC Rules of Procedure) shall be redacted from any public reports.

3.2 Self-Certification

The Compliance Enforcement Authority may require Registered Entities to self-certify their compliance with Reliability Standards.

If a Self-Certification accurately identifies a violation of a Reliability Standard, an identification of the same violation in a subsequent Compliance Audit or Spot Check will not subject the Registered Entity to an escalated penalty as a result of the Compliance Audit process unless the severity of the violation is found to be greater than reported by the Registered Entity in the Self-Certification.

3.2.1 Self-Certification Process Steps

The process steps for the Self-Certification process are as follows ~~and as shown in Figure 3.2.1:~~²

- The Compliance Enforcement Authority posts and updates the reporting schedule and informs Registered Entities. The Compliance Enforcement Authority ensures that the appropriate Reliability Standards, compliance procedures, and required submittal forms for the Reliability Standards being evaluated are maintained and available electronically.
- The Compliance Enforcement Authority requests the Registered Entity to make a Self-Certification within the advance notice period specified by the Reliability Standard. If the Reliability Standard does not specify the advance notice period, this request will be issued in a timely manner (normally thirty (30) days advance notice).
- The Registered Entity provides the required information to the Compliance Enforcement Authority.

²If no ~~non-compliances~~Possible Violations are found, this process normally completes within sixty (60) days of the Compliance Enforcement Authority's receipt of data.

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- The Compliance Enforcement Authority reviews information to determine compliance with the Reliability Standards and may request additional data and/or information if necessary.
- The Compliance Enforcement Authority completes the assessment of the Registered Entity for compliance with the Reliability Standard (and with the Registered Entity's Mitigation Plan, if applicable). If the Compliance Enforcement Authority concludes ~~that a reasonable basis exists for believing a violation, after completing a Preliminary Screen(s), that there is a Possible Violation~~ of a Reliability Standard ~~has occurred~~, it shall send the Registered Entity a ~~notice containing the information set forth in Section 5.1 and the process moves to step 3 (Notice of Alleged Violation) of the Compliance Program Process shown in Figure 3.0~~ Notice of Possible Violation.
- ~~Regional Entities will notify NERC of any Alleged Violations as required by Section 8.0.~~

Figure 3.2.1—Self Certification Process

3.3 Spot Checking

Spot Checking will be conducted by the Compliance Enforcement Authority. Spot Checking may be initiated by the Compliance Enforcement Authority at any time to verify or confirm Self-Certifications, Self Reporting, and Periodic Data Submittals. Spot Checking may also be random or may be initiated in response to events, as described in the Reliability Standards, or by to operating problems, or system events. The Compliance Enforcement Authority then reviews the information submitted to verify the Registered Entity's compliance with the Reliability Standard. Compliance auditors may be assigned to the Spot Checking process by the Compliance Enforcement Authority as necessary.

3.3.1 Spot Checking Process Steps

The process steps for Spot Checking are as follows ~~and as shown in Figure 3.3.1:~~³

- The Compliance Enforcement Authority notifies the Registered Entity that Spot Checking will be performed and the reason for the ~~spot check~~ Spot Checking within the advance notice period specified by the Reliability Standard. If the Reliability Standard does not specify ~~the~~ an advance notice period, any information submittal request made by the Compliance Enforcement Authority will allow at least twenty (20) days for the Registered Entity to submit the information ~~to be submitted~~ or make it available for review.
- The Compliance Enforcement Authority, during the advance notice period, notifies the Registered Entity of the names and employment histories of the persons who will be

³If no ~~alleged violations~~ Possible Violations are found, this process normally completes within ninety (90) days of the Compliance Enforcement Authority's receipt of data.

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conducting the Spot Checking. The Registered Entity may object to inclusion of any individual on the Spot Checking team in accordance with Section ~~3.1.5.3.1.5.4~~. Any such objections must be submitted by the later of (i) five (5) business days before the information being requested by the Compliance Enforcement Authority is submitted and (ii) five (5) business days after the Registered Entity is notified of the persons on the Spot Checking team. Nothing in this step shall be read to limit the participation of NERC or FERC staff on the Spot Checking ~~Team~~team.

- The ~~spot-check~~Spot Checking may require submission of data, documentation, or possibly an on-site review.
- The Registered Entity provides the required information to the Compliance Enforcement Authority in the format specified in the request.
- The Compliance Enforcement Authority reviews the information to determine compliance with the Reliability Standards and may request ~~the~~ additional data and/or information if necessary for a complete assessment of compliance.
- The Compliance Enforcement Authority reviews its draft assessment of the Registered Entity's compliance with the Registered Entity and provides an opportunity for the Registered Entity to comment on the draft assessment.
- The Compliance Enforcement Authority completes and documents the assessment of the Registered Entity for compliance with the Reliability Standard and provides a report to the Registered Entity indicating the results of the ~~spot-check~~Spot Checking.
- If the Compliance Enforcement Authority concludes ~~that a reasonable basis exists for believing a violation, after completing a Preliminary Screen(s), that there is a Possible Violation~~ of a Reliability Standard ~~has occurred~~, it shall send the Registered Entity a ~~notice containing the information set forth in Section 5.1 and the process moves to step 3 (Notice of Alleged Violation) of the Compliance Program Process shown in Figure 3.0~~Notice of Possible Violation.
- ~~Regional Entities will notify NERC of any Alleged Violations as required by Section 8.0.~~

Figure 3.3.1 Spot Checking Process

~~1.1~~

3.4 Compliance ~~Violation~~ Investigations

A Compliance ~~Violation~~ Investigation may be initiated at any time by the Compliance Enforcement Authority or NERC in response to a system disturbance, Complaint, or possible violation of a Reliability Standard identified by any other means.

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Compliance ~~Violation~~ Investigations will generally be led by the Regional Entity's staff. NERC reserves the right to assume the leadership of a Compliance ~~Violation~~ Investigation.⁴ The Regional Entity shall not be entitled to appeal NERC's decision to lead a Compliance ~~Violation~~ Investigation.

Compliance ~~Violation~~ Investigations are confidential, unless FERC directs that a Compliance ~~Violation~~ Investigation should be public or that certain information obtained in the Compliance ~~Violation~~ Investigation should be publicly disclosed. Confirmed Violations resulting from a Compliance ~~Violation~~ Investigation will be made public.

FERC or another Applicable Governmental Authority may initiate an investigation at any time in response to a system disturbance, Complaint, or possible violation of a Reliability Standard identified by any other means, or for any other purpose authorized by law. Investigations initiated by FERC or another Applicable Governmental Authority shall be governed by and conducted pursuant to the statutory authority and rules of the Applicable Governmental Authority and not the procedures set forth herein. If an Applicable Governmental Authority other than FERC initiates an investigation of a U.S.-related matter, NERC shall provide notice to FERC of the investigation prior to disclosure of any non-public U.S.-related compliance information regarding the matter to be investigated to the other Applicable Governmental Authority. NERC's notice to FERC shall identify the other Applicable Governmental Authority, shall describe the nature of the proposed disclosures to the other Applicable Governmental Authority, and shall state the procedures NERC will utilize in connection with the Compliance ~~Violation~~ Investigation to ensure compliance with the requirements of 18 C.F.R. §39.7(b)(4) concerning nondisclosure of violations and Alleged Violations. If FERC initiates an investigation of a non-U.S.-related matter, NERC shall provide notice of the investigation to the Applicable Governmental Authority having jurisdiction over the Registered Entity or the portion of the ~~bulk power system~~ Bulk Power System that is the subject of the investigation prior to disclosure to FERC of any non-public non-U.S.-related compliance information regarding the matter to be investigated. NERC's notice to the other Applicable Governmental Authority shall describe the nature of the proposed disclosures to FERC and shall state the procedures NERC will utilize in connection with the investigation to ensure compliance with regulations of the other Applicable Governmental Authority or other law of the applicable jurisdiction concerning disclosure of non-public compliance information.

3.4.1 Compliance ~~Violation~~ Investigation Process Steps

⁴Examples of situations in which NERC may decide to lead a Compliance ~~Violation~~ Investigation include: (i) to assure consistency in investigative processes, (ii) to coordinate Compliance ~~Violation~~ Investigations into matters that may cross Regional Entity boundaries, (iii) where the ~~possible violation~~ potential noncompliance is related to the Regional Entity or one of its affiliates, divisions, committees or subordinate structures, or (iv) where the Regional Entity determines it cannot conduct the Compliance ~~Violation~~ Investigation.

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The process steps for a Compliance ~~Violation~~ Investigation are as follows ~~and as shown in Figure 3.4.1:~~⁵

- The Compliance Enforcement Authority is notified or becomes aware of circumstances indicating a ~~possible violation of a~~ Reliability Standard may have been or is being violated and determines whether a Compliance ~~Violation~~ Investigation is warranted. Within two (2) business days of the decision to initiate a Compliance ~~Violation~~ Investigation, the Compliance Enforcement Authority: (i) notifies the Registered Entity of the initiation and initial scope of the Compliance ~~Violation~~ Investigation, the requirements to preserve all records and information relevant to the Compliance ~~Violation~~ Investigation and, where appropriate, the reasons for the Compliance ~~Violation~~ Investigation, and (ii) notifies NERC of the initiation of and the reasons for the Compliance ~~Violation~~ Investigation. While the Compliance Enforcement Authority may, at its discretion, notify the Registered Entity of the reasons for its Compliance ~~Violation~~ Investigation, the Compliance ~~Violation~~ Investigation, as it unfolds, need not be limited to this scope.
- NERC assigns a NERC staff member to the Compliance ~~Violation~~ Investigation and to serve as a single point of contact for communications with NERC. Within two (2) business days after NERC is notified of the decision to initiate a Compliance ~~Violation~~ Investigation, NERC will notify each Applicable Governmental Authority having jurisdiction over a Registered Entity or a portion of the ~~bulk power system~~ Bulk Power System to which the Compliance ~~Violation~~ Investigation relates. Provided, that NERC will not disclose non-public U.S. compliance information that is subject to 18 C.F.R. §39.7(b)(4) to an Applicable Governmental Authority other than FERC without first obtaining permission from FERC for such disclosure and subject to any limitations placed by FERC on such disclosure, and NERC will not disclose non-public non-U.S. compliance information to an Applicable Governmental Authority (including FERC) without first obtaining permission from the Applicable Governmental Authority that has jurisdiction over the Registered Entity or portion of the ~~bulk power system~~ Bulk Power System to which the non-public information pertains and subject to any limitations placed on such disclosure by such Applicable Governmental Authority or by other law of the applicable jurisdiction.
- The Compliance Enforcement Authority requests data or documentation and provides a list of individuals on the Compliance ~~Violation~~ Investigation team and their recent employment history. The Registered Entity may object to any individual on the Compliance ~~Violation~~ Investigation team in accordance with Section ~~3.1.53.1.5.4~~; however, the Registered Entity may not object to participation by NERC, by FERC staff or by staff of another Applicable Governmental Authority on the Compliance ~~Violation~~ Investigation team. If the Reliability Standard does not specify the advance notice period, a request is normally issued with no less than twenty (20) days advance notice.
- Within ten (10) business days of receiving the notification of a Compliance ~~Violation~~ Investigation, a Registered Entity subject to a Compliance ~~Violation~~ Investigation may

⁵If no ~~alleged violation~~ Possible Violation(s) are found, this process normally completes within sixty (60) days following the decision to initiate a Compliance ~~Violation~~ Investigation.

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object to any member of the Compliance ~~Violation~~ Investigation team on grounds of a conflict of interest or the existence of other circumstances that could interfere with the team member's impartial performance of his or her duties. Such objections must be provided in writing to the Compliance Enforcement Authority within such ten (10) business day period. The Compliance Enforcement Authority will make a final determination as to whether the individual will participate in the Compliance ~~Violation~~ Investigation of the Registered Entity.

- ~~• If necessary, the Compliance ~~Violation~~ Investigation may include an on-site visit with interviews of the appropriate personnel and review of data.~~
- The Registered Entity provides the required information to the Compliance Enforcement Authority in the format as specified in the request.
- If necessary, the Compliance Investigation may include an on-site visit with interviews of the appropriate personnel and review of data.
- In conducting the Compliance Investigation, the Compliance Enforcement Authority may require the Registered Entity to (i) provide a verification under oath by an officer, employee, attorney or other authorized representative of the Registered Entity attesting to the accuracy, completeness and truth of the Registered Entity's responses to the Compliance Enforcement Authority's requests for information; and (ii) produce one or more officers, employees or other authorized representatives of the Registered Entity who are familiar with the matter(s) that are the subject of the Compliance Investigation, to be interviewed or to provide testimony under oath concerning such matters. The Compliance Enforcement Authority shall determine in each case (i) whether representatives of the Registered Entity shall be allowed to be present when an interview is taking place or testimony is being taken, and (ii) whether, and by what method, the interview or testimony shall be recorded; provided, that counsel for the person being interviewed or giving testimony may be present when the interview is being conducted or testimony is being taken (regardless of whether such counsel also represents the Registered Entity).
- The Compliance Enforcement Authority reviews information to determine compliance with the Reliability Standards. The Compliance Enforcement Authority may request additional data and/or information if necessary for a complete assessment or to demonstrate compliance.
- ~~• The Compliance Enforcement Authority may require the Registered Entity (i) to provide a verification under oath by an officer, employee, attorney or other authorized representative of the Registered Entity attesting to the accuracy, completeness and truth of the Registered Entity's responses to the Compliance Enforcement Authority's requests for documents and information; and (ii) to produce one or more officers, employees or other authorized representatives of the Registered Entity who are familiar with the subject matter of the Compliance Violation Investigation to provide testimony under oath concerning the matters under investigation.~~

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- The Compliance Enforcement Authority completes the assessment of compliance with the Reliability Standard and/or approval of the applicable Mitigation Plan, writes and distributes the report, and notifies the Registered Entity.
- If the Compliance Enforcement Authority concludes ~~that a reasonable basis exists for believing a violation, at any time during the Compliance Investigation, and after completing a Preliminary Screen(s), that there is a Possible Violation~~ of a Reliability Standard ~~has occurred~~, it shall send the Registered Entity a ~~notice containing the information set forth in Section 5.1 and the process moves to step 3 (Notice of Alleged Violation) of the Compliance Program Process shown in Figure 3.0~~Notice of Possible Violation.
- ~~Regional Entities will notify NERC of any Alleged Violations as required by Section 8.0.~~
- If the Compliance Enforcement Authority determines that no violation occurred, it shall send the Registered Entity and NERC a notice that the Compliance ~~Violation~~ Investigation has been completed. NERC will in turn notify FERC and, if the Compliance ~~Violation~~ Investigation pertained to a Registered Entity or to a portion of the ~~bulk power system~~Bulk Power System over which another Applicable Governmental Authority has jurisdiction, will also notify such other Applicable Governmental Authority. Provided, however, that NERC will not disclose non-public U.S. compliance information that is subject to 18 C.F.R. §39.7(b)(4) to Applicable Governmental Authorities other than FERC without first obtaining permission from FERC for such disclosure and subject to any limitations placed by FERC on such disclosure, and NERC will not disclose non-public non-U.S. compliance information to an Applicable Governmental Authority (including FERC) without first obtaining permission from the Applicable Governmental Authority that has jurisdiction over the Registered Entity or portion of the ~~bulk power system~~Bulk Power System to which the non-public information pertains and subject to any limitations placed on such disclosure by such Applicable Governmental Authority or by other law of the applicable jurisdiction.

~~Figure 3.4.1—Compliance Violation Investigation Process~~

~~1.1~~

3.5 Self-Reporting

Self-Reporting is encouraged at the time a Registered Entity becomes aware (i) of a violation of a Reliability Standard, or (ii) a change in the violation severity level of a previously reported violation. Self-Reporting of a violation of a Reliability Standard is encouraged regardless of whether the Reliability Standard requires reporting on a pre-defined schedule in the Compliance Program and the violation is determined outside the pre-defined reporting schedule.

3.5.1 Self-Reporting Process Steps

The process steps for Self-Reporting are as follows ~~and as shown in Figure 3.5.1~~.⁶

⁶This process normally completes within sixty (60) days following the Compliance Enforcement Authority's receipt of data.

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- The Compliance Enforcement Authority posts the Self-Reporting submittal forms and ensures they are maintained and available on its Web site.
- The Registered Entity provides the Self-Reporting information to the Compliance Enforcement Authority.
- The Compliance Enforcement Authority reviews the information to determine compliance with the Reliability Standards and may request the Registered Entity to provide clarification or additional data and/or information.
- The Compliance Enforcement Authority completes the assessment of the Registered Entity for compliance with the Reliability Standards and any Mitigation Plan, if applicable, and notifies the Registered Entity.
- If the Compliance Enforcement Authority concludes ~~that a reasonable basis exists for believing a violation, after conducting a Preliminary Screen(s), that there is a Possible Violation~~ of a Reliability Standard ~~has occurred~~, it shall send the Registered Entity a ~~notice containing the information set forth in Section 5.1 and the process moves to step 3, Notice of Alleged Violation, of the Compliance Program Process shown in Figure 3.0.~~ Notice of Possible Violation.
- ~~Regional Entities notify NERC of any Alleged Violations as required by Section 8.0.~~

~~Figure 3.5.1—Self Reporting Process~~

~~1.1~~

3.6 Periodic Data Submittals

The Compliance Enforcement Authority requires Periodic Data Submittals in accordance with the schedule stated in the applicable Reliability Standard, established by the Compliance Enforcement Authority, or on an as-needed basis. Requests for data submittals will be issued by the Compliance Enforcement Authority to Registered Entities with at least the minimum advance notice period specified by the applicable Reliability Standard. If the Reliability Standard does not specify an advance notice period, the request will normally be issued with no less than twenty (20) days advance notice.

3.6.1 Periodic Data Submittals Process Steps

The process steps for Periodic Data Submittal are as follows ~~and as shown in Figure 3.6.1:~~⁷

- The Compliance Enforcement Authority posts the current data reporting schedule on its web site and keeps Registered Entities informed of changes and/or updates. The Compliance Enforcement Authority ensures that the appropriate Reliability Standard compliance procedures and the required submittal forms for the Reliability Standards being evaluated are maintained and available via its web site.

⁷If no ~~violation~~ Possible Violation(s) are found, this process generally completes within ten (10) business days of the Compliance Enforcement Authority's receipt of data.

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- The Compliance Enforcement Authority makes a request for a Periodic Data Submittal.
- The Registered Entity provides the required information to the Compliance Enforcement Authority in the format as specified in the request.
- The Compliance Enforcement Authority reviews the data submittal to determine compliance with the Reliability Standards and may request additional data and/or information for a complete assessment or to demonstrate compliance.
- ~~The~~If the Compliance Enforcement Authority ~~reviews its draft's~~ assessment of the Registered Entity's compliance ~~with the Registered Entity and~~indicates there may be a Possible Violation, the Compliance Enforcement Authority provides an opportunity for the Registered Entity to comment on the assessment before it is finalized.
- ~~• The Compliance Enforcement Authority completes the assessment of the Registered Entity for compliance with the Reliability Standard and notifies the Registered Entity.~~
- If the Compliance Enforcement Authority concludes ~~that a reasonable basis exists for believing a violation, after conducting a Preliminary Screen(s), that there is a Possible Violation~~ of a Reliability Standard ~~has occurred~~, it shall send the Registered Entity a ~~notice containing the information set forth in Section 5.1 and the process moves to step 3 (Notice of Alleged~~Notice of Possible Violation) ~~of the Compliance Program Process shown in Figure 3.0.~~
- ~~• Regional Entities notify NERC of any Alleged Violations as required by Section 8.0.~~

~~Figure 3.6.1—Data Submittal Process~~

~~1.1~~

3.7 Exception Reporting

Some Reliability Standards require reporting of exceptions to compliance with the Reliability Standard as a form of compliance monitoring. The Compliance Enforcement Authority shall require Registered Entities to provide reports identifying any exceptions to the extent required by any Reliability Standard.

The Compliance Enforcement Authority shall also require Registered Entities to confirm the number of exceptions that have occurred in a given time period identified by NERC, even if the number of exceptions is zero.

3.8 Complaints

Either NERC or Regional Entities may receive Complaints alleging violations of a Reliability Standard. A Regional Entity will conduct a review of each Complaint it receives to determine if the Complaint provides sufficient basis for ~~a~~ initiating another Compliance ~~Violation Investigation~~Monitoring and Enforcement process, except that NERC will review any Complaint (1) that is related to a Regional Entity or its affiliates, divisions, committees or subordinate structures, (2) where the Regional Entity determines it cannot conduct the review, or (3) if the

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complainant wishes to remain anonymous or specifically requests NERC to conduct the review of the Complaint.

If the Complaint is submitted to NERC, NERC will forward the information to the Regional Entity, as appropriate.

All anonymous Complaints will be reviewed and any resulting Compliance ~~Violation Investigations~~Monitoring and Enforcement processes conducted by NERC will be conducted in accordance with Section 3.8.2 to prevent disclosure of the identity of the complainant.

The Compliance Enforcement Authority conducting the review will determine if the Complaint may be closed as a result of the initial review and assessment of the Complaint to determine if it provides sufficient basis for ~~a~~initiating another Compliance ~~Violation Investigation~~Monitoring and Enforcement process. The Regional Entity will report the results of its review of the Complaint to NERC. If, as a result of the initial review of the Complaint, the Compliance Enforcement Authority determines that ~~a~~initiating another Compliance ~~Violation Investigation~~Monitoring and Enforcement process is warranted, ~~at that~~ Compliance ~~Violation Investigation~~Monitoring and Enforcement process will be conducted in accordance with the applicable provisions of Section ~~3.4.3.0~~.

3.8.1 Complaint Process Steps

The detailed process steps for the Complaint process are as follows ~~and as shown in Figure 3.8.1~~.⁸

- The complainant notifies NERC or a Regional Entity using the NERC compliance hotline, submitting a NERC Complaint reporting form, or by other means. A link to the Complaint reporting form will be posted on the NERC and Regional Entity Web sites. The Complaint should include sufficient information to enable NERC or the Regional Entity to make an assessment of whether the initiation of ~~a~~another Compliance ~~Violation Investigation~~Monitoring and Enforcement process is warranted. NERC or the Regional Entity may not act on a Complaint if the Complaint is incomplete and does not include sufficient information.
- If the Compliance Enforcement Authority determines that ~~a~~initiation of another Compliance ~~Violation Investigation~~Monitoring and Enforcement process is warranted, it initiates the Compliance ~~Violation Investigation~~Monitoring and Enforcement process in accordance with the applicable provisions of Section ~~3.4.3.0~~; otherwise it takes no further action. The Compliance Enforcement Authority notifies the complainant, the Registered Entity, and NERC of the initiation of the Compliance ~~Violation Investigation~~Monitoring and Enforcement process. If the Compliance Enforcement Authority determines that ~~a~~initiation of another Compliance ~~Violation Investigation~~Monitoring and Enforcement process is not warranted, it will notify the complainant, NERC, and the Registered Entity that no further action will be taken.

⁸If no ~~violations~~Possible Violations are found, this process normally completes within sixty (60) days following receipt of the Complaint.

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- The Compliance Enforcement Authority fully documents the Complaint and the Complaint review, whether ~~a~~another Compliance ~~Violation Investigation~~Monitoring and Enforcement process is initiated or not.

~~Figure 3.8.1—Complaint Process~~

~~1.1.1—~~

3.8.2 Anonymous Complainant Notification Procedure

An anonymous complainant who believes, or has information indicating, there has been a violation of a Reliability Standard, can report the ~~possible violation~~information and request that the complainant's identity not be disclosed.⁹ All Complaints lodged by a person or entity requesting that the complainant's identity not be disclosed shall be investigated by NERC following the procedural steps described in Section 3.8.1. Anonymous Complaints received by a Regional Entity will either be directed to NERC or the Regional Entity will collect and forward the information to NERC, at the Regional Entity's discretion. Neither NERC nor the Regional Entity shall disclose the identity of any person or entity reporting ~~possible~~information indicating violations of Reliability Standards to NERC or to a Regional Entity that requests that his/her/its identity not be revealed. The identity of the complainant will only be known by NERC and in the case where a Regional Entity collects the information, by NERC and the Regional Entity. If the Compliance Enforcement Authority determines that ~~a~~initiation of another Compliance ~~Violation Investigation~~Monitoring and Enforcement process is not warranted, it will notify the complainant, NERC, and the Registered Entity that no further action will be taken.

4.0 ANNUAL IMPLEMENTATION PLANS

4.1 NERC Compliance Monitoring and Enforcement Program Implementation Plan

NERC will maintain and update the NERC Implementation Plan, to be carried out by Compliance Enforcement Authorities in the performance of their responsibilities and duties in implementing the NERC Compliance Monitoring and Enforcement Program. The NERC Implementation Plan will be provided to the Regional Entities by October 1 of each year and will specify the Reliability Standards requiring reporting by Registered Entities to the Compliance Enforcement Authority to provide verification of compliance through one of the monitoring methods described in this Compliance Plan document. The NERC Implementation Plan will be posted on the NERC web site.

4.2 Regional Entity Implementation Plan

By November 1 of each year, Regional Entities will submit a Regional Implementation Plan for the following calendar year to NERC for approval. The Regional Implementation Plan and the Regional Entity's other relevant Compliance Program documents shall be posted on the Regional Entity's Web site.

⁹NERC has established a Compliance Hotline that may be used for the submission of Complaints by persons or entities that do not want his/her/its identity disclosed (see www.nerc.com for additional information).

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5.0 ENFORCEMENT ACTIONS

The Compliance Enforcement Authority shall determine (i) whether there have been violations of Reliability Standards by Registered Entities within the Compliance Enforcement Authority's area of responsibility, and (ii) if so, the appropriate remedial actions, and penalties and sanctions, as prescribed in the NERC *Sanction Guidelines* (Appendix 4B to the NERC Rules of Procedure). NERC will work to achieve consistency in the application of the *Sanction Guidelines* by Regional Entities by direct oversight and review of penalties and sanctions, and each Regional Entity shall provide to NERC such information as is requested by NERC concerning any penalty, sanction, or remedial actions imposed by the Regional Entity.

Parties engaged in the process described in this section should consult with each other on the data and information that would be appropriate for effectively addressing this section's process requirements. If a party believes that a request for data or information is unreasonable, the party may request a written determination from the NERC director of enforcement compliance program officer.

The following enforcement process is undertaken by the Compliance Enforcement Authority following identification, through one of the Compliance Monitoring and Enforcement processes set forth in Section 3.0, of evidence of noncompliance with a Reliability Standard by a Registered Entity.

5.1 Preliminary Screen

If the Compliance Enforcement Authority identifies or obtains evidence of potential noncompliance with a Reliability Standard, the Compliance Enforcement Authority shall perform a Preliminary Screen to determine whether there is a Possible Violation. A Preliminary Screen shall be limited to determining whether:

- (i) the entity allegedly involved in the potential noncompliance is a Registered Entity; and
- (ii) the Reliability Standard requirement to which the evidence of potential noncompliance relates is applicable to the entity, and is enforceable.

The Compliance Enforcement Authority shall maintain records of all Preliminary Screens.

If a Preliminary Screen results in an affirmative determination with respect to the above criteria, a Possible Violation exists. The Compliance Enforcement Authority shall issue a Notice of Possible Violation to the Registered Entity. The Notice of Possible Violation shall:

- (i) state that a Possible Violation by the Registered Entity has been identified;
- (ii) provide a brief description of the Possible Violation, including the Reliability Standard requirement(s) and date(s) involved; and
- (iii) instruct the Registered Entity to retain and preserve all data and records relating to the Possible Violation.

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Upon issuing a Notice of Possible Violation, the Compliance Enforcement Authority enters the Possible Violation into the NERC compliance reporting and tracking system. NERC reports the Possible Violation to the NERC Board of Trustees Compliance Committee and submits a Notice of Possible Violation, on a confidential basis, to FERC.

5.2 Assessment of Possible Violation

After issuing a Notice of Possible Violation, the Compliance Enforcement Authority shall conduct an assessment of the facts and circumstances surrounding the Possible Violation to determine whether evidence exists to indicate the Registered Entity has violated the Reliability Standard requirement(s) identified in the Notice of Possible Violation, or whether the Possible Violation should be dismissed. The Compliance Enforcement Authority may consider any additional information to demonstrate that the Possible Violation should be dismissed or modified.

5.3 ~~5.1~~ Notification to Registered Entity of Alleged Violation

If the Compliance Enforcement Authority ~~alleges that~~determines, based on an assessment of the facts and circumstances surrounding a Possible Violation, that evidence exists to indicate a Registered Entity has violated a Reliability Standard, and the Compliance Enforcement Authority and the Registered Entity have not entered into settlement negotiations pursuant to Section 5.6, the Compliance Enforcement Authority shall ~~provide written notice~~issue a Notice of Alleged Violation ~~and sanction~~ (signed by an officer or designee of the Compliance Enforcement Authority) to the Registered Entity (CEO or equivalent and compliance contact) and ~~NERC. The Compliance Enforcement Authority may also issue an initial notice of Alleged Violation, without specifying the proposed penalty or sanction, to the Registered Entity. The notice of Alleged Violation and sanction shall contain~~shall enter the Alleged Violation into the NERC compliance reporting and tracking system. The Notice of Alleged Violation shall state, at a minimum:

- (i) the Reliability Standard and requirement(s) thereof the Registered Entity has allegedly violated,
- (ii) the date and time the Alleged Violation occurred (or is occurring),
- (iii) the facts the Compliance Enforcement Authority believes demonstrate or constitute the Alleged Violation,
- (iv) the proposed penalty or sanction, if any, determined by the Compliance Enforcement Authority to be applicable to the Alleged Violation in accordance with the NERC *Sanction Guidelines*, including an explanation of the basis on which the particular penalty or sanction was determined to be applicable,
- (v) notice that the Registered Entity shall, within thirty (30) days, elect one of the following options or the Compliance Enforcement Authority will deem the Registered Entity to have accepted the determination of violation and proposed penalty or sanction:
 1. agree with the Alleged Violation and proposed penalty or sanction, and agree to submit and implement a Mitigation Plan to correct the violation and its

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underlying causes, and may provide a response in accordance with Section ~~5.2, 5.4~~, or

2. agree ~~to~~with the Alleged Violation and agree to submit and implement a Mitigation Plan to eliminate the violation and its underlying causes, but contest the proposed penalty or sanction, and may provide a response in accordance with Section ~~5.2, 5.4~~, or
3. contest both the Alleged Violation and proposed penalty or sanction,
 - (vi) notice that the Registered Entity may elect to submit a Mitigation Plan while contesting the Alleged Violation and/or the proposed penalty or sanction, and that submission of a Mitigation Plan will not waive the Registered Entity's right to contest the Alleged Violation and/or the proposed penalty or sanction;
 - (vii) notice that if the Registered Entity elects to contest the Alleged Violation and/or the proposed penalty or sanction, the Registered Entity may elect to have a hearing conducted pursuant to either (i) the short-form procedure in Section 1.3.2, or (ii) the full hearing procedure, in **Attachment 2, Hearing Procedures**, and
 - (viii) required procedures to submit the Registered Entity's Mitigation Plan.

NERC shall forward a copy of the ~~notice~~Notice of Alleged Violation to FERC and, if the Alleged Violation pertains to a Registered Entity or to a portion of the ~~bulk-power system~~Bulk Power System over which another Applicable Governmental Authority has jurisdiction, to such other Applicable Governmental Authority, within two (2) business days of receipt from the Compliance Enforcement Authority, provided, that NERC will not disclose non-public U.S. compliance information that is subject to 18 C.F.R. §39.7(b)(4) to Applicable Governmental Authorities other than FERC without first obtaining permission from FERC for such disclosure and subject to any limitations placed by FERC on such disclosure, and NERC will not disclose non-public non-U.S. compliance information to an Applicable Governmental Authority (including FERC) without first obtaining permission from the Applicable Governmental Authority that has jurisdiction over the Registered Entity or portion of the ~~bulk-power system~~Bulk Power System to which the non-public information pertains and subject to any limitations placed on such disclosure by such Applicable Governmental Authority or by other law of the applicable jurisdiction.

Upon acceptance by the Registered Entity of the Alleged Violation and proposed penalty or sanction, the ~~notice of the penalty or sanction~~Notice of Confirmed Violation or other enforcement action will then be processed and issued to the Registered Entity.

5.4 ~~5.2~~ Registered Entity Response

If the Registered Entity does not contest or does not respond to the ~~notice~~Notice of Alleged Violation within thirty (30) days, it shall be deemed to have accepted the Compliance Enforcement Authority's determination of violation and penalty or sanction ~~(if applicable)~~, in which case the Compliance Enforcement Authority shall issue a Notice of Confirmed Violation to the Registered Entity and ~~NERC a final report of Confirmed Violation. A~~ shall enter the Confirmed Violation into the NERC compliance reporting and tracking system. At the time of

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issuing the Notice of Confirmed Violation to the Registered Entity, the Regional Entity shall also provide notice to the Registered Entity that it may provide a written explanatory statement to accompany the ~~final report~~ Notice of Confirmed Violation. The Registered Entity's statement must include the name, title, and signature of an officer, employee, attorney or other authorized representative of the Registered Entity.

If the Registered Entity contests the Alleged Violation or the proposed penalty or sanction, the Registered Entity shall submit to the Compliance Enforcement Authority a response explaining its position, signed by an officer, employee, attorney or other authorized representative together with any supporting information and documents. The Compliance Enforcement Authority shall schedule a conference with the Registered Entity within ten (10) business days after receipt of the response. If the Compliance Enforcement Authority and the Registered Entity are unable to resolve all issues within forty (40) days after the Registered Entity's response, the Registered Entity may request a hearing. The Compliance Enforcement Authority and the Registered Entity may agree in writing to extend the forty (40) day period. If no hearing request is made prior to the end of the forty (40) day period, the violation will be become a Confirmed Violation ~~when filed by NERC with FERC or other Applicable Governmental Authority,~~ in which case the Compliance Enforcement Authority shall issue a Notice of Confirmed Violation to the Registered Entity and to NERC.

If a hearing is requested the Compliance Enforcement Authority shall initiate the hearing process by convening a hearing body and issuing a written notice of hearing to the Registered Entity and the hearing body and identifying the Compliance Enforcement Authority's designated hearing representative.¹⁰

5.5 ~~5.3~~ Hearing Process for Compliance Hearings

The Compliance Enforcement Authority hearing process is set forth in **Attachment 2**.

5.6 ~~5.4~~ Settlement Process

~~Settlement~~ The Registered Entity can request settlement negotiations ~~may occur~~ at any time, including prior to the issuance of a ~~notice of Alleged Violation and sanction until a notice of penalty is filed with FERC or another Applicable Governmental Authority~~ Notice of Alleged Violation; however, the Compliance Enforcement Authority may decline to engage in or continue settlement negotiations after a Possible Violation or Alleged Violation becomes a Confirmed Violation in accordance with Section 5.4. NERC shall be notified of all settlement negotiations and may participate in any settlement negotiations. All settlement negotiations will be confidential until such time as the settlement is approved by NERC. For all settlement discussions, the Compliance Enforcement Authority shall require the Registered Entity to designate an individual(s) authorized to negotiate on its behalf.

The Compliance Enforcement Authority may consider all relevant facts in settlement negotiations. A settlement agreement must ensure that the reliability of the Bulk Power System

¹⁰If the dispute involves a proposed Mitigation Plan, which has not been accepted by the Compliance Enforcement Authority, the Registered Entity may file a request for hearing with the Compliance Enforcement Authority.

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will not be compromised by the settlement and that a violation of a Reliability Standard will not occur as a result of the settlement. All settlement agreements must ~~conform to the requirements of NERC Rule of Procedure 403.19 and, if approved, must provide~~provide, if the settlement is approved, for waiver of the Registered Entity's right to further hearings and appeal.

The Compliance Enforcement Authority will issue a letter setting forth the final settlement terms including all penalties, sanctions and mitigation requirements provided for in the final settlement.

The Regional Entity shall report the terms of all settlements of compliance matters to NERC. NERC will review the settlement for the purpose of evaluating its consistency with other settlements entered into for similar violations or under other, similar circumstances. The Registered Entity may submit an explanatory statement, conforming to the requirements of Section 5.4, to be included in the settlement agreement and which shall be subject to consent of the Compliance Enforcement Authority as part of the settlement agreement. The settlement agreement may state that the Registered Entity (i) admits the Alleged Violation, or (ii) does not contest the Alleged Violation, or (iii) neither admits nor denies the Alleged Violation, but may not state that the Registered Entity denies the Alleged Violation. Based on this review, NERC will either approve the settlement or reject the settlement and notify the Regional Entity and the Registered Entity of any changes to the settlement that would result in approval. If NERC rejects the settlement, the Regional Entity will attempt to negotiate a revised settlement agreement with the Registered Entity including any changes to the settlement specified by NERC.

NERC will report the approved settlement of the violation to FERC and, if the settlement relates to a Registered Entity or to a portion of the ~~bulk power system~~Bulk Power System over which another Applicable Governmental Authority has jurisdiction, to such other Applicable Governmental Authority, provided, that NERC will not disclose non-public U.S. compliance information that is subject to 18 C.F.R. §39.7(b)(4) to Applicable Governmental Authorities other than FERC without first obtaining permission from FERC for such disclosure and subject to any limitations placed by FERC on such disclosure, and NERC will not disclose non-public non-U.S. compliance information to an Applicable Governmental Authority (including FERC) without first obtaining permission from the Applicable Governmental Authority that has jurisdiction over the Registered Entity or portion of the ~~bulk power system~~Bulk Power System to which the non-public information pertains and subject to any limitations placed on such disclosure by such Applicable Governmental Authority or by other law of the applicable jurisdiction. NERC will also publicly post the violation settled (regardless of whether the settlement includes or does not include an admission of a violation) and the resulting penalty or sanction provided for in the settlement. This posting shall include a copy of the settlement or a description of the terms of the settlement, and a copy of any Mitigation Plan that is agreed to as part of the settlement. The Compliance Enforcement Authority will issue a letter setting forth the final settlement terms including all penalties, sanctions and mitigation requirements provided for in the final settlement. Postings of Notices of Confirmed Violations are addressed in Section 8.0.

5.7 ~~5.5~~ NERC Appeal Process

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The Registered Entity may appeal the hearing body's decision to NERC, as provided for in NERC Rules of Procedure, ~~Sections 407.3 and 410. The steps for the NERC appeals process are as shown in Figure 5.5: Section 409.~~¹¹

On appeal, NERC shall either affirm the Regional Entity decision or remand to the Regional Entity with reasons for its remand, which may include a direction to the Regional Entity to revise the decision. If NERC affirms the Regional Entity decision, the Regional Entity shall issue a Notice of Confirmed Violation to the Registered Entity. If NERC directs the Regional Entity to revise its decision, the Registered Entity that was the subject of the decision or the Compliance Staff of the Regional Entity whose interests are adversely affected by the directed revision may reopen the proceeding on any issue whose resolution is affected by NERC's directive, irrespective of whether the issue was previously litigated, settled or unopposed.

Figure 5.5—NERC Appeal Process

5.8 Approval of a Notice of Confirmed Violation

A Notice of Confirmed Violation issued to a Registered Entity pursuant to Sections 5.4 or 5.7 shall include a detailed record of the enforcement action, including the facts and circumstances analyzed and the information on which the Compliance Enforcement Authority relied in proposing a penalty or sanction.

~~5.6—Notice of Penalty~~After receiving a Notice of Confirmed Violation through the NERC compliance reporting and tracking system, NERC shall review the Notice of Confirmed Violation and utilize the information therein to prepare a Notice of Penalty. NERC shall advise the Regional Entity of any additional detail or further development of the factual findings that NERC deems necessary before the Notice of Penalty can be issued.

NERC may direct the Regional Entity to revise a penalty determination, in which case the Registered Entity subject to the penalty, or the Compliance Staff of the Regional Entity, may reopen the proceedings on any issue on which the penalty was based, irrespective of whether the issue was previously litigated, settled or unopposed.

5.9 Notice of Penalty

If (i) the Registered Entity does not dispute the ~~notice~~Notice of Alleged Violation and the proposed penalty ~~and/or~~ sanction, or (ii) a decision has been entered finding a violation and all appeals have been concluded, ~~NERC shall file a notice of penalty~~ or (iii) a settlement agreement has been reached addressing the Possible Violation or Alleged Violation(s), NERC shall prepare a draft Notice of Penalty and provide a copy to the Regional Entity. The Regional Entity shall inform the Registered Entity that a Notice of Penalty is pending public filing. NERC will file the Notice of Penalty with FERC and any other Applicable Governmental Authority, as provided in

¹¹This process generally completes within ninety (90) days of NERC's receipt of request for appeal.

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the next paragraph, no sooner than five (5) business days after NERC approves the Notice of Confirmed Violation or settlement agreement.

NERC shall file the Notice of Penalty with FERC and, if the Possible Violation or Alleged Violation pertains to a Registered Entity or to a portion of the ~~bulk-power system~~Bulk Power System over which another Applicable Governmental Authority has jurisdiction, to such other Applicable Governmental Authority; provided, that NERC will not disclose any non-public U.S. compliance information that is subject to 18 C.F.R. §39.7(b)(4) to Applicable Governmental Authorities other than FERC without first obtaining permission from FERC for such disclosure and subject to any limitations placed by FERC on such disclosure, and NERC will not disclose non-public non-U.S. compliance information to an Applicable Governmental Authority (including FERC) without first obtaining permission from the Applicable Governmental Authority that has jurisdiction over the Registered Entity or portion of the ~~bulk-power system~~Bulk Power System to which the non-public information pertains and subject to any limitations placed on such disclosure by such Applicable Governmental Authority or by other law of the applicable jurisdiction. NERC will include with the ~~notice~~Notice of ~~penalty~~Penalty any statement provided by the Registered Entity as set forth in ~~Section 8.0. NERC may direct the Regional Entity to revise a penalty determination, in which case the Registered Entity subject to the penalty, or the Compliance Staff of the Regional Entity, may reopen the proceedings on any issue on which the penalty was based, irrespective of whether the issue was previously litigated, settled or unopposed.~~Sections 5.4 or 5.7.

The penalty or sanction will be effective upon expiration of the thirty (30) day period following filing with FERC of the ~~notice of penalty~~Notice of Penalty (or such longer period as ordered by FERC) or, if FERC decides to review the penalty or sanction, upon final determination by FERC.

5.10 Closure of Enforcement Action

Following FERC approval of, or expiration of the period for action by FERC on, a Notice of Penalty filed by NERC, the Compliance Enforcement Authority shall issue a payment due notice and invoice to the Registered Entity. The payment due notice and invoice shall state the payment due date which shall be thirty (30) days from the date of the payment due notice and invoice. Upon payment of all monetary penalties by the Registered Entity, the Compliance Enforcement Authority shall issue a notice confirming payment to the Registered Entity, and provide a copy of the notice confirming payment to NERC. Following the completion by the Registered Entity of all requirements set forth in the Notice of Penalty and any settlement agreement, the Compliance Enforcement Authority shall issue the Registered Entity a Notice of Completion of Enforcement Action.

If the Compliance Enforcement Authority dismisses or disposes of a Possible Violation or Alleged Violation that does not become a Confirmed Violation, the Compliance Enforcement Authority shall issue a Notice of Completion of Enforcement Action to the Registered Entity.

A copy of the Notice of Completion of Enforcement Action shall also be provided to NERC by the Compliance Enforcement Authority.

The Notice of Completion of Enforcement Action shall include a release of any data retention directives that were previously issued to the Registered Entity in connection with the matter. Upon issuance of a Notice of Completion of Enforcement Action, tracking of the violation is completed, and the enforcement action shall be closed.

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6.0 MITIGATION OF VIOLATIONS OF RELIABILITY STANDARDS

Parties engaged in the process described in this section should consult with each other on the data and information that would be appropriate for effectively addressing this section's process requirements. If a party believes that a request for data or information is unreasonable, the party may request a written determination from the NERC ~~director of enforcement~~compliance program officer.

6.1 Requirement for Submission of Mitigation Plans

A Registered Entity found to be in violation of a Reliability Standard shall file with the Compliance Enforcement Authority (i) a proposed Mitigation Plan to correct the violation, or (ii) a description of how the violation has been mitigated, and any requests for extensions of Mitigation Plans or a report of completed mitigation. A Registered Entity may also submit a proposed Mitigation Plan at any other time, including with a Self-Report, or, without admitting it has committed a violation, in response to a Notice of Possible Violation or Notice of Alleged Violation.

~~Figure 6.1 shows the process steps for Mitigation Plans.~~

~~Figure 6.1—Mitigation Plan Process~~

~~1.1~~

6.2 Contents of Mitigation Plans

A Mitigation Plan shall include the following information:

- The Registered Entity's point of contact for the Mitigation Plan, who shall be a person (i) responsible for filing the Mitigation Plan, (ii) technically knowledgeable regarding the Mitigation Plan, and (iii) authorized and competent to respond to questions regarding the status of the Mitigation Plan. This person may be the Registered Entity's point of contact described in Section 2.0.
- The Possible, Alleged or Confirmed Violation(s) of Reliability Standard(s) the Mitigation Plan will correct.
- The cause of the Possible, Alleged or Confirmed Violation(s).
- The Registered Entity's action plan to correct the Possible, Alleged or Confirmed Violation(s).
- The Registered Entity's action plan to correct the cause of the Possible, Alleged or Confirmed Violation.
- The Registered Entity's action plan to prevent recurrence of the Possible, Alleged or Confirmed Violation(s).
- The anticipated impact of the Mitigation Plan on the ~~bulk power system~~Bulk Power System reliability and an action plan to mitigate any increased risk to the reliability of the

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~~bulk power system~~Bulk Power System while the Mitigation Plan is being implemented.

- A timetable for completion of the Mitigation Plan including the completion date by which the Mitigation Plan will be fully implemented and the Possible, Alleged or Confirmed Violation(s) corrected.
- Implementation milestones no more than three (3) months apart for Mitigation Plans with expected completion dates more than three (3) months from the date of submission. Additional violations could be determined for not completing work associated with accepted milestones.
- Any other information deemed necessary or appropriate

The Mitigation Plan shall be signed by an officer, employee, attorney or other authorized representative of the Registered Entity, which if applicable, shall be the person that signed the Self-Certification or Self Reporting submittals.

6.3 Timetable for Completion of Mitigation Plans

The Mitigation Plan shall be completed in time to have a reasonable potential to correct all of the violation(s) prior to the next applicable compliance reporting/assessment period after occurrence of the violation for which the Mitigation Plan is submitted. In all cases the Mitigation Plan should be completed without delay, and should encompass actions necessary to prevent a recurring violation of the Reliability Standard requirements underlying the Possible, Alleged or Confirmed Violation(s). The Compliance Enforcement Authority will expect full compliance with the Reliability Standard to which the Mitigation Plan is applicable at the next report or assessment of the Registered Entity. At the Compliance Enforcement Authority's discretion, the completion deadline may be extended for good cause including: (i) short assessment periods (i.e., event driven or monthly assessments), and (ii) construction requirements in the Mitigation Plan that extend beyond the next assessment period or other extenuating circumstances. If the Mitigation Plan extends beyond the next applicable reporting/assessment period, sanctions for any violation of the applicable Reliability Standard(s) occurring during the implementation period will be held in abeyance and will be waived if the Mitigation Plan is satisfactorily completed.

Any violations assessed during the period of time the accepted Mitigation Plan is being implemented will be recorded by the Compliance Enforcement Authority with associated sanctions or penalties. Regional Entities will report any findings of violations recorded during this time period to NERC with the notation that the Registered Entity is working under an accepted Mitigation Plan with an extended completion date with penalties and sanctions held in abeyance until completion of the Mitigation Plan. Upon completion of the accepted Mitigation Plan in accordance with Section 6.6, the Compliance Enforcement Authority will notify the Registered Entity that any findings of violations of the applicable Reliability Standard during the period that the accepted Mitigation Plan was being implemented have been waived and no penalties or sanctions will apply. Regional Entities will also notify NERC of any such waivers of violations of Reliability Standards.

A request for an extension of any milestone or the completion date of the accepted Mitigation Plan by a Registered Entity must be received by the Compliance Enforcement Authority at least

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five (5) business days before the original milestone or completion date. The Compliance Enforcement Authority may accept a request for an extension or modification of a Mitigation Plan if the Compliance Enforcement Authority determines the request is justified, and shall notify NERC of the extension or modification within five (5) business days.

If a Mitigation Plan submitted by a Registered Entity is rejected by the Regional Entity acting as Compliance Enforcement Authority or the hearing body in accordance with Section 6.5, the Registered Entity shall be subject to any findings of violation of the applicable Reliability Standards during the period the Mitigation Plan was under consideration and to imposition of any penalties or sanctions imposed for such violations.

6.4 Submission of Mitigation Plans

A Mitigation Plan may be submitted at any time but shall have been submitted by the Registered Entity within thirty (30) days after being served the ~~notice~~Notice of Alleged Violation ~~and penalty or sanction~~, if the Registered Entity does not contest the ~~violation~~Alleged Violation and penalty or sanction. If the Registered Entity disputes the ~~notice~~Notice of Alleged Violation or ~~the~~ penalty or sanction, the Registered Entity shall submit its Mitigation Plan within ten (10) business days following issuance of the written decision of the hearing body, unless the Registered Entity elects to appeal the hearing body's determination to NERC. The Registered Entity may choose to submit a Mitigation Plan while it contests an Alleged Violation or penalty or sanction or in response to a Notice of Possible Violation; such submission shall not be deemed an admission of a violation or the appropriateness of a penalty or sanction. If the Registered Entity has not yet submitted a Mitigation Plan, or the Registered Entity submits a Mitigation Plan but it is rejected by the Regional Entity acting as Compliance Enforcement Authority or the hearing body in accordance with Section 6.5, any subsequent violations of the Reliability Standard identified by the Compliance Enforcement Authority before the hearing body renders its decision will not be held in abeyance and will be considered as repeat violations of the Reliability Standard.

6.5 Review and Acceptance or Rejection of Proposed Mitigation Plans

Unless the time period is extended by the Compliance Enforcement Authority, it will complete its review of the Mitigation Plan, and will issue a written statement accepting or rejecting the Mitigation Plan, within thirty (30) days of receipt; otherwise the Mitigation Plan will be deemed accepted. In order to extend the initial or an extended period for review of the Mitigation Plan, the Compliance Enforcement Authority shall, within the initial or extended review period, notify the Registered Entity (and NERC if NERC is not the Compliance Enforcement Authority) that the review period is being extended and identify the date by which the Compliance Enforcement Authority will complete its review of the Mitigation Plan. The Compliance Enforcement Authority's extension notice shall also state that if the Compliance Enforcement Authority has not issued a notice by the end of the extended review period either stating that the Compliance Enforcement Authority accepts or rejects the proposed Mitigation Plan or further extending the Compliance Enforcement Authority's period for review of the Mitigation Plan, the Mitigation Plan will be deemed accepted.

If the Compliance Enforcement Authority rejects a Mitigation Plan, the Compliance Enforcement Authority will provide the Registered Entity with a written statement describing the

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reasons for the rejection, and will require the Registered Entity to submit a revised Mitigation Plan by the Required Date. The Compliance Enforcement Authority will notify the Registered Entity within ten (10) business days after receipt of a revised Mitigation Plan whether the Compliance Enforcement Authority will accept or reject the revised Mitigation Plan and provide a written statement describing the reasons for rejection and the Required Date for the second revised Mitigation Plan. If the second review results in rejection of the Mitigation Plan, the Registered Entity may request a hearing in accordance with the Hearing Procedures, by submitting to the Compliance Enforcement Authority a written request for hearing including an explanation of why the Mitigation Plan should be accepted. After the hearing is completed, the Compliance Enforcement Authority will issue a written statement accepting a Mitigation Plan it deems as appropriate.

Within five (5) business days after a Regional Entity accepts a Mitigation Plan, the Regional Entity (i) will notify NERC and the Registered Entity of the acceptance of the Mitigation Plan and (ii) will provide the accepted Mitigation Plan to NERC. NERC will review the accepted Mitigation Plan and, within thirty (30) days following its receipt of the Mitigation Plan from the Regional Entity, will notify the Regional Entity and the Registered Entity, on a contemporaneous basis, as to whether the Mitigation Plan is approved or disapproved by NERC. If NERC disapproves a Mitigation Plan that was accepted by the Regional Entity, NERC shall state its reasons for the rejection, and may state the changes to the Mitigation Plan that would result in approval by NERC. The Registered Entity shall not be subject to findings of violations of the specific requirements of Reliability Standards that are the subject of the Mitigation Plan or to imposition of penalties or sanctions for such violations with respect to the period of time the Mitigation Plan was under consideration by NERC and for a reasonable period following NERC's disapproval of the Mitigation Plan, so long as the Registered Entity promptly submits a modified Mitigation Plan that addresses the concerns identified by NERC.

If a Registered Entity submits a Mitigation Plan prior to issuance of a Notice of Confirmed Violation or entry into a settlement, such as with a Self-Report or in response to a Notice of Possible Violation, the Regional Entity may provisionally accept the proposed Mitigation Plan. If the Regional Entity subsequently determines, upon completing its assessment of the Possible Violation, that the facts and circumstances are different than those on which the accepted Mitigation Plan was based, the Regional Entity may, by notice to the Registered Entity and to NERC, require the Registered Entity to submit a revised Mitigation Plan that fully addresses the facts and circumstances of the violation. The Regional Entity's notice shall state the additional or different facts and circumstances that need to be addressed in the revised Mitigation Plan. The Registered Entity shall submit a revised Mitigation Plan in response to the notice within thirty (30) days following the date of the notice, unless the Regional Entity specifies or allows a longer time period. The Registered Entity's revised Mitigation Plan shall be subject to review and acceptance or rejection by the Regional Entity and by NERC in accordance with this Section 6.5. If the Regional Entity issues a Notice of Confirmed Violation or enters into a settlement with the Registered Entity and does not identify a need to request modifications to the provisionally-accepted Mitigation Plan based on additional or different facts and circumstances, the Regional Entity shall issue a notice to the Registered Entity, with a copy to NERC, stating that the "provisional" nature of the acceptance is terminated and the acceptance is final. The Regional Entity shall issue such notice within five (5) business days of issuance of the Notice of Confirmed Violation or entry into the settlement.

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NERC will submit to FERC, as non-public information, an approved Mitigation Plan relating to violations of Reliability Standards within seven (7) business days after NERC approves the Mitigation Plan. NERC shall publicly post the approved Mitigation Plan as part of the public posting of the ~~report of the~~ related ~~Confirmed Violation~~ [Notice of Penalty](#) in accordance with Section 8.0 or ~~as part of the public posting of a settlement in which the Registered Entity neither admits or denies that it violated a Reliability Standard~~ [settlement](#) in accordance with Section ~~5.4.5.6.~~

6.6 Completion/Confirmation of Implementation of Mitigation Plans

The Registered Entity shall provide updates at least quarterly to the Compliance Enforcement Authority on the progress of the Mitigation Plan. The Compliance Enforcement Authority will track the Mitigation Plan to completion and may conduct on-site visits and review status during audits to monitor Mitigation Plan implementation.

Upon completion of the Mitigation Plan, the Registered Entity shall provide to the Compliance Enforcement Authority certification, signed by an officer, employee, attorney or other authorized representative of the Registered Entity, that all required actions described in the Mitigation Plan have been completed and shall include data or information sufficient for the Compliance Enforcement Authority to verify completion. The Compliance Enforcement Authority shall request such data or information and conduct follow-up assessments, on-site or other Spot Checking, or Compliance Audits as it deems necessary to verify that all required actions in the Mitigation Plan have been completed and the Registered Entity is in compliance with the subject Reliability Standard [requirement\(s\)](#).

In the event all required actions in the Mitigation Plan are not completed within the applicable deadline including any extensions of the original deadline granted under Section 6.3, any violation(s) of a Reliability Standard subject to the Mitigation Plan that occurred during the originally scheduled time period for completion will be enforced immediately and a new Mitigation Plan must be submitted for acceptance by the Compliance Enforcement Authority. In addition, the Compliance Enforcement Authority may conduct a Compliance Audit of, or issue a Remedial Action Directive to, the Registered Entity.

Regional Entities will provide to NERC the quarterly status reports and such other information as NERC requests, and will notify NERC when each Mitigation Plan is verified to have been completed.

6.7 Recordkeeping

The Compliance Enforcement Authority will maintain a record containing the following information for each Mitigation Plan:

- Name of Registered Entity.
- The date of the violation.
- Monitoring method by which the violation was detected, i.e., Self-Certification, Self-Reporting, Compliance Audit, Compliance ~~Violation~~ Investigation, Complaint, etc.

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- ~~Date of notification of violation and sanction.~~ (s) of Notice of Possible Violation and Notice of Alleged Violation (if applicable).
- Expected and actual completion date of the Mitigation Plan and major milestones.
- Expected and actual completion date for each required action.
- Accepted changes to milestones, completion dates, or scope of Mitigation Plan.
- Registered Entity's completion notice and data submitted as evidence of completion.

7.0 REMEDIAL ACTION DIRECTIVES

The Compliance Enforcement Authority may issue a Remedial Action Directive when such action is immediately necessary to protect the reliability of the ~~bulk power system~~ Bulk Power System from an imminent threat. A Remedial Action Directive may include, but is not limited to, any of the following: specifying operating or planning criteria, limits, or limitations; requiring specific system studies; defining operating practices or guidelines; requiring confirmation of data, practices, or procedures through inspection testing or other methods; requiring specific training for personnel; requiring development of specific operating plans; directing a Registered Entity to develop and comply with a plan to remediate a violation; imposing increased auditing or additional training requirements; and requiring a Registered Entity to cease an activity that may constitute a violation of a Reliability Standard.

A Remedial Action Directive may be issued to a Registered Entity at any time, including during any procedures relating to a Possible Violation or an Alleged Violation of a Reliability Standard. The Compliance Enforcement Authority will specify if a Remedial Action Directive obviates the need for a Mitigation Plan.

Prior to issuing a Remedial Action Directive, the Regional Entity shall consult the Reliability Coordinator for the Registered Entity, if applicable, to ensure that the Remedial Action Directive is not in conflict with directives issued by the Reliability Coordinator.

Any Remedial Action Directive must be provided in a notice to the Registered Entity and shall include: (i) a list of the ~~violations or possible violations~~ Possible Violation(s) or Alleged Violation(s) of Reliability Standards that are the basis for issuance of the Remedial Action Directive; (ii) a discussion of the factual basis for the Remedial Action Directive; (iii) a deadline for compliance and (iv) notice to the Registered Entity that failure to comply with the directive by the Required Date may result in further Remedial Action Directives or significantly increased sanctions. The Compliance Enforcement Authority will cause the notice of the Remedial Action Directive to be delivered to the Registered Entity by (i) electronic means to the Registered Entity's designated contact person and (ii) by a recognized express courier service that provides tracking and verification of delivery to the recipient. The date of delivery as specified by the express courier service's verification of delivery shall be the date of actual receipt of the Remedial Action Directive. The Compliance Enforcement Authority will monitor implementation of Remedial Action Directives as necessary to verify compliance.

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The Regional Entity will notify NERC within two (2) business days after issuing a Remedial Action Directive.

Once the Compliance Enforcement Authority has given the Registered Entity notice of the Remedial Action Directive, the Registered Entity may contest the Remedial Action Directive by giving written notice to the Compliance Enforcement Authority within two (2) business days following the date of actual receipt of notice of the Remedial Action Directive. Due to the urgency of resolving any objections to a Remedial Action Directive, the hearing shall be conducted under the expedited hearing process set forth in Section 1.9 of **Attachment 2, Hearing Procedures**. Notice to contest the Remedial Action Directive and participation in the hearing process set forth in Section 1.9 of **Attachment 2, Hearing Procedures** shall constitute the Registered Entity's right to appeal the Remedial Action Directive. The Registered Entity may elect not to implement the Remedial Action Directive until the hearing process is completed, or may proceed with implementing the Remedial Action Directive even if it is contesting the Remedial Action Directive. ~~Figure 7.0 shows the process steps for a Remedial Action Directive.~~

~~Figure 7.0—Remedial Action Process 1.0~~

8.0 REPORTING AND DISCLOSURE

Regional Entities shall prepare and submit to NERC all required reports ~~(including those required by NERC Rules of Procedure, Sections 403.15, 403.17 and 403.19)~~, containing current information concerning (1) Registered Entity compliance with Reliability Standards, (2) all Possible Violations, Alleged Violations and Confirmed Violations of Reliability Standards by Registered Entities, (3) the status of Possible Violations and Alleged Violations, (4) sanctions and penalties, (5) Remedial Action Directives imposed, and (6) Mitigation Plan(s) accepted including dates for all required actions and for completion.

Regional Entities shall report all Possible Violations, Alleged Violations and Confirmed Violations to NERC, ~~on a confidential basis, any allegations or evidence of violations of Reliability Standards regardless of significance, whether verified or still under investigation, that are received or obtained by the Regional Entity through any means within five (5) business days, unless the violation indicated or alleged has resulted in or has the potential to result in, a reduced level of reliability to the bulk power system (as provided in Section 408 of the NERC Rules of Procedure), in which cases the Regional Entity shall notify NERC within forty eight (48) hours by promptly entering the Possible Violation, Alleged Violation or Confirmed Violation into the NERC compliance reporting and tracking system.~~ NERC shall notify FERC and, where the report pertains to a Registered Entity or to a portion of the ~~bulk power system~~ Bulk Power System over which another Applicable Governmental Authority has jurisdiction, shall also notify such other Applicable Governmental Authority, within two (2) business days of receiving ~~such~~ a report of a Possible Violation, Alleged Violation or Confirmed Violation from the Regional Entity; provided, that NERC will not disclose any non-public U.S. compliance information that is subject to 18 C.F.R. §39.7(b)(4) to an Applicable Governmental Authority other than FERC without first obtaining permission from FERC for such disclosure and subject to any limitations

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placed by FERC on such disclosure, and NERC will not disclose non-public non-U.S. compliance information to an Applicable Governmental Authority (including FERC) without first obtaining permission from the Applicable Governmental Authority that has jurisdiction over the Registered Entity or portion of the ~~bulk power system~~ Bulk Power System to which the non-public information pertains and subject to any limitations placed on such disclosure by such Applicable Governmental Authority or by other law of the applicable jurisdiction. Such reports shall include information regarding the nature of the ~~violation indicated or alleged and its potential impact on the reliability of the bulk power system~~ Possible Violation, Alleged Violation or Confirmed Violation, the name of the Registered Entity involved, the status ~~and timetable of any compliance violation assessment, and of any ongoing review and assessment of the~~ Possible Violation, Alleged Violation, or Confirmed Violation, the name of a Regional Entity staff person knowledgeable about the information to serve as a point of contact, as required by ~~Section 408 of the NERC Rules of Procedure and~~ 18 C.F.R. §39.7(b), and, in the case of an Alleged Violation or Confirmed Violation, its potential impact on the reliability of the Bulk Power System.

Regional Entities shall report to NERC ~~at least quarterly, through the NERC compliance reporting and tracking system,~~ the status of ~~violations of Reliability Standards~~ Possible Violations and Alleged Violations, regardless of significance, that have not yet resulted in a ~~final determination of violation~~ Notice of Confirmed Violation or have not completed the hearing process, or for which mitigation activities (including activities being carried out pursuant to a settlement agreement) have not been completed. Regional Entities will ensure the information is current when these reports are provided.

Regional Entities shall report ~~to NERC all Confirmed Violations of Reliability Standards by Registered Entities including all penalties, sanctions, Mitigation Plans and schedules, and settlements, within ten (10) business days of each determination. At the same time, Regional Entities will provide the report to the affected Registered Entity, accompanied by a notice that the Registered Entity may provide a statement to NERC to accompany the report when posted by NERC. The Registered Entity's statement must include the name, title, and signature of an officer, employee, attorney or other authorized representative of the Registered Entity. NERC will publicly post each report of a Confirmed Violation~~ a Confirmed Violation to NERC at the same time the Notice of Confirmed Violation is issued to the Registered Entity. NERC will publicly post on its Web site each Notice of Penalty, with the identify of the violator, together with any statement submitted by the Registered Entity, no sooner than five (5) business days after the report is provided by the Regional Entity to NERC and the Registered Entity. when NERC files the Notice of Penalty with FERC.

NERC will provide reports quarterly to FERC and, where a report contains information pertaining to a Registered Entity or to a portion of the ~~bulk power system~~ Bulk Power System over which another Applicable Governmental Authority has jurisdiction, to such other Applicable Governmental Authority, on the status of all Possible, Alleged and Confirmed Violations for which mitigation activities have not been completed; provided, that NERC will not disclose any non-public U.S. compliance information that is subject to 18 C.F.R. §39.7(b)(4) to an Applicable Governmental Authority other than FERC without first obtaining permission from FERC for such disclosure and subject to any limitations placed by FERC on such disclosure, and NERC will not disclose non-public non-U.S. compliance information to an Applicable Governmental Authority (including FERC) without first obtaining permission from the Applicable Governmental Authority that has jurisdiction over the Registered Entity or

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portion of the ~~bulk power system~~[Bulk Power System](#) to which the non-public information pertains and subject to any limitations placed on such disclosure by such Applicable Governmental Authority or by other law of the applicable jurisdiction. ~~NERC will publish public reports quarterly on its Web site of all Confirmed Violations of Reliability Standards during the quarter just completed, with the identity of the violator.~~

9.0 DATA RETENTION AND CONFIDENTIALITY

9.1 Records Management

The Compliance Enforcement Authority records management policy shall provide for a routine and orderly process for the retention and disposal of electronic and paper records related to the Compliance Program, ensure verification of compliance with appropriate business, regulatory, and legal requirements and at a minimum conform to the data retention requirements of the Reliability Standards. The policy shall allow for the maintenance of records as required to implement the Compliance Program.

9.2 Retention Requirements

The Compliance Enforcement Authority records management policy will require that information and data generated or received pursuant to Compliance Program activities, including Compliance Audits, Self-Certifications, Spot Checking, Compliance ~~Violation~~ Investigations, Self-Reporting, Periodic Data Submittals, Exception Reporting, and Complaints, as well as a hearing process, will be retained for the longer of (i) five (5) years or (ii) any retention period specified in a Reliability Standard or by FERC or another Applicable Governmental Authority. The obligation to retain information and data commences upon the initiation of the Compliance Program activity that produces the data or information. If the information or data is material to the resolution of a controversy, the retention period for such data shall not commence until after the controversy is resolved.

Upon request from NERC, Regional Entities will provide to NERC copies of such information and data. NERC will retain the information and data in order to maintain a record of activity under the Compliance Program. In providing the information and data to NERC, the Regional Entity shall preserve any mark of confidentiality.

9.3 Confidentiality and Critical Energy Infrastructure Information

9.3.1 Definitions

Information or data generated or received pursuant to Compliance Program activities, including a hearing process, shall be treated in a confidential manner pursuant to the provisions of Section 1500 of the NERC Rules of Procedure. The terms “confidential information,” “confidential business and market information,” “critical energy infrastructure information,” and “critical infrastructure” shall have the meanings stated in Section 1501 of the NERC Rules of Procedure.

9.3.2 Protection of Confidential Information

The Compliance Enforcement Authority personnel (including any contractors, consultants and industry ~~volunteers~~[subject matter experts](#)) and committee members, and participants in

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Compliance Program activities shall be informed of, and agree to comply with, Section 1500 of the NERC Rules of Procedure concerning confidential information.

9.3.3 Critical Energy Infrastructure Information

The Compliance Enforcement Authority will keep confidential all critical energy infrastructure information in accordance with Section 1500 of the NERC Rules of Procedures. Information deemed to be critical energy infrastructure information shall be redacted, [in accordance with Section 1500 of the NERC Rules of Procedure](#), and shall not be released publicly.

Compliance Monitoring and Enforcement Program

ATTACHMENT 1

PROCESS FOR NON-SUBMITTAL OF REQUESTED DATA

If data, information, or other reports (including Mitigation Plans) requested from a Registered Entity are not received by the Required Date, the Compliance Enforcement Authority may sequentially execute the following steps for each Reliability Standard for which the Compliance Enforcement Authority has requested data, information, or other reports. The Compliance Enforcement Authority however will afford the Registered Entity reasonable opportunity to resolve a difficulty submitting data due to time or format issues.

Step 1: The Compliance Enforcement Authority will issue a follow-up notification to the Registered Entity's designated contact.

Step 2: The Compliance Enforcement Authority will issue a follow-up notification to the Registered Entity's vice president or equivalent responsible for compliance (with a copy to NERC and the Registered Entity's designated contact).

Step 3: The Compliance Enforcement Authority will issue a follow-up notification to the Registered Entity's chief executive officer or equivalent (with a copy to NERC, the Registered Entity's vice president or equivalent responsible for compliance and the Registered Entity's designated contact).

A full Compliance Audit may be scheduled at this step.

Step 4: Thirty (30) days after the Required Date, a Reliability Standard violation may be applied at the Severe Violation Severity Level.

Step 4 does not apply to Compliance Audits and Mitigation Plan tracking requests.

ATTACHMENT 2 - HEARING PROCEDURES

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ATTACHMENT 2 - HEARING PROCEDURES

1.1 Applicability, Definitions and Interpretation

1.1.1 Procedure Governed

The provisions set forth in this **Attachment 2** (“Hearing Procedures”) shall apply to and govern practice and procedure before the Compliance Enforcement Authority in hearings in the United States conducted into (i) whether Registered Entities within the Compliance Enforcement Authority’s area of responsibility have violated Reliability Standards, and (ii) if so, to determine the appropriate Mitigation Plans as well as any remedial actions, penalties or sanctions in accordance with the NERC ~~ERO~~ *Sanction Guidelines* and other applicable penalty guidelines approved by FERC pursuant to 18 C.F.R. Section 39.7(g)(2). Any hearing conducted pursuant to these Hearing Procedures shall be conducted before a [HEARING BODY] established by the Compliance Enforcement Authority. The composition of the [HEARING BODY], after any recusals or disqualifications, shall be such that no two industry segments may control, and no single industry segment may veto, any decision by the [HEARING BODY] on any matter brought before it for decision.

The standard of proof in any proceeding under these Hearing Procedures shall be by a preponderance of the evidence. The burden of persuasion on the merits of the proceedings shall rest upon the Compliance Staff alleging noncompliance with a Reliability Standard, proposing a penalty, opposing a Registered Entity’s Mitigation Plan, or requiring compliance with a Remedial Action Directive.

1.1.2 Deviation

To the extent permitted by law, any provision in these Hearing Procedures may be waived, suspended or modified by the Hearing Officer, as defined in Paragraph 1.1.5, or the [HEARING BODY], for good cause shown, either upon the Hearing Officer’s or the [HEARING BODY]’s own motion or upon the motion of any Participant.

1.1.3 Standards for Discretion

The Compliance Enforcement Authority’s discretion under these Hearing Procedures shall be exercised to accomplish the following goals:

- a) Integrity of the Fact-Finding Process - The principal goal of the hearing process is to assemble a complete factual record to serve as a basis for a correct and legally sustainable ruling, decision or order.
- b) Fairness - Persons appearing in Compliance Enforcement Authority proceedings should be treated fairly. To this end, Participants should be given fair notice and opportunity to present explanations, factual information, documentation and legal argument. Action shall be taken as necessary to eliminate any disadvantage or prejudice to a Participant that would otherwise result from another Participant’s failure to act diligently and in good faith.
- c) Independence - The hearing process should be tailored to protect against undue influence from any Person, Participant or interest group.

- d) **Balanced Decision-Making** - Decisions should be based solely on the facts and arguments of record in a proceeding and by individuals who satisfy the Compliance Enforcement Authority's conflict of interest policy.
- e) **Impartiality** - Persons appearing before the [HEARING BODY] should not be subject to discriminatory or preferential treatment. Registered Entities should be treated consistently unless a reasonable basis is shown in any particular proceeding to depart from prior rulings, decisions or orders.
- f) **Expedition** - Proceedings shall be brought to a conclusion as swiftly as is possible in keeping with the other goals of the hearing process.

1.1.4 Interpretation

- a) These Hearing Procedures shall be interpreted in such a manner as will aid in effectuating the Standards for Discretion set forth in Paragraph 1.1.3, and so as to require that all practices in connection with the hearings shall be just and reasonable.
- b) Unless the context otherwise requires, the singular of a term used herein shall include the plural and the plural of a term shall include the singular.
- c) To the extent that the text of a rule is inconsistent with its caption, the text of the rule shall control.

1.1.5 Definitions

Unless otherwise defined, as used in these Hearing Procedures (i) definitions in Section 1.1 of the NERC Compliance Monitoring and Enforcement Program shall apply, and (ii) the following terms shall have the following meanings:

~~“Bulk Power System,” for the purposes of these Hearing Procedures, has the identical meaning as the definition of “Bulk Electric System” under the NERC Glossary.~~

“Clerk,” as designated by the Compliance Enforcement Authority.

“Compliance Enforcement Authority’s area of responsibility” means the Compliance Enforcement Authority’s corporate region. If a Regional Entity is the Compliance Enforcement Authority, the Compliance Enforcement Authority’s area of responsibility is shown in Exhibit A to the delegation agreement between the Regional Entity and NERC.

“Critical Energy Infrastructure Information” means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (i) relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person in planning an attack on critical infrastructure; and (iii) does not simply give the location of the critical infrastructure.

“Critical infrastructure” means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.

“Cybersecurity Incident” means a malicious act or suspicious event that disrupts, or was an attempt to disrupt, the operation of those programmable electronic devices and communications networks including hardware, software and data that are essential to the Reliable Operation of the Bulk-Power System.

“Director of Compliance” means the Director of Compliance of the Compliance Enforcement Authority, who is responsible for the management and supervision of Compliance Staff.

“Document” means, in addition to the commonly understood meaning of the term as information written or printed on paper, any electronically stored information, including writings, drawings, graphs, charts, photographs, sound recordings, images and other data or data compilations stored in any medium from which information can be obtained, and shall be translated by the producing party into reasonably usable form.

“ERO” means the Electric Reliability Organization, currently the North American Electric Reliability Corporation, or any successor organization, certified by FERC pursuant to 18 C.F.R. Section 39.3.

“FERC” means the Federal Energy Regulatory Commission.

“Hearing Officer” means an individual employed or contracted by the Compliance Enforcement Authority and designated by the Compliance Enforcement Authority to preside over hearings conducted pursuant to these Hearing Procedures.

“Participant” means a Respondent and any other Person who is allowed or required by FERC to participate as an intervenor in a proceeding conducted pursuant to these Hearing Procedures, and as used herein shall include the members of the Compliance Staff of the Compliance Enforcement Authority that participate in a proceeding.

“Penalty” as used herein includes all penalties and sanctions, including but not limited to a monetary or non-monetary penalty; a limitation on an activity, function, operation or other appropriate sanction; or the addition of the Registered Entity to a reliability watch list composed of major violators. Penalties must be within the range set forth in the NERC ~~ERO~~ *Sanction Guidelines* approved by FERC pursuant to 18 C.F.R. Section 39.7(g)(2), and shall bear a reasonable relation to the seriousness of a Registered Entity’s violation and take into consideration any timely efforts made by the Registered Entity to remedy the violation.

“Person” means any individual, partnership, corporation, limited liability company, governmental body, association, joint stock company, public trust, organized group of persons, whether incorporated or not, or any other legal entity.

~~“Reliable Operation” has the meaning set forth in Section 215 of the Federal Power Act.~~

~~“Reliability Standards” means standards approved by FERC pursuant to Section 215 of the Federal Power Act and 18 C.F.R. Section 39.5, as such standards are authorized and in effect from time to time.~~

“Respondent” means the Registered Entity who is the subject of the Notice of Alleged Violation, contested Mitigation Plan or contested Remedial Action Directive that is the basis for the proceeding, whichever is applicable.

“Staff” or “Compliance Staff” means individuals employed or contracted by the Compliance Enforcement Authority who have the authority to make initial determinations of compliance or violation with Reliability Standards by Registered Entities and associated Penalties and Mitigation Plans.

“Technical Advisor” means any Staff member, third-party contractor, or industry stakeholder who satisfies the Compliance Enforcement Authority’s conflict of interest policy and is selected to assist in a proceeding by providing technical advice to the Hearing Officer and/or the [HEARING BODY].

1.2 General Provisions including Filing, Service, Transcription and Participation

1.2.1 Contents of Filings

All filings made with [HEARING BODY] must contain:

- a) A caption that sets forth the title of the proceeding and the designated docket number or, if the filing initiates a proceeding, a space for the docket number;
- b) A heading that describes the filing and the Participant on whose behalf the filing is made;
- c) The full name, address, telephone number and email address of the Participant or the representative of the Participant making the filing;
- d) A plain and concise statement of any facts upon which the filing is based, which facts shall be supported by citations to the record of the hearing, if available, or other documents; and
- e) The specific relief sought, which may be in the alternative, and the authority that provides for or otherwise allows the relief sought.

1.2.2 Form of Filings

- a) All filings shall be typewritten, printed, reproduced or prepared using a computer or other word or data processing equipment on white paper 8½ inches by 11 inches with inside text margins of not less than one inch. Page numbers shall be centered and have a bottom margin of not less than ½ inch. Line numbers, if any, shall have a left-hand margin of not less than ½ inch. The impression shall be on one side of the paper only and shall be double spaced; footnotes may be single spaced and quotations may be single spaced and indented.
- b) All pleadings shall be composed in either Arial or Times New Roman font, black type on white background. The text of pleadings or documents shall be at least 12-point. Footnotes shall be at least 10-point. Other material not in the body of the text, such as schedules, attachments and exhibits, shall be at least 8-point.

- c) Reproductions may be by any process provided that all copies are clear and permanently legible.
- d) Testimony prepared for the purpose of being entered into evidence shall include line numbers on the left-hand side of each page of text. Line numbers shall be continuous.
- e) Filings may include schedules, attachments or exhibits of a numerical or documentary nature which shall, whenever practical, conform to these requirements; however, any log, graph, map, drawing, chart or other such document will be accepted on paper larger than prescribed in subparagraph (a) if it cannot be provided legibly on letter size paper.

1.2.3 Submission of Documents

a) Where to File

Filings shall be made with the Clerk of the Compliance Enforcement Authority located at its principal office. The office will be open from [*Compliance Enforcement Authority business hours*] local time each day except Saturday, Sunday, legal holidays and any other day declared by the Compliance Enforcement Authority.

b) When to File

Filings shall be made within the time limits set forth in these Hearing Procedures or as otherwise directed by the Hearing Officer or the [HEARING BODY]. Filings will be considered made when they are date stamped received by the Clerk. To be timely, filings must be received no later than [*Compliance Enforcement Authority close of business*] local time on the date specified.

c) How to File

Filings may be made by personal delivery, mailing documents that are properly addressed with first class postage prepaid, or depositing properly addressed documents with a private express courier service with charges prepaid or payment arrangements made. Alternatively, filing by electronic means will be acceptable upon implementation of a suitable and secure system by the Compliance Enforcement Authority.

d) Number of Copies to File

One original and five exact copies of any document shall be filed. The Clerk will provide each member of the [HEARING BODY] with a copy of each filing.

e) Signature

The original of every filing shall be signed by the Participant on whose behalf the filing is made, either by an attorney of the Participant or, by the individual if the Participant is an individual, by an ~~Officer~~officer of the Participant if the Participant is not an individual, or if the Participant is Staff, by a designee authorized to act on behalf of Staff. The signature on a filing constitutes a certificate that the signer has read the filing and knows its contents, and that the contents are true to the best of the signer's knowledge and belief.

f) Verification

The facts alleged in a filing need not be verified unless required by these Hearing Procedures, the Hearing Officer or the [HEARING BODY]. If verification is required, it must be under oath by a person having knowledge of the matters set forth in the filing. If any verification is made by an individual other than the signer, a statement must be included in or attached to the verification explaining why a person other than the signer is providing verification.

g) Certificate of Service

Filings shall be accompanied by a certificate of service stating the name of the individuals served, the Participants whose interests the served individuals represent, the date on which service is made, the method of service and the addresses to which service is made. The certificate shall be executed by the individual who caused the service to be made.

1.2.4 Service

a) Service List

For each proceeding, the Clerk shall prepare and maintain a list showing the name, address, telephone number, and facsimile number and email address, if available, of each individual designated for service. The Hearing Officer, Director of Compliance and the Registered Entity's designated agent for service [as registered with the Compliance Enforcement Authority] shall automatically be included on the service list. Participants shall identify all other individuals whom they would like to designate for service in a particular proceeding in their appearances or other filings. Participants may change the individuals designated for service in any proceeding by filing a notice of change in service list in the proceeding. Participants are required to update their service lists to ensure accurate service throughout the course of the proceeding. Copies of the service list may be obtained from the Clerk.

b) By Participants

Any Participant filing a document in a proceeding must serve a copy of the document on each individual whose name is on the service list for the proceeding. Unless otherwise provided, service may be made by personal delivery, email, deposit in the United States mail properly addressed with first class postage prepaid, registered mail properly addressed with postage prepaid or deposit with a private express courier service properly addressed with charges prepaid or payment arrangements made.

c) By the Clerk

The Clerk shall serve all issuances of the Hearing Officer and [HEARING BODY] upon the members of the [HEARING BODY] and each individual whose name is on the service list for the proceeding. Service may be made by personal delivery, email, deposit in the United States mail properly addressed with first class postage prepaid, registered mail properly addressed with postage prepaid or deposit with a private express courier service properly addressed with charges prepaid or payment arrangements made. The Clerk shall transmit a copy of the record of a proceeding to the ERO at the time it serves the ERO with either (1) a ~~notice~~[Notice](#) of

~~penalty~~Penalty, or (2) a [HEARING BODY] final order that includes a ~~notice~~Notice of ~~penalty~~Penalty.

d) Effective Date of Service

Service by personal delivery or email is effective immediately. Service by mail or registered mail is effective upon mailing; service by a private express courier service is effective upon delivery to the private express courier service. Unless otherwise provided, whenever a Participant has the right or is required to do some act within a prescribed period after the service of a document upon the Participant, four (4) days shall be added to the prescribed period when the document is served upon the Participant by mail or registered mail.

1.2.5 Computation of Time

The time in which any action is required to be done shall be computed by excluding the day of the act or event from which the time period begins to run, and by including the last day of the time period, unless the last day is a Saturday, Sunday, legal holiday or any other day upon which the office of the Compliance Enforcement Authority is closed, in which event it also shall be excluded and the date upon which the action is required shall be the first succeeding day that is not a Saturday, Sunday, legal holiday, or day upon which the office of the Compliance Enforcement Authority is closed.

1.2.6 Extensions of Time

Except as otherwise provided by law, the time by which a Participant is required or allowed to act may be extended by the Hearing Officer or [HEARING BODY] for good cause upon a motion made before the expiration of the period prescribed. If any motion for extension of time is made after the expiration of the period prescribed, the Hearing Officer or [HEARING BODY] may permit performance of the act if the movant shows circumstances sufficient to justify the failure to act in a timely manner.

1.2.7 Amendments

Amendments to any documents filed in a proceeding may be allowed by the Hearing Officer or the [HEARING BODY] upon motion made at any time on such terms and conditions as are deemed to be just and reasonable.

1.2.8 Transcripts

A full and complete record of all hearings, including any oral argument, shall be transcribed verbatim by a certified court reporter, except that the Hearing Officer may allow off-the-record discussion of any matter provided the Hearing Officer states the ruling on any such matter, and the Participants state their positions or agreement in relation thereto, on the record. Unless otherwise prescribed by the Hearing Officer, a Participant may file and serve suggested corrections to any portion of the transcript within thirty-five (35) days from the date on which the relevant portion of the transcript was taken, and any responses shall be filed within ten (10) days after service of the suggested corrections. The Hearing Officer shall determine what changes, if any, shall be made, and shall only allow changes that conform the transcript to the truth and ensure the accuracy of the record.

The Compliance Enforcement Authority will pay for transcription services, for a copy of the transcript for the record and for a copy of the transcript for Staff. Any other Participant shall pay for its own copy of the transcript if it chooses to obtain one and, should any Participant seek to obtain a copy of the transcript on an expedited basis, it shall pay for the expedited transcription services.

1.2.9 Rulings, Notices, Orders and Other Issuances

Any action taken by the Hearing Officer or the [HEARING BODY] shall be recorded in a ruling, notice, order or other applicable issuance, or stated on the record for recordation in the transcript, and is effective upon the date of issuance unless otherwise specified by the Hearing Officer or the [HEARING BODY]. All notices of hearings shall set forth the date, time and place of hearing.

1.2.10 Location of Hearings and Conferences

All hearings and oral arguments shall be held at the principal office of the Compliance Enforcement Authority unless the Hearing Officer or [HEARING BODY] designates a different location.

1.2.11 Participant Participation

Participants may appear at any hearing via teleconference subject to the approval of the Hearing Officer and, in the event of oral argument, the [HEARING BODY], except that witnesses shall personally appear at the evidentiary hearing if required by Paragraph 1.6.6. Staff may participate and be represented by counsel in hearings, and shall have the rights and duties of any Participant.

1.2.12 Interventions Are Not Permitted

The Respondent(s) and Staff shall be Participants to the proceeding. Unless otherwise authorized by FERC, no other Persons shall be permitted to intervene or otherwise become a Participant to the proceeding.

1.2.13 Proceedings Closed to the Public

No hearing, oral argument or meeting of the [HEARING BODY] shall be open to the public, and no notice, ruling, order or any other issuance of the Hearing Officer or [HEARING BODY], or any transcript, made in any proceeding shall be publicly released unless the ERO (within the U.S., in accordance with the authorization previously granted by FERC to release information about a non-public proceeding) or FERC (in the case of U.S.-related information) or another Applicable Governmental Authority (in the case of non-U.S.-related information) determine that public release is appropriate. Only the members of the [HEARING BODY], the Participants, the Hearing Officer and the Technical Advisors, if any, shall be allowed to participate in or obtain information relating to a proceeding.

1.2.14 Docketing System

The Clerk shall maintain a system for docketing proceedings. A docketed proceeding shall be created upon the issuance of a ~~notice~~Notice of Alleged Violation. Unless NERC provides a different docketing system that will be used uniformly by the Compliance Enforcement Authorities, docket numbers shall be assigned sequentially beginning with a two digit number that relates to the last two digits of the year in which the docket is initiated, followed by a dash (“-”), followed by the letters “[RE]”, followed by a dash (“-”), followed by a four digit number that will be “0001” on January 1 of each calendar year and ascend sequentially until December 31 of the same calendar year.

1.2.15 Hold Harmless

A condition of a Participant invoking these Hearing Procedures and participating in a hearing is that the Participant agrees that the Compliance Enforcement Authority, including without limitation its members, board of directors or trustees, compliance committee, any other committees or subcommittees, Staff, contracted employees, [HEARING BODY] members, Hearing Officers and Technical Advisors, shall not be liable, and shall be held harmless against the consequences of, or any action or inaction arising out of, the hearing process, or of any agreement reached in resolution of a dispute or any failure to reach agreement as a result of a proceeding. This “hold harmless” provision does not extend to matters constituting gross negligence, intentional misconduct or breach of confidentiality.

1.3 Initiation of the Hearing Process

1.3.1 Registered Entity’s Option to Request a Hearing

Except when contesting a Remedial Action Directive pursuant to section 1.9 of these Hearing Procedures, a Registered Entity may file a statement with the Compliance Enforcement Authority requesting a hearing if either:

- a) The Registered Entity files a response to a ~~notice~~Notice of Alleged Violation that contests either the ~~alleged violation~~Alleged Violation, the proposed Penalty, or both; or
- b) The Compliance Staff submits to the Registered Entity a statement rejecting the Registered Entity’s proposed revised Mitigation Plan submitted after Compliance Staff rejected the Registered Entity’s initial proposed Mitigation Plan.

A Registered Entity must file its hearing request within forty (40) days after (i) the Registered Entity files its response to the ~~notice~~Notice of Alleged Violation; or (ii) the Compliance Staff submits to the Registered Entity its statement identifying a disagreement with the Registered Entity’s proposed Mitigation Plan, whichever is applicable. If the Registered Entity does not file a hearing request within the time period set forth in this Paragraph, then the Registered Entity will be deemed to have agreed and waived any objection to the proposed Penalty, the Alleged Violation or the Compliance Staff’s rejection of the revised Mitigation Plan, whichever is applicable.

Either a ~~notice~~Notice of Alleged Violation issued to a Registered Entity or a Staff statement setting forth its rejection of a Registered Entity’s proposed revised Mitigation Plan shall clearly state that the Registered Entity has the option to contest the Alleged Violation, proposed Penalty,

or both, or the Compliance Staff's rejection of the proposed revised Mitigation Plan, using either the shortened hearing procedure pursuant to Paragraph 1.3.2 or the full hearing procedure described in Sections 1.4 to 1.7. If the Registered Entity files a hearing request within the requisite time period, it shall state within its hearing request whether it requests the shortened hearing procedure pursuant to Paragraph 1.3.2 or the full hearing procedure described in Sections 1.4 to 1.7. If the Registered Entity (or any Respondent if there are more than one Respondent) requests the full hearing procedure, the full hearing procedure shall apply. If the Registered Entity (or all Respondents if there are more than one Respondent) requests the shortened hearing procedure, Compliance Staff and any other Participant shall submit a filing within five (5) days of the Registered Entity's hearing request that states whether Staff or such other Participant agrees to use the shortened hearing procedure. If Staff or another Participant makes a filing requesting the full hearing procedure, then the full hearing procedure shall apply; otherwise the shortened hearing procedure requested by the Registered Entity or Entities shall be used. Once either the full or shortened hearing procedure has been selected, the Participants shall not be allowed to revert to the non-selected hearing procedure unless the Participants mutually agree.

A Registered Entity shall attach to a request for hearing whichever of the following are applicable:

- a) The Registered Entity's Self-Reporting of a violation;
- b) The ~~notice~~Notice of Alleged Violation and the Registered Entity's response thereto; and/or
- c) The Registered Entity's proposed revised Mitigation Plan and the Compliance Staff's statement rejecting the proposed revised Mitigation Plan.

1.3.2 Shortened Hearing Procedure

The shortened hearing procedure shall be as set forth in this Paragraph. The rules applicable to the full hearing procedure shall apply to the shortened hearing procedure unless the context of such a rule is inconsistent with the procedure set forth in this Paragraph or otherwise renders it inapplicable to the shortened hearing procedure. The rules concerning ex parte communications in Paragraph 1.4.7 are hereby expressly made applicable to the shortened hearing procedure under this Paragraph.

The [HEARING BODY] may utilize a Hearing Officer to preside over the shortened hearing procedure in accordance with Paragraph 1.4.2. But, no evidentiary hearing will be held in the shortened hearing procedure and the Participants will not present witness testimony or file briefs, except that briefs on exceptions and briefs in reply to exceptions may be allowed pursuant to Subparagraph (g). Instead, the following events shall take place within the following periods:

- a) The ~~Prehearing Conference~~prehearing conference shall be held within seven (7) days after the date on which the notice of hearing is issued. In addition to any other matters set forth in Paragraph 1.5.2 that may apply, the prehearing conference will be used to develop a schedule for the preparation and submission of comments in accordance with Subparagraphs (c) through (e).

- b) Within five (5) days after the date on which the notice of hearing is issued, Staff shall make documents available to the Registered Entity for inspection and copying pursuant to Paragraph 1.5.7.
- c) Within twenty-one (21) days after the prehearing conference, the Staff shall file:
 - 1) initial comments stating Staff's position on all issues and the rationale in support of its position, including all factual and legal argument;
 - 2) all documents that Staff seeks to introduce in support of its position that have not already been submitted in the proceeding; and
 - 3) a verification attesting to the truthfulness of the facts alleged in the filing.
- d) Within fourteen (14) days of Staff's initial comment filing pursuant to Subparagraph (c), the Registered Entity shall file:
 - 1) responsive comments stating the Registered Entity's position on all issues and the rationale in support of its position, including all factual and legal argument, which comment also may respond to Staff's initial comments;
 - 2) all documents that the Registered Entity seeks to introduce in support of its position that have not already been submitted in the proceeding; and
 - 3) a verification attesting to the truthfulness of the facts alleged in the filing.
- e) Within seven (7) days after the Registered Entity's responsive comment filing pursuant to Subparagraph (d), Staff shall file reply comments that shall be limited in scope to responding to the Registered Entity's responsive comments and be supported by a verification attesting to the truthfulness of the facts alleged in the filing. Staff shall not submit any additional documents in support of its position as part of this filing except upon motion and good cause shown. If Staff is allowed to file additional documents in support of its position based upon such a motion, the Registered Entity shall have the right to file additional documents in support of its position that are responsive to the additional documents that Staff is allowed to file provided that any additional Registered Entity filing also shall be verified.
- f) The Hearing Officer shall issue an initial opinion within twenty-one (21) days after the Staff's reply comments filing or any additional filing by the Registered Entity pursuant to Subparagraph (e).
- g) If either Participant requests, the Hearing Officer shall allow each Participant to file, within seven (7) days after the Hearing Officer's initial opinion, exceptions to the Hearing Officer's initial opinion in a brief designated "brief on exceptions" in accordance with Paragraph 1.7.5 and within seven (7) days thereafter, a reply brief designated "Brief in Reply to Exceptions."
- h) The [HEARING BODY] shall strive, but is not required, to issue a final order within ninety (90) days of the notice of hearing.

The Hearing Officer or [HEARING BODY] may modify any time period set forth within this Paragraph as warranted by the circumstances but it will be the objective of the [HEARING BODY] to issue the final order within ninety (90) days of the notice of hearing.

1.4 General Hearing Procedure

1.4.1 Notice of Hearing

Within seven (7) days of a Registered Entity requesting a hearing pursuant to Paragraph 1.3, the Clerk shall issue a notice of hearing in the docket. The notice of hearing shall identify the Hearing Officer, if designated at that time, and the date, time, and place for the prehearing conference, which should occur no later than fourteen (14) days after the notice of hearing is issued.

1.4.2 Hearing Officer

The Compliance Enforcement Authority may utilize a Hearing Officer to preside over each hearing conducted pursuant to these Hearing Procedures, provided that the Hearing Officer's actions shall be subject to the authority of the [HEARING BODY] as set forth in Paragraph 1.4.3. Members of the [HEARING BODY] may attend any aspect of the hearing.

The [HEARING BODY] may delegate to the Hearing Officer authority over the conduct of the hearing, including administering the hearing from the prehearing conference through the issuance of the initial opinion and any administrative hearing functions thereafter, and the responsibility for submission of the matter to the [HEARING BODY] for final decision through the presentation to the [HEARING BODY] of an initial opinion. The Hearing Officer shall have those duties and powers necessary to those ends, consistent with and as further enumerated in these Hearing Procedures, including the following:

- 1) To administer oaths and affirmations;
- 2) To schedule and otherwise regulate the course of the hearing, including the ability to call to recess, reconvene, postpone or adjourn a hearing;
- 3) Consistent with any timing or deadline requirements imposed by these Hearing Procedures or by applicable law, to separate any issue or group of issues from other issues in a proceeding and treat such issue(s) as a separate phase of the proceeding;
- 4) Consistent with any timing or deadline requirements imposed by these Hearing Procedures or by applicable law, to modify any time period, if such modification is in the interest of justice and will result in no undue prejudice to any other Participant;
- 5) To supervise and issue orders concerning discovery;
- 6) To conduct prehearing conferences, status hearings and evidentiary hearings;
- 7) To rule upon all objections, motions and other requests that do not result in the final determination of the proceeding;

- 8) To rule on and receive evidence;
- 9) To call upon a Participant to produce further evidence that is material and relevant to any issue;
- 10) To issue protective orders pursuant to Paragraph 1.5.10;
- 11) To issue initial opinions; and
- 12) To ensure that hearings are conducted in a full, fair and impartial manner, that order is maintained and that unnecessary delay is avoided in the disposition of the proceedings.

If the [HEARING BODY] uses a Hearing Officer to preside over a hearing, the [HEARING BODY] shall disclose the identity, employment history and professional affiliations of the Hearing Officer within two (2) days of the Hearing Officer's assignment to the proceeding, and Participants to the hearing may raise objections to the Hearing Officer's participation in accordance with Paragraph 1.4.5.

1.4.3 [HEARING BODY]

The [HEARING BODY] is vested with the authority to issue a final order resolving the issue(s) in all cases. To that end:

- 1) The [HEARING BODY] shall receive all filings in a hearing, including but not limited to all issuances of the Hearing Officer, all motions and responses thereto, and all written comments, testimony and evidence. The Hearing Body shall not receive documents made available by Staff for inspection and copying by the Respondent, or other responses to discovery between the Participants, unless such documents are placed into the record pursuant to Paragraph 1.6.7.
- 2) The [HEARING BODY] or any individual member thereof may, but is not required to, attend any prehearing conference, status hearing or evidentiary hearing, and/or to submit questions to the Hearing Officer to submit to a Participant or any witness at any such hearing.
- 3) The [HEARING BODY] shall have the same authority as the Hearing Officer, as set forth in these Hearing Procedures, to require the Participants or any individual Participant to: (i) address a specific issue in testimony, evidence or briefs; (ii) present oral argument on an issue; (iii) file pre-evidentiary hearing memorandums; or (iv) produce further evidence that is material and relevant to any issue. To this end, the [HEARING BODY] shall be entitled to issue questions or requests for information to any Participant or any witness at any time until the issuance of a final order.
- 4) To the extent that the [HEARING BODY] disagrees with any issuance or ruling of the Hearing Officer, it may, on its own motion or upon petition for interlocutory review meeting the requirements of Paragraph 1.4.4, reverse or modify the issuance or ruling in whole or in part, or take any other action as may be appropriate.

- 5) The [HEARING BODY] shall resolve the issue(s) in every hearing through the issuance of a final order. In issuing a final order, the [HEARING BODY] shall consider the Hearing Officer's initial opinion but shall have the authority to reject, modify or approve the initial opinion in whole or in part.

1.4.4 Interlocutory Review

A Participant shall be allowed to seek interlocutory review by the [HEARING BODY] of any ruling of the Hearing Officer where the ruling for which interlocutory review is sought presents an extraordinary circumstance which makes prompt review necessary to prevent prejudice to a Participant's ability to present its position in the proceeding. Failure to seek such review shall not operate as a waiver of any objection to such ruling. Unless good cause is shown or unless otherwise ordered by the Hearing Officer or the [HEARING BODY], the Participant seeking review shall file a petition for interlocutory review within fourteen (14) days after the date of the action that is the subject of the petition. The petition shall contain, in a separately identified section, a demonstration that the ruling for which interlocutory review is sought presents an extraordinary circumstance which makes prompt review necessary to prevent prejudice to the Participant's ability to present its position in the proceeding. The petition shall be filed with any offer of proof and supported by affidavit if based on facts that do not appear of record. Responses to petitions for interlocutory review shall be filed within seven (7) days after service of the petition. No replies to responses are allowed.

The Hearing Officer shall file a report to the [HEARING BODY] within fourteen (14) days from the filing of the petition. The Hearing Officer's report shall set forth the relevant facts and other background information relating to the ruling on which interlocutory review is sought, the basis for the Hearing Officer's ruling, a summary of the Participants' arguments on the petition for interlocutory review, and the recommendation of the Hearing Officer for the disposition of the petition by the [HEARING BODY].

On review of a Hearing Officer's ruling, the [HEARING BODY] may affirm or reverse the ruling in whole or in part, and may take any other just and reasonable action with respect to the ruling, such as declining to act on an interlocutory basis. The [HEARING BODY] may reject the petition for interlocutory review on the grounds that the ruling for which review is sought does not present an extraordinary circumstance which makes prompt review necessary to prevent prejudice to a Participant's ability to present its position in the proceeding, without considering or ruling on the substance of the petitioner's arguments. Issuance of a ruling on a petition for interlocutory review shall require (i) a quorum (as defined in Paragraph 1.7.8) of the [HEARING BODY], and (ii) majority vote of the members of the [HEARING BODY] voting on the final order (which number of members voting shall not be less than a quorum). Petitions to rehear or reconsider the [HEARING BODY'S] action taken on interlocutory review shall not be allowed. Filing and disposition of a petition for interlocutory review of a ruling of the Hearing Officer shall not suspend or otherwise delay a hearing or any other scheduled dates in the proceeding except as authorized by the Hearing Officer or the [HEARING BODY] based on a finding of exceptional circumstances.

A non-Participant that has been ordered by the Hearing Officer pursuant to paragraph 1.5.8 to produce or provide documents, information or testimony, and has failed to obtain the relief

sought from the Hearing Officer through filing objections to or a motion to quash the order, shall also be entitled to seek interlocutory review by the [HEARING BODY] of the Hearing Officer's order, with respect to (i) whether the non-Participant is within the class of Persons subject to such orders pursuant to paragraph 1.5.8, and (ii) the reasonableness of the Hearing Officer's order to produce or provide document, information or testimony.

1.4.5 Disqualification

A Hearing Officer, Technical Advisor or member of the [HEARING BODY] shall recuse himself or herself from a proceeding if participation would violate the Compliance Enforcement Authority's applicable conflict of interest policy.

Any Participant may file a motion to disqualify or for recusal of a Hearing Officer, Technical Advisor or member of the [HEARING BODY] from a proceeding on grounds of a conflict of interest, an ex parte communication prohibited by section 1.4.7, or the existence of other circumstances that could interfere with the impartial performance of his or her duties. The Participant shall set forth and support its alleged grounds for disqualification by affidavit. A motion for disqualification shall be filed within fifteen (15) days after the later of: (1) the time when the Participant learns of the facts believed to constitute the basis for disqualification; or (2) the time when the Participant is notified of the assignment of the Hearing Officer or Technical Advisor.

The Hearing Officer shall issue a proposed ruling for the [HEARING BODY]'s consideration upon the filing of a motion for disqualification unless the Hearing Officer is the subject of the motion. The [HEARING BODY], without the participation of any member who is the subject of the motion, shall issue a final ruling on the motion. If the Hearing Officer is recused or disqualified, the [HEARING BODY] will appoint a replacement Hearing Officer. To ensure fairness to the Participants and expedite completion of the proceeding when a replacement Hearing Officer is appointed after a hearing has commenced, the replacement Hearing Officer may recall any witness or may certify familiarity with any part or all of the record.

If a quorum (as defined in Paragraph 1.7.8) of the [HEARING BODY] does not remain after any recusals and rulings on motions for disqualification, then the Compliance Enforcement Authority shall appoint a new member(s) to the [HEARING BODY] to create a quorum, which new member(s) shall serve on the [HEARING BODY] through the conclusion of the proceeding but not thereafter. The Compliance Enforcement Authority shall only appoint the number of new members as are necessary to create a quorum. Any new member of the [HEARING BODY] shall be subject to the provisions applicable herein to all [HEARING BODY] members.

1.4.6 Technical Advisor

The Hearing Officer and/or the [HEARING BODY] may elect to use one or more Technical Advisors to assist in any proceeding. Such an election may be made at any time during the course of a proceeding. Any Staff member who serves as a Technical Advisor shall not have been involved in or consulted at any time in regard to any Compliance Staff investigation, ~~initial~~ determination of a Possible Violation, Alleged Violation or Penalty, or assessment of a Registered Entity's proposed Mitigation Plan that resulted in the proceeding in which technical

advice would be rendered, and shall not be a member of Staff participating in the proceeding on which such technical advice would be rendered.

If the Hearing Officer or [HEARING BODY] uses a Technical Advisor to assist in any hearing, the Hearing Officer or [HEARING BODY] shall disclose the identity, employment history and professional affiliations of the Technical Advisor within two (2) days of the Technical Advisor's assignment to the proceeding, and Participants to the hearing may raise objections to the Technical Advisor's participation in accordance with Paragraph 1.4.5.

1.4.7 No Ex Parte Communications

- a) Once a Registered Entity requests a hearing pursuant to Paragraph 1.3:
 - 1) neither the [HEARING BODY], the Hearing Officer, nor the Technical Advisor(s), if any, may communicate either directly or indirectly with any Person concerning any issue in the proceeding outside of the hearing process; except that
 - 2) the [HEARING BODY], the Hearing Officer, and the Technical Advisor(s), if any, may communicate outside of the hearing process either directly or indirectly with a Participant or a Participant's representative:
 - A) in writing if the writing is simultaneously provided to all Participants; or
 - B) orally if a representative for every Participant is present in person or by telephone;
 - C) subject to the requirement that the substance of any ruling on any issue discussed shall be memorialized on the record or by the issuance of a notice or ruling, and that any Participant objecting to the ruling shall have the opportunity to state its objection on the record.
- b) The proscription in Subparagraph (a)(1) does not prohibit members of the Compliance Staff from communicating with the Registered Entity, and representatives, agents or employees thereof on any topic, provided that any member of the Compliance Staff involved in any such communication relating to the subject matter of the proceeding may not be, and may not subsequently serve as, a Technical Advisor.
- c) The proscription in Subparagraph (a)(1) also does not prohibit communications between members of the [HEARING BODY], the Hearing Officer and any Technical Advisor.
- d) Any member of the [HEARING BODY], the Hearing Officer or any Technical Advisor who receives or who makes or knowingly causes to be made a communication prohibited by this Paragraph shall, within seven (7) days of the communication, file and serve on the Participants in the proceeding a notice of ex parte communication setting forth the date, time and place of communication, a summary of the substance and nature of the communication and all responses thereto, and a list of each ~~person~~Person who made or received the communication and, if the communication or any response thereto was in writing, a copy of the written communication shall be attached.

1.4.8 Appearances

Participants shall file written appearances within seven (7) days after the notice of hearing is issued. A Participant's written appearance shall identify the name(s) of each individual authorized to represent the Participant in the proceeding exclusive of witnesses. An individual may appear on his or her own behalf. A corporation, limited liability company, association, partnership or governmental body may appear by any bona fide officer or designee who has the authority to act on behalf of the Participant. A Participant also may appear by an attorney.

A Participant's written appearance shall state, with respect to each individual that the Participant identifies for service, the individual's name, address, telephone number, and facsimile number and email address, if available, where service shall be made.

A Participant may withdraw any individual from the Participant's representation or otherwise change the identity of individuals authorized to represent the Participant in a proceeding by filing a notice of a change in service list.

Any attorney appearing on behalf of a Participant shall be licensed to practice and in good standing before the Supreme Court of the United States or the highest court of any State, territory of the United States or the District of Columbia.

Individuals representing Participants in any hearing also shall enter their appearances at the beginning of the hearing by stating their names, addresses, telephone numbers and email addresses orally on the record.

1.4.9 Failure to Appear or Exercise Diligence

The failure of any Participant to appear during any hearing without good cause and without notification may be grounds for dismissal or deciding against the interests of such Participant.

1.4.10 Consolidation of Proceedings

In the event that more than one Registered Entity receives a Notice of Alleged Violation for the same event or transaction, and each Registered Entity selects the full hearing procedure described in Sections 1.4 to 1.7, the Hearing Body on its own motion may exercise its discretion to examine the actions of all Registered Entities in a single proceeding as long as an initial opinion has not been rendered by the Hearing Officer pursuant to Section 1.7.4 in any proceeding to be consolidated.

A Participant may file a motion pursuant to Paragraph 1.5.5 to consolidate into a single proceeding ~~allegations~~Allegations of ~~violations~~Violations of different Reliability Standards against a single Respondent, and related contests of Penalties or Mitigation Plans, arising out of the same event or transaction. Such consolidation may be allowed in the discretion of the Hearing Officer or [HEARING BODY], as applicable.

1.5 Prehearing Procedure

1.5.1 [Intentionally left blank]

1.5.2 Prehearing Conference

The purpose of the prehearing conference shall be to:

- 1) Preliminarily identify the issues;
- 2) Discuss a schedule for any discovery to be conducted and address any discovery issues that are raised at that time;
- 3) Explore the possibility of obtaining admissions of fact and of the genuineness of documents that would avoid unnecessary proof;
- 4) Develop a schedule for the preparation and submission of evidence and witness testimony in advance of the evidentiary hearing;
- 5) Schedule a date(s) for the evidentiary hearing; and
- 6) Address such other matters as may aid in the simplification of the evidence and disposition of the proceeding.

1.5.3 Summary Disposition

A Hearing Officer, on the Hearing Officer's own motion or on the motion of a Participant, may issue an initial opinion granting, in whole or in part, summary disposition if it appears that there are no issues of material fact. If the Hearing Officer is considering summary disposition in the absence of a Participant motion, the Hearing Officer shall request the Participants to identify in writing any issues of material fact and to comment on the proposed disposition. Factual information in the Participants' comments shall be supported by affidavit. Following review of the Participants' comments, if it still appears to the Hearing Officer that there are no genuine issues of material fact, the Hearing Officer may proceed without an evidentiary hearing. The Hearing Officer shall, however, allow the Participants the opportunity to file briefs. When the Hearing Officer issues an initial opinion granting a motion for summary disposition in whole or in part, the ruling shall set forth the rationale for the grant. An initial opinion of the Hearing Officer granting summary disposition shall be confirmed, rejected or modified in a final order issued by the [HEARING BODY].

1.5.4 Status Hearings

Any Participant may request, and the Hearing Officer may call, a status hearing at any time subsequent to the prehearing conference to address issues that have arisen between the Participants. Such issues may include, but are not limited to, discovery disputes and scheduling matters. The Hearing Officer shall direct the Clerk to issue a notice of status hearing that sets forth the date, time and place for the hearing, and identifies the matters to be addressed at the hearing.

1.5.5 Motions

Unless otherwise provided, a Participant may file a motion at any time requesting any relief as may be appropriate. Unless a Hearing Officer allows a motion to be made orally on the record, motions shall be filed in writing. Motions based on facts that do not appear of record shall be supported by affidavit. Unless otherwise specified by the Hearing Officer, responses to motions shall be filed within fourteen (14) days after service of the motion, and replies to responses shall be filed within seven (7) days after service of the responses; however, a Hearing Officer may deny dilatory, repetitive, or frivolous motions without awaiting a response. Unless otherwise

ordered by a Hearing Officer, the filing of a motion does not stay the proceeding or extend any scheduled dates in the proceeding.

1.5.6 Experts

A Participant may employ an expert(s) to testify or consult in a proceeding. Any expert utilized in either capacity shall sign an agreement evidencing the expert's understanding and acknowledgement of the non-public nature of the proceeding and that unauthorized public disclosure of information obtained in connection with the expert's participation in the proceeding is prohibited. The Participant employing the expert shall propose the agreement for approval via a motion, and its approval shall be subject, in addition to consideration of any objections by other Participants, to ensuring that appropriate safeguards are maintained to protect the confidentiality of the proceeding and the information disclosed therein.

1.5.7 Inspection and Copying of Documents in Possession of Staff

(a) Documents to be Available for Inspection and Copying

(1) Within five (5) days after issuance of the notice of hearing, Staff shall make available for inspection and copying by the Respondent, all ~~documents~~Documents prepared or obtained by Staff through or in connection with any compliance monitoring process(es) that led to the institution of proceedings. Such ~~documents~~Documents shall include but are not limited to:

(A) requests for information to the Respondent;

(B) every written request, including e-mail, directed to persons not employed by the Compliance Enforcement Authority to provide information or ~~documents~~Documents or to be interviewed;

(C) the ~~documents~~Documents provided in response to any such requests described in (A) and (B) above;

(D) all transcripts of testimony recorded during the Staff investigation and all exhibits to the transcript;

(E) all other ~~documents~~Documents obtained from the Respondent; and

(F) all other ~~documents~~Documents obtained from persons not employed by the Compliance Enforcement Authority.

The sole bases pursuant to which Staff shall be authorized to withhold ~~documents~~Documents from inspection and copying shall be the bases set forth in Paragraph 1.5.7(b); provided, however, that the ~~documents~~Documents made available for inspection and copying need not include (i) exact copies of ~~documents~~Documents the Respondent previously provided to Staff, and (ii) any ~~documents~~Documents provided to the Respondent with or as part of the ~~notice~~Notice of Alleged Violation, ~~notice~~Notice of Penalty, assessment of proposed Mitigation Plan or Remedial Action Directive.

(2) Where there are Participants in a proceeding in addition to a single Respondent and Compliance Staff, the Hearing Officer or [HEARING BODY] shall oversee the Staff's designation of ~~documents~~Documents to be produced to such other Participants and the development, execution and enforcement of any protective order deemed necessary.

(3) Staff shall promptly inform the Hearing Officer and each other Respondent if, after the issuance of a notice of hearing, requests for information are issued by Staff related to the same compliance monitoring process(es) that led to the institution of the proceeding. If Staff receives ~~documents~~Documents pursuant to a request for information after ~~documents~~Documents have been made available to a Respondent for inspection and copying as set forth in Subparagraph (a), the additional ~~documents~~Documents shall be made available to the Respondent not later than fourteen (14) days after Staff receives such ~~documents~~Documents. If a date for the evidentiary hearing has been scheduled, Staff shall make the additional ~~documents~~Documents available to the Respondent not less than ten (10) days before the hearing. If Staff receives such ~~documents~~Documents ten or fewer days before the hearing is scheduled to begin or after the hearing begins, Staff shall make the additional ~~documents~~Documents available immediately to the Respondent.

(4) Nothing in subparagraph (a)(1) shall limit the discretion of the Compliance Enforcement Authority to make any other ~~document~~Document available to the Respondent or the authority of the Hearing Officer to order the production of any other ~~documents~~Documents or information by any Participant.

(b) Documents That May Be Withheld by Staff

(1) Staff may withhold a ~~document~~Document from inspection and copying by the Respondent if:

(A) the ~~document~~Document is privileged to Staff or constitutes attorney work product of Staff's counsel (in applying this provision, the attorney-client privilege shall be recognized as absolute and any demand for production of attorney work product shall be granted only after a showing of substantial need by the Respondent);

(B) the ~~document~~Document is an examination or inspection report, an internal memorandum, or other note or writing prepared by a Staff member that shall not be offered in evidence;

(C) the ~~document~~Document would disclose (i) an examination, investigatory or enforcement technique or guideline of the Compliance Enforcement Authority, a federal, state, or foreign regulatory authority, or a self-regulatory organization; (ii) the identity of a source, including a federal, state, or foreign regulatory authority or a self-regulatory organization, that furnished information or was furnished information on a confidential basis regarding an investigation, an examination, an enforcement proceeding, or any other type of civil or criminal enforcement action; or (iii) an examination, an investigation, an enforcement proceeding, or any other type of civil or criminal enforcement action under consideration by, or initiated by, the Compliance Enforcement Authority, a federal, state, or foreign regulatory authority, or a self-regulatory organization; or

(D) the Hearing Officer grants leave to withhold a ~~document~~Document or category of ~~documents~~Documents as not relevant to the subject matter of the proceeding, or for other good cause shown.

Provided, that where a ~~document~~Document contains information of the type listed in Subparagraphs (A), (B), (C) or (D) that is capable of being redacted, Staff shall make the document available for inspection and copying by Respondent in redacted form.

(2) Nothing in Subparagraph (b)(1)(B), (C) or (D) authorizes Staff to withhold a ~~document~~Document, or a part thereof, that contains exculpatory evidence. Nothing in Subparagraph (b)(1) requires Staff to withhold a ~~document~~Document from disclosure.

(c) Withheld Document List

At the time it is required to make ~~documents~~Documents available for inspection and copying, Staff shall also provide to the Hearing Officer, the Respondent and any other Participant to which ~~documents~~Documents are being made available, a list of ~~documents~~Documents withheld by Staff pursuant to Subparagraph (b)(1). Upon review, the Hearing Officer may order Staff to make any ~~document~~Document withheld available to the Respondent(s) for inspection and copying.

(d) Timing of Inspection and Copying

Except as set forth in this Paragraph, the Hearing Officer shall determine the schedule of production of ~~documents~~Documents for inspection and copying, provided that the Hearing Officer may modify any time period for production set forth in this Paragraph as warranted by the circumstances.

(e) Place and Time of Inspection and Copying

Documents subject to inspection and copying pursuant to this Paragraph shall be made available to the Respondent for inspection and copying at the Compliance Enforcement Authority office where the ~~documents~~Documents are ordinarily maintained, or at such other office as the Hearing Officer, in his or her discretion, shall designate, or as the Participants otherwise agree. A Respondent shall be given access to the ~~documents~~Documents at the Compliance Enforcement Authority's offices during normal business hours. A Respondent shall not be given custody of the ~~documents~~Documents or be permitted to remove the ~~documents~~Documents from the Compliance Enforcement Authority's offices.

(f) Copying Costs

A Respondent may obtain a photocopy of all ~~documents~~Documents made available for inspection. A Respondent shall be responsible for the cost of photocopying. Unless otherwise ordered by the Hearing Officer, charges for copies made at the request of a Respondent shall be at a rate to be established by the Compliance Enforcement Authority.

(g) Failure to Make Documents Available — Harmless Error

In the event that a ~~document~~Document required to be made available to a Respondent pursuant to this Paragraph is not made available by Staff, no rehearing or amended decision of a proceeding already heard or decided shall be required where the failure to make the ~~document~~Document available was harmless error. Should a dispute arise as to whether a rehearing or amended decision is required due to the failure of Staff to produce a ~~document~~Document, the burden shall be on Staff to show that such failure was harmless error. The Hearing Officer, or, upon review, the [HEARING BODY] shall determine whether the failure to make the ~~document~~Document available was harmless error.

1.5.8 Other Discovery Procedures

In addition to the production of ~~documents~~Documents by Staff for inspection and copying by Respondent pursuant to Paragraph 1.5.7, the Participants shall be entitled to utilize all other discovery methods provided for in Rules 402 through 409 of the FERC Rules of Practice and Procedure, 18 C.F.R. §385.402 through 385.409, including data requests, written interrogatories and requests for production of ~~documents~~Documents or things, depositions by oral examination, requests for inspection of ~~documents~~Documents and other property, requests for admissions, and requests for issuance of orders to one or more Registered Entities to produce ~~documents~~Documents for inspection and copying or at the hearing or to provide testimony by an authorized representative in deposition or at the hearing. Unless otherwise directed by the Hearing Officer or [HEARING BODY] upon motion by a Participant or by the Hearing Officer, or by the [HEARING BODY] on its own motion, such discovery, and the resolution of any disputes concerning such discovery, shall be conducted in accordance with the provisions of Rules 402 through 410 and 510(e) of the FERC Rules of Practice and Procedure, 18 C.F.R. §385.402 through 385.410 and 385.510(e), which are hereby incorporated by reference into these Hearing Procedures, subject to the following limitations and modifications to such Rules:

- (a) The provisions of Subparagraphs (d), (e) and (f) of Paragraph 1.5.7 shall apply to any such discovery.
- (b) Rule 403(b)(2) (18 C.F.R. §385.403(b)(2)) and Rule 410(d)(2) (18 C.F.R. §385.410(b)(2)) shall not be applicable.
- (c) The Hearing Officer and the [HEARING BODY] have the authority to issue orders to compel the appearance by or production of ~~documents~~Documents or information by, only a Person that (i) is a Participant or (ii) is a Registered Entity (including an authorized representative thereof) that is not a Participant. The Hearing Officer and the [HEARING BODY] do not have authority to require a United States marshal or deputy marshal to serve an order to produce or provide ~~documents~~Documents, information or testimony.
- (d) References to “subpoena” in Rules 404, 409, 410 and 510(e) shall be deemed to be to an order to a non-Participant Registered Entity to produce or provide ~~documents~~Documents, information or testimony.

- (e) References to the “Commission” in Rules 402 through 410 and 510(e) shall be to FERC except as follows: (i) the references in Rules 402(a), 404(b)(1) and 405(b), the second reference in Rule 410(d), and the references in Rule 510(e)(1) and (2) shall be deemed to be to the [HEARING BODY], (ii) the reference in Rule 385.406(b)(4) to “Commission trial staff” shall be deemed to be to Compliance Staff, and (iii) the reference in Rule 510(e)(3) shall be deemed to be to the Hearing Officer or [HEARING BODY].
- (f) Unless otherwise ordered by the Hearing Officer or [HEARING BODY], a data request, set of interrogatories, request for production of ~~documents~~Documents or things, request for inspection of ~~documents~~Documents or other property, request for admissions, or order to produce or provide ~~documents~~Documents, information or testimony, shall not specify a due date or response date that is fewer than 21 days from the date of service of the request or date of the order.
- (g) A list of withheld ~~documents~~Documents, if any, shall be provided by any Participant required to produce ~~documents~~Documents, at the time the documents are required to be produced, to the Hearing Officer and to each Participant entitled to receive production of the ~~documents~~Documents. Upon review, the Hearing Officer may order the Participant to make any ~~document~~Document withheld available to any other Participant or Participants for inspection and copying.
- (h) In the event a ~~document~~Document or information required to be produced or provided by a Participant pursuant to discovery is not produced or provided by the Participant, no rehearing or amended decision of a proceeding already heard or decided shall be required where the failure to produce or provide the ~~document~~Document or information was harmless error. Should a dispute arise as to whether a rehearing or amended decision is required due to the failure of a Participant to produce or provide a ~~document~~Document or information, the burden shall be on the Participant that failed to produce or provide the ~~document~~Document or information to show that such failure was harmless error. The Hearing Officer or, upon review, the [HEARING BODY] shall determine whether the failure to make the ~~document~~Document available was harmless error.
- (i) Unless otherwise ordered by the Hearing Officer or [HEARING BODY], all such discovery shall be requested, scheduled and conducted so as to be completed within six (6) months following the date of the initial prehearing conference held pursuant to Paragraphs 1.4.1 and 1.5.2.
- (j) Notwithstanding (f) and (i), however, if the shortened hearing procedure in Paragraph 1.3.2 is used in a proceeding, the Hearing Officer, on his or her own motion or on motion of a Participant, shall establish a schedule for discovery, including response periods for responding to discovery requests, that are consistent with the expedited nature of the proceeding contemplated by the shortened hearing procedure.

The Hearing Officer’s ruling on all motions relating to disputes concerning such discovery shall consider the following objectives: (i) full disclosure of all relevant ~~documents~~Documents and

information; (ii) the exercise of due diligence in the conduct of discovery by a Participant; and (iii) disallowing use of discovery as a means to delay the proceeding or to harass or burden any other Participant.

1.5.9 Pre-Evidentiary Hearing Submission of Testimony and Evidence

Unless the Hearing Officer orders otherwise and with the exception of (i) any adverse Participant examination pursuant to Paragraph 1.6.16 and (ii) the testimony and ~~documents~~Documents of a non-Participant provided pursuant to an order to produce or provide ~~documents~~Documents, information or testimony, all witness testimony in a hearing must be prepared in written form, may have exhibits, schedules and attachments thereto, and shall be filed in advance of the evidentiary hearing pursuant to a schedule determined by the Hearing Officer, as it may be amended. Where a Participant intends to use a ~~document~~Document or other demonstrative evidence that has not been filed as part of written testimony in the conduct of cross-examination (other than ~~documents~~Documents that are to be produced by a non-Participant at the hearing pursuant to an order to produce ~~documents~~Documents), the Participant intending to use such ~~document~~Document or demonstrative evidence shall provide it to the other Participants and the Hearing Officer at least three (3) business days prior to the date at which the witness will be cross-examined at the evidentiary hearing.

Compliance Staff shall file the ~~documents~~Documents it intends to offer into evidence as its direct case, including the written testimony of its witnesses along with exhibits, schedules and attachments thereto, first. The Registered Entity shall file the ~~documents~~Documents it intends to offer into evidence as its direct case, which also may be responsive to Staff's direct case, including the written testimony of its witnesses along with exhibits, schedules and attachments thereto, second. Staff shall file as its rebuttal case the ~~documents~~Documents it intends to offer into evidence in response to the Registered Entity's direct case, including the written testimony of its witnesses along with exhibits, schedules and attachments thereto, third.

If appropriate due to the number and/or complexity of the issues, the Hearing Officer may allow for the Registered Entity to submit a rebuttal case that responds to Staff's rebuttal case, in which event the Hearing Officer shall also allow Staff to submit a surrebuttal case that responds to the Registered Entity's rebuttal case.

Each round of evidence shall be limited in scope to responding to the preceding round of evidence, except that the Registered Entity's direct case may exceed the scope of Staff's direct case if necessary for the Registered Entity to set forth its direct case fully.

The Participants shall file the ~~documents~~Documents they intend to offer into evidence in accordance with the Hearing Officer's schedule, as it may be amended. Such filings of written testimony and other evidence in advance of the evidentiary hearing shall not entitle the ~~documents~~Documents to be admitted into the evidentiary record. The Participants must offer their witnesses' testimony and other proposed evidence for admission into the evidentiary record during the evidentiary hearing.

Any Participant who fails, without good cause shown, to comply with the Hearing Officer's schedule for the filing of written testimony and other evidence in advance of the evidentiary hearing may be limited in the presentation of its evidence during the evidentiary hearing or have

its participation in the evidentiary hearing otherwise restricted by the Hearing Officer to avoid undue prejudice and delay.

1.5.10 Protective Orders

- a) All proceedings conducted pursuant to these Hearing Procedures, and any written testimony, exhibits, other evidence, transcripts, comments, briefs, rulings and other issuances, shall be non-public and shall be held in confidence by all Participants, except as the ERO (within the U.S., in accordance with the authorization previously granted by FERC to release information about a non-public proceeding) or FERC (in the case of U.S.-related information) or another Applicable Governmental Authority (in the case of non-U.S.-related information) authorizes or directs public disclosure of any portion of the record. In addition to this general proscription, at any time during a proceeding, the Hearing Officer, on his or her own motion or on the motion of any Participant or of any non-Participant ordered to produce ~~documents~~Documents, information or testimony, may enter a protective order to designate as proprietary and protect the confidential, proprietary or trade secret nature of any data, information or studies, or any other information the public release of which may cause a security risk or harm to a Participant.
- b) The following types of information will be considered entitled to protection through a protective order: (i) confidential business and market information, including information that is proprietary, commercially valuable, or competitively sensitive; (ii) ~~critical energy infrastructure information~~Critical Energy Infrastructure Information; (iii) information related to a Cybersecurity Incident; (iv) personnel information that identifies or could be used to identify a specific individual, or that reveals personnel, financial, medical or other personal information; (v) audit work papers; (vi) investigative files or ~~documents~~Documents that would disclose investigative techniques of Staff, any Compliance Enforcement Authority, the ERO or any federal, state or foreign regulatory authority. Nothing in this Subparagraph 1.5.10(b) shall require Staff to produce any ~~documents~~Documents it is entitled to withhold under Subparagraph 1.5.7(b).
- c) A motion for a protective order shall specify the proposed expiration date for the proprietary status of the data, ~~documents~~Documents or information, if any, and shall propose requirements or safeguards to be met for individuals participating in the proceeding to review the protected information while maintaining its proprietary status.
- d) A ~~document~~Document submitted and marked as proprietary, or a statement made at a hearing and identified as proprietary, shall be afforded proprietary treatment pending the timely submission of a motion to protect the confidential, proprietary or trade secret nature of that ~~document~~Document or statement and a ruling on such a motion by the Hearing Officer.
- e) The protective order shall identify the data, ~~documents~~Documents or information that will be accorded proprietary treatment; the individuals participating in the proceeding, by category or otherwise, entitled to view the proprietary information; and the requirements, conditions or safeguards that must be met before an individual may view the information.
- f) A public redacted version of each ~~document~~Document and transcript that contains information that is protected pursuant to this Paragraph must be filed with the proprietary

version and must be served on each Participant for distribution to those individuals participating in the proceeding who are not entitled to view the proprietary information.

- g) Should it be necessary to address proprietary information during a hearing, the Hearing Officer shall, while the information is being addressed, close the hearing to all individuals other than those entitled to view the proprietary information in accordance with the protective order.

1.5.11 Pre-Evidentiary Hearing Memorandum

The Hearing Officer or the [HEARING BODY] may request, as needed on a case by case basis due to the number or complexity of the issue(s), the submission of memoranda prior to the evidentiary hearing that outline each Participant's position on the issue(s) in dispute, the key facts and arguments, and the applicable Reliability Standard, rules, orders or other authority. The purpose of such memoranda will be to aid the Hearing Officer and [HEARING BODY] in preparation for the evidentiary hearing. A Participant will not be deemed to have waived any issue, fact or argument that is not set forth in a pre-evidentiary hearing memorandum. The Hearing Officer may establish page limitations on such submissions.

1.6 Evidentiary Hearing Procedure

1.6.1 Evidentiary Hearings

The purpose of the evidentiary hearing shall be to admit the Participants' evidence into the record, and for each Participant to have the opportunity to cross-examine the other Participant's witnesses. A schedule for briefs, unless waived by the Participants, shall be set at the conclusion of the evidentiary hearing. The evidentiary hearing also may be used to address any other issue pending between the Participants.

1.6.2 Order of Receiving Evidence

In all proceedings Compliance Staff shall open and close.

1.6.3 Opening and Closing Statements

Opening and closing statements will not be made during the evidentiary hearing as a matter of course except that such statements may be allowed when requested by a Participant, and shall be required when requested by the Hearing Officer or the [HEARING BODY]. Any Participant's request for such statements, or a Hearing Officer or [HEARING BODY] notice requiring such statements, shall be made at least ten (10) days in advance of the start of the evidentiary hearing.

1.6.4 Right of Participant to Present Evidence

Subject to compliance with the requirements of these Hearing Procedures concerning the timing of submission of written testimony and other evidence, a Participant has the right to present such evidence, to make such objections and arguments, and to conduct such cross-examination as may be necessary to assure the true and full disclosure of the facts.

1.6.5 Exhibits

All material offered in evidence, except oral testimony allowed by the Hearing Officer or the testimony of a non-Participant pursuant to an order to produce or provide ~~documents~~Documents, information or testimony, shall be offered in the form of an exhibit. Each exhibit must be marked for identification. A Participant must provide the court reporter with two (2) copies of every exhibit that the Participant offers into evidence, and will provide copies of any exhibit not served in advance of the evidentiary hearing to the Participants and the Hearing Officer.

1.6.6 Witness Attendance at Evidentiary Hearing

Each witness shall attend the evidentiary hearing in person unless a Participant has been informed in advance of the evidentiary hearing that all other Participants waive cross-examination of the witness and neither the Hearing Officer nor the members of the [HEARING BODY] have any questions for the witness, in which event the witness does need not be present at the evidentiary hearing. All testimony offered at the evidentiary hearing is to be under oath or affirmation. If a witness is not required to attend the evidentiary hearing, then the Participant on whose behalf the witness prepared testimony shall submit an affidavit of the witness attesting to the veracity of the witness' testimony, and the Participant shall be allowed to introduce the witness' testimony, and the exhibits, schedules and attachments thereto, into the evidentiary record based on such affidavit.

1.6.7 Admission of Evidence

Compliance Staff shall offer its exhibits into evidence first and the Registered Entity second, unless the Participants agree otherwise.

Except for witnesses who are not required to attend the evidentiary hearing, the Participants shall call each witness in turn. Following the witness' swearing in, the witness shall attest to the veracity of his or her written testimony. The witness may identify any language and/or figures in his or her written testimony or exhibits that the witness would like to change or correct. Subject to objection, such changes or corrections may be allowed at the Hearing Officer's discretion for the purpose of obtaining a full, accurate and complete record without imposing undue delay or prejudice on any Participant. The Participant whose witness has made changes or written corrections to written testimony and exhibits shall file corrected copies with the Clerk and provide corrected copies to the Hearing Officer and other Participant.

Once a witness has attested to the veracity of his or her testimony, the Participant on whose behalf the witness is testifying shall move for admission of the witness' testimony, including all exhibits, schedules and attachments thereto, into evidence. Other Participants may object to the introduction of the witness' testimony, or any part thereof, as set forth in Paragraph 1.6.11. Subject to the Hearing Officer's ruling on the objection, the witness' testimony shall be admitted into evidence. The witness shall then be turned over for cross-examination by other Participants, and for any questions by the Hearing Officer or any member of the [HEARING BODY], in accordance with Paragraph 1.6.14, and then for redirect examination in accordance with Paragraph 1.6.15. Witnesses shall be cross-examined on all previously-served testimony (direct, rebuttal or surrebuttal) when they first take the witness stand.

Except (i) in exceptional cases and upon a showing of good cause and (ii) witnesses testifying pursuant to an order to produce or provide ~~documents~~Documents, information or testimony issued to a non-Participant, no witness shall be allowed to testify during the evidentiary hearing

unless a Participant has served the witness' written testimony in advance of the evidentiary hearing in accordance with the schedule established by the Hearing Officer. Due to the undue prejudice such surprise witness testimony would impose on other Participants, it is the Compliance Enforcement Authority's policy to discourage witness testimony at an evidentiary hearing when a Participant has not served the witness' written testimony in advance of the evidentiary hearing. If such testimony is allowed, sufficient procedural steps shall be taken by the Hearing Officer to provide the other Participants with a fair opportunity for response and cross-examination.

1.6.8 Evidence that is Part of a Book, Paper or Document

When relevant and material matter offered in evidence is embraced in a book, paper or ~~document~~Document containing other matter that is not material or relevant, the Participant offering the same must plainly designate the matter offered as evidence, and segregate and exclude the material not offered to the extent practicable. If the material not offered is in such volume as would unnecessarily encumber the record, such book, papers or ~~document~~Document will not be received in evidence but may be marked for identification and, if properly authenticated, the relevant or material matter may be read into the record, or, if the Hearing Officer so directs, a separate copy of such matter in proper form shall be offered as an exhibit. All other Participants shall be afforded an opportunity to examine the book, paper or ~~document~~Document and to offer in evidence in like manner other portions thereof if found to be material and relevant.

1.6.9 Stipulations

The Participants may stipulate to any relevant fact or the authenticity of any relevant ~~document~~Document. Stipulations may be made in writing or entered orally in the record. Notwithstanding stipulation, the Hearing Officer may require evidence of the facts stipulated in order to provide a complete evidentiary record on which to base the final order.

1.6.10 Official Notice

Where relevant and material to the subject matter of the proceeding, the Hearing Officer may, upon request of a Participant, take official notice of any of the following:

- 1) Rules, regulations, administrative rulings and orders, written policies of governmental bodies, and rulings and orders of other Compliance Enforcement Authorities.
- 2) The orders, transcripts, exhibits, pleadings or any other matter contained in the record of other docketed proceedings of the Compliance Enforcement Authority.
- 3) State, provincial and federal statutes and municipal and local ordinances.
- 4) The decisions of state, provincial and federal courts.
- 5) Generally recognized scientific or technical facts within the specialized knowledge of the Compliance Enforcement Authority.
- 6) All other matters of which the courts of the United States may take judicial notice.

All requests to take official notice shall be submitted in advance of the evidentiary hearing in accordance with a schedule established by the Hearing Officer. Before ruling on a request to take official notice, the Hearing Officer shall afford the other Participant opportunity to object or to show the contrary to the matter for which official notice is requested. An accurate copy of any item officially noticed shall be introduced into the record in the form of an exhibit presented by the Participant requesting official notice unless waived by the Participants and approved by the Hearing Officer. Any information officially noticed and not presented as an exhibit shall be set forth in a statement on the record.

1.6.11 Admissibility of Evidence

Any evidence offered, including that included in a book, paper or ~~document~~Document pursuant to Paragraph 1.6.8, shall be subject to appropriate and timely objections. Any Participant objecting to the admission or exclusion of evidence must state the grounds for objection.

The admission of evidence shall not be limited by the generally recognized rules of evidence as applied in the courts of the United States or of the states, although the Hearing Officer may take such rules of evidence into consideration in ruling on the admissibility of evidence. The Hearing Officer will exercise discretion in the admission of evidence based upon arguments advanced by the Participants, and shall admit evidence if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. The Hearing Officer may only exclude material from the record in response to a motion or objection by a Participant.

Formal exception to a ruling on admissibility of evidence need not be taken to be preserved.

1.6.12 Offer of Proof

Any Participant who has had evidence excluded may make an offer of proof on the record. The offer of proof may consist of a statement made on the record of the substance of the evidence that the Participant claims would have been adduced, or any written or documentary exhibit that the Participant sought to introduce. Any such exhibit shall be retained as part of the record.

1.6.13 Reservation of Evidentiary Ruling

The Hearing Officer shall rule upon any objection to the admissibility of evidence at the time the objection is made; provided that the Hearing Officer has discretion to reserve such a ruling or to require the Participants to file written arguments in relation thereto. If the Hearing Officer reserves the ruling, appropriate steps shall be taken during the evidentiary hearing to ensure a full, complete and accurate record in relation to the objected to evidence in the event the objection to the evidence's admissibility is overruled.

1.6.14 Cross-Examination

Each witness shall be tendered for cross-examination subsequent to the admission of the witness' testimony into the evidentiary record. Each Participant shall have the right to cross-examine each witness of any other Participants. A Participant may waive cross-examination of any witness. The Hearing Officer and any member of the [HEARING BODY] may ask the witness questions following the conclusion of the witness' cross-examination by the other Participant, and prior to the witness' redirect examination pursuant to Paragraph 1.6.15. If a member of the

[HEARING BODY] seeks to ask a witness questions, the member shall do so by submitting the question in writing to the Hearing Officer, and the Hearing Officer shall ask the question of the witness.

1.6.15 Redirect Examination

A Participant shall be entitled to conduct redirect examination of each of the Participant's witnesses who are subject to cross-examination or questions of the Hearing Officer or a member of the [HEARING BODY]. Any redirect examination shall be limited in scope to the witness' cross-examination and questions of the Hearing Officer and members of the [HEARING BODY]. If a member of the Hearing Body seeks to ask a witness questions, the member shall do so by submitting the question in written form to the Hearing Officer, and the Hearing Officer shall ask the question of the witness.

1.6.16 Examination of Adverse Participant

Any Participant may call any adverse Participant, or any employee or agent thereof, during the evidentiary hearing to provide oral testimony on the Participant's behalf, and may conduct such oral examination as though the witness were under cross-examination. If a Participant intends to call an adverse Participant for examination, it shall give notice to the Hearing Officer and all other Participants setting forth the grounds for such examination at least fourteen (14) days in advance of the evidentiary hearing, and the Participant who, or whose employee or agent, is sought to be called shall file any objection at least seven (7) days in advance of the evidentiary hearing. Any Participant may conduct oral examination of a witness testifying pursuant to an order to produce or provide ~~documents~~[Documents](#), information or testimony issued to a non-Participant, as though the witness were under cross-examination.

1.6.17 Close of the Evidentiary Record

The Hearing Officer shall designate the time at which the evidentiary record will be closed, which will typically be at the conclusion of the evidentiary hearing. Evidence may not be added to the evidentiary record after it is closed, provided that the Hearing Officer may reopen the evidentiary record for good cause shown by any Participant.

1.7 Post- Evidentiary Hearing Procedure

1.7.1 Briefs

- a) At the close of the evidentiary hearing, Participants may file initial and reply briefs.
- b) Briefs shall be concise, and, if in excess of twenty (20) pages, excluding appendices, shall contain a table of contents. Statements of fact should be supported by record citations.
- c) The Hearing Officer will prescribe the time for filing briefs, giving due regard to the nature of the proceeding, the extent of the record, the number and complexity of the issues, and the objective of expedition.
- d) Unless the Hearing Officer prescribes otherwise, all Participants shall file initial and reply briefs simultaneously.

- e) Participants' reply briefs shall be limited in scope to responding to arguments and issues raised in other Participants' initial briefs.
- f) The Hearing Officer may, with the agreement of the Participants, allow oral closing statements to be made on the record in lieu of briefs.
- g) The Hearing Officer may establish reasonable page limitations applicable to briefs.

1.7.2 Other Pleadings

Post-hearing pleadings other than briefs are permitted, but, absent good cause shown, such pleadings may not seek to introduce additional evidence into the record.

1.7.3 Draft Initial Opinions

The Hearing Officer may permit or require Participants to file draft initial opinions that set forth the Participants' proposed findings of fact and conclusions.

1.7.4 Hearing Officer's Initial Opinion

Except as otherwise ordered by the [HEARING BODY], at the conclusion of the evidentiary hearing, and following the submission of initial and reply briefs and draft orders, if any, the Hearing Officer shall prepare an initial opinion for the [HEARING BODY]'s review and consideration. The initial opinion shall include a statement of each finding and conclusion, and the reasons or basis therefore, for all material issues of fact, law or discretion presented on the record. The initial opinion also shall contain the appropriate orders to dispose of the proceeding, including any Penalty, Mitigation Plan or Remedial Action Directive that the Hearing Officer proposes the [HEARING BODY] require. If the initial opinion proposes a Penalty, the initial opinion shall include a proposed ~~notice~~Notice of Penalty. The initial opinion shall note if the subject of the proceeding has been deemed to involve a Cybersecurity Incident, if any information in the proceeding was deemed to be Critical Energy Infrastructure Information, or if any information in the proceeding is the subject of a protective order pursuant to Paragraph 1.5.10.

1.7.5 Exceptions

- a) Within twenty-one (21) days after service of the initial opinion, or such other time as is fixed by the Hearing Officer, any Participant may file exceptions to the initial opinion in a brief designated "brief on exceptions" and, within fourteen (14) days after the time for filing briefs on exceptions or such other time as is set by the Hearing Officer, any Participant may file as a reply, a "brief in reply to exceptions."
- b) Exceptions and replies thereto with respect to statements, findings of fact or conclusion in the initial opinion must be specific and must be stated and numbered separately in the brief. With regard to each, the Participant must specify each error asserted, and include a concise discussion of any policy considerations applicable and any other arguments in support of the Participant's position. Suggested replacement language for all statements to which exception is taken must be provided. Exceptions and arguments may be filed (1) together in one brief; or (2) in two separate documents, one designated as the brief

containing arguments, and the other designed "Exceptions," containing the suggested replacement language.

- c) Arguments in briefs on exceptions and replies thereto shall be concise and, if in excess of twenty (20) pages, shall contain a table of contents.
- d) Participants shall not raise arguments in their briefs in reply to exceptions that are not responsive to any argument raised in any other Participant's brief on exceptions.
- e) Statements of fact should be supported by citation to the record.
- f) The Hearing Officer may establish reasonable page limitations applicable to arguments included in briefs on exception and briefs in reply to exceptions. Such page limitations shall not apply to a Participant's proposed replacement language.
- g) Unless good cause is shown, if a Participant does not file a brief on exceptions, or if a Participant filed a brief on exceptions that does not object to a part of the initial opinion, the Participant shall be deemed to have waived any objection to the initial opinion in its entirety, or to the part of the initial opinion to which the Participant did not object, whichever applies. This provision shall not prohibit the Participant, in its brief in reply to exceptions, from responding to another Participant's exceptions to such part of the initial opinion or from proposing alternative replacement language to the replacement language proposed by the other Participant for such part of the initial opinion.

1.7.6 Oral Argument

The [HEARING BODY] may elect to hear oral argument. If oral argument is held without briefs having been filed, Participants will be given the opportunity to present argument on all issues. If oral argument is held where briefs have been filed, argument may be limited to issues identified by the [HEARING BODY]. The [HEARING BODY] will direct the Clerk to issue a notice of oral argument that identifies the date, time, place and issues for the argument.

The presentation of written materials or visual aids is permitted at oral argument. To the extent such materials or aids contain factual information, they shall be supported by the record, and shall contain accurate record citations. Such materials or aids may not contain new calculations or quantitative analyses not presented in the record, unless they are based on underlying data contained in the record. Copies of all written materials or visual aids to be presented at oral argument shall be served on all Participants not less than 48 hours prior to the time and date of oral argument.

1.7.7 Additional Hearings

After the evidentiary record has been closed but before issuance of an initial opinion, the Hearing Officer may reopen the evidentiary record and hold additional hearings. Such action may be taken on the Hearing Officer's or the [HEARING BODY]'s own motion if there is reason to believe that reopening is warranted by any changes in conditions, or by the need to compile a complete evidentiary record on which to base the final order. Any Participant may file a motion to reopen the record, which shall contain the reasons for reopening, including material changes in conditions or the identification of additional evidence that should be included in the record, and a

brief statement of proposed additional evidence and an explanation why such evidence was not previously adduced.

1.7.8 [HEARING BODY] Final Order

Following the receipt of the initial opinion, any exceptions and replies thereto, and oral argument, if any, the [HEARING BODY] shall issue its final order. Issuance of a final order shall require (i) a quorum of the [HEARING BODY], which shall be (after any recusals, disqualifications and appointments of replacement members) at least fifty (50) percent of the number of members normally assigned to the [HEARING BODY], and (ii) majority vote of the members of the [HEARING BODY] voting on the final order (which number of members voting shall not be less than a quorum). The [HEARING BODY] shall strive, but shall not be required, to issue its final order within thirty (30) days following the last to occur of the initial opinion, exceptions or replies thereto, or oral argument. The final order may adopt, modify, amend or reject the initial opinion in its entirety or in part. The final order shall include a statement of each finding and conclusion, and the reasons or basis therefore, for all material issues of fact, law or discretion presented on the record. The [HEARING BODY] will base its determinations in the final order on the record. The final order also shall contain the appropriate orders to dispose of the proceeding, including any Penalty, sanction, Remedial Action Directive or Mitigation Plan required. If the final order imposes a Penalty, it shall be entitled “Final Order and Notice of Penalty”. The final order shall note if the subject of the proceeding has been deemed to involve a Cybersecurity Incident, if any information in the proceeding was deemed to be Critical Energy Infrastructure Information, or if any information in the proceeding is the subject of a protective order issued pursuant to Paragraph 1.5.10. The [HEARING BODY] shall direct the Clerk to serve the final order on the Participants. The service of the final order shall include a notice informing the Participants of their appeal rights to the ERO or to FERC, as applicable.

1.7.9 The Record

The Clerk shall maintain the record for all dockets. The record shall include any of the following, including all attachments thereto and documents filed therewith, that exist in any docket:

- 1) Notice of Alleged Violation and Registered Entity’s response thereto;
- 2) Registered Entity’s proposed Mitigation Plan and Staff’s statement identifying its disagreement(s) therewith;
- 3) Remedial Action Directives and the Registered Entity’s notice contesting the Remedial Action Directive;
- 4) Registered Entity’s request for a hearing;
- 5) Participant filings, motions, and responses;
- 6) Notices, rulings, orders and other issuances of the Hearing Officer and [HEARING BODY];
- 7) Transcripts;

- 8) Evidence received;
- 9) Written comments submitted in lieu of written testimony;
- 10) Matters officially noticed;
- 11) Offers of proof, objections and rulings thereon, and any written or documentary evidence excluded from the evidentiary record;
- 12) Briefs, pre-evidentiary hearing memorandums, and draft opinions;
- 13) Post-hearing pleadings other than briefs;
- 14) The Hearing Officer's initial opinion;
- 15) Exceptions to the Hearing Officer's initial opinion, and any replies thereto;
- 16) The [HEARING BODY]'s final order, any ~~notice~~[Notice](#) of Penalty issued therewith, and the Clerk's notice transmitting the final order to the Participants;
- 17) All notices of ex parte communications; and
- 18) Any notifications of recusal and motions for disqualification of a member of the [HEARING BODY] or Hearing Officer of Technical Advisor and any responses or replies thereto.

1.7.10 Appeal

A Final Order of the [HEARING BODY] may be appealed to NERC in accordance with NERC's Rules of Procedure, Section ~~410.409~~[409](#). The Clerk shall transmit to NERC the record of any docket that is the subject of an appealed final order.

1.8 Settlement

Settlements may be entered into at any time pursuant to Section ~~5.45.6~~[5.6](#) of the NERC Compliance Monitoring and Enforcement Program and the Compliance Enforcement Authority's settlement procedures, [provided, that the Compliance Enforcement Authority may decline to engage in or continue settlement negotiations after a Possible Violation or Alleged Violation becomes a Confirmed Violation.](#)

1.9 Remedial Action Directives

1.9.1 Initiation of Remedial Action Directive Hearing

Staff] may issue a Remedial Action Directive to a Registered Entity at any time, including during any proceeding related to an ~~alleged violation~~[Alleged Violation](#) of a Reliability Standard. The Remedial Action Directive shall be delivered to the Registered Entity in accordance with Section 7.0 of the NERC Compliance Monitoring and Enforcement Program. The Compliance Enforcement Authority will notify NERC within two (2) days after its Staff issues a Remedial Action Directive.

The Registered Entity may contest the Remedial Action Directive by filing a written notice with the Clerk of the Compliance Enforcement Authority that states that the Registered Entity contests the Remedial Action Directive and that the Registered Entity requests a Remedial Action Directive hearing. The Registered Entity shall attach a copy of the Remedial Action Directive to its written notice. The Registered Entity must provide such notice within two (2) business days following the date of actual receipt (as defined in Section 7.0 of the NERC Compliance Monitoring and Enforcement Program) of the Remedial Action Directive. If the Registered Entity does not give written notice to the Compliance Enforcement Authority within the required time period, the Registered Entity shall be deemed to have waived its right to contest the Remedial Action Directive.

The Clerk shall assign a docket number, and issue a notice of hearing that sets forth the date, time and place at which the hearing will convene pursuant to Paragraph 1.4.1.

1.9.2 Remedial Action Directive Hearing Procedure

Hearings to address Remedial Action Directives shall be conducted only under the expedited hearing process set forth in this Paragraph 1.9.2. The full hearing procedures described in Sections 1.4 to 1.7 are applicable to the Remedial Action Directive hearing unless the context of a provision is inconsistent with or otherwise renders it inapplicable to the procedures set forth in this Paragraph.

The Remedial Action Directive hearing may be presided over by a Hearing Officer and will be conducted according to the following guidelines:

- a) The Hearing Officer or the [HEARING BODY] will hold a prehearing conference within two (2) business days after receipt of the Registered Entity's request for a hearing.
- b) An evidentiary hearing will be conducted on the matter, in person or by teleconference, within seven (7) business days after the prehearing conference.
- c) At the evidentiary hearing, Staff shall present oral witness testimony and evidence to show why the Remedial Action Directive should be complied with, and the Registered Entity shall present oral witness testimony and evidence to show why the Remedial Action Directive is not necessary or should be modified. All witness testimony shall be rendered under oath.
- d) At the evidentiary hearing, the Participants shall have the opportunity to make opening statements. In addition, the Participants shall have the opportunity to make closing arguments, and Staff shall have the opportunity to make a rebuttal to the Registered Entity's closing argument.
- e) The Participants may file initial briefs and reply briefs, and/or draft opinions, on an expedited schedule set by the Hearing Officer or the [HEARING BODY]. Oral argument shall not be held.
- f) The [HEARING BODY] shall issue a summary written decision within ten (10) days following the hearing, stating whether the Registered Entity shall or shall not be required

to comply with the Remedial Action Directive and identifying any modifications to the Remedial Action Directive that it finds appropriate.

Within thirty (30) days following issuance of its summary written decision, the [HEARING BODY] shall issue a full written decision. The written decision shall state the conclusions of the [HEARING BODY] with respect to the Remedial Action Directive, and shall explain the reasons for the [HEARING BODY]'s conclusions.

ATTACHMENT 15

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

APPENDIX 5A

TO THE

RULES OF PROCEDURE

ORGANIZATION REGISTRATION AND CERTIFICATION MANUAL

RENUMBERED FROM “APPENDIX 5”

WITH NO OTHER CHANGES

Appendix 5A

**Organization Registration and
Certification Manual**

Version 3.3

Effective: January 18, 2007

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Section I — Executive Summary

Overview

The NERC Compliance and Certification Committee (CCC) is responsible for developing and approving these processes. The CCC is comprised of representatives from a diverse set of industry segments and therefore represents the industry as a whole. Industry participants have input into the development and revision of this process through their segment representatives on the CCC.

The purpose of this document is threefold: (1) to define the registration process and to identify which functional entities must register as owners, operators, and users of the bulk power system required to comply with reliability standards; (2) to define the organization certification process; and (3) to define the transitional organization certification process and to identify which functional entities are eligible to use the transitional organization certification process.

In the fall of 2004 NERC requested that entities responsible for reliability coordinator, balancing authority, transmission operator, planning authority, and transmission planner function identify to their respective regional entities which of these functions they were currently responsible for. At that time information concerning the name of the organization, a contact name, and the footprint for which they had responsibility was required. Although the Functional Model identified 16 entities, only these five entities needed to provide information. Certification standards associated with the NERC Reliability Standards are under development and additional information and relationships need to be defined for these five entities as well as other functional entities.

To Whom Does This Document Apply?

All industry participants responsible for, or intending to be responsible for, the following functions must register with NERC through the organization registration process. The entities are defined in the NERC Glossary of Terms used in reliability standards with responsibilities designated by the individual standards.

	Entities that Must Register by 3/15/2006	Entities that will need to be certified
Reliability Coordinator	√*	√
Transmission Operator	√*	√
Balancing Authority	√*	√
Planning Authority	√*	
Transmission Planner	√*	
Transmission Service Provider	√	
Transmission Owner	√	
Resource Planner	√	
Distribution Provider	√	
Generator Owner	√	
Generator Operator	√	
Load-serving Entity	√	
Purchasing-Selling Entity	√	
Market Operator		
standards Developer		
Compliance Monitor	√	

*These entities may have already submitted initial mapping information through a pre-registration process, and must now complete a full registration which includes, but is not limited to, updating and verifying this previous information.

What Processes Will Be Used?

	Registration	Certification
Existing Certified Control Areas	√	√*
Existing Non-Certified Control Areas	√	√
Existing Reliability Coordinators	√	√
New BA, TOP, and RC	√	√
TP and PA	√	n.a.
Other FM entities	√	n.a.

*At its discretion, a regional entity may accept use of the transitional certification process in lieu of the full certification process.

When will These Processes Begin?

Registration began in January of 2006. Registration for new entities will be ongoing. If a registered entity's information changes, a new application form indicating the changes must be submitted.

Certification will begin upon implementation of the organization certification standards, expected to be about September 1, 2006, and must be completed for the existing entities by December 31, 2008. Certification will be ongoing for new entities.

Transitional certification of certified control areas to the certified functional entities will begin upon implementation of the organization certification standards, expected to be about September 1, 2006, and must be completed by December 31, 2008.

Where to Access and Submit Form(s)?

Registration and certification forms will be available on the NERC Web site and may be available by the regional entities through their respective Web sites. Completed forms are to be sent electronically to the compliance and certification manager of the applicant's regional entity.

According to the *Role of the Regions*¹ document, it is desirable that entities operate within a single reliability region; however, if an applicant operates in more than one region, they must complete and submit separate registration applications to each of those regions.

Roles and Responsibilities

The following is a high-level overview of the roles and responsibilities in the registration and certification processes:

NERC

1. Oversight of entity processes performed by the regional entities, including:
 - a. Governance as per the regional entity's delegation agreement with NERC.
 - b. Coordination of process execution when applicants are registering and/or certifying in multiple regional entities.
2. NERC acronym management, including:
 - a. Issue acronym to entity and inform regional entity.
 - b. Ensure entities have only one acronym for all regional entities in which they operate.
3. Make modeling changes based on registration information.
4. Maintain accurate registration and certification records.
5. Publish up-to-date list of functional entities.

¹ "Role of the Regional Reliability Councils: Follow-up Report" prepared by the Regional Managers Committee for the NERC Members Committee meeting on May 2, 2005.

Regional Entity

1. Performs data collection and mapping of footprints.
2. Approves entity registration applications.
3. Approves entity certification applications.
4. Notifies NERC of entities registered within the regional entity.
5. Notifies NERC of entities certified within the regional entity.
6. Ensures entity obtains acronym from NERC.
7. Ensures that all bulk power system assets within its footprint are within the footprint of a registered entity.

Applicant

1. Complete and submit registration and/or certification application.
2. Submit updates to registration and/or certification information as necessary and/or requested.
3. Respond to regional entity and/or NERC questions pertaining to registration and/or certification.
4. Provide documentation or other evidence requested or required to verify compliance with certification standard.

Section II — Organization Registration and Certification Processes

Regional Entity Process

The NERC organization registration and certification processes are regionally administered. Pursuant with its delegation agreement with NERC, each regional entity is responsible for registering and certifying industry participants within their geographical footprint. Each regional entity must use the following NERC processes.

Organization Registration — Entities Required to Register

All industry participants responsible for one or more of the functions shown must register as a performer of each function through the organization registration process. These entities are defined in the NERC Glossary of Terms used in reliability standards with responsibilities designated by the individual standards.

- Reliability Coordinator
- Transmission Operator
- Balancing Authority
- Planning Authority
- Transmission Planner
- Transmission Service Provider
- Transmission Owner
- Resource Planner
- Distribution Provider
- Generator Owner
- Generator Operator
- Load-Serving Entity
- Purchasing-Selling Entity
- Compliance Monitor

Organization Certification

According to NERC organization certification standards, all entities responsible for the reliability coordinator, transmission operator, and/or balancing authority functions shall be certified. The objective is to have the entire NERC footprint covered by certified reliability coordinator, transmission operator, and balancing authority prior to January 1, 2009. As of January 1, 2009, control area will no longer be a recognized term at NERC. Historically, the certification process typically takes three to nine months to complete.

There are two processes through which organization certification will be accomplished.

1. **Transitional Organization Certification Process** — Previously certified control areas electing to become certified as a transmission operator and/or balancing authority function may be able to utilize the transitional organization certification process at the discretion of the regional entity. Existing certified control areas that wish to use the transitional organization certification process must do so prior to the expiry of the control area functional designation on January 1, 2009.

A regional entity's discretion respecting transitional certification extends to whether to allow the use of this process in their regional entity at all, as well as to whether they permit a given applicant to use it. Regional entity's decisions in this regard remain subject to NERC oversight and governance pursuant to approved delegation agreements.

Applicants wishing to use this process must have been certified — or must first complete their certification — as a control area in a manner, including documentation, that clearly and completely demonstrates full compliance with all certification process requirements that the transitional certification process provides relaxation for.

2. **Organization Certification Process** — All non-certified entities or a new entities seeking certification as a reliability coordinator, transmission operator, or balancing authority function must complete the organization certification process for each function.

Existing non-certified entities currently responsible for balancing authority and/or transmission operator functions can be certified as a control area. This control area certification process must be completed prior to December 1, 2006. However, the entity will have to be certified as a functional entity using the “transitional” or “regular” certification process before January 1, 2009.

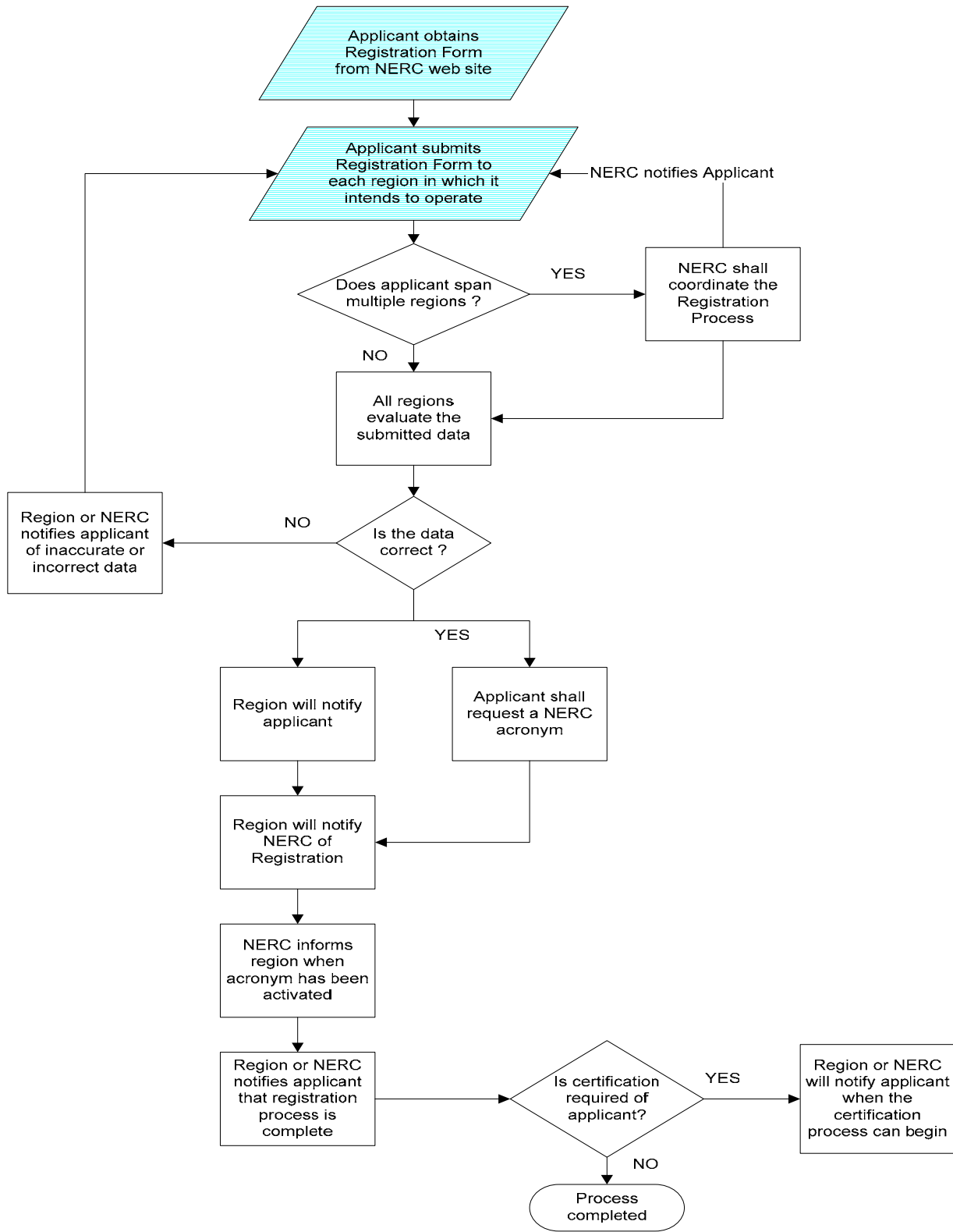
An existing control area or reliability coordinator currently responsible for reliability coordinator, transmission operator, and/or balancing authority functions and electing to:

1. Become certified as those functional model entities will be able to do so either all at the same time or one at a time as long as they become certified in all applicable functions prior to January 1, 2009.
2. Become certified in only one or two of the three can do so at any time but must continue to perform the other function(s) until such time as another entity becomes certified to perform those functions. If no other entity elects to become certified in the uncertified functions, then the control area or reliability coordinator must become certified in those functions prior to January 1, 2009.
3. Not become certified in any of the functions must continue to perform those functions until such time as another entity becomes certified to perform those functions. If no other entity becomes certified to perform any one or all of those functions, then the control area or reliability coordinator must become certified to perform the functions prior to January 1, 2009.

Section III — Organization Registration Procedure

1. The applicant seeking registration shall begin the process by submitting a completed registration application to the compliance and certification manager in each of the regional entities in which it intends to perform that function.
2. For applicants that span multiple regional entities, all affected regional entities will inform NERC of the request. In all such cases, NERC will be the coordinator and will notify the applicant of NERC's role.
3. Entities that have NERC acronyms shall use them on the form.
 - a. If an entity does not have an acronym, NERC may initiate assignment of one or the entity can request one.
 - b. An entity responsible for more than one function can use a single acronym or can use separate acronyms for each function it performs.
 - c. Acronyms must be activated before they can be used.
 - d. NERC activates acronyms.
 - e. If/as applicable, acronyms will not be activated until the registration process is complete.
 - f. Entities requiring certification will not have their acronym(s) activated until they have been certified.
4. All affected regional entities shall evaluate the submitted information and determine if any information is incomplete.
5. The regional entity region or NERC shall inform the applicant of any inaccurate or incomplete data.
6. When the data is complete and accurate the regional entity region or NERC shall notify the applicant.
7. The regional entity region shall inform NERC that the registration process is complete.
8. If/as applicable, NERC informs the regional entity when the acronym has been activated.
9. The regional entity or NERC notifies the applicant that the registration process is complete.
10. For applicants that are required to be certified, the regional entity or NERC shall notify the applicant when the certification process can begin.

Registration Flow Diagram



Transitional Certification

(only available until January 1, 2009)

The transitional organization certification process may apply, at the discretion of the regional entity, to a control area previously certified to perform as a control area, electing to be certified as a balancing authority and/or transmission operator:

1. The entity will have to complete the appropriate certification self assessment questionnaire.
2. The entity will have to self-assess its ability to perform any additional requirements that they are not currently certified to perform.
3. The entity by affidavit (a document signed by an officer of the company) will have to verify that they are capable of continuing to perform the requirements of the balancing authority or transmission operator that they are currently responsible for.
4. The Certification Review Team shall be formed. That team, using the above documents, shall determine whether the applicant meets NERC's organization certification requirements. This may be done without a site visit; however, the review team has at its disposal all of the tools accorded any review team (additional questionnaire, site visit, neighboring entity questionnaire, previous compliance issues, results of previous readiness audits, etc.).
 - a. An on-site visit is required of all entities that have not previously undergone a site visit for control area certification or readiness audit.

Section IV — Transitional Certification Procedure

Certification Process

1. Applicants seeking certification:
 - a. In a single NERC regional entity shall initiate the certification process by completing a certification application and sending it to the compliance and certification manager in the regional entity. The regional entity in which the applicant plans to perform will conduct the certification process.
 - b. In multiple regional entities shall initiate the certification process by completing a certification application and sending it to the compliance and certification manager in each affected regional entity, each of which will inform NERC. NERC will be the coordinator and will notify the applicant of NERC's role. NERC shall coordinate the certification process among the affected regional entities.
2. Upon receipt, the application will be assessed for completeness and accuracy. When the application is deemed complete and accurate it will be accepted; at that time the applicant and the regional entity or NERC shall agree to a timeline, including specific milestones for the certification process. The applicant and the regional entity or NERC shall complete the NERC organization certification process within nine months of the date of acceptance of the application unless agreed to differently by all parties involved in the process.
3. The regional entity or NERC shall require the entity to complete the transitional certification self-assessment of its ability to perform any additional requirements that they are not currently certified to perform. The regional entity or NERC shall provide all participants with a copy of expectations regarding confidentiality and retention of all data reporting, completed questionnaires and forms, reports, and recommendations associated with the documentation it provides and receives.
4. The regional entity or NERC shall require the entity to complete an affidavit (a document signed by an officer of the company) verifying capability of continuing to perform the requirements of the organization certification standard that they are currently responsible for.
5. The regional entity or NERC shall assemble a Certification Review Team charged with the responsibility of determining if the applicant meets NERC's organization certification requirements. The review team members shall subject themselves to NERC confidentiality agreements for any data or information made available to them through the certification review process.
 - a. If the applicant objects to any member of the certification team, the applicant must make that known, in writing, to the regional entity or NERC listing the reasons for the objection.
 - b. The regional entity will either replace the team member or respond with written justification for keeping the member on the team.
6. The review team shall consist of a minimum of three individuals including a regional entity representative and a NERC representative at NERC's option. The selected individuals shall represent at least three of the categories listed below:

- a. Balancing Authority
- b. Reliability Coordinator
- c. Transmission Operator
- d. Transmission Owner
- e. Transmission Service Provider
- f. Transmission Planner
- g. Planning Authority
- h. Generation Operator
- i. Generation Owner
- j. Distribution Provider
- k. Representative from NERC staff
- l. Representative from regional entity staff
- m. Representative from another regional entity
- n. Representative from an RTO or ISO, when applicable

The balancing authority review team shall minimally consist of a balancing authority and its reliability coordinator; the reliability coordinator review team shall minimally consist of a reliability coordinator, one of its balancing authorities, and one of its transmission operators; and the transmission operator review team shall minimally consist of a transmission operator and reliability coordinator.

- o. Review team members shall not be employees of or have a direct financial interest in the applicant or any of its affiliates.
 - p. Review processes that involve an entity that is responsible for a function identified in the Reliability Standards across regional entity boundaries shall have a review team that includes at least one representative from each of the affected regional entities. Each individual regional entity shall select its representative to the team.
- 7. The regional entity or NERC, with agreement of the applicant and all other affected regional entities, may elect to contract an independent review team.
 - 8. The review team shall identify any deficiencies (to both the applicant and to the regional entities) that must be resolved to the satisfaction of the review team prior to the review team making a recommendation to certify.

9. The review team shall formulate a certification recommendation based on:
 - a. Data collected and validated from the questionnaires, if applicable.
 - b. Data collected during a previous control area or readiness audit.
 - c. Information, demonstrations, and reviews provided as part of a follow-up to correct identified deficiencies.

10. The review team shall support its recommendation through a written report. All members of the review team shall have an equal voice in the certification recommendation. This allows for a minority opinion if the review team cannot reach a consensus.
 - a. If the applicant intends to operate in a single NERC regional entity, the review team shall make a recommendation to the regional entity. The regional entity shall approve or disapprove the certification. The regional entity shall notify NERC of the certification decision.
 - b. If the applicant intends to operate in multiple regional entities, the review team shall make a recommendation to those regional entities. All affected regional entities must approve granting of the certification or the certification shall be denied.
 - c. The regional entity or NERC shall verify the regional entity approvals prior to allowing certification. The regional entity shall notify NERC of the certification decision.

11. The regional entity or NERC (in consultation with the affected regional entities) may grant a time extension, not to exceed 180 days, to the applicant.
 - a. If the applicant fails to meet the conditions set by the regional entity or NERC, within the granted timeframe, the applicant's request for certification shall be denied.
 - b. If the applicant meets the conditions set by the regional entity(s), within the granted timeframe, the regional entity or NERC (in consultation with the affected regional entities) shall respond to the applicant's notification of completion of requirements within 30 days.

12. After the applicant has been awarded certification, the regional entity or NERC shall notify all appropriate entities as to the date that the applicant may begin its operation as a certified entity. The applicant must commence operation within 12 months of certification.
 - a. Failure to begin operation within the 12-month period shall require the applicant to re-apply for certification.

13. If the applicant disagrees with the decision, the applicant can initiate the regional entity alternate dispute resolution process within 60 days of the date of the written denial. If the dispute is still unresolved following the regional entity alternate dispute resolution process the applicant can initiate the NERC alternate dispute resolution process. NERC's decision shall be final.

The following additional steps may be included in the transitional certification process:

14. The regional entity or NERC shall provide the questionnaires, a certification schedule, the deadlines for questionnaire submission, and a statement of expectations of the applicant and all of the entities participating in the certification process to those entities that must complete these documents. These questionnaires and other related documents address the applicant's capabilities and actions as they relate to established entity functions and tasks. The regional entity shall distribute questionnaires and other related documents to the following entities as appropriate:
 - a. Applicant (i.e. entity seeking certification).
 - b. All balancing authorities, transmission operator(s), and reliability coordinators in which the applicant intends to operate or interconnect transmission facilities.
 - c. Relevant transmission owners, transmission service providers, planning authorities, generation owners, generation operators, transmission planner, distribution providers, and/or other applicable entities.
15. The review team shall inform the applicant before the on-site visit of any documentation or clarification that is necessary to support the questionnaire.
16. The applicant retains the responsibility for all delegated tasks. The applicant shall identify to the review team all tasks that have been delegated to another entity prior to the on-site visit.
17. The review team shall conduct at least one on-site visit to the applicant's facilities. This may also apply to the facilities of entities responsible for delegated tasks. During the visit, the review team will:
 - a. Review with the applicant the data collected through the questionnaires;
 - b. Interview the operations and management personnel;
 - c. Inspect the facilities and equipment;
 - d. Request a demonstration of all tools identified in the certification standard;
 - e. Review all necessary documents and data including all agreements, processes, and procedures identified in the certification standard;
 - f. Review certification documents and projected system operator work schedules; and
 - g. Review any additional documentation that is needed to support the completed questionnaire or inquiries arising during the site-visit.

Section V — Organization Certification Procedure

Requirements — Certification Process

1. Applicants seeking certification:
 - a. In a single NERC regional entity, shall initiate the certification process by completing a certification application and sending it to the regional entity. The regional entity in which the applicant plans to operate will conduct the certification process.
 - b. In multiple regional entities, shall initiate the certification process by completing a certification application and sending it to the compliance and certification manager in each affected regional entity; each affected regional entity will inform NERC of the request. NERC will be the coordinator and will notify the applicant of NERC's role. NERC shall coordinate the review process among the affected regional entities.
2. Upon receipt, the application will be assessed for completeness and accuracy. When the application is deemed complete and accurate it will be accepted; at that time the applicant and regional entity or NERC shall agree to a timeline, including specific milestones for the certification process. The applicant and the regional entity or NERC shall complete the NERC organization certification process within nine months of the date of acceptance of the application unless agreed to differently by all parties involved in the process.
3. The regional entity or NERC shall notify all entities identified below that will provide input into the certification review and provide each with the necessary information regarding the applicant's request for certification, the certification process, and the duties expected from each entity. The regional entity or NERC shall provide all participants with a copy of expectations regarding confidentiality and retention of all data reporting, completed questionnaires and forms, reports, and recommendations associated with the documentation it provides and receives.
4. The regional entity shall notify NERC that the certification process has begun for the entity to enable NERC to carry out their roles and responsibilities.
5. NERC shall implement the required changes to integrate the new entity into the system.
6. The regional entity or NERC shall provide the questionnaires, a certification schedule, the deadlines for questionnaire submission, a statement of expectations of the applicant and all of the entities participating in the certification process to those entities that must complete these documents. These questionnaires and other related documents address the applicant's capabilities and actions as they relate to established entity functions and tasks. The regional entity shall distribute questionnaires and other related documents to the following entities as appropriate:
 - a. Applicant (i.e., entity seeking certification).
 - b. All balancing authorities, transmission operator(s), and reliability coordinators in which the applicant intends to operate or interconnect transmission facilities.
 - c. Relevant transmission owners, transmission service providers, planning authorities, generation owners, generation operators, transmission planner, distribution providers, and/or other applicable entities.

7. The regional entity or NERC shall assemble a Certification Review Team charged with the responsibility of determining if the applicant meets NERC's organization certification requirements. The review team members shall subject themselves to NERC confidentiality agreements for any data or information made available to them through the certification review process.
 - a. If the applicant objects to any member of the certification team, the applicant must make that known, in writing, to the regional entity or NERC listing the reasons for the objection.
 - b. The regional entity will either replace the team member or respond with written justification for keeping the member on the team.

8. The review team shall consist of a minimum of three individuals including a regional entity representative and NERC (at NERC's option). The selected individuals shall represent at least three of the categories listed below:
 - a. Balancing Authority
 - b. Reliability Coordinator
 - c. Transmission Operator
 - d. Transmission Owner
 - e. Transmission Service Provider
 - f. Transmission Planner
 - g. Planning Authority
 - h. Generation Operator
 - i. Generation Owner
 - j. Distribution Provider
 - k. Representative from NERC staff
 - l. Representative from regional entity staff
 - m. Representative from another NERC regional entity
 - n. Representative from an RTO or ISO, when applicable

The balancing authority review team shall minimally consist of a balancing authority and its reliability coordinator; the reliability coordinator review team shall minimally consist of a reliability coordinator, one of its balancing authorities, and one of its transmission operators; and the transmission operator review team shall minimally consist of a transmission operator and reliability coordinator.

- o. Review team members shall not be employees of or have a direct financial interest in the applicant or any of its affiliates.
 - p. Review processes that involve an entity that is responsible for a function identified in the reliability standards across regional entity boundaries shall have a review team that includes at least one representative from each of the affected regional entities. Each regional entity, not the regional entity or NERC, shall select its representative to the team.
9. The regional entity or NERC may elect, with agreement of the applicant and all other affected regional entities, to contract an independent review team.
10. The review team shall inform the applicant before the on-site visit of any documentation or clarification that is necessary to support the questionnaire.
11. The applicant retains the responsibility for all delegated tasks. The applicant shall identify to the review team prior to the on-site visit all tasks that have been delegated to another entity.
12. The review team shall conduct at least one on-site visit to the applicant's facilities. This may also apply to the facilities of entities responsible for delegated tasks. During the visit, the review team will:
- a. Review with the applicant the data collected through the questionnaires;
 - b. Interview the operations and management personnel;
 - c. Inspect the facilities and equipment;
 - d. Request a demonstration of all tools identified in the certification standard;
 - e. Review all necessary documents and data including all agreements, processes, and procedures identified in the certification standard;
 - f. Review certification documents and projected system operator work schedules; and
 - g. Review any additional documentation that is needed to support the completed questionnaire or inquiries arising during the site-visit.
13. The review team shall identify any deficiencies (to both the applicant and to the regional entity) that must be resolved to the satisfaction of the review team prior to the review team making a recommendation to certify.
14. The review team shall formulate a certification recommendation based on:
- a. Data collected and validated from the questionnaires;
 - b. Data collected during demonstrations of tools and review of documents observed during on-site visit(s); and
 - c. Information, demonstrations and reviews provided as part of a follow-up to correct identified deficiencies.
15. The review team shall support its recommendation through a written report. All members of the review team shall have an equal voice in the certification recommendation. This allows for a minority opinion if the review team cannot reach a consensus.

- a. If the applicant intends to operate in a single regional entity, the review team shall make a recommendation to the regional entity. The regional entity shall approve or disapprove the certification. The regional entity shall notify NERC of the certification decision.
 - b. If the applicant intends to operate in multiple regional entities, the review team shall make a recommendation to those regional entities. All affected regional entities must approve granting of the certification or the certification is denied.
 - c. The regional entity or NERC shall verify the regional entity approvals prior to allowing certification. The regional entity shall notify NERC of the certification decision.
16. The regional entity or NERC (in consultation with the affected regional entities) may grant a time extension, not to exceed 180 days, to the applicant.
- a. If the applicant fails to meet the conditions set by the regional entity or NERC, within the granted timeframe, the applicant's request for certification shall be denied.

If the applicant meets the conditions set by the regional entity(s), within the granted timeframe, the regional entity or NERC (in consultation with the affected regional entities) shall respond to the applicant's notification of completion of requirements within 30 days.

17. After the applicant has been awarded certification, the regional entity or NERC shall notify all appropriate entities as to the date that the applicant may begin its operation as a certified entity. Applicant must commence operation within 12 months of certification.
- a. Failure to begin operation within the 12-month period shall require the applicant to re-apply for certification.
 - b. If the applicant disagrees with the decision, the applicant can initiate the regional entities Alternate Dispute Resolution process within 60 days of the date of the written denial. If the dispute is still unresolved following the regional entities Alternate Dispute Resolution Process the applicant can initiate the NERC Alternate Dispute Resolution Process. NERC's decision shall be final.

Definitions

Applicant	Industry participant who formally submits an application to register or to become certified to perform one or more functional entity responsibilities.
Certification	The process undertaken by a regional entity to verify that an applicant is capable of responsibilities for tasks associated with a particular function such as control area, balancing authority, transmission operator, or reliability coordinator.
Compliance and Certification Manager	The individual/individuals within the regional entity that is/are responsible for monitoring compliance of entities applicable NERC Reliability Standards.
Days	Days as used in the registration and certification processes are defined as calendar days.
Footprint	The geographical or electric area served by an entity.
Functional Entity	An entity responsible for a function that is required to ensure the reliable operation of the electric grid as identified in the NERC Reliability Standards.
Mapping	The process of determining whether a regional entity's footprint is being served by registered entities.
NERC Acronym	A name given to NERC registered entities that will be used to identify the entity for certain NERC activities. Note: corporate entities may have multiple NERC acronyms to show different corporate involvement in NERC activities.
Non-Certified	An entity that is responsible for a specific function but has not been certified to perform that function by the regional entity.
Regional Entity	
Registration	Process undertaken by a regional entity to identify which entities are responsible for reliability functions within the regional entity's footprint.
Transitional Certification	A process used by regional entities to transition control areas previously certified using the NERC control area certification process to certification as a functional entity.

Appendix A — NERC Organization Registration and Certification Form

Sample Registration Form

Organization:		
Corporate Address:		
City:	State:	Zip Code:
Current date and time:		
Last date/time Updated:		

Contact Name:		
Title:		
Phone #:	Fax #:	E-mail:

Currently registered as:	
<input type="checkbox"/> Control Area	Current NERC acronym (If assigned)
<input type="checkbox"/> Transmission Operator	Current NERC acronym (If assigned)
<input type="checkbox"/> Reliability Coordinator	Current NERC acronym (If assigned)
<input type="checkbox"/> Balancing Authority	Current NERC acronym (If assigned)
<input type="checkbox"/> Planning Authority	Current NERC acronym (If assigned)
<input type="checkbox"/> Transmission Planner	Current NERC acronym (If assigned)
<input type="checkbox"/> Transmission Service Provider	Current NERC acronym (If assigned)
<input type="checkbox"/> Transmission Owner	Current NERC acronym (If assigned)
<input type="checkbox"/> Resource Planner	Current NERC acronym (If assigned)
<input type="checkbox"/> Distribution Provider	Current NERC acronym (If assigned)
<input type="checkbox"/> Generator Owner	Current NERC acronym (If assigned)
<input type="checkbox"/> Generator Operator	Current NERC acronym (If assigned)
<input type="checkbox"/> Load Serving Entity	Current NERC acronym (If assigned)
<input type="checkbox"/> Purchasing selling Entity	Current NERC acronym (If assigned)
<input type="checkbox"/> Compliance Monitor	Current NERC acronym (If assigned)
<input type="checkbox"/> None	

Seeking registration as an:	
<input type="checkbox"/> Reliability Coordinator	<input type="checkbox"/> Transmission Operator
<input type="checkbox"/> Balancing Authority	<input type="checkbox"/> Planning Authority
<input type="checkbox"/> Transmission Planner	<input type="checkbox"/> Transmission Service Provider
<input type="checkbox"/> Transmission Owner	<input type="checkbox"/> Resource Planner
<input type="checkbox"/> Distribution Provider	<input type="checkbox"/> Generator Owner
<input type="checkbox"/> Generator Operator	<input type="checkbox"/> Load Serving Entity
<input type="checkbox"/> Purchasing selling Entity	<input type="checkbox"/> Compliance Monitor

Date requested to begin new operation: _____, ____
Regional Entity Affiliation (membership):
If operating across multiple regional entities please list all:
If dates are different for requested operation in individual regional entities please list all:

Comments pertinent to this registration:

Sample Certification Form

Organization:		
Corporate Address:		
City:	State:	Zip Code:
Current date and time:		
Date of Registration:		

Contact Name:		
Title:		
Phone #:	Fax #:	E-mail:

Currently Certified as (if applicable):	NERC Acronym
<input type="checkbox"/> Transmission Operator	
<input type="checkbox"/> Reliability Coordinator	
<input type="checkbox"/> Balancing Authority	
<input type="checkbox"/> Control Area	
<input type="checkbox"/> None	

Seeking certification as:	NERC Acronym	Date
<input type="checkbox"/> Transmission Operator		
<input type="checkbox"/> Reliability Coordinator		
<input type="checkbox"/> Balancing Authority		
<input type="checkbox"/> Control Area		

Regional Entity affiliation (membership): If operating across multiple regional entities, list all:

Identify the following as applicable:	
If certifying as an RC, adjacent RCs :	(is this box needed ??)
If certifying as a BA, adjacent BAs:	(links below may take)
If certifying as a TOP, adjacent TOPs:	(care of info needs)

(provide links here to access the questionnaires for specifics on agreements, etc)

Comments pertinent to this certification:

Section VI — NERC Organization Certification Appeals Process

Overview

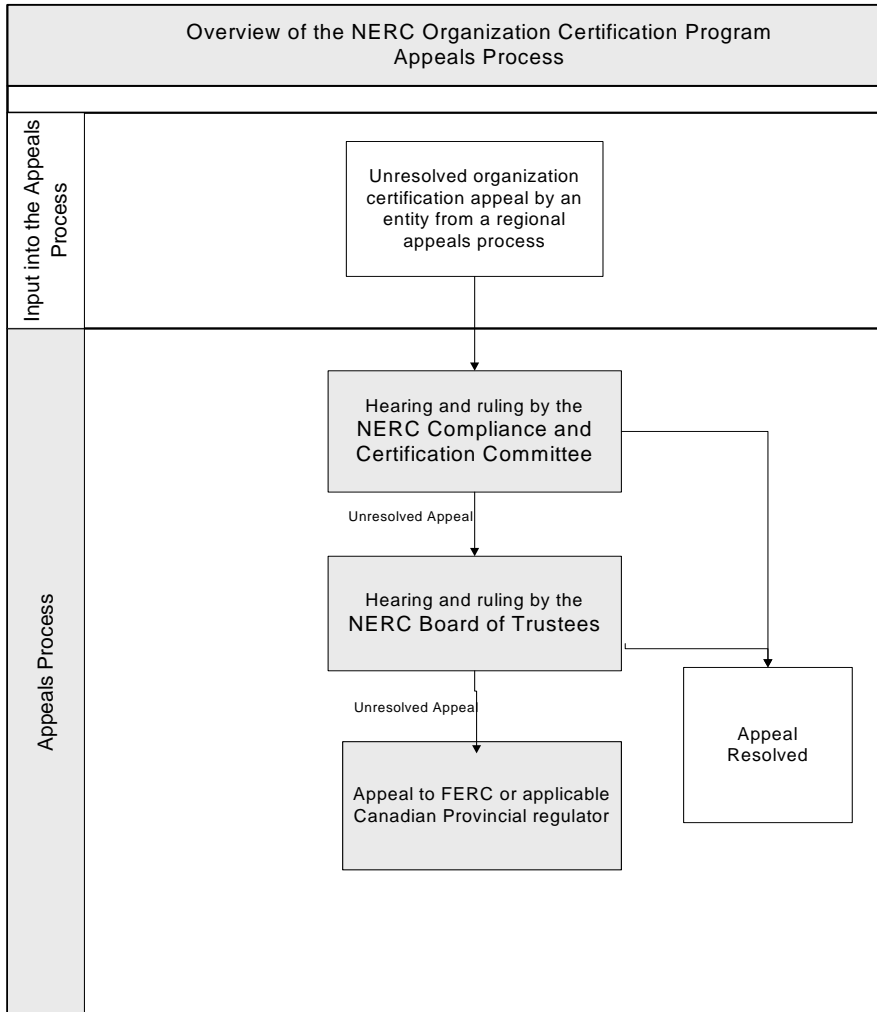
NERC's mission is to ensure that the bulk power system in North America is reliable, adequate, and secure. Since its formation in 1968, NERC has operated successfully as a voluntary, self-regulatory organization, relying on reciprocity, peer pressure, and the mutual self-interest of all those involved.

The NERC Organization Certification Program provides a key means to fulfill NERC's mission. In conducting this program, NERC has established documented procedures and will ensure due process to achieve fair and equitable certification of organizations.

Scope

This document describes the process for appealing organization certification findings from the NERC Organization Certification Program. Any entity reviewed under the Organization Certification Program can file an appeal using this process. The top of Figure 1 shows how an entity appeal of an organization certification decision will apply to the NERC appeals process.

Figure 1: Appeals Process Overview



1. Appeal for an Organization Certification Finding

Any functional entity or Regional Entity (RE) can appeal an organization certification decision issued as a result of organization certification actions of the NERC Organization Certification Program. An appeal of certification decision can be initiated after using all steps in a RE appeals process have been exhausted and the entity or RE chooses to appeal further.

2. Requirements and Conditions for Appeals

- a. For all appeals under the NERC Organization Certification Program, the appeals process begins when an entity notifies the NERC vice president–compliance in writing that it wishes to use the NERC appeals process.
 - i) The vice president–compliance is the main contact for all parties in all steps of the appeals process.
 - ii) If an appeal is not filed within fourteen calendar days of the date that the audit report or finding is issued, or the final RE appeals process ruling is made, the finding shall be considered final and unappealable.
- b. Each party in the appeals process shall pay its own expenses for each step in the process.
- c. A stipulation of invoking the appeals process is that the entity requesting the appeal agrees that neither NERC (its members, Board of Trustees, committees, subcommittees, and staff), any person assisting in the appeals process, nor any company employing a person assisting in the appeals process, shall be liable, and they shall be held harmless against the consequences of or any action or inaction or of any agreement reached in resolution of the dispute or any failure to reach agreement as a result of the appeals proceeding. This “hold harmless” clause does not extend to matters constituting gross negligence, intentional misconduct, or a breach of confidentiality.
- d. Parties retain whatever rights they may have to seek further review of a decision in whatever regulatory agency or court may have jurisdiction.

3. Appeals Process — Hearing and Ruling by the Compliance and Certification Committee

- a. Within twenty-eight calendar days of receiving notice from the NERC vice president–compliance that the RE appeals process did not resolve the appeal, the CCC will conduct a hearing where all the parties or representatives of the disputing parties will present the issue in question.
 - i) The CCC must have a quorum present to conduct the hearing.
 - ii) The hearing shall be closed to the public to protect confidential information.
 - iii) CCC members who are interested parties or have an interest in the outcome shall not participate in the hearing.
- b. The CCC will deliberate the issue in a one-day session, take a vote on how to resolve the appeal, and recommend a resolution based on a majority vote, all according to established CCC procedures.
 - i) Should both parties accept the solution, the matter will be considered resolved and the process terminated.

- ii) If either of the parties wishes to pursue the appeal further, or if the CCC process cannot be completed in accordance with the timeline of the appeals process outlined in this document, the NERC vice president–compliance shall be notified within seven calendar days.

The NERC vice president–compliance will forward the appeal to the NERC board of trustees within seven calendar days of being notified for resolution.

4. Appeals Process — Hearing and Ruling by the NERC Board of Trustees

- a. The NERC board will be asked to resolve a dispute related to the NERC Organization Certification Program if and only if the prior steps outlined in this procedure have failed to render an acceptable solution.
- b. At the next regularly scheduled NERC board meeting, or at a special meeting if the board determines it is necessary, the chairman of the CCC will present to the board a summary of the dispute and the actions taken in an attempt to resolve it.
 - i) Each party will then present their side of the dispute.
 - ii) The NERC board will then decide the dispute.
- c. A record of the appeals process shall be maintained and available upon request. Confidentiality of the record of the appeal will be based on the FERC guidelines for the treatment of critical infrastructure information. Entities may request information considered competitive or market sensitive information be withheld.

5. General Requirement

- a. Parties are entitled to a fair and impartial appeals process. No one with a direct interest in a dispute may participate in the appeals process except as a party or witness.

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ATTACHMENT 16

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

NEW APPENDIX 5B

TO THE

RULES OF PROCEDURE

STATEMENT OF COMPLIANCE REGISTRY CRITERIA

Appendix 5B

Statement of Compliance Registry Criteria

Revision 5.0 — Approved: NERC Board of Trustees July 30, 2008

Effective: October 16, 2008

Statement of Compliance Registry Criteria (Revision 5.0)

Summary

Since becoming the Electric Reliability Organization (ERO), NERC has initiated a program to identify candidate organizations for its compliance registry. The program, conducted by NERC and the Regional Entities¹, will also confirm the functions and information now on file for currently-registered organizations. NERC and the Regional Entities have the obligation to identify and register all entities that meet the criteria for inclusion in the compliance registry, as further explained in the balance of this document.

This document describes how NERC will identify organizations that may be candidates for registration and assign them to the compliance registry.

Organizations will be responsible to register and to comply with approved reliability standards to the extent that they are owners, operators, and users of the bulk power system, perform a function listed in the functional types identified in Section II of this document, and are material to the reliable operation of the interconnected bulk power system as defined by the criteria and notes set forth in this document. NERC will apply the following principles to the compliance registry:

- In order to carry out its responsibilities related to enforcement of Reliability Standards, NERC must identify the owners, operators, and users of the bulk power system who have a material impact² on the bulk power system through a compliance registry. NERC and the Regional Entities will make their best efforts to identify all owners, users and operators who have a material reliability impact on the bulk power system in order to develop a complete and current registry list. The registry will be updated as required and maintained on an on-going basis.
- Organizations listed in the compliance registry are responsible and will be monitored for compliance with applicable mandatory reliability standards. They will be subject to NERC's and the Regional Entities' compliance and enforcement programs.

¹ The term "Regional Entities" includes Cross-Border Regional Entities.

² The criteria for determining whether an entity will be placed on the registry are set forth in the balance of this document. At any time a person may recommend in writing, with supporting reasons, to the director of compliance that an organization be added to or removed from the compliance registry, pursuant to NERC ROP 501.1.3.5.

- NERC and Regional Entities will not monitor nor hold those not in the registry responsible for compliance with the standards. An entity which is not initially placed on the registry, but which is identified subsequently as having a material reliability impact, will be added to the registry. Such entity will not be subject to a sanction or penalty by NERC or the Regional Entity for actions or inactions prior to being placed on the registry, but may be required to comply with a remedial action directive or mitigation plan in order to become compliant with applicable standards. After such entity has been placed on the compliance registry, it shall be responsible for complying with Reliability Standards and may be subject to sanctions or penalties as well as any remedial action directives and mitigation plans required by the Regional Entities or NERC for future violations, including any failure to follow a remedial action directive or mitigation plan to become compliant with Reliability Standards.
- Required compliance by a given organization with the standards will begin the later of (i) inclusion of that organization in the compliance registry and (ii) approval by the appropriate governmental authority of mandatory reliability standards applicable to the entity.

Entities responsible for funding NERC and the Regional Entities have been identified in the budget documents filed with FERC. Presence on or absence from the compliance registry has no bearing on an entity's independent responsibility for funding NERC and the Regional Entities.

Background

In 2005, NERC and the Regional Entities conducted a voluntary organization registration program limited to balancing authorities, planning authorities, regional reliability organizations, reliability coordinators, transmission operators, and transmission planners. The list of the entities that were registered constitutes what NERC considered at that time as its compliance registry.

NERC has recently initiated a broader program to identify additional organizations potentially eligible to be included in the compliance registry and to confirm the information of organizations currently on file. NERC believes this is a prudent activity at this time because:

- As of July 20, 2006, NERC was certified as the ERO created for the U.S. by the Energy Policy Act of 2005 (EPAct) and FERC Order 672. NERC has also filed with Canadian authorities for similar recognition in their respective jurisdictions.
- FERC's Order 672 directs that owners, operators and users of the bulk power system shall be registered with the ERO and the appropriate Regional Entities.
- As the ERO, NERC has filed its current reliability standards with FERC and with Canadian authorities. As accepted and approved by FERC and appropriate Canadian authorities, the reliability standards are no longer voluntary, and organizations that do not fully comply with them may face penalties or other sanctions determined and levied by NERC or the Regional Entities.
- NERC's reliability standards include compliance requirements for additional reliability function types beyond the six types registered by earlier registration programs.

- Based on selection as the ERO, the extension and expansion of NERC’s current registration program³ is the means by which NERC and the Regional Entities will plan, manage and execute reliability standard compliance oversight of owners, operators, and users of the bulk power system.
- Organizations listed in the compliance registry are subject to NERC’s and the Regional Entities’ compliance and enforcement programs.

Statement of Issue

As the ERO, NERC intends to comprehensively and thoroughly protect the reliability of the grid. To support this goal NERC will include in its compliance registry each entity that NERC concludes can materially impact the reliability of the bulk power system. However, the potential costs and effort of ensuring that every organization potentially within the scope of “owner, operator, and user of the bulk power system” becomes registered while ignoring their impact upon reliability, would be disproportionate to the improvement in reliability that would reasonably be anticipated from doing so.

NERC wishes to identify as many organizations as possible that may need to be listed in its compliance registry. Identifying these organizations is necessary and prudent at this time for the purpose of determining resource needs, both at the NERC and Regional Entity level, and to begin the process of communication with these entities regarding their potential responsibilities and obligations. NERC and the Regional Entities believe that primary candidate entities can be identified at this time, while other entities can be identified later, as and when needed. Selection principles and criteria for the identification of these initial entities are required. This list will become the “Initial Non-binding Organization Registration List”. With FERC having made the approved Reliability Standards enforceable, this list becomes the NERC Compliance Registry.

Resolution

NERC and the Regional Entities have identified two principles they believe are key to the entity selection process. These are:

1. There needs to be consistency between regions and across the continent with respect to which entities are registered, and;
2. Any entity reasonably deemed material to the reliability of the bulk power system will be registered, irrespective of other considerations.

To address the second principle the Regional Entities, working with NERC, will identify and register any entity they deem material to the reliability of the bulk power system.

In order to promote consistency, NERC and the Regional Entities intend to use the following criteria as the basis for determining whether particular entities should be identified as candidates for registration. All organizations meeting or exceeding the criteria will be identified as candidates.

³ See: NERC ERO Application; Exhibit C; Section 500 – Organization Registration and Certification.

The following four groups of criteria (Sections I-IV) plus the statements in Section V will provide guidance regarding an entity’s registration status:

- Section I determines if the entity is an owner, operator, or user of the bulk power system and, hence, a candidate for organization registration.
- Section II uses NERC’s current functional type definitions to provide an initial determination of the functional types for which the entities identified in Section I should be considered for registration.
- Section III lists the criteria regarding smaller entities; these criteria can be used to forego the registration of entities that were selected to be considered for registration pursuant to Sections I and II and, if circumstances change, for later removing entities from the registration list that no longer meet the relevant criteria.
- Section IV — additional criteria for joint registration. Joint registration criteria may be used by Joint Action Agencies, Generation and Transmission Cooperatives and other entities which agree upon a clear division of compliance responsibility for Reliability Standards by written agreement. Pursuant to FERC’s directive in paragraph 107 of Order No. 693, rules pertaining to joint registration and Joint Registration Organizations will now be found in Sections 501 and 507 of the NERC Rules of Procedure.

I. Entities that use, own or operate elements of the bulk electric system as established by NERC’s approved definition of bulk electric system below are (i) owners, operators, and users of the bulk power system and (ii) candidates for registration:

“As defined by the Regional Reliability Organization, the electrical generation resources, transmission lines, interconnections with neighboring systems, and associated equipment, generally operated at voltages of 100 kV or higher. Radial transmission facilities serving only load with one transmission source are generally not included in this definition.”⁴

II. Entities identified in Part I above will be categorized as registration candidates who may be subject to registration under one or more appropriate functional entity types based on a comparison of the functions the entity normally performs against the following function type definitions:

Function Type	Acronym	Definition/Discussion
Balancing Authority	BA	The responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a BA area, and supports Interconnection frequency in real-time.

⁴ However, ownership of radial transmission facilities intended to be covered by the vegetation management standard (applicable to transmission lines 200 kV and above) would be included in this definition.

Function Type	Acronym	Definition/Discussion
Distribution Provider	DP	Provides and operates the “wires” between the transmission system and the end-use customer. For those end-use customers who are served at transmission voltages, the Transmission Owner also serves as the DP. Thus, the DP is not defined by a specific voltage, but rather as performing the Distribution function at any voltage.
Generator Operator	GOP	The entity that operates generating unit(s) and performs the functions of supplying energy and interconnected operations services.
Generator Owner	GO	Entity that owns and maintains generating units.
Interchange Authority	IA	The responsible entity that authorizes implementation of valid and balanced Interchange Schedules between Balancing Authority Areas, and ensures communication of Interchange information for reliability assessment purposes.
Load-Serving Entity	LSE	Secures energy and transmission service (and related interconnected operations services) to serve the electrical demand and energy requirements of its end-use customers.
Planning Authority	PA	The responsible entity that coordinates and integrates transmission facility and service plans, resource plans, and protection systems.
Purchasing-Selling Entity	PSE	The entity that purchases or sells and takes title to energy, capacity, and interconnected operations services. PSE may be affiliated or unaffiliated merchants and may or may not own generating facilities.
Reliability Coordinator	RC	The entity that is the highest level of authority who is responsible for the reliable operation of the bulk power system, has the wide area view of the bulk power system, and has the operating tools, processes and procedures, including the authority to prevent or mitigate emergency operating situations in both next-day analysis and real-time operations. The RC has the purview that is broad enough to enable the calculation of interconnection reliability operating limits, which may be based on the operating parameters of transmission systems beyond

Function Type	Acronym	Definition/Discussion
		any Transmission Operator's vision.
Reserve Sharing Group	RSG	A group whose members consist of two or more Balancing Authorities that collectively maintain, allocate, and supply operating reserves required for each BA's use in recovering from contingencies within the group. Scheduling energy from an adjacent BA to aid recovery need not constitute reserve sharing provided the transaction is ramped in over a period the supplying party could reasonably be expected to load generation in (e.g., ten minutes). If the transaction is ramped in quicker, (e.g., between zero and ten minutes) then, for the purposes of disturbance control performance, the areas become a RSG.
Resource Planner	RP	The entity that develops a long-term (generally one year and beyond) plan for the resource adequacy of specific loads (customer demand and energy requirements) within a PA area.
Transmission Owner	TO	The entity that owns and maintains transmission facilities.
Transmission Operator	TOP	The entity responsible for the reliability of its local transmission system and operates or directs the operations of the transmission facilities.
Transmission Planner	TP	The entity that develops a long-term (generally one year and beyond) plan for the reliability (adequacy) of the interconnected bulk electric transmission systems within its portion of the PA area.
Transmission Service Provider	TSP	The entity that administers the transmission tariff and provides transmission service to transmission customers under applicable transmission service agreements.

- III. Entities identified in Part II above as being subject to registration as an LSE, DP, GO, GOP, TO, or TOP should be excluded from the registration list for these functions if they do not meet any of the criteria listed below:

III (a) Load-serving Entity:

- III.a.1 Load-serving entity peak load is > 25 MW and is directly connected to the bulk power (>100 kV) system, or;
- III.a.2 Load-serving entity is designated as the responsible entity for facilities that are part of a required underfrequency load shedding (UFLS) program designed, installed, and operated for the protection of the bulk power system, or;
- III.a.3 Load-serving entity is designated as the responsible entity for facilities that are part of a required undervoltage load shedding (UVLS) program designed, installed, and operated for the protection of the bulk power system.

[Exclusion: A load-serving entity will not be registered based on these criteria if responsibilities for compliance with approved NERC reliability standards or associated requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a load-serving entity, balancing authority, transmission operator, G&T cooperative or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.]

- III.a.4 Distribution providers registered under the criteria in III.b.1 or III.b.2 will be registered as a load serving entity (LSE) for all load directly connected to their distribution facilities.

[Exclusion: A distribution provider will not be registered based on this criterion if responsibilities for compliance with approved NERC reliability standards or associated requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a load-serving entity, balancing authority, transmission operator, G&T cooperative, or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.]

III(b) Distribution Provider:

- III.b.1 Distribution provider system serving >25 MW of peak load that is directly connected to the bulk power system.

[Exclusion: A distribution provider will not be registered based on this criterion if responsibilities for compliance with approved NERC reliability standards or associated requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a load-serving entity, balancing authority, transmission operator, G&T cooperative, or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.] or;

- III.b.2 Distribution provider is the responsible entity that owns, controls, or operates facilities that are part of any of the following protection systems or programs designed, installed, and operated for the protection of the bulk power system:

- a required UFLS program.
- a required UVLS program.
- a required special protection system.
- a required transmission protection system.

[Exclusion: A distribution provider will not be registered based on these criteria if responsibilities for compliance with approved NERC reliability standards or associated requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a load-serving entity, balancing authority, transmission operator, G&T cooperative, or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.]

III(c) Generator Owner/Operator:

- III.c.1 Individual generating unit > 20 MVA (gross nameplate rating) and is directly connected to the bulk power system, or;
- III.c.2 Generating plant/facility > 75 MVA (gross aggregate nameplate rating) or when the entity has responsibility for any facility consisting of one or more units that are connected to the bulk power system at a common bus with total generation above 75 MVA gross nameplate rating, or;
- III.c.3 Any generator, regardless of size, that is a blackstart unit material to and designated as part of a transmission operator entity's restoration plan, or;

- III.c.4 Any generator, regardless of size, that is material to the reliability of the bulk power system.

[Exclusions:

A generator owner/operator will not be registered based on these criteria if responsibilities for compliance with approved NERC reliability standards or associated requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a load-serving entity, G&T cooperative or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.

As a general matter, a customer-owned or operated generator/generation that serves all or part of retail load with electric energy on the customer's side of the retail meter may be excluded as a candidate for registration based on these criteria if (i) the net capacity provided to the bulk power system does not exceed the criteria above or the Regional Entity otherwise determines the generator is not material to the bulk power system and (ii) standby, back-up and maintenance power services are provided to the generator or to the retail load pursuant to a binding obligation with another generator owner/operator or under terms approved by the local regulatory authority or the Federal Energy Regulatory Commission, as applicable.]

III(d) Transmission Owner/Operator:

- III.d.1 An entity that owns/operates an integrated transmission element associated with the bulk power system 100 kV and above, or lower voltage as defined by the Regional Entity necessary to provide for the reliable operation of the interconnected transmission grid; or

- III.d.2 An entity that owns/operates a transmission element below 100 kV associated with a facility that is included on a critical facilities list that is defined by the Regional Entity.

[Exclusion: A transmission owner/operator will not be registered based on these criteria if responsibilities for compliance with approved NERC reliability standards or associated requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a load-serving entity, G&T cooperative or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.]

IV. Joint Registration Organization and applicable Member Registration.

Pursuant to FERC's directive in paragraph 107 of Order No. 693, NERC's rules pertaining to joint registrations and Joint Registration Organizations are now found in Section 501 and 507 of the NERC Rules of Procedure.

- V. If NERC or a Regional Entity encounters an organization that is not listed in the compliance registry, but which should be subject to the reliability standards, NERC or the Regional Entity is obligated and will add that organization to the registry, subject to that organization's right to challenge as provided in Section 500 of NERC's Rules of Procedure and as described in Note 3 below.

Notes to the above Criteria

1. The above are general criteria only. The Regional Entity considering registration of an organization not meeting (e.g., smaller in size than) the criteria may propose registration of that organization if the Regional Entity believes and can reasonably demonstrate⁵ that the organization is a bulk power system owner, or operates, or uses bulk power system assets, and is material to the reliability of the bulk power system. Similarly, the Regional Entity may exclude an organization that meets the criteria described above as a candidate for registration if it believes and can reasonably demonstrate to NERC that the bulk power system owner, operator, or user does not have a material impact on the reliability of the bulk power system.
2. An organization not identified using the criteria, but wishing to be registered, may request that it be registered. For further information refer to: NERC Rules of Procedure, Section 500 – Organization Registration and Certification; Part 1.3.
3. An organization may challenge its registration within the compliance registry. NERC or the Regional Entity will provide the organization with all information necessary to timely challenge that determination including notice of the deadline for contesting the determination and the relevant procedures to be followed as described in the NERC Rules of Procedure; Section 500 – Organization Registration and Certification.
4. If an entity is part of a class of entities excluded based on the criteria above as individually being unlikely to have a material impact on the reliability of the bulk power system, but that in aggregate have been demonstrated to have such an impact it may be registered for applicable standards and requirements irrespective of other considerations.

⁵ The reasonableness of any such demonstration will be subject to review and remand by NERC itself, or by any agency having regulatory or statutory oversight of NERC as the ERO (e.g., FERC or appropriate Canadian authorities).