

NERC

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

MEMORANDUM TO: BOARD OF TRUSTEES

FROM: DAVID COOK
GENERAL COUNSEL

DATE: May 14, 2010


SUBJECT: REQUEST FOR ACTION WITHOUT A MEETING
Request to Expedite Issuance of Data Request under Rule 1606 of
NERC Rules of Procedure

ACTION DATE: COB, Tuesday, May 18, 2010

At the initiation of John Q. Anderson, Chairman of the NERC Board of Trustees, NERC is asking the Board to take action in writing without a meeting to approve shortening the time period normally required to issue a request for data or information in accordance with Section 1600 of the NERC Rules of Procedure. Rule 1606 allows for a shortened time period to issue a request for data or information if the data or information must be obtained in order to comply with a directive in an order issued by the Commission or by another governmental authority. A draft resolution is included as **Attachment 1**.

NERC has underway an effort to designate the “bright line” between those systems in nuclear power plants that are subject to compliance with the Nuclear Regulatory Commission (NRC) regulations and those that are subject to compliance with the NERC Reliability Standards. NERC must complete an analysis of each nuclear power plant’s systems and make the bright line determination by October 2010 in order to meet a FERC requirement. A critical step to completing the bright line determination is having each nuclear power plant owner complete a survey for each plant so that NERC and the NRC can use the results of the survey to determine whether a system is subject to NRC or NERC jurisdiction.

As part of this effort, NERC and the NRC held four workshops in Charlotte, Phoenix, Philadelphia, and Chicago in April and May. In advance of these workshops, NERC issued a draft of the survey to the nuclear power plants in early April for discussion at the workshops. Of the 104 nuclear power plants in the United States, only three were not represented at the workshops. Therefore, almost all nuclear power plants have reviewed the draft survey and have had an opportunity to discuss the survey with NERC and NRC staff. While NERC staff is making minor adjustments to the survey based on what was learned from nuclear power plant owners during the workshops, the modifications are generally minor compared to the draft survey that was made available to nuclear power plants in early April. As discussed during the workshops, the nuclear power plant owners will have 30 days to complete the survey, once it has been approved by the board.



Section 1600 of NERC's Rules of Procedure requires a twenty-one (21) day review period by FERC's Office of Electric Reliability and a subsequent forty-five (45) day industry comment period before a request for data or information can be sent to the industry. With NERC Board approval, these procedures can be shortened. NERC management recommends shortening the time for public comment on the proposed data request to fourteen (14) days. NERC has discussed an expedited review with FERC staff as well. This schedule will enable NERC to present the proposed data request to the Board for approval at the anticipated June 11 conference call to deal with the FERC order requiring changes to the standards development process.

VOTING INSTRUCTIONS: I will need a signed resolution from each trustee voting. You may either (1) paste your signature into the attached Word file [Action w-o mtg 20100514 section 1600 data request], save it, and return the executed resolution to me by attachment to an e-mail (david.cook@nerc.net), or (2) print out, sign, and fax the executed resolution to my attention at (202) 393-3955 [NOTE: This is the fax number for the DC office, not the general NERC New Jersey fax number]. Simply responding to this email is not sufficient. We request that you return the signed resolution by **COB Tuesday, May 18, 2010.**

Thank you for your prompt consideration of this matter. Please contact me if you have questions or need additional information.

Cell: 609-915-3063

E-mail: david.cook@nerc.net

**WRITTEN CONSENT OF
THE BOARD OF TRUSTEES OF THE
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION**

The undersigned, being a majority of the members of the Board of Trustees of the North American Electric Reliability Corporation, a New Jersey nonprofit corporation (the "Corporation"), do hereby waive all notice of the time, place and purpose of a meeting and consent and agree to the adoption of the following resolution pursuant to Section 15A:5-6 of the New Jersey Nonprofit Corporation Act and Section 6 of Article V of the Bylaws, in lieu of holding a meeting:

WHEREAS, in Order No. 706-B the Federal Energy Regulatory Commission directed that NERC conduct an analysis of nuclear power plants' balance of plant systems in order to determine those systems that should be subject to compliance with the NERC Reliability Standards (the "bright-line" determination); and

WHEREAS, NERC and the Nuclear Regulatory Commission (NRC) have coordinated on this bright-line determination by developing a request for data or information in order to determine those systems subject to compliance with the NERC Reliability Standards and those subject to NRC cyber security requirements; and

WHEREAS, NERC made the draft survey for the data or information available to the relevant registered entities in April 2010 and, jointly with the NRC, conducted a series of workshops for the relevant registered entities regarding the bright-line determination and the upcoming request for data or information; and

WHEREAS, NERC must complete its bright-line determination with FERC in October 2010,

RESOLVED, that the NERC Board of Trustees approves posting the draft request for data or information to NERC registered entities on an expedited schedule in accordance with Rule 1606 of the NERC Rules of Procedure, shortening the comment on the draft request for data or information to fourteen (14) days ; and

FURTHER RESOLVED, that this consent may be signed in any number of counterparts and by facsimile, photo or other electronic signature copy, each of which shall be deemed to be an original, and all of which taken together shall be deemed to be a single consent.

John Q. Anderson

Vicky Bailey

Paul F. Barber

Thomas W. Berry

Janice B. Case

Gerald W. Cauley

James M. Goodrich

Frederick W. Gorbet

David Goulding

Kenneth G. Peterson

Bruce A. Scherr

Jan Schori

Dated as of _____, 2010