

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

OFFICE OF ELECTRIC RELIABILITY

New Harquahala Generating
Company, LLC
Docket No. RC08-4-002

April 23, 2009

North American Electric Reliability Corporation
1120 G Street, N.W., Suite 990
Washington, D.C. 20005-3801

Attention: Rebecca Michael, Assistant General Counsel

Reference: Compliance Filing in Response to the Commission's May 16, 2008 Order

Dear Ms. Michael:

On May 16, 2008, the Commission issued an order finding that the North American Electric Reliability Corporation (NERC) properly registered New Harquahala Generating Company, LLC (Harquahala) as a transmission owner and transmission operator.¹ The order identified a potential "reliability gap" that would occur if Harquahala is not registered as a transmission owner and operator. Further, the order acknowledged Harquahala's concerns that it is physically unable to comply with all Reliability Standards applicable to transmission owners and transmission operators and directed NERC and Harquahala to negotiate regarding the Reliability Standards and Requirements that will be applicable to Harquahala. The Commission directed NERC to submit a compliance filing identifying the applicable Requirements.²

In a subsequent order on clarification, the Commission stated that it will review NERC's compliance filing identifying the applicable Requirements, and any comments filed by Harquahala, based on the language of the Reliability Standards, the reliability

¹ *New Harquahala Generating Company, LLC*, 123 FERC ¶ 61,173 (2008) (May 16 Order).

² *Id.* P 57.

risks posed by Harquahala's facilities and Harquahala's physical ability to comply with the Reliability Standards.³

On July 25, 2008, you submitted on behalf of NERC a compliance filing that lists each Reliability Standard that applies to transmission owners and transmission operators and identifies whether each Requirement of such standard applies to Harquahala. The compliance filing identifies 514 Requirements and Sub-Requirements of which 379 apply to Harquahala and 135 do not apply. Other than stating that the list is "based on information available to date . . . regarding Harquahala's current operation and agreements," you provided no explanation as to how the list was derived.

Please be advised that this filing is deficient. This letter requests additional information regarding NERC's decision to not include subRequirements R6.5 and R6.6 of Reliability Standards TOP-004-1 on the Applicability Table listing the Requirements which apply to Harquahala.

The May 16 Order identified the "risk of a significant adverse impact on reliability" if the Harquahala protection systems are not coordinated with neighboring transmission facilities, and specifically noted sub-Requirements R6.5 and R6.6 of TOP-004-1.⁴ However, your compliance filing indicates that sub-Requirements R6.5 and R6.6 of TOP-004-1 do not apply to Harquahala. NERC provided no explanation or support for not including these sub Requirements on the list applicable to Harquahala. Please provide NERC's rationale and support for:

- (1) why Harquahala should not be required to participate in developing, maintaining, and implementing policies and procedures related to the development of and response to IROL and SOL violations; and
- (2) why there is no risk of significant adverse impact on reliability if Harquahala is not required to comply with these two sub-Requirements.

The information requested in this letter will constitute an amendment to your filing. A notice of amendment will be issued upon receipt of your response.

This deficiency letter is issued pursuant to 18 C.F.R. 375.314(a)(2), and is

³ *New Harquahala Generating Company, LLC*, 123 FERC ¶ 61,311 (2008) (Clarification Order) at P 6.

⁴ May 16 Order, P 53 n.61.

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interlocutory. It is therefore not subject to rehearing pursuant to 18 C.F.R. 385.713. You must submit a response to this letter within thirty (30) days of the date of this letter. Please submit seven copies of your response. Six copies of your response should be sent to:

Federal Energy Regulatory Commission
Office of the Secretary
888 First Street, N.E.
Washington, D.C. 20426

The seventh copy should be sent to:

Federal Energy Regulatory Commission
Attention: Elizabeth Law
Office of Electric Reliability
888 First Street, N.E. (Room 91-58)
Washington, D.C. 20426

In addition, please provide a copy of your response to all parties that have either requested or been granted intervention in this proceeding. Failure to respond to this order within the time period specified may result in a further order rejecting your filing.

Sincerely,

Joseph H. McClelland, Director
Office of Electric Reliability

cc: All Parties

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