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

NEBRASKA PUBLIC POWER DISTRICT)	Docket No. RR11-1- 000
)	
)	
SOUTHWEST POWER POOL)	Docket No. RR11-1-001
REGIONAL ENTITY)	
)	

**MOTION TO INTERVENE, REQUEST TO CONSOLIDATE DOCKETS, AND
RESPONSE OF THE
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
TO PETITIONS OF THE NEBRASKA PUBLIC POWER DISTRICT AND THE
SOUTHWEST POWER POOL REGIONAL ENTITY FOR REVIEW OF NERC'S
DENIAL OF REQUEST TO AMEND TWO DELEGATION AGREEMENTS AND TO
TRANSFER REGISTRATION**

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April 21, 2011

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I. INTRODUCTION

Pursuant to Rules 211, 212 and 214 of the Federal Energy Regulatory Commission's ("Commission" or "FERC") Rules of Practice and Procedure, 18 C.F.R. §§ 385.211, 385.212 and 385.214, the North American Electric Reliability Corporation ("NERC")¹ hereby moves to intervene, requests to consolidate dockets, and submits a response in the above-referenced proceedings.

NERC submits this motion and response to:

- (1) The March 18, 2011 petition of Nebraska Public Power District² ("NPPD") asking the Commission to review NERC's decision not to approve a request for a transfer of NPPD's registration on the NERC Compliance Registry from the Midwest Reliability Organization ("MRO") to the Southwest Power Pool Regional Entity ("SPP RE") and not to direct an amendment, over MRO's objection, to the delegation agreements that NERC has with MRO and SPP RE.³
- (2) The March 31, 2011 petition of SPP RE asking the Commission to review NERC's decision not to approve a request for a transfer of the registration of NPPD, OPPD, Hastings and Grand Island on the NERC Compliance Registry from MRO to SPP RE

¹ NERC was certified by FERC as the electric reliability organization ("ERO") authorized by Section 215 of the Federal Power Act. FERC certified NERC as the ERO in its order issued July 20, 2006 in Docket No. RR06-1-000. *Order Certifying North American Electric Reliability Corporation as the Electric Reliability Organization and Ordering Compliance Filing*, 116 FERC ¶ 61,062 (2006) ("ERO Certification Order").

² *Petition of the Nebraska Public Power District for Review of NERC BOT's Denial of Transfer Request*, Docket No. RR11-1-000 (March 18, 2011).

³ In addition to NPPD, Omaha Public Power District ("OPPD"), the City of Hastings ("Hastings"), and the City of Grand Island ("Grand Island") (collectively, "the Nebraska Entities") requested a transfer of their Compliance Enforcement Authority from MRO to SPP RE.

and not to direct an amendment, over MRO's objection, to the delegation agreements that NERC has with MRO and SPP RE.⁴

The Nebraska Entities had previously asked for a transfer of their registration on the NERC Compliance Registry from MRO to SPP RE. That change in registration would require an amendment to each respective Exhibit A of the delegation agreements that NERC has entered into with MRO and SPP RE and that the Commission has approved. Exhibit A specifies the area in which a Regional Entity may exercise the authority that NERC has delegated to it in the delegation agreement. SPP RE supported the request of the Nebraska Entities to transfer their registration. MRO opposed the transfer. On February 17, 2011, the NERC Board of Trustees decided not to approve the requested transfer or to order that the two delegation agreements be amended. The petitions for review followed.

Because the two petitions arise out of the same set of facts and the relief sought in the two petitions is the same, NERC requests that the two petitions be consolidated.

⁴ In the petition, SPP RE states that NPPD, Hastings and Grand Island continue to seek the transfer. It appears that OPPD may not be contesting the decision to not approve the transfer.

II. NOTICES AND COMMUNICATIONS

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

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*Persons to be included on the Commission's service list are indicated with an asterisk. NERC requests waiver of the Commission's rules and regulations to permit the inclusion of more than two people on the service list.

III. MOTION TO INTERVENE AND REQUEST TO CONSOLIDATE DOCKETS

NERC was formed to serve as the electric reliability organization ("ERO") authorized by Section 215 of the Federal Power Act ("FPA"). NERC was certified as the ERO by the Commission's Order issued July 20, 2006, in Docket No. RR06-1-000.⁵ NERC's mission is to improve the reliability and security of the bulk power system in North America. To achieve that, NERC develops and enforces Reliability Standards; monitors the bulk power system; assesses future adequacy; audits owners, operators and users for preparedness; and educates and trains industry personnel. NERC relies on the diverse and collective expertise of industry participants.

⁵ See ERO Certification Order.

As the ERO, NERC is subject to oversight by the Commission and applicable governmental authorities in Canada.

On April 19, 2007, the Commission approved delegation agreements between NERC and eight Regional Entities, including delegation agreements with SPP RE and MRO.⁶ Pursuant to these delegation agreements, NERC delegated to MRO and SPP RE the authority to enforce mandatory Reliability Standards within their own respective regions.

On June 18, 2007, the NERC Reliability Standards, approved in Order No. 693, became mandatory and enforceable in the United States for all owners, operators and users of the bulk power system. Also, in Order No. 693, the Commission approved NERC's Compliance Registry process, including NERC's Registry Criteria. The Registry Criteria describes how NERC and the Regional Entities identify organizations that should be registered for compliance with the mandatory Reliability Standards. NERC has delegated the responsibility to the Regional Entities, including MRO and SPP RE, to identify the organizations subject to inclusion on the NERC Compliance Registry. NERC provides notice of registration to all organizations included on the NERC Compliance Registry.

NERC has a substantial and direct interest in the Commission decision in these cases, because the relief sought by NPPD and SPP RE would require NERC to revise its Compliance Registry and would require amendments to the delegation agreements that NERC has with MRO and SPP RE to change the designated areas within which they are authorized to exercise the authority delegated to them by the agreements. No other party can adequately represent NERC's interest. Therefore, it is in the public interest to permit this intervention. Moreover, the Commission should consolidate the two docket numbers in order to ensure a complete and

⁶ *North American Electric Reliability Council, North American Electric Reliability Corp.*, 119 FERC ¶ 61,060, *order on reh'g*, 120 FERC ¶ 61,260 (2007).

accurate record. Alternatively, if the Commission does not consolidate the two dockets, NERC asks the Commission to consider this response as filed in both dockets.

IV. RESPONSE

A. Background

By letter dated December 17, 2008, the Southwest Power Pool, acting on behalf of a number of entities within the State of Nebraska, advised NERC that, effective April 1, 2009, those entities would be joining the Southwest Power Pool organized market, placing their transmission assets under the control of the Southwest Power Pool Regional Transmission Organization, and taking reliability coordination services from the Southwest Power Pool Reliability Coordinator instead of the Midwest Independent System Operator. That letter also stated the Nebraska Entities had applied to SPP to transfer their registration on the NERC Compliance Registry from MRO to SPP RE.

That shift of responsibility for reliability coordination from MISO to the SPP Reliability Coordinator represented an expansion of the SPP Reliability Coordinator footprint. For that reason, NERC required that the SPP Reliability Coordinator be re-certified before the transfer of control of transmission facilities could take place. Following an analysis of how the SPP Reliability Coordinator had integrated the Nebraska Entities into its processes and procedures, on March 27, 2009, NERC conditionally re-certified the SPP Reliability Coordinator, thus enabling the Nebraska Entities to transfer control of their transmission facilities to SPP, effective April 1, 2009, as they had requested. Because NERC and the Regional Entities were then in the process of renegotiating the delegation agreements, action on the request to transfer the compliance registrations was deferred.

B. Proceedings Before NERC on the Transfer Requests

On June 29, 2010, the NERC General Counsel requested that SPP RE and MRO file a report, either jointly or separately, on the pending request of the Nebraska Entities to transfer their compliance registration from MRO to SPP RE. [**Attachment A**]. On August 16, 2010 SPP RE and MRO filed separate reports [**Attachments B and C**], which were then posted for public comment. In the reports, SPP RE supported the transfer; MRO opposed it. NERC received comments from NPPD and OPPD in support of the transfer [**Attachments D and E**]. NERC received comments from Basin Electric Power Cooperative, the Department of Energy Western Area Power Administration, and Cornbelt Power Cooperative in opposition to the transfer [**Attachments F, G, and H**]. SPP RE also filed a response to the MRO report [**Attachment I**].

The NERC Board of Trustees scheduled the request to amend the two delegation agreements and to transfer registration of the Nebraska Entities for consideration at its open meeting on February 17, 2011. The board agenda package included a memorandum summarizing the SPP RE report, the MRO report, the comments received in support of the transfer and the comments received in opposition to the transfer. The agenda package also included the full text of the SPP RE report, the MRO report, the SPP RE response to the MRO report and the comments submitted by NPPD in support of the requested transfer. Finally, the agenda package had links to all the comments received as posted on NERC's public website. The trustees also had available to them a non-public draft decision regarding the matter.

At the February 17 NERC Board of Trustees open meeting, representatives of SPP RE and NPPD presented their views to the trustees orally in favor of amending the delegation

agreements and approving the transfer request. MRO and Lincoln Electric System⁷ then presented their views orally to the trustees in opposition to amending the delegation agreements and approving the transfer request. SPP RE also provided further comments in rebuttal. Individual trustees posed a number of questions to the presenters. An extended discussion among the trustees then ensued during the public meeting, with trustees giving their particular views on the pros and cons of the issues. At the conclusion of the public discussion, in the circumstances of a contested request to amend the delegation agreements that NERC has with MRO and SPP RE and a contested request to transfer the registration of the Nebraska Entities, a majority of the trustees concluded that the record did not provide a sufficient basis for directing amendments to the agreements and approving the transfer. A motion to approve the requested transfer, subject to certain conditions, and to amend the two delegation agreements failed on a vote of 5 affirmative votes and 6 negative votes, with 1 trustee abstaining.⁸

V. ANALYSIS

This is the first circumstance in which NERC or the Commission has considered a contested request for a transfer of registration from one Regional Entity to another. In the future, requests for transfer of registration will be governed by the provisions of Rule 1208 of NERC's Rules of Procedure. Rule 1208 became effective January 1, 2011, the effective date set by the Commission for the amended delegation agreements that NERC has with the eight Regional

⁷ Lincoln Electric System also joined the SPP organized market and changed its reliability coordinator from the Midwest ISO to the SPP Reliability Coordinator, but it chose to keep its registration on the NERC Compliance Registry with MRO.

⁸ Article V, Section 3, of NERC's Bylaws provides that "[u]nless otherwise expressly provided in the Corporation's Certificate of Incorporation, 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 trustees, and (ii) actions by the board shall be approved upon receipt of the affirmative vote of a majority of the trustees present and voting at a meeting at which a quorum is present."

Entities and for related changes to NERC's Rules of Procedure.⁹ Because the request from the Nebraska Entities predated the effectiveness of Rule 1208, NERC agreed with NPPD that the procedures in Rule 1208 should not be applied to the instant case.

Section 215(e)(4) of the Federal Power Act authorizes the ERO to delegate its enforcement authority to a Regional Entity if, *inter alia*, the agreement "promotes effective and efficient administration of bulk power system reliability."¹⁰ The Commission must approve the delegation agreement and any modifications to the delegation agreement before they may take effect. The Commission also has the authority to modify the delegation agreement.¹¹

Although Rule 1208 does not apply to this case, in the course of approving Rule 1208 the Commission had the occasion to decide a number of the more general issues presented by a request for a transfer of registration.¹² In the October 21 Order, the Commission stated the following:

72. The Commission approves Section 1208 as proposed by NERC. The Commission agrees with NERC that "a registered entity does not have a right to choose the Regional Entity that will be its Compliance Enforcement Authority." [f.n. omitted.] In addition, as the Commission stated in Order No. 672, it is important that the footprint of a Regional Entity makes sense from a reliability perspective and does not overlap with another regional footprint. The Commission explained that any change in size, scope or configuration of a Regional Entity would constitute an amendment to the Delegation Agreement, and any such amendment would be subject to review by the ERO and approval by the Commission. [f.n. omitted.] This process, under which the Commission must approve any change to the boundary of a Regional Entity to which the ERO has agreed, indicates that boundary changes should be carefully considered and should serve to improve the effectiveness or efficiency of the Regional Entities'

⁹ *North American Electric Reliability Corporation*, 133 FERC ¶ 61,061, *order on reh'g*, 134 FERC ¶ 61,179 (2010) ("October 21 Order").

¹⁰ 16 U.S.C. § 824o(e)(4).

¹¹ 18 C.F.R. § 39.8(d) ("The Commission may modify such delegation.").

¹² *See* October 21 Order at PP 72-73.

and NERC's administration of reliability, and should not merely benefit an individual registered entity. [emphasis added.]¹³

73. In response to NPPD's assertion that the financial factors in proposed Section 1208 are given unfair weight and preserve a bias for retaining the *status quo*, we point out that, since Order No. 672, the Commission has promoted consistency of treatment of registered entities as between the Regional Entities and assigned initial responsibility to ensure that consistency to NERC as the ERO. [f.n. omitted.] This consistency ensures that registered entities will have no justification to shop for a favorable Regional Entity because the authority delegated to the Regional Entities will be applied in the same way among the regions. As a result, the transfer of registered entities between two Regional Entities should be the exception and not the rule. We leave to NERC's discretion the appropriate time required for processing transfer requests and deny NPPD's request that we direct incorporation of a specific timeline in Section 1208.

As demonstrated by discussion of the proceedings before NERC in Section IV.B above, and as demonstrated by the Attachments included in this filing, SPP RE and NPPD had a full opportunity to present their case, on more than one occasion. NERC decided that the views, data and arguments they presented did not provide a sufficient basis to require amending the two delegation agreements or approving the requested transfer of registration. At most, the record demonstrates only benefits to an individual registered entity.

Furthermore, as demonstrated by the description of the procedures set out in Section IV.B., far from being "arbitrary and capricious," the NERC Board of Trustees gave thorough and careful consideration to the views expressed by each of the parties, and the parties were able to hear the reasons for the Board's decision expressed in a public meeting, in real time.

Should the Commission believe that, in addition to the full procedural and decisional process that NERC afforded the parties in this matter, NERC should also have issued a written

¹³ See also the Commission's order denying NPPD's request for rehearing regarding Rule 1208. *North American Electric Reliability Corporation*, 134 FERC ¶ 61,179 (March 10, 2011) ("March 10 Order"):

changes in Regional Entity boundaries must be measured in terms of improving the administration of reliability by the Regional Entity and should not be measured solely in terms of the benefits that might flow to a single registered entity from transferring Regional Entities. March 10 Order, at P 16.

decision in this matter, then NERC requests that the Commission remand the matter to NERC for that purpose instead of itself deciding the matter *de novo*. That is the process a reviewing court would follow in similar circumstances.

VI. CONCLUSION

NERC respectfully requests that the Commission affirm NERC's decision not to require amendments to the delegation agreements NERC has with MRO and SPP RE and not to approve the requested transfer of registration for the Nebraska Entities. If the Commission believes that NERC should have issued a written decision in this matter, then NERC requests that the Commission remand the matter for that purpose.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document upon all parties listed on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 21st day of April, 2011.

/s/Willie L. Phillips, Jr.
Willie L. Phillips, Jr.
*Attorney for North American Electric
Reliability Corporation*

ATTACHMENT A

**NERC's June 29, 2010 Request to MRO and SPP
RE to Provide Detailed Written Reports Evaluating
the Proposed Transfer Requests**

NERC

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

June 29, 2010

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Stacy Dochoda
Southwest Power Pool, Inc.
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Suite #140 Plaza West
Little Rock, AR 72205

Dear Mr. Skaar and Ms. Dochoda:

In September 2008, the Nebraska Public Power District, Omaha Public Power District, Municipal Energy Agency of Nebraska, City of Fremont, City of Grand Island, Nebraska City Utilities, Falls City Utilities, and Hastings Utilities (collectively the “Requesting Parties”) requested that their Compliance Registration with the North American Electric Reliability Corporation (NERC) be transferred from the Midwest Reliability Organization (MRO) to Southwest Power Pool, Inc. Regional Entity (SPP). Such a transfer requires that the two Regional Entities involved amend both delegation agreements with NERC, and consider all of the issues relevant to the delegation of authority. Specifically, transferring the Requesting Parties would require amending Exhibit A to the MRO and SPP delegation agreements with NERC. Because NERC and the Regional Entities were in the process of re-negotiating the base delegation agreements and related changes to NERC’s Rules of Procedure, consideration of the transfer request was deferred.

Work on the base delegation agreements and rule changes has been completed and filed with the Federal Energy Regulatory Commission (FERC) for approval. As you know, NERC included a new Rule 1208 in the Rules of Procedure to deal with requests of this nature on a going forward basis; however, because it may be many months before we receive FERC approval of the proposed rule changes, NERC has determined that it is appropriate to move forward with the pending requests for transfer at this time.

To facilitate consultation between MRO and SPP, consideration and approval by the NERC Board of Trustees, and approval by FERC of the resulting amendments to the delegation agreements with NERC, NERC requests that MRO and SPP submit a detailed written report evaluating the proposed transfer requests. The MRO and SPP evaluations should consider:

- whether the Requesting Parties still wish to make the transfer;

- the location of the bulk power system (BPS) facilities of the Requesting Parties to be transferred in relation to the geographical and electrical boundaries of the respective regions and the benefits that would accrue to the Requesting Parties desiring a transfer;
- the impacts of the proposed transfers on other BPS users, owners, and operators;
- what changes in existing arrangements would need to be made to accommodate the transfers;
- the impacts of the proposed transfers on the current and future staffing, resources, budgets and assessments to other Load-Serving entities of each Regional Entity, including the sufficiency of SPP's staffing and resources to perform compliance monitoring and enforcement activities with respect to the registered entities to be transferred;
- the compliance history of the Requesting Parties to be transferred from MRO;
- the manner in which pending compliance monitoring and enforcement matters concerning the Requesting Parties would be transitioned from MRO to SPP, if applicable; and
- the amendments to Exhibit A to each Regional Entity's delegation agreement that would be necessary to achieve the transfer.

If feasible, NERC requests that MRO and SPP submit a joint report regarding the requested transfers. However, NERC will also accept individual reports from the two regions. MRO and SPP may also request that the Requesting Parties within their areas provide additional information concerning the proposed transfer for use in their report.

NERC requests that you file the report within 45 days of receipt of this letter.

The NERC Board of Trustees will consider the proposed transfer based on the submissions by MRO and SPP, and any other information the board considers relevant. Prior to action by the NERC Board of Trustees, NERC staff will post for public comment the submissions from MRO and SPP on the NERC website for twenty-one (21) days, prior to consideration for approval by the NERC Board of Trustees. If approved, NERC will file the proposed amendments to the delegation agreements with FERC for approval.

If you have any questions or concerns regarding this matter, please contact me or Willie Phillips in our legal department at 202-383-2628.

Thank you,



David Cook
VP & General Counsel

Mr. Daniel P. Skaar and Ms. Stacy Dochoda

June 29, 2010

Page 3

CC: David D'Allessandro, Nebraska Public Power District
David Ried, Omaha Public Power District
Charles J. Langston, Municipal Energy Agency of Nebraska
Derril Marshall, City of Fremont
Gary Mader, City of Grand Island
Leroy Frana, Nebraska City Utilities
Marvin H Schultes, Hastings Utilities
Alan Romine, Falls City Utilities

ATTACHMENT B

MRO's August 16, 2010 Report



August 16, 2010

Mr. David Cook
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Subject: Nebraska Entities request for transfer from MRO to SPP RE

Dear Mr. Cook:

In correspondence dated June 29, 2010, you requested responses to specific questions to evaluate whether the NERC Board of Trustees should grant or deny the request by the Nebraska Entities¹ to change their Compliance Enforcement Authority from Midwest Reliability Organization (“MRO”) to Southwest Power Pool Regional Entity (“SPP RE”). See [Exhibit F](#) for MRO’s answers to the questions. This letter is MRO’s response to the Nebraska Entities’ request.

MRO opposes the Nebraska Entities request and believes that such a request is factually unsupported, and if granted, would create poor precedent. MRO believes that the Nebraska Entities overarching concern about duplication and accuracy of reporting and cost efficiency have been addressed. Moreover, when similar issues with different Registered Entities have arisen, the affected Regional Entities have worked closely to resolve coordination matters. Switching Compliance Enforcement Authorities has not been the solution.

The geographical configuration of the Regional Entities in relationship to the boundaries of the Reliability Coordinator and Planning Authorities (including Regional Transmission Organizations and Independent System Operators)(“RC/PA/RTO/ISOs”) is an issue which has been addressed through the NERC and MRO registration processes and coordination among the Regional Entities. The broader issue of aligning boundaries of Regional Entities should be addressed in a thoughtful manner among the Regional Entities and NERC, not one petition at a time. The ERO-enterprise’s priority should be the policy issue and its resolution, not the one by one movement of various Registered Entities to and from Regional Entities as they change memberships in regional transmission organizations or markets.

¹ MRO has been informed by SPP RE that in addition to NPPD, Omaha Public Power District (“OPPD”), the City of Hastings and the City of Grand Island remain interested in changing their Compliance Enforcement Authority to SPP RE. It is unclear whether Municipal Energy Agency of Nebraska (“MEAN”) wishes to change its Compliance Enforcement Authority or not. Therefore, for the purpose of this response, Nebraska Entities does not include MEAN, or any other Nebraska entities. MRO has responded to the specific arguments raised by NPPD and its response would be the same for the larger group.





Background and MRO's Position

NPPD has put forth the rationale for its request to change its Compliance Enforcement Authority with which the other three Nebraska Entities presumably agree. NPPD has persistently asserted that because it has chosen to participate in a new market, it should now be able to choose its Compliance Enforcement Authority. According to NPPD “[t]he need ... is demonstrated by NPPD’s decision to move from the Midwest ISO market area to the SPP RTO.”² The notion that a Registered Entity can choose its Compliance Enforcement Authority has been rejected by NERC, which stated in response to NPPD’s assertion: “A registered entity does not have a right to choose the Regional Entity that will be its Compliance Enforcement Authority....”³ NPPD’s Petition also raises concerns pertaining to duplicative data submittal, inconsistent reporting, inconsistent regional procedures (such as generator testing), and regional standards currently under development or being considered. All of these concerns are addressed and resolved by the agreed-upon Coordination Guidelines for the Nebraska Entities and Southwest Power Pool, Inc. (as the Registered Entity), which were developed in 2009 and finalized in June 2010. These are typical matters for Registered Entities to address when they operate in various regions and have multiple Regional Entities, or operate in more than one market. However, the facilities of the Nebraska Entities are entirely within the MRO geography and therefore, the Nebraska Entities are not divided between Regional Entities. These Coordination Guidelines provide the necessary clarity to the affected Registered Entities and are provided here as [Exhibit A](#).

The sole remaining concern noted in NPPD’s Petition relates to its own costs. NPPD states that it “incurs duplicative dues by being forced to remain in the MRO while being a member of SPP RTO [*explain how and why this occurs*].”(emphasis added) (sic).⁴ NPPD could not respond in its protest to the drafter’s request to explain duplicative dues because the statement is not correct. MRO has no membership dues and there are no duplicative costs between MRO and the SPP RTO. NPPD seems to confuse its Section 215 “load serving entity” reliability obligation as a Registered Entity with costs associated with SPP RTO membership and SPP market participation. Obviously, these are different and distinct responsibilities, with one being an obligation and responsibility under Section 215 of the Federal Power Act, and the other being a business decision of choosing an RTO and market. This error is similar to NPPD’s repeated assertion that it is not a member of MRO. Neither assertion has any bearing on the determination of whether NPPD’s petition should be granted or denied. Furthermore, not all MRO Registered Entities are members of MRO and many members rely on their sector representatives to attend meetings and keep informed on key matters, rather than attending in person.

² See Supplemental Comments of the Nebraska Public Power District Regarding Proposed Changes to *pro forma* NERC/Regional Entity Delegation Agreement Due March 5, 2010, page 1 (emphasis added)(NPPD Comments Delegation Agreement). NPPD also stated “By joining the SPP RTO, NPPD logically and rightfully assumed it also would be permitted to become a Registered Entity under the SPP Regional Entity.” *Id.* at page 3.

³ Motion of the North American Electric Reliability Corporation to submit Answer to Comments on 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 in Docket No. RR-10-11-000, page 19 (NERC Comments Delegation Agreement).

⁴ NPPD Comments Delegation Agreement, page 1.





NPPD also contends that there is a financial impact because of “the additional [NPPD] time and expense associated with monitoring standards currently being developed or considered in two regions and attending duplicative meetings in separate locations.”⁵ Again, this concern is resolved by the agreed upon Coordination Guidelines. NPPD then attempts to twist the statutory requirement that the delegation agreement between NERC and MRO must “promote effective and efficient administration of the bulk-power system reliability”⁶ into an analysis of a particular Registered Entity’s efficiencies. Creating a precedent that allows a single Registered Entity’s presumed efficiencies to be the standard that drives the design of the Regional Entities and will produce irreconcilable differences. What may be efficient for one Registered Entity would drive up the costs for other Registered Entities as is the case here. Such a precedent would lead to a chaotic, unsound approach to determining the configuration of regional boundaries and shift the focus away from reliability of the bulk electric system to constant corporate restructuring driven by Registered Entities.

NPPD describes its increased costs as: “Belonging to the SPP RTO and the MRO forces NPPD representatives to travel to separate locations on separate days to attend RTO and Regional Entity meetings. The SPP RTO and SPP Regional Entity often coordinate the scheduling of their respective meetings on consecutive days in order to minimize the time and expense associated with travel.”⁷ NPPD does not quantify these costs. This was NPPD’s choice to join SPP without any “guarantee” of a change in Compliance Enforcement Authority. While the SPP RTO may have organizational meetings coincidental to the SPP RE meetings, this is a modest administrative convenience which should not drive key policy matters. Ironically, however, based on SPP RE’s 2011 funding requirement and assuming the Nebraska Entities do not increase SPP RE’s costs, NPPD would be 5.6% of the SPP RE footprint and responsible for \$546,515 of the costs which would be an increase in budgeted costs to NPPD of \$157,509 as compared to remaining as part of the MRO region.⁸ Based on assessments, which are net of penalties and other adjustments, the increase for NPPD would be \$112,131. Each of the Nebraska Entities would experience similar increases in both the budgeted and assessed cost by having SPP RE serve as their Compliance Enforcement Entity. Thus, it does not appear that the Nebraska Entities would have a net positive economic benefit from the change to SPP RE regarding the Regional Entity allocation.

NPPD has not offered a sufficient basis to grant the Nebraska Entities request to change their Compliance Enforcement Authority, and therefore, the request should be denied for that reason alone. Not only is NPPD’s rationale for the requested change insufficient, there are affirmative reasons to deny the petition.

Granting the Nebraska Entities’ request would be detrimental to the remaining MRO Registered Entities as MRO’s cost structure would be spread over a smaller base. The Nebraska Entities’ represents approximately 9.1% of the 2011 budgeted load in the MRO footprint, and for the 2011

⁵Id., page 4.

⁶ 16 U.S.C. §824o (e)(4)(C) (2006).

⁷NPPD Comments Delegation Agreement, page 4.

⁸ See Footnote 7, *supra*..





NERC approved MRO budget the Nebraska Entities would be responsible for \$738,560 and assessed \$750,399.⁹ See [Exhibit B](#). Moving the Nebraska Entities out of the MRO footprint would not change the overall MRO 2011 funding requirement at this time, and therefore, these costs would be allocated to the remaining Registered Entities. The Registered Entities remaining in MRO would see their assessed costs increase by \$750,399 in 2011, and, all other factors equal, the increase would be carried forward into future budget years. Therefore, granting the request does not economically benefit the Nebraska Entities or the remaining MRO Registered Entities. Only current SPP RE Registered Entities would derive an economic benefit from the proposed change.

If the four Nebraska Entities' request is granted, the remaining geographical footprint of MRO in Nebraska would become checkered, resulting in extra administrative reporting costs for those remaining in Nebraska and MRO. Several Registered Entities in the MRO footprint that are aware of the Nebraska Entities' request have informally indicated opposition and at least two have already opposed it in writing, including those who share responsibilities on key facilities. See [Exhibits C and D](#). To the extent the shift would increase costs to the remaining MRO Registered Entities, presumably all the MRO Registered Entities who are load serving entities would oppose the Nebraska Entities departure.

Moreover, there is no guarantee that each of the Nebraska Entities would continue participation in the SPP-RTO market. As the SPP-RTO market develops, any one of the Nebraska Entities could decide to exit that market and seek alternatives. Other Registered Entities have changed market allegiances without seeking to change their Compliance Enforcement Authority. For example, Duke Energy's proposal to switch Duke Energy Ohio and Duke Energy Kentucky from MISO to PJM has not resulted in a companion filing to switch Duke Kentucky from SERC Reliability Corporation to ReliabilityFirst, even though it certainly is plausible that it would be more convenient for Duke.¹⁰ Similarly, the affiliation between SPP RE and SPP RTO is irrelevant here and should have no bearing on the NERC Board of Trustee decision. Axiomatically, voluntary changes of memberships in markets simply should not drive changes in the Compliance Enforcement Authority.

While we understand NERC's desire to be responsive to NPPD, NERC's willingness to address this issue prior to finalizing its policies and procedures embodied in Rule 1208 would create an unfortunate precedent that might be an invitation to other Registered Entities to seek transfer to another Regional Entity based on notions of *their own* convenience. With any given request, it will be difficult to determine whether past enforcement action or the perception of the enforcement capabilities and philosophy of the requested Compliance Enforcement Authority is, in part, a motive for the requested change. Moreover, piecemeal handling of these matters does

⁹ Budgeted numbers reflect projected annual costs; assessment numbers are net of historical penalties and other adjustments and represent the amount that will be paid by the Registered Entity.

¹⁰ See <http://www.troutmansandersenergyreport.com/2010/07/duke-energy-ohio-and-duke-energy-kentucky-submit-initial-filing-to-withdraw-from-midwest-iso-and-join-pjm-by-january-1-2012/> regarding Duke's requested change in RTOs





not increase the Regional Entities' effective and efficient administration; instead it creates untenable geographical boundary issues as well as instability in the Regional budgets and scope in carrying out their Section 215 responsibilities. The Regions would be placed under the control of those they regulate because the Registered Entity would be able to change its regulator *for its convenience* and, thus, impact Regional funding and allocations to other Registered Entities. This coupled with the difficulty in determining motivations for a change in Compliance Enforcement Authority would create a confusing precedent, likely to encourage "forum shopping" in the industry – a destabilizing factor for regulation and reliability.

The uncertainty that would be created by the movement of Registered Entities among Regional Entities does not "promote effective and efficient administration of the bulk-power system reliability," and therefore is not in the public interest. The Nebraska Entities have not offered a sufficient or appropriate basis for changing their Compliance Enforcement Authority. Moreover, the change would be detrimental and disruptive to the remaining Registered Entities in MRO by increasing their costs and administrative burdens. The issues raised by the Nebraska Entities have been resolved by the Coordination Guidelines which represents the standard Regional Entity approach to resolving similar issues.¹¹ The request by the Nebraska Entities to change their Compliance Enforcement Authority, therefore, should be denied.

Policy Considerations Raised by the Nebraska Entities' Request

MRO strongly supports the effective and efficient design of the ERO-enterprise including the Regions, and MRO understands the valid cost and efficiency concerns raised. However, a fragmented approach driven by individual Registered Entities' request is not the solution.

As noted above, NERC has stated that NPPD does not define its policy priorities¹² and NERC should not let the Nebraska Entities demands to join SPP RE set NERC's policy priorities. The policy priority that NERC should consider is whether granting the Nebraska Entities request promotes the effective and efficient administration of the bulk-power system reliability under Section 215 of the Federal Power Act?

MRO's Recommendation

MRO recommends that NERC deny the Nebraska Entities' request to change its Regional Entity based on a finding that the reasons as noted by NPPD do not support a change in the Compliance Enforcement Authority, particularly given the increased costs that would be incurred by the other MRO Registered Entities.

The geographical configuration of the Regional Entities in relationship to the boundaries of the Reliability Coordinator and Planning Authorities (including Regional Transmission Organizations and Independent System Operators)("RC/PA/RTO/ISOs") may be an important issue; however, the existing registration processes and the measures taken by Regional Entities to cooperatively address the issues have resolved duplications and eased the administrative burden.

¹¹ For example, MRO has arrangements with ReliabilityFirst regarding how to handle a Registered Entity with operations in both regions. These types of coordination arrangements are common, effective and efficient.

¹²See *supra* note 3.





NERC's priority should be to first complete and assign the "fill in the blank" standards to Registered Entities, consistent with Order 693 directives, which would provide better clarity to the industry on this issue. Then, NERC should consider the broader policy issues and not sanction piecemeal movement of various Registered Entities to and from Regional Entities.

Sincerely,

A handwritten signature in black ink that reads "Daniel P. Skaar".

Daniel P. Skaar
President

Cc: Stacy Dochoda, SPP RE General Manager
Nebraska Entities





Exhibit A

Coordination Guidelines for Nebraska Entities and Southwest Power Pool, Inc. (as the Registered Entity) in MRO Region

June 11, 2010

Background

On April 19, 2007, the Federal Energy Regulatory Commission (“Commission” or “FERC”) issued an order accepting Delegation Agreements between the North American Electric Reliability Corporation (NERC) and eight Regional Entities (REs), including the Midwest Reliability Organization (MRO) and Southwest Power Pool, Inc. (SPP) Regional Entity division¹³. In each Delegation Agreement, NERC assigned authority to the RE to, among other things, enforce compliance with Reliability Standards within the geographic boundaries set forth in Exhibit A of the RE’s Delegation Agreement.

Geographic boundaries of the Regional Entities were generally established based upon the existing boundaries of the predecessor organizations (Regional Reliability Councils), which were somewhat based on the topography of the bulk electric system and the operating footprints of the membership within the voluntary regional reliability organizations. These geographic areas were generally the basis for regional bulk power system planning, modeling, and system analyses, as well as for other types of regional planning and operational coordination such as UFLS programs and system restoration plans. MRO geography includes the former MAPP region, parts of the former MAIN region and Saskatchewan (which was not part of a predecessor organization). In the future, tasks such as these would likely be re-assigned to Planning Coordinators and/or Reliability Coordinators, but currently are included in the responsibilities of the Regional Entities (as part of the so called “fill in the blank” standards).

As a condition of the Delegation Agreement, each RE also had to agree to comply with the provisions within the NERC Rules of Procedure (ROP). The ROP provides for additional activities such as Organizational Registration and Certification, Reliability Readiness Audit and Improvement, Reliability Assessment and Performance Analysis, Training and Education, and Situational Awareness and Infrastructure Security.

Nebraska area changes

On April 1, 2009, Nebraska Public Power District (NPPD), Omaha Public Power District (OPPD), and Lincoln Electric System (LES) (“Nebraska entities”) joined SPP and began to take Reliability Coordinator (RC) and tariff administration services from SPP. On March 26, 2009, MRO approved the revised Reliability plan for SPP Regional Transmission Organization (RTO), which included the Nebraska entities. In addition, certain Nebraska utilities requested to move their RE affiliation from MRO to SPP (as administered by the SPP Regional Entity division). These requests to move registration remain pending with MRO, SPP RE division and NERC.

¹³ This document refers to SPP in two contexts. One, SPP, as the Regional Entity under Section 215 of the Federal Power Act or “SPP RE division. Two, SPP, as a Registered Entity in both SPP RE division and MRO geographies or “SPP RTO”.





Coordination Guidelines

While the requests to move RE registration from MRO to the SPP RE division remain pending, the Nebraska entities and the SPP RTO will operate in accordance with these Coordinating Guidelines to ensure clarity for Nebraska entities and SPP RTO to avoid duplication where possible and provide certainty for regional delegated authorities between MRO and SPP RE division and those subject to the standards under Section 215 of the Federal Power Act.

Model Building

The bulk power systems of NPPD, OPPD, and LES will be included in the models of SPP as their Planning Coordinator. Staff of MRO will coordinate the timing of data collection and other modeling details to ensure the seams are clear in the models and minimize duplication with the cooperation from the Nebraska entities and SPP RTO.

The Nebraska entities will submit their respective modeling data directly to SPP RTO for the 2010 model series. The MRO Model Building Subcommittee may choose whether to obtain these updates as a part of the MMWG external model or directly from SPP RTO for use in the MRO 2010 series models so that the Nebraska entities will only need to submit their data once (to SPP).

Seasonal and Long Term Assessments

Bulk power system planning for the Nebraska entities will be coordinated by SPP RTO as their Planning Authority (PA), using the appropriate planning criteria, processes and models for the NERC 2010 seasonal assessments, scenario assessments, and LTRA. SPP RTO, as the PA, will continue to perform appropriate studies to meet the requirements for TPL-001 to TPL-004.

The Nebraska entities will submit their respective data and narrative portions of these assessments to MRO. The Nebraska entities will complete the NERC spreadsheet for their respective company's load, generation, interchange, transmission, energy, etc., and return it to MRO. MRO will include the Nebraska entities in their regional assessment submittals to NERC. This does not prohibit or limit the Nebraska entities from voluntary participation in the SPP RE division assessment process in 2010 (as they have expressed a desire to do so).

For assessments, MRO has proposed to NERC that assessments should be conducted on planning authority geographies which would resolve the matter for all parties.

Periodic Data Reporting

These periodic data requirements will be collected/performed by MRO:

- CPS data, for analysis and subsequent reporting to NERC
- Relay mis-operations
- Reviews of new or modified SPSs and periodic reviews of an SPS
- Frequency bias settings
- Monthly Operator Credentials (PER-003)
- Ongoing and Quarterly Vegetation related transmission outages
- Annual Self-Certification





- Exception reporting identified in the annual implementation plan
- NERC GADS and TADS data submittals
- Quarterly updates required by NERC EOP-005-1 for the exercise, drill, and simulation of restoration of offsite power to nuclear stations

DCS data will be submitted to SPP RTO (through its Reserve Sharing Group) for compilation and reporting to NERC, with a copy of the report provided to MRO.

Additional Clarifications on Requirements for Nebraska entities and SPP RTO

- MRO will monitor compliance and handle enforcement for violations of all regulatory approved Reliability Standards and is the Compliance Enforcement Authority for the Nebraska entities and the applicable parts of the SPP RTO.
- Contingency reserve requirements for NPPD, OPPD, and LES will be those established by SPP RTO until a NERC standard is established and mandatory. Black Start coordination is the responsibility of SPP RTO as the Reliability Coordinator.
- For generator testing, the Nebraska entities should select the criteria that are most consistent with maintaining reliability in their respective areas and report their respective selections to MRO until a mandatory standard is established by NERC.
- Event Analysis coordination will be determined by the circumstances. In general, a wide spread event will be coordinated by NERC. A more localized event will be coordinated based upon the circumstances. MRO and SPP RE division will coordinate appropriately.
- The designated Planning Authority for the Nebraska entities is SPP RTO.
- The designated Transmission Service Provider for the Nebraska entities is SPP RTO.
- For Disturbance Monitoring Equipment requirements, the Nebraska entities should select the criteria that are most consistent with maintaining reliability in their respective areas and report their respective selections to MRO until a mandatory standard is established by NERC.
- For Under Frequency Load Shed and Under Voltage Load Shed programs, the Nebraska entities should select the criteria that are most consistent with maintaining reliability in their respective areas and report their respective selections to MRO until a mandatory standard is established by NERC.

Regional Standards

MRO and SPP RE division will determine the applicability of any new or revised Regional Standards for Nebraska entities and SPP RTO consistent with maintaining reliability in the area.





Exhibit B

NERC's entire Assessment Schedule for 2011 can be found by following:
http://www.nerc.com/docs/bot/finance/Appendix_2_AssessmentCalculations.pdf

2011 Budget and Assessment Impacts

	MRO			SPP Budget			
	MRO NEL	MRO NEL Pct	MRO Budget Amt	SPP NEL	NEL	Amt	Increase/(Decr)
NPPD	12,666,632	4.784%	\$ 389,006	12,666,632	5.578%	\$ 546,515	\$ 157,509
OPPD	10,305,544	3.893%	\$ 316,495	10,305,544	4.538%	\$ 444,644	\$ 128,149
Grand Island	681,421	0.257%	\$ 20,927	681,421	0.300%	\$ 29,401	\$ 8,473
Hastings Utilities	395,028	0.149%	\$ 12,132	395,028	0.174%	\$ 17,044	\$ 4,912
NE Entities	24,048,625	9.083%	\$ 738,560	24,048,625	10.591%	\$ 1,037,604	\$ 299,044

	MRO Assessment			SPP Assessment			
	MRO NEL	MRO NEL Pct	Amt	SPP NEL	NEL	Amt	Increase/(Decr)
NPPD	12,666,632	4.784%	\$ 395,211	12,666,632	5.578%	\$ 507,342	\$ 112,131
OPPD	10,305,544	3.893%	\$ 321,542	10,305,544	4.538%	\$ 412,772	\$ 91,230
Grand Island	681,421	0.257%	\$ 21,261	681,421	0.300%	\$ 27,293	\$ 6,032
Hastings Utilities	395,028	0.149%	\$ 12,325	395,028	0.174%	\$ 15,822	\$ 3,497
NE Entities	24,048,625	9.083%	\$ 750,339	24,048,625	10.591%	\$ 963,230	\$ 212,891

Total NEL	264,751,863			203,022,708
NE Entities	24,048,625			24,048,625
Revised NEL	240,703,238			227,071,333

2011 Budget	\$ 8,130,824		\$ 9,797,236
2011 Assessment	\$ 8,260,502		\$ 9,094,985

Note: Budget are operating costs plus capital costs; Assessments are net of penalties collected and other adjustments

Reference: Figures from 2011 Business Plan and Budget from SPP RE and MRO; NEL figures of NE Entities.





Exhibit C



August 12, 2010

Dan Skaar, President
Midwest Reliability Organization
2774 Cleveland Avenue N
Roseville, MN 55113

Re: Nebraska Utilities Transfer Request

Dear Mr. Skaar:

Certain Nebraska utilities have requested a transfer from the Midwest Reliability Organization (MRO) to the Southwest Power Pool Regional Entity (SPP RE), suggesting in the process that their situation would be unique and effort duplicative if they remain in SPP for RTO services and in MRO for RE purposes. Lincoln Electric System (LES), a Bulk Power System user, owner, and operator within the MRO region which would be impacted by the proposed transfers, opposes the proposal, and offers the following for consideration in support of its opposition.

Regional reliability entity and regional transmission organizations functions differ significantly, and there is risk in having the two entities performing their separate obligations under one umbrella. While both organizations have common interest in a robust, secure and reliable bulk transmission system, they necessarily operate in pursuit of that goal from differing perspectives. It is essential for the Regional Entity function to be intently focused upon regional assurance of compliance with the NERC standards. The RTO focuses instead on bulk power transmission needs and energy market functions. Given their differing perspectives and responsibilities, situations of conflicting obligations will occur. It is simply better for the reliability organization to be totally separate from and independent of the RTO, and to that end, LES believes it is better for RE's not to automatically align footprints with an RTO every time a geographical boundary change occurs. Evidence that differing RTO and RE footprints are workable can be found by looking no further than MRO for an example. There are currently two quite successful RTO organizations functioning within the existing MRO area of responsibility along with two Transmission Organizations. MRO receives input and cooperation from each of these entities, but has no vested interest in the successful governance of any of them.





The Nebraska utilities are in a time of transition into the SPP RTO. As is the case in any transition, there is a learning curve when two separate entities first begin to communicate and coordinate joint operations. LES believes that the perception of duplicative issues between the MRO and SPP RTO stem in part from the requirements outlined in the 'SPP Criteria' document. The SPP Criteria document (last updated April 27, 2010) contains a mix of both SPP RE related requirements and SPP RTO related requirements, without distinction to which are RE related and which are RTO related. As a part of LES' membership agreement with the SPP RTO, LES became obligated to meet all of the requirements listed in the SPP Criteria document. Since the NERC approved 'fill in the blank' standards require LES to meet its RE's requirements, LES felt it necessary to pursue waivers from the SPP RE related requirements within the SPP Criteria document. LES was granted 24 waivers from those SPP Criteria requirements related to the RE function. It is LES' contention that if the SPP Criteria were separated into two separate documents, one for the SPP RE and one for the SPP RTO, the perception of duplication between the SPP RE and the MRO would be greatly reduced, if not all together eliminated.

Additionally, this continued perception of duplication fails to consider efforts already undertaken by the MRO to accommodate the NE entities' SPP RTO transition. The MRO has exceeded the most basic responsibilities required of a Regional Entity in order to eliminate for the Nebraska utilities any perception of duplicated efforts and to ensure that any issues are adequately resolved. In light of the MRO's continued commitment, LES continues to remain unconvinced that any reliability benefit can be realized by transferring Regional Entities.

Although SPP has proven its capability in performing the market functions, reliability coordinator functions, and reserve sharing group functions as LES' designated RTO, LES perceives a high value in the importance of separating the RTO and RE functions in accordance with the ERO model. At this time, LES believes the MRO well serves its role of the RE for LES and the other Nebraska utilities.

These comments may be shared with NERC if you wish.

Sincerely,

A handwritten signature in black ink, appearing to read 'Doug Bantam', written over a faint, larger version of the signature.

Doug Bantam
Chief Operating Officer

cc: Kevin Wailes





Exhibit D

From: Robert Harris
Sent: Saturday, February 13, 2010 12:57 PM
To: David Cook
Subject: NPPD's request to transfer to SPP RE

Hi Dave. It's been a quite a while since I was on the NERC MRC and we worked together. I wanted to be sure you and NERC were aware of a couple issues we have with NPPD's request to transfer from the Midwest Reliability Organization (MRO) to the SPP Regional Entity (SPP RE).

First, there are several registered entities who have facilities in Nebraska currently included in the MRO footprint. I can't see how NPPD and the other Nebraska entities unilaterally desiring to transfer to SPP RE could do so, without consideration of the impacts to the other registered entities with Nebraska facilities. Western Area Power Administration's Upper Great Plains Region (Western UGP) currently has facilities in the WECC footprint and the MRO footprint. Some of our facilities in the MRO footprint are in Nebraska. We have no desire to move or have facilities moved into the SPP RE footprint such that we are in three Regional Entities footprints. I realize there are others in this situation but we want NERC to understand we strongly oppose the transfer of our facilities from MRO to SPP RE to facilitate the desire of certain other registered entities to transfer their own facilities from the original footprint.

Second, if Nebraska is transferred into the SPP footprint, there will be cost shift in the MRO. It's my understanding that the remaining MRO registered entities cost will go up between 6 and 8%. This is not something that Western UGP finds acceptable. Additionally if some of our facilities are forced into the SPP RE footprint, I'm sure we will be expected to pay our respective portion of the SPP RE cost. The 6-8% increase coupled with the load ratio share of the SPP RE cost will represent a large cost increase to our load and customers. This increase in cost is something we also strongly oppose.

Third, it's our understanding that you directed MRO and SPP RE to work through any concerns of the Nebraska utilities. I understood that all or nearly all the issues had been resolved and am not aware of significant issues associated with the current footprints.

I understand that you will be discussing this request next week at the MRC meeting and wanted to be sure that you and NERC are aware of our strong concern and opposition in the transfer of certain Nebraska utilities to SPP RE.

Thanks

Bob Harris
Regional Manager
Western Area Power Administration
Upper Great Plains Region





Exhibit E

February 3, 2010

Mr. Tom Burgess
NERC Planning Committee, Chair

Mr. Jeff Mitchell
NERC Planning Committee, Vice Chair

Subject: Aligning Assessment Geographies with Planning Authorities

The Midwest Reliability Organization (MRO) would like to request that the NERC Planning Committee include an agenda item for their March 16-17, 2010 meeting, to discuss the realignment of seasonal and long-term assessment reporting boundaries from the Regional Entity boundaries (as determined by the Regional Delegation Agreements) to the actual planning and operating boundaries associated with Planning Authorities and Reliability Coordinators (includes Regional Transmission Organizations (RTO) and Independent System Operators (ISO)).

Background:

With the unbundling of functions (including the start-up of organized markets) in the Eastern Interconnection, the recent emphasis on regional planning, and the role of Regional Entities changing as a result of Section 215 of the Federal Power Act, MRO staff recommends consideration that the meaningful geography in the assessment is the planning and/or regional planning authority geographies, including an emphasis on the Eastern Interconnection geography. Since Regional Entities are not Registered Entities and are not subject to Reliability Standards, it appears that using Regional Entity (RE) boundaries for assessment reports is no longer a necessary or meaningful geography for the readers of such reports, unless the Regional Entity geography coincides with the planning authority or RTO boundary. Ultimately, it's the Planning Authority's responsibility to properly plan for load, generation and transmission. It is the Regional Entity's responsibility to assure, in an independent fashion that the Planning Authorities follow the applicable Reliability Standards and the studies performed by Planning Authorities have adequate technical rigor. Assessments performed by NERC and the Regional Entities need "line of sight" to those ultimately responsible for planning the bulk power system; this is more meaningful to the readers and users of the reports.

Throughout 2009, the NERC Reliability Assessment Subcommittee has been discussing how to better report assessments within the central part of the Eastern Interconnection where Reliability Coordinators and Planning Authorities (i.e. ISO and RTO) geographies straddle several Regional Entities. The Midwest ISO, PJM and SPP-RTO are incongruous with the Regional Entity geographies of the MRO, SPP, RFC and SERC. However, NERC assessments report on a Regional Entity basis and it is becoming increasingly difficult to align the assessments that are submitted by Planning Authorities and RTOs/ISOs to fit into Regional Entity geographies, particularly with LMP markets, regional tariffs, and Reliability Coordination often times matching these Planning Authority and RTO/ISO geographies.





Existing Process:

- Regional Entities presently report assessment information to NERC for Registered Entities located within their RE boundaries.
- Regional Entity geographies are not perfectly aligned with several Planning Authorities (i.e. RTO geographies).
- Data associated with RTOs and Planning Authorities that straddle multiple REs is presently parsed out to each respective RE based on RE boundaries.
- Carving up RTO data this way is difficult and no longer meaningful in these instances and can result in misleading the readers of the assessments (e.g. may result in inaccuracies, and it can be confusing when:
 - Summarizing annual growth rates
 - Describing demand response programs
 - Comparing reserve margins to target margins
 - Summarizing interchange transactions
 - Describing resource adequacy studies

Overall, the more meaningful geographies to report on are Planning Authorities or groups of Planning Authorities (including organized markets such as RTO geographies). In other words, the assessments done by NERC and the Regional Entities need line of sight to those ultimately responsible for planning the bulk power system.

The attached Powerpoint slides illustrate this issue and can be used to present this agenda item to the NERC Planning Committee. As the slides indicate, WECC, ERCOT, FRCC and NPCC are unaffected by this proposal.

Proposal:

- Data associated with RTOs and Planning Authorities that straddle multiple REs would no longer be parsed out to the REs.
- An RTO, ISO or Planning Authority (or a group of Planning Authorities as in the SERC Region) would be considered a Sub-region and would now be kept whole for reporting purposes.
- This would require coordination between Regional Entities; one RE would have ownership of reporting the sub-regional data to NERC, but multiple REs will be involved with assessing the narratives. For example, MRO could be responsible for reporting MISO information to NERC and RFC could be responsible for reporting PJM information to NERC. Further, MRO, RFC, and SERC would cooperate to assess the MISO information.
- This would require a Regional Entity to report assessment information from a Registered Entity that may not necessarily be registered within that reporting Regional Entity.

Such a change in the assessments does not appear to conflict with the existing Rules of Procedure. NERC RAS staff has consulted with NERC Counsel to determine if this proposal would be in conflict in any way with the Delegation Agreement obligations that are filed with the Commission. There was no conflict identified.





The MRO would like to respectfully request that the NERC Planning Committee consider taking action on this proposal for the 2011 assessments. Reporting assessment information in this manner will be consistent with its ownership and the integrity of the original data will be retained. This proposal also aligns well with how fill-in-the-blank Standards are being re-assigned from RROs (REs) to the Planning Authorities and Reliability Coordinators. MRO suggests that the assessments done by NERC and the Regional Entities need line of sight to those ultimately responsible for planning the bulk power system.

Regards,

A handwritten signature in black ink that reads "Dan Schoenecker".

Dan Schoenecker
Vice President, Operation
Midwest Reliability Organization

Cc: MRO Reliability Assessment Committee
Mark Lauby, NERC





Exhibit F

MRO's Responses to NERC's Questions posed by the June 29, 2010 Letter

Whether the Requesting Parties still wish to make the transfer

According to SPP RE, in addition to NPPD, Omaha Public Power District, the City of Hastings and the City of Grand Island continue to express interest in the transfer. However, to the best of MRO's knowledge, the Coordination Guidelines resolved all outstanding issues for the Nebraska Entities. See [Exhibit A](#).

The location of the bulk power system (BPS) facilities of the Requesting Parties to be transferred in relation to the geographical and electrical boundaries of the respective regions and the benefits that would accrue to the Requesting Parties desiring a transfer

MRO believes that the Coordination Guidelines provide all of the benefits that would have accrued to the Nebraska Entities if SPP RE were the Nebraska Entities Regional Entity. For example, with regard to standards which are not yet mandatory ("fill in the blank" standards, yet to be assigned to a registered function, NPPD should choose criteria which is more consistent with reliability requirements in its area considering where the functional responsibility would be assigned. MRO staff has worked with the Nebraska Entities regarding this matter.

The impacts of the proposed transfers on other BPS users, owners and operators

Registered Entities are required to retain evidence of compliance for all applicable Reliability Standard requirements. Therefore, all Registered Entities having one of the Nebraska Entities as their Transmission Operator (for example) would continue to collect evidence from the Nebraska Entities for any work or task performed by Nebraska Entities on the entity's behalf. This process would be expected regardless of which RTO the Nebraska Entities belong. As previously noted, the costs to all Registered Entities in the MRO region would increase.

What changes in existing arrangements would need to be made to accommodate the transfers

As it relates to the implementation of the CMEP, the list of assets (inventory) for the Nebraska Entities that meet the NERC Registration Criteria would need to be transferred to the SPP RE. Each of the Nebraska Entities would be deregistered (or removed) from the MRO registry and access rights to the MRO compliance data management system would be revoked. All of this would be coordinated with the SPP RE.

The maps which are exhibits to the delegation agreements for MRO and SPP RE would need to be changed to reflect each of the Nebraska Entities being a Registered Entity in SPP RE.

The impacts of the proposed transfers on the current and future staffing, resources, budgets and assessments to other Load-Serving entities of Each Regional Entity, including the sufficiency of SPP's staffing and resources to perform compliance monitoring and enforcement activities with respect to the registered entities to be transferred





MRO would remove the Registered Entity from the registry and update the compliance monitoring schedule. However, the removal of one entity would not reduce or change the staffing and resources of MRO. On the other hand, the transfer of these load serving entities would increase the assessments to all other MRO Registered Entities, which would be required to absorb the loss of over \$700,000 in revenues. MRO would work to decrease its costs over time; however, certain fixed costs would not change. While MRO cannot represent concerns and issues of all the affected Registered Entities within MRO's geography regarding the transfer of the Nebraska Entities to SPP RE, MRO notes that Western Area Planning Authority and Lincoln Electric System has informed NERC that it opposes the transfer. See [Exhibit C and D](#). MRO does not know how the change would increase SPP RE's costs.

The compliance history of the Requesting Parties to be transferred from MRO

MRO would provide SPP RE with copies of all historic compliance monitoring data of the Nebraska Entities.

To date, MRO has processed violations by NPPD via a Settlement Agreement which was approved by FERC on March 3, 2010¹⁴. MRO would provide copies of any documents or information related to the confidential settlement discussions that were not included in the Notice of Penalty filing.

MRO has also processed violations by the City of Grand Island which were approved by FERC on November 13, 2009.¹⁵ MRO would provide copies of any documents or information related to this enforcement action that were not included in the Notice of Penalty filing.

The manner in which pending compliance monitoring and enforcement matters concerning the Requesting Parties would be transitioned from MRO to SPP, if applicable.

MRO would coordinate the monitoring and validation of completion for any open mitigation at the time of the transfer to the SPP RE. MRO would retain responsibility for any violations that are being processed at the time of the transfer through filing with and approval by FERC, including collection of any accompanying financial penalties.

The amendments to Exhibit A to each Regional Entity's delegation agreement that would be necessary to achieve the transfer.

The maps which are exhibits to the delegation agreements for MRO and SPP RE would need to be changed to reflect the Nebraska Entities becoming Registered Entities in SPP RE.

¹⁴ Order dated March 3, 2010 related to NP10-39-000, 130 FERC ¶ 61,154

¹⁵ Order on Omnibus Notice of Penalty Filing dated November 13, 2009, 129 FERC ¶ 61,119



ATTACHMENT C

SPP RE's August 16, 2010 Report



Ms. Stacy Dochoda
Regional Entity General Manager
sdochoda@spp.org

Southwest Power Pool Regional Entity
16101 La Grande, Ste 103
Little Rock, AR 72233
P 501-688-1730
F 501.821.8726

August 16, 2010

Via Electronic Mail

David Cook
VP & General Counsel
North American Electric Reliability Corporation
116-390 Village Blvd.
Princeton, NJ 08540

Re: Transfer of Certain Nebraska Entities from Midwest Reliability
Organization to Southwest Power Pool Regional Entity

Dear Mr. Cook:

Southwest Power Pool, Inc. in its capacity as a Regional Entity (hereinafter, "SPP RE") provides the attached report in response to your June 29, 2010 Letter regarding the request of certain utilities in the state of Nebraska to transfer their compliance registration from the Midwest Reliability Organization to SPP RE. Please feel free to contact me with any questions.

Respectfully submitted,

A handwritten signature in blue ink that reads "Stacy Dochoda". The signature is written in a cursive, flowing style.

Stacy Dochoda
Regional Entity General Manager

Report of the SPP RE Regarding the Transfer of the Compliance Registration of Certain Nebraska Utilities from MRO to SPP RE

I. BACKGROUND

On December 1, 2008, Nebraska Public Power District (“NPPD”) and Omaha Public Power District (“OPPD”) became members of the SPP Regional Transmission Organization (“SPP RTO”) and transferred operational control over their transmission facilities to SPP RTO on April 1, 2009. As part of this transfer, a number of other entities also placed their facilities under SPP’s operational control. During this same period that NPPD and OPPD were finalizing plans to join the SPP RTO, these utilities, and several other entities located in Nebraska, also made a request to NERC to transfer their compliance registration from the MRO to the SPP RE for various business reasons including the potential for duplication of efforts by being part of two separate reliability organizations and to fully integrate into SPP. Because the North American Electric Reliability Corporation (“NERC”) was in the process of renegotiating the delegation agreements with each regional entity and modifying its Rules of Procedures, the requests of the Nebraska Utilities to transfer compliance registration were deferred. On June 29, 2010, Mr. David Cook, VP & General Counsel of NERC, requested that SPP RE and MRO submit a report providing certain information to assist NERC in its decision on the requested transfers.

II. SPP RE RESPONSE

SPP RE’s individual comments and responses to issues delineated in the June 29 Letter are set forth below.

Specific Issues Listed in the June 29 Letter

- **Issue 1:** *“Whether requesting Parties still wish to make the transfer”*

SPP RE Response: SPP RE sent formal requests to each registered entity that had previously expressed interest in transferring its compliance registration from MRO to SPP RE. The following utilities provided formal notice of their continued intent to transfer: Nebraska Public Power District (NPPD), Hastings Utilities, Omaha Public Power District (OPPD), and the City of Grand Island (Collectively, “Nebraska Utilities”).

- **Issue 2:** *“The location of the bulk power system (BPS) facilities of the Requesting Parties to be transferred in relation to the geographical and electrical boundaries of the respective regions and the benefits that would accrue to the Requesting Parties desiring a transfer”*

SPP RE Response: Currently, the SPP RE geographic and electrical region borders the state of Nebraska. The transfers of the Nebraska Utilities to the SPP RE would cause SPP RE and MRO to each have portions of the state of Nebraska within their boundaries. Geographically, the Nebraska Utilities service

approximately 90% of the state of Nebraska. The SPP RE presently has intra-state borders in other states including but not limited to Louisiana, Texas, Missouri, and New Mexico. It is important to note that state boundaries have traditionally played little to no part in the assignment of registered entities to a specific regional entity and have no real impact on maintaining the reliability of the bulk power system. Rather, during the original assignment of registered entities to their respective regional entities in 2007, NERC generally assigned each registered entity to the reliability organization to which the registered entity was currently a member regardless of the state in which the entity was located. Thus, if the Nebraska Utilities had been a member of the SPP RTO during the original assignment in 2007, it is almost certain that they would have been registered with the SPP RE due to their membership in the SPP RTO. In fact, the Federal Energy Regulatory Commission has recognized “the potential benefits of having the same boundaries for an RTO/ISO and a Regional Entity.”¹

While SPP RE understands that any registered entity requesting a transfer is required to demonstrate the business reasons for such transfer under the proposed Rule 1208 of the NERC Rules of Procedure,² the obvious benefits of the instant transfer request are both quantitative and qualitative. The Nebraska Utilities’ recent memberships in the SPP RTO provide for SPP to act as their Reliability Coordinator, which includes real-time interaction, monitoring and training. Thus, with the approval of the requested transfer, the Nebraska Utilities will be able to concentrate all of their efforts in one reliability area rather than split their resources between the SPP RTO activities and the MRO RE activities.

SPP RE and the SPP RTO attempt to coordinate many public activities. For example, the SPP RE Trustees’ meetings and the SPP Board of Directors’ meetings are held in the same location on consecutive days. The SPP RE and the SPP RTO also coordinate the SPP RE Compliance Workshops and the SPP RTO functional forums in the same location on consecutive days. Another example of this coordination is that the SPP RE attends and presents at many of the SPP technical working group meetings as part of a continuous outreach effort to the registered entities that are also members of the SPP RTO. The SPP RE undertakes this coordination in order to provide the SPP RE registrants that are also SPP RTO members the benefit of both lower travel costs and improved personnel assignments.

¹ *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards*, Order No. 672, 2006-2007 FERC Stats. & Regs., Regs. Preambles ¶ 31,204 at P. 671 (2006).

² *See* 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 of the North American Electric Reliability Corporation, Docket No. RR10-11 at 87 (“June 9 NERC Petition”) (June 9, 2010).

Currently, the Nebraska Utilities must attend duplicate sessions at both the SPP and MRO in order to keep abreast of issues and activities and to participate in both organizations' ongoing actions. The Nebraska Utilities also are required to understand and abide by the variations in the regional criteria or standards maintained by SPP RTO, as a Reliability Coordinator, and MRO as a Regional Entity; thus, the requested transfer will benefit the Nebraska Utilities by allowing them to focus on one consistent set of requirements.

- **Issue 3:** *The impacts of the proposed transfers on other BPS users, owners, and operators*

SPP RE Response: A transfer of registration would be required only of the utilities that elect to transfer and they would register in the SPP RE for the same functions for which they are now registered in the MRO. The other BPS users, owners and operators would not be impacted by this change in registration.

If the requested transfer is approved, no change in the assignment of the Nebraska Utilities' Reliability Coordinator, Planning Authority, Transmission Service Provider or Interchange Authority will occur nor will any other registered entity be required to make any changes in these registrations.

Further, as a result of the transfer of registration and SPP RE's expectation that no perceptible change will occur to the SPP RE cost structure, it is anticipated that all SPP RE current load serving entities' fees will drop by approximately 10% of the SPP RE portion of the fee that is assessed by NERC each quarter. Thus, the transfer will provide a benefit to the Nebraska Utilities as well as SPP RE's other registered entities.

- **Issue 4:** *What changes in existing arrangements would need to be made to accommodate the transfers*

SPP RE Response: A transfer of registration would be required of each of the Nebraska Utilities. Each utility would re-register in the SPP RE for each function that is currently registered in the MRO. Changing compliance registrations is a simple and straightforward process that takes less than two weeks to complete.

- **Issue 5:** *The impacts of the proposed transfers on the current and future staffing, resources, budgets and assessments to other Load-Serving entities of each Regional Entity, including the sufficiency of SPP's staffing and resources to perform compliance monitoring and enforcement activities with respect to the registered entities to be transferred*

SPP RE Response: Adding four (4) registered entities to the present 128 registered entities in the SPP RE region will have a minimal impact on the workload of the SPP RE staff and future staffing needs. While the SPP RE does

not have specific information concerning the compliance or event history of the Nebraska Utilities, the SPP RE is confident that the projected staffing and funding for all 2011 compliance monitoring and enforcement activities is adequate under the assumption that the compliance history of the Nebraska Utilities is reasonably equivalent to other entities of similar size and registration. Further, MRO uses the same automated data management system as the SPP RE, which will reduce training and transition issues for the Nebraska Utilities.

- **Issue 6:** *The compliance history of the Requesting Parties to be transferred from MRO*

SPP RE Response: SPP RE does not have direct access to the compliance history of the Nebraska Utilities. Thus, MRO's response to the June 29, 2010 Letter should contain this information.

- **Issue 7:** *The manner in which pending compliance monitoring and enforcement matters concerning the Requesting Parties would be transitioned from MRO to SPP, if applicable*

SPP RE Response: The SPP RE and the MRO RE use the same compliance database management system (CDMS) and generally the same schedules and compliance monitoring techniques for all Registered Entities. Thus, minimum changes to the Nebraska Utilities' current internal compliance procedures and programs would be required, and the SPP RE will honor all previous schedule commitments made between the MRO and the Nebraska Utilities. Any pending compliance matters can be addressed through adequate coordination between MRO and SPP RE on a case by case basis to ensure that SPP RE is fully engaged in each issue prior to the transition or, if more appropriate for a specific matter, MRO can be given the authority and responsibility to complete any open activities for the Nebraska Utilities.

- **Issue 8:** *The Amendments to Exhibit A to each Regional Entity's delegation agreement that would be necessary to achieve the transfer*

SPP RE Response: Exhibit A of the Regional Delegation Agreement of both SPP RE and MRO will require modification to affect the transfer of the Nebraska Utilities from MRO to SPP RE. Exhibit A shows a geographical representation of each Regional Entity's footprint followed by a written explanation that provides additional detail for any areas where overlapping areas of responsibility exist between multiple regional entities. Thus, because utilities within the state of Nebraska will have utilities registered in either MRO or SPP RE after the transfer, Exhibit A will need to provide adequate detail that explains the delineation of responsibilities for each entity. A detailed map that demonstrates the geographical change within the state of Nebraska is provided as Attachment 1.

III. CONCLUSION

SPP RE is fully capable and willing to perform the functions delegated to it through the approved Regional Delegation Agreement for the Nebraska Utilities. There are no prohibitions on a utility requesting to transfer its compliance monitoring function to a different regional entity for its own business reasons. In fact, in its recent filing of the modified Delegation Agreements and Rules of Procedure with the Federal Energy Regulatory Commission, NERC submitted Rule 1208 specifically providing a process for a registered entity to transfer its compliance monitoring and enforcement registration from one Regional Entity to another.³ Therefore, SPP RE supports the Nebraska Utilities transfer of the compliance monitoring function from the MRO to the SPP RE and will work together with the utilities, MRO and NERC to ensure a seamless transition. To the extent necessary, SPP RE is available to discuss with NERC Staff any of the matters addressed above.

³ See June 9 NERC Petition at 87.

ATTACHMENT E

Omaha Public Power District (OPPD) Comments in Support of Transfer

As stated in SPP's response, the Federal Energy Regulatory Commission has recognized "the potential benefits of having the same boundaries for an RTO/ISO and a Regional Entity." ⁽¹⁾ The primary goal of FERC and NERC is improving the reliability of the Bulk Electric System. From this statement, the simple business reason for a utility to request and NERC to accept such a transfer is recognizing the potential for such improvement. Even with the MRO/SPP RE Coordination Guideline in place as stated within the MRO report, duplicate work does exist for registered entities in Nebraska. As SPP states, duplicate work includes registered entities to understand and abide by the variations in the regional criteria or standards maintained by SPP RTO, as a Reliability Coordinator, and MRO as a Regional Entity. Any registered entity with reduced regional criteria variations and possible confusion with such variations will only increase the reliability of the Bulk Electric System.

(1) Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards, Order No. 672, 2006-2007 FERC Stats. & Regs., Regs. Preambles ¶ 31,204 at P. 671 (2006).

ATTACHMENT D

Nebraska Public Power District (NPPD) Comments in Support of Transfer

**UNITED STATES OF AMERICA
BEFORE THE
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION**

)
Transfer of Certain Nebraska Entities from)
Midwest Reliability Organization to)
Southwest Power Pool Regional Entity)

**COMMENTS OF THE NEBRASKA PUBLIC POWER DISTRICT
IN RESPONSE TO COMMENTS FILED BY
THE MIDWEST RELIABILITY ORGANIZATION**

The Nebraska Public Power District (“NPPD”), in accordance with the open comment period set by the North American Electric Reliability Corporation (“NERC”), responds to the opposition filed by the Midwest Reliability Organization (“MRO”) to NPPD’s request to transfer from the MRO to the Southwest Power Pool, Inc. Regional Entity (“SPP RE”). The MRO’s opposition filed as the MRO’s August 16, 2010 Report (“MRO Report”) asserts that the transfer cannot be factually supported and granting it would create a poor precedent. MRO Report, Cover Letter at 1. These assertions rest largely, however, on the MRO’s views on the supposed deleterious effects of the transfer on the MRO’s financial condition and the efficacy of Coordination Guidelines between the MRO and the SPP RE (*id.* Exhibit A) in resolving coordination issues. Even assuming both concerns were valid, they involve, at best, transitional issues that should not govern NERC’s response to the transfer request.

NPPD submits that the governing principle for deciding this matter should be the statutory criterion under FPA Section 215 of improving the efficiency and effectiveness of the bulk power system (“BPS”). In this regard, while the MRO downplays the importance of NPPD’s voluntary decision to join the SPP RTO, *see* MRO Report Cover Letter at 3 (referring to “NPPD’s choice to join SPP without any ‘guarantee’ of a change in Compliance Enforcement

Authority”), the relationship between the geographic boundaries of the RTO and the Regional Entity is very relevant to the issue of whether approval of NPPD’s transfer to the SPP RE would improve the efficiency and effectiveness of the bulk power system.¹ The MRO seems to have lost sight of the fact that FERC has encouraged the participation of all utilities in RTOs in order to promote a more reliable and efficient nationwide bulk power transmission grid. NPPD responded and became one of a few exempt public utilities to join an RTO. To now punish NPPD, as suggested by the MRO, for moving forward without any guarantee of a corresponding transfer to the SPP RE, would discourage RTO membership. If NPPD had known that the MRO would take its current position, NPPD would have conditioned its application to join the SPP RTO upon approval of a corresponding request to transfer to the SPP RE. In any event, NPPD’s decision to join the SPP RTO should not, as MRO suggests, be relegated to little weight here, but should be evaluated as an important consideration in determining whether to approve the transfer.

The Commission has recognized “the potential benefits of having the same boundaries for an RTO/ISO and a Regional Entity.”² As explained by the SPP RE,³ the obvious benefits of the instant transfer requests are both qualitative and quantitative. NPPD’s membership in the SPP RTO provides for SPP to act as NPPD’s Reliability Coordinator, which includes real time interaction, monitoring and training. Approval of the requested transfer will enable NPPD to

¹ NPPD recognizes that it does not have a unilateral right to a transfer. To that end, NPPD has followed all the required steps for seeking and obtaining approval of the transfer from NERC. NPPD followed the MRO’s contractual termination procedure and has sought through the SPP RE a revision to the current delegation agreements to effectuate the transfer. During this period, NPPD has followed the directives from both the SPP RTO and the MRO regarding planning and operation for reliability purposes. These actions hardly show that NPPD is acting on the basis that it has a unilateral right to a transfer, but, rather, that NPPD has satisfied all requirements for justifying approval of the transfer by NERC.

² *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards*, Order No. 672, 2006-2007 FERC Stats. & Regs. Preambles ¶ 31,204 at P 671 (2006).

³ SPP RE Report dated August 16, 2010 at page 2.

concentrate all of its efforts in one reliability area rather than splitting its resources between the SPP RTO activities and the MRO RE activities. The SPP also serves as NPPD's Planning Authority. Approving NPPD's transfer to the SPP RE will result in a more efficient process for planning construction of new facilities, including facilities needed to maintain and improve reliability.

The MRO claims that the relationship between the geographical boundaries of Reliability Coordinators and Planning Authorities should be addressed on a global basis between REs and NERC, "not one petition at a time." MRO Report, Cover Letter at 1. Clearly, NERC does not agree, as evidenced by its proposed Rule 1208, which envisions transfers by registered entities on an ad hoc basis. As the proposed rule suggests, individual transfer requests are appropriate where, as here, significant changed circumstances warrant reconsideration of the existing configuration to determine whether a change would improve BPS efficiency and reliability. NPPD's joining the SPP RTO is such a significant changed circumstance because the SPP RTO coordinates planning and operation of NPPD's transmission facilities for reliability and other purposes. Aligning those functions with the requirements of the SPP RE Reliability Coordinator promotes more effective use of the RTO's BPS.

Related to this point is the MRO's claim that NPPD's concerns about duplicative data submittal, inconsistent reporting, and inconsistent regional procedures "are addressed and resolved by the agreed-upon Coordination Guidelines." MRO Report Cover Letter at 2, referring to MRO Report, Exhibit A. The need for such Guidelines underscores, however, the fact that such duplication and inconsistencies exist under the current configuration. They also demonstrate that NPPD must, for all practical purposes, follow two sets of rules. For example, in the Guidelines under "Model Building," NPPD's system is to be included in the SPP RTO

model, but subject to the MRO's overview and coordination as to timing and use in the MRO's models. Exhibit A at 8. While the ostensible result of the coordination may be that the NPPD has to submit data only one time, realistically this guideline requires NPPD and the SPP RTO to factor the MRO's considerations into the analysis. At best, such guidelines might serve a useful purpose during a transition period, but they are not, as the MRO suggests, a permanent solution to duplication and inconsistency.

The MRO opposition is driven largely by the MRO's own self-interest, which is disguised in several forms. *See* MRO Report, Cover Letter at 3 (“What may be efficient for one Registered Entity would drive up the cost for other Registered Entities”); at 5 (“the change would be detrimental and disruptive to the remaining Registered Entities in MRO by increasing their costs and administrative burdens”). In an attempt to prove that the MRO Registered Entities share the MRO's point of view, its President recently circulated a letter to the MRO Registered Entities drawing their attention to the Comment Period to respond to the Nebraska Entities' request to transfer from MRO to SPP RE and to highlight his view that “[i]f the request is granted, Registered Entities with load in MRO will see increased costs in 2011 and beyond and an unfortunate precedent will be set by NERC on this matter for the future.”⁴

MRO's comments raise several points that need to be emphasized.⁵ First, the implication that NPPD is requesting the transfer merely to save money has no support. As the MRO's Exhibit B shows, NPPD's cost will increase after it joins the SPP RE compared to the costs of remaining with the MRO. Second, the MRO has been aware of NPPD's transfer request since 2008, but has yet to take any steps to mitigate its current costs to a level that would reflect reduced variable expenses assuming the transfer is approved. *See* MRO Report, Cover Letter at

⁴ See Exhibit A attached hereto.

⁵ As a threshold matter, NPPD notes its concern as to whether it is appropriate for the President of MRO to use his stature to influence the views of entities subject to his enforcement authority.

4 (indicating proposed increased cost reallocation “would be carried forward into future budget years”). Third, the approval of the Nebraska entities’ transfer will result in a 10% decrease in costs assigned to each SPP RE Registered Entity. SPP RE Report at 3. This reduction will serve to equalize, rather than disrupt or skew, the relationship between the cost of belonging to the MRO and the SPP RE.

The MRO states that the facilities of NPPD (and the other Nebraska entities) “are entirely within the MRO geography” (Cover Letter at 2) and that if the request is granted “the remaining footprint for the MRO in Nebraska would become checkered, resulting in extra administrative reporting costs for those remaining in Nebraska and the MRO.” *Id.* at 4. The first statement merely reflects the obvious, *viz.*, NPPD and the other Nebraska entities are now served by the MRO. But the question presented is whether that configuration continues to make sense now that NPPD is part of the SPP RTO, and thus transmission planning and operation in Nebraska is done by the SPP RTO. As FERC has recognized, there are strong reasons to align RE boundaries with RTO boundaries without consideration of state boundaries. Also NPPD and the other Nebraska entities serve approximately 90% of all customers in Nebraska (SPP RE Report at 1-2). Consequently, a shift to the SPP RE would cover compliance in the vast majority of the State.⁶

⁶ Exhibit C to MRO's Response is a letter from Lincoln Electric System indicating its preference for remaining in MRO because, *inter alia*, "It is simply better for the reliability organization to be totally separated from and independent of the RTO." NPPD notes that FERC has addressed Lincoln concerns by requiring the selection and composition of the SPP RE Trustees to be independent of the SPP RTO. *North America Reliability Council*, 119 FERC ¶ 61,060 at P 398 (2007). Moreover, the SPP Bylaws governing conflicts of interest provide that RE Trustees shall not be an officer or employee of any member of SPP and shall have no direct financial interest in any member of SPP. *See* Section 9.7.2.2 of SPP Bylaws. By contrast, MRO's Board is comprised of 18 members, including representatives of the Lincoln Electric System and 13 owners or operators of the bulk power transmission system within the MRO footprint. NPPD would prefer to be under a governance structure like that of the SPP RE, particularly where non-public information concerning MRO audits and investigations is shared with the MRO Board of Directors.

The MRO's final argument against a transfer is the suggestion that allowing a transfer here could lead to a situation where it would be "difficult to determine whether past enforcement action or the perception of the enforcement capabilities and philosophy" of one RE is "a motive for the requested change." MRO Report, Cover Letter at 4. There is no basis for intimating that NPPD is requesting a transfer due to concerns about the MRO's enforcement actions or that approving the transfer would be an invitation for others registered entities to transfer due to compliance issues. NPPD assumes that all Regional Entities rigorously enforce Reliability Standards. NPPD has no expectation that the SPP RE's approach towards enforcement will be less rigorous than that of the MRO. As the MRO's Exhibit F indicates, it had one compliance matter with NPPD that was resolved by a settlement approved by FERC. *North American Electric Reliability Corp.*, 130 FERC ¶ 61,154 (2010). NPPD's motive in this transfer has not been to escape from the MRO's enforcement capabilities, but to improve the efficiency and effectiveness of its bulk power system by aligning the planning and operation by the SPP RTO with the compliance authority of the SPP RE. NERC could identify this latter point as the reason for approving the transfer, and reiterate that it will not permit transfers designed to evade enforcement capabilities of a particular RE.

Respectfully Submitted,

/s/ Harold L. Hadland

Harold L. Hadland
Nebraska Public Power District
1414 15th Street
Columbus, NE 68601
(402) 563-5046
hlhadla@nppd.com

/s David D'Alessandro

David D' Alessandro
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ddalessandro@stinson.com
dlane@stinson.com

EXHIBIT A

From: Jessica R. Mitchell [mailto:JR.Mitchell@MidwestReliability.org]
Sent: Monday, September 13, 2010 3:55 PM
To: Jessica R. Mitchell
Subject: Notice: NERC Comment Period Opens for Reports Evaluating Requests to Transfer Compliance Registration of Several Entities from MRO and SPP RE

The following correspondence is sent on behalf of Dan Skaar, President of Midwest Reliability Organization.

Dear Registered Entities, Members, and Load Serving Entities of MRO,

I wanted to call your attention to the Comment Period that has been established by NERC to respond to the request by four Nebraska Entities (Nebraska Public Power District, Omaha Public Power District, City of Hastings and the City of Grand Island) to change their Compliance Enforcement Authority from Midwest Reliability Organization (MRO) to Southwest Power Pool RE (SPP RE). For details relating to this proposed transfer, please see the link below to NERC's website.

The Board has been involved in this matter and supports MRO to oppose the transfer for policy and cost reasons. If the request is granted, Registered Entities with load in MRO will see increased costs in 2011 and beyond and an unfortunate precedent will be set by NERC on this matter for the future. MRO's response, including the reasons MRO opposes the transfer, as well as SPP RE's response, is posted on NERC's website at:
<http://www.nerc.com/files/CommentPeriodRequesttoTransferComplianceRegistrationon20100831.pdf>. Western Area Power Administration and Lincoln Electric System also oppose the transfer. Their comments are included in the MRO response as Exhibits C and D.

The Comment Period ends Tuesday September 21, 2010. Requirements for filing comments are included in the notice posted by NERC noted above.

Very truly yours,

Daniel P. Skaar

ATTACHMENT F

Basin Electric Power Cooperative Comments in Opposition to Transfer

**BASIN ELECTRIC
POWER COOPERATIVE**

1717 EAST INTERSTATE AVENUE
BISMARCK, NORTH DAKOTA 58503-0564
PHONE: 701-223-0441
FAX: 701-557-5336



September 20, 2010

Ms. Elizabeth Heenan
North American Electric Reliability Corporation
Princeton Forrestal Village
116-390 Village Boulevard
Princeton, New Jersey 08540-5721

Dear Ms. Heenan:

As requested, Basin Electric Power Cooperative offers the following comments in response to the NERC posted "Reports Evaluating Requests to Transfer Compliance Registration of Several Entities from MRO and SPP RE". Basin Electric is registered with BES facilities in the WECC and the MRO regions and has a significant investment in BES facilities in Nebraska. These facilities are part of the Western Area Power Administration's Upper Great Plains Region (Western UGP) "Integrated System" and the Nebraska Entities have a long history of close participation in the planning, interconnection and operation of these facilities.

Basin Electric has reviewed the posted comments of the MRO and strongly agrees with statements and reasons opposing the transfer of membership of the Nebraska Entities. In addition, Basin Electric supports the comments, attached to the MRO response, from Lincoln Electric System and Western UGP.

Sincerely,

A handwritten signature in blue ink that reads "Mike Risan".

Mike Risan
Senior Vice President, Transmission
Basin Electric Power Cooperative

ATTACHMENT G

Department of Energy Western Area Power Administration Comments in Opposition to Transfer



Department of Energy
Western Area Power Administration
Upper Great Plains Customer Service Region
P.O. Box 35800
Billings, MT 59107-5800

SEP 20 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

Dear Mr. Cook:

This letter is written in response to the North American Electric Reliability Corporation's (NERC) request for comments on the Midwest Reliability Organization (MRO) and Southwest Power Pool, Inc. Regional Entity (SPP RE) reports evaluating proposed requests to transfer several Nebraska entities from the MRO to the SPP RE. Western Area Power Administration (Western) does not support the proposed transfer because it does not promote efficient and effective administration of Section 215 of the Federal Power Act.

Western-Upper Great Plains Region is currently a NERC registered BA, IA, LSE, PSE, RP, TOP, TO, TP, and TSP within the MRO and operates two Balancing Authorities, one within the WECC (WAUW) and another within the MRO (WAUE). Western opposes the transfer and supports the written report submitted by the MRO to NERC on August 16, 2010. Western submits these comments to further emphasize the impact a transfer of the Nebraska entities from the MRO to the SPP RE will have on it individually.

Western is one of several registered entities that have facilities within Nebraska, currently within the MRO footprint that will be impacted by a transfer to the SPP RE. Western has no desire to have any of its facilities moved into the SPP RE footprint placing its facilities within the footprint of an additional Regional Entity. Western also believes that it would be inappropriate to be forced into another Regional Entity and be adversely impacted by the actions of another party. Currently, Western has facilities in both the MRO and WECC. Western recognizes there are others who report to three (3) REs, but it has no desire to be forced into that situation. The Nebraska entities facilities are currently completely within the MRO. The proposal to move their facilities to the SPP is likely to result in reporting responsibilities for Western and/or the Nebraska entities to both the MRO and the SPP.

Should the proposed transfer occur, the new boundary would be much more complicated than a simple “checker boarding.” Within Nebraska, there are various ownership interests associated with several facilities that will complicate the proposed new boundary. As an example, Western currently owns and operates its Grand Island Substation in southeastern Nebraska which is part of the Integrated Transmission System (IS). Western is an owner of the IS and is responsible for its operation. The Grand Island Substation interconnects with the IS through a 345-kV transmission line that runs between Grand Island and Fort Thompson substations in South Dakota. The Grand Island Substation also interconnects with the Nebraska Public Power District’s (NPPD) transmission system in Nebraska. Equipment within this substation is owned and maintained by both Western and Nebraska Public Power District.

Should Western’s facilities remain in the MRO RE and the NPPD facility transfer into SPP RE be approved, it will result in two parties owning and maintaining equipment within the same substation, yet reporting to different regional entities for compliance. This clearly will complicate and blur reporting and compliance efforts for these facilities (for example, CT and PT’s, DC control circuits, communication facilities for the same protection systems, bus differentials, breaker failures, line relaying, etc.). This clearly does not promote efficient and effective administration of Section 215 of the Federal Power Act.

The justification for the requested transfer seems to hinge on the individual conveniences of certain registered entities related to travel and meetings expenses. As discussed in the MRO’s comments, any financial benefits of the proposed transfer are gained only by the existing SPP RE Load Serving Entities at the expense of those seeking transfer and the remaining MRO Load Serving Entities. The existing arrangement since April 1, 2009, appears to be working well and has resulted in a well managed seam. Western does not believe the proposal will result in a better managed seam and the cost shifts to Western and others simply for the convenience of some entities is inappropriate. It is more appropriate for the entities that have made a business decision to join the SPP marketing organization be responsible for these inconveniences as well any costs that may result from their choice. These impacts surely were or should have been considered as part of their business decision and it is not equitable to shift that obligation to others that did not make a choice and were not part of the business decision.

Much of the arguments presented to NERC supporting the transfer confuses and blurs the separate functions of the SPP RE and RTO. Should NERC grant such a transfer, NERC will have created a weak precedent undermining effective regulation by permitting Registered Entities to pick their regulator with little or no regard to promoting efficient and effective administration of Section 215 of the Federal Power Act as well as promoting a blurring and commingling of RE and RTO responsibilities.

Western appreciates the opportunity to file comments in opposition to the proposed transfer and in support of the MRO's detailed report as well as provide additional information regarding issues of specific concern related to the request to transfer the compliance registration of several Nebraska entities from MRO to SPP RE.

Sincerely,

A handwritten signature in cursive script that reads "Robert J. Harris".

Robert J. Harris
Regional Manager

cc:

Ms. Elizabeth Heenan
North American Electric Reliability Corporation
Princeton Forrestal Village
116-390 Village Boulevard
Princeton, NJ 08540-5721
(hard copy and electronic copy)

ATTACHMENT H

Cornbelt Power Cooperative Comments in Opposition to Transfer



Corn Belt
Power Cooperative

September 20, 2010

Ms. Elizabeth Heenan
North American Electric Reliability Corporation
Princeton Forrestal Village
116-390 Village Boulevard
Princeton, New Jersey 08540-5721

Dear Ms. Heenan:

Corn Belt Power Cooperative offers the following comments in response to the NERC posted “Reports Evaluating Requests to Transfer Compliance Registration of Several Entities from MRO and SPP RE”. Corn Belt has transmission facilities in the MRO region. These facilities are part of the Western Area Power Administration’s Upper Great Plains Region (Western UGP) “Integrated System”.

Corn Belt has reviewed the posted comments of the MRO and strongly agrees with statements and reasons opposing the transfer of membership of the Nebraska Entities. In addition, Corn Belt supports the comments, attached to the MRO response, from Lincoln Electric System and Western UGP.

Sincerely,

CORN BELT POWER COOPERATIVE

Kenneth H. Kuyper
Executive Vice President and General Manager

dw

A Touchstone Energy® Cooperative

ATTACHMENT I

SPP RE Response to August 16, 2010 MRO Report



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September 20, 2010

Mr. David Cook
Vice President and General Counsel
North American Electric Reliability Corporation
Princeton Forrestal Village
116-390 Village Boulevard
Princeton, New Jersey 08540-5721

Re: Transfer of Certain Nebraska Entities from Midwest Reliability Organization to Southwest Power Pool Regional Entity

Dear Mr. Cook:

Southwest Power Pool, Inc. in its capacity as a Regional Entity (“SPP RE”) provides these comments in response to the letter and report of the Midwest Reliability Organization (“MRO”) dated August 16, 2010 regarding the request by the Nebraska Utilities¹ to change their Compliance Enforcement Authority from MRO to SPP RE.

SPP Regional Entity is unique among the eight regional entities in that it is the only FERC approved regional transmission organization that has also been delegated authority to be a regional entity.² When the regional entity boundaries were established in 2007, the boundary for the SPP Regional Entity included all the Balancing Authorities and Transmission Owners that had committed their transmission facilities to the SPP Open Access Transmission Tariff. If the Nebraska Utilities had been members of the SPP RTO during the original assignment in 2007, it is almost certain that they would have been registered in the SPP RE.

However, since we are not at the inception of the Regional Entities it is appropriate to ask the threshold question: Will the proposed change in registration be detrimental to the reliability of the Bulk Electric System (“BES”)? In the case of the request of the Nebraska Utilities, SPP RE has found no negative impacts to the BES associated with the change. Moreover, a review of

¹ Nebraska public Power District, Omaha Public Power District, Hastings Utilities and the City of Grand Island

² Appropriate independence is maintained between the Regional Entity and registered entity functions through the separation of the RE compliance and enforcement functions from the registered entity functions. The RE is an independent division led by a General Manager reporting directly to the RE Trustees. Pursuant to the SPP, Inc. Bylaws, the RE Trustees are 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. While the SPP, Inc. bylaws have always required the audits of SPP, Inc. to be conducted by a third party, SPP RE has taken that a step further by entering into a contract with SERC to be the CEA for the registered entity functions of SPP, Inc. in the SPP Region.

MRO’s letter and report reveal that MRO has likewise identified no negative impacts to the reliability of the BES that would result from granting the Nebraska Utilities’ request.

The Nebraska Utilities request the change in registration to concentrate all of their efforts in one reliability area rather than split their resources between the SPP RTO activities and the MRO RE activities.

MRO cites the increased costs that would be incurred by the other MRO Registered Entities as a reason to deny the Nebraska Utilities’ request. Anytime there is a change in the status quo, there are likely to be cost decreases for some registered entities and cost increases for others. Opposing the change merely on the basis of cost changes relies on the premise that the original cost assignment is the only fair cost assignment. However, cost assignments are by their nature an administrative creation not a mathematical axiom.

SPP RE wishes to place the issue of RE costs in context. Under the current geographic boundaries, the SPP RE has the fewest number of NELs upon which to spread its costs of all the eight regions. If the Nebraska Utilities’ request is granted, SPP RE would have NELs that are essentially the same as FRCC’s. Ranking the Regional Entities by NELs, MRO would become sixth, SPP RE seventh and FRCC eighth.

Rank	Regional Entity	2009 NEL MWh*
1	SERC	990,093,522
2	RFC	889,208,026
3	WECC	847,828,789
4	NPCC	652,049,000
5	TRE	308,277,759
6	MRO	240,703,238
7	SPP	227,071,333
8	FRCC	226,802,655

* Adjusted to reflect the transfer of the Nebraska Utilities

SPP RE does not dispute MRO’s calculation that its remaining registered entities will see an increase in costs as a result of having a smaller assignment of NELs. Again it is useful to place this increase in context. MRO’s calculated 9% increase as a result of the transfer is less than the

increase in costs that MRO has requested in its budget in each of the years 2009, 2010 and 2011. If the transfer is granted, SPP RE's current registered entities will see a cost decrease.

Taken as a whole, the distinguishing facts of SPP's structural organization as a regional transmission organization and a regional entity, the changed circumstances of the Nebraska Utilities in joining the SPP RTO and the determination that the proposed transfer creates no detriment to reliability provide sufficient support to grant the Nebraska Entities' request.

Please do not hesitate to contact me with questions.

Sincerely,

A handwritten signature in blue ink that reads "Stacy Dochoda". The signature is written in a cursive, flowing style.

Stacy Dochoda
Regional Entity General Manager