

## Agenda Member Representatives Committee

November 2, 2011 | 1:00 p.m. – 5 p.m. Eastern

Westin Buckhead Atlanta  
3391 Peachtree Road NE  
Atlanta, GA 30326  
404-365-0065

### Introductions and Chair's Remarks

### NERC Antitrust Compliance Guidelines and Public Announcement

### Consent Agenda — Approve

1. **Minutes\***
  - a. [October 5, 2011 Conference Call](#)
  - b. [August 3, 2011 Meeting](#)

### 2. Future Meetings\*

### Regular Agenda<sup>1</sup>

3. **Welcome to Atlanta**
4. **Remarks By Gerry Cauley, NERC President and CEO**
5. **September 8, 2011 Southwestern Outage\***
6. **February 2011 Cold Snap Report and Recommendations\***
7. **Election of Committee Officers for 2012\***

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<sup>1</sup> Board Chairman John Q. Anderson has invited input from the committee sector representatives on specific agenda items (see attached).

- 8. Status of MRC Sector Nominations\***
- 9. NERC Compliance Enforcement Initiative\* – Status<sup>2</sup>**
- 10. Compliance Application Notices – Status\***
- 11. Status of CIP Standards Version 4 and 5 and Implementation Plans\***
- 12. BES Definition and Rules of Procedure – Status\***
- 13. ALR Task Force Status Report\***
- 14. Culture of Reliability Excellence – LG&E/KU\***
- 15. Rules of Procedure Changes**
- 16. Looking Ahead to February 8, 2012 Meeting – Key Agenda Items**
- 17. Comments by Outgoing Chairman**
- 18. Comments by Chairman Elect**
- Information Only – No Discussion**
- 19. Update on Regulatory Matters\***

\*Background materials included.

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<sup>2</sup> This item will be presented initially in the Board Compliance Committee meeting, which precedes the MRC meeting on November 2. MRC members will engage in further discussion of the Compliance Enforcement Initiative during the MRC meeting.

# Antitrust Compliance Guidelines

## I. General

It is NERC's policy and practice to obey the antitrust laws and to avoid all conduct that unreasonably restrains competition. This policy requires the avoidance of any conduct that violates, or that might appear to violate, the antitrust laws. Among other things, the antitrust laws forbid any agreement between or among competitors regarding prices, availability of service, product design, terms of sale, division of markets, allocation of customers or any other activity that unreasonably restrains competition.

It is the responsibility of every NERC participant and employee who may in any way affect NERC's compliance with the antitrust laws to carry out this commitment.

Antitrust laws are complex and subject to court interpretation that can vary over time and from one court to another. The purpose of these guidelines is to alert NERC participants and employees to potential antitrust problems and to set forth policies to be followed with respect to activities that may involve antitrust considerations. In some instances, the NERC policy contained in these guidelines is stricter than the applicable antitrust laws. Any NERC participant or employee who is uncertain about the legal ramifications of a particular course of conduct or who has doubts or concerns about whether NERC's antitrust compliance policy is implicated in any situation should consult NERC's General Counsel immediately.

## II. Prohibited Activities

Participants in NERC activities (including those of its committees and subgroups) should refrain from the following when acting in their capacity as participants in NERC activities (e.g., at NERC meetings, conference calls and in informal discussions):

- Discussions involving pricing information, especially margin (profit) and internal cost information and participants' expectations as to their future prices or internal costs.
- Discussions of a participant's marketing strategies.
- Discussions regarding how customers and geographical areas are to be divided among competitors.
- Discussions concerning the exclusion of competitors from markets.
- Discussions concerning boycotting or group refusals to deal with competitors, vendors or suppliers.

- Any other matters that do not clearly fall within these guidelines should be reviewed with NERC's General Counsel before being discussed.

### **III. Activities That Are Permitted**

From time to time decisions or actions of NERC (including those of its committees and subgroups) may have a negative impact on particular entities and thus in that sense adversely impact competition. Decisions and actions by NERC (including its committees and subgroups) should only be undertaken for the purpose of promoting and maintaining the reliability and adequacy of the bulk power system. If you do not have a legitimate purpose consistent with this objective for discussing a matter, please refrain from discussing the matter during NERC meetings and in other NERC-related communications.

You should also ensure that NERC procedures, including those set forth in NERC's Certificate of Incorporation, Bylaws, and Rules of Procedure are followed in conducting NERC business.

In addition, all discussions in NERC meetings and other NERC-related communications should be within the scope of the mandate for or assignment to the particular NERC committee or subgroup, as well as within the scope of the published agenda for the meeting.

No decisions should be made nor any actions taken in NERC activities for the purpose of giving an industry participant or group of participants a competitive advantage over other participants. In particular, decisions with respect to setting, revising, or assessing compliance with NERC reliability standards should not be influenced by anti-competitive motivations.

Subject to the foregoing restrictions, participants in NERC activities may discuss:

- Reliability matters relating to the bulk power system, including operation and planning matters such as establishing or revising reliability standards, special operating procedures, operating transfer capabilities, and plans for new facilities.
- Matters relating to the impact of reliability standards for the bulk power system on electricity markets, and the impact of electricity market operations on the reliability of the bulk power system.
- Proposed filings or other communications with state or federal regulatory authorities or other governmental entities.

Matters relating to the internal governance, management and operation of NERC, such as nominations for vacant committee positions, budgeting and assessments, and employment matters; and procedural matters such as planning and scheduling meetings.

## Future Meetings

### Action

None

### Background

The below are the future meetings as approved by the board on May 11, 2011.

#### 2012 Dates

February 8-9	Phoenix, AZ
May 8-9	Baltimore/Washington, DC area
August 15-16	Quebec City, Canada
November 6-7	New Orleans, LA

#### 2013 Dates

February 6-7	San Diego, CA
May 8-9	Philadelphia, PA
August 14-15	Montreal, Canada
November 6-7	Atlanta, GA

#### 2014 Dates

February 5-6	Phoenix, AZ
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October 6, 2011

Mr. William Gallagher, Chairman  
NERC Member Representatives Committee  
104 Hampton Meadows  
Hampton, New Hampshire 03842

**Re: Policy Input to NERC Board of Trustees**

Dear Bill:

The agenda for the November 2, 2011 Member Representatives Committee (MRC) meeting is chock full of substantive items, several of which will warrant high interest by members of the Board of Trustees (board). The board always is interested in policy input from the committee members on any issue, but would especially like to hear members' views on the following:

**Compliance Enforcement Initiative (BOTCC-2 and MRC-9)** — NERC filed late last week with FERC its decision to shift how it deals with Possible Violations that pose lesser risks to the bulk power system (BPS). As the filing explains, NERC and the Regional Entities are employing a more comprehensive and integrated risk control strategy that differentiates and addresses compliance issues according to their significance to the reliability of the BPS. In addition, NERC and the Regional Entities are increasing the utilization of their inherent enforcement discretion in the implementation of compliance and enforcement activities. The board will be very interested in the reaction of committee members to this filing and NERC's continuing efforts to improve the efficiency and effectiveness of its compliance enforcement process.

**Compliance Application Notices – Status (MRC 10)** — NERC continues to work to improve both the process and content of Compliance Application Notices. The board welcomes comments on whether the changes to date are addressing effectively the issues raised at the August meeting.

**Status of CIP Standards Version 4 and 5 Implementation Plans (MRC-11)** — I understand that a number of concerns have been voiced by the industry regarding the draft implementation plans for Versions 4 and 5 of the CIP Standards regarding duplication of effort and backwards looking compliance requirements. While we do not have formal input from stakeholders until the posting of draft proposals, the board would still like to hear discussion by the MRC on the concerns they have with the staging of these proposed implementation plans. I understand that this discussion will begin in the Standards Oversight and Technology meeting and continue during the MRC meeting.

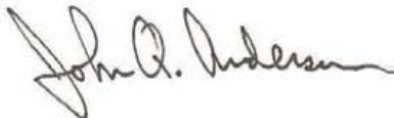
3353 Peachtree Road NE  
Suite 600, North Tower  
Atlanta, GA 30326  
404-446-2560 | [www.nerc.com](http://www.nerc.com)

**Bulk Electric System (BES) Definition and Rules of Procedure – Status (MRC-12)** — The board is very interested in how the BES Definition project is progressing since the August meeting. I understand that the drafting team took very seriously the board's views and is proposing to address the FERC directive in one phase and the remaining industry issues in a subsequent phase. The board wants to stay actively involved as this effort progresses, and to that end asks the MRC to continue its review and discussion at the November meeting.

**Rules of Procedure Changes (MRC-15)** — At the August MRC meeting some issues were raised regarding some of the Rules of Procedure changes that were being proposed, namely the provision to impose penalties in the event registered entities failed to respond to NERC data requests. While the proposed changes are still being discussed by NERC and the Regional Entities, and will not be posted for industry comment until after the November meetings, the board would like to hear of any concerns the committee has with the general direction of the proposed changes.

Thank you in advance for providing written comments to Dave Nevius, MRC secretary ([dave.nevius@nerc.net](mailto:dave.nevius@nerc.net)) by **October 24, 2011** so they can be packaged and sent to the board members in advance of the meeting.

Thank you,



John Q. Anderson  
NERC Board of Trustees Chair

cc: NERC Board of Trustees  
Member Representatives Committee

## September 8, 2011 Southwestern Outage

### Action

Discuss

### Background

The electric power system outage that occurred in the Southwest on September 8, 2011, left over two million customers in Southern California, parts of Arizona, and Northern Baja California Mexico without electricity. The blackout resulted in the loss of approximately 7,800 MW of customer load and 5,000 MW of generation.

The Federal Energy Regulatory Commission (FERC) and NERC announced on September 9 that they were conducting a [joint inquiry](#) of the outage. To date, FERC and NERC have conducted interviews with Arizona Public Service and the California ISO, and are arranging interviews with Imperial Irrigation District and the Western Electricity Coordinating Council (WECC) Reliability Coordinator.

Teams have been formed comprising members of FERC and NERC technical staff to gather and catalog detailed technical data and information, develop a detailed sequence of events, establish and validate system models to simulate each step of the event, review performance of system equipment, including protection and control systems, evaluate system operator visibility before and during the event, conduct detailed root cause analysis, evaluate the restoration process, and finally to develop lessons learned and other recommendations to prevent a recurrence. Several industry subject matter experts will serve as technical consultants to NERC and assist several of the teams that are part of this joint inquiry.

The data captured by phasor measurement units (PMUs) and digital frequency recorders (DFRs), including system voltages, frequency, real and reactive power flows, power angles, and other details of system behavior at various points in the system, are invaluable in determining an accurate sequence of events and thorough understanding of how and why the event occurred. Until this accurate fact base is established, any conjecture on the root causes of the blackout is premature and counterproductive.

Dave Nevius, NERC Senior Vice President, who is representing NERC on the FERC/NERC joint inquiry, will describe the status of the inquiry and plans for producing a report on the event.



## **February 2011 Cold Snap Report and Recommendations**

### **Action**

None

### **Background**

In early February 2011, a major cold wave swept across the Southwest United States with extreme low temperatures, wind, ice, and snow. Faced with a possible all-time high winter peak electrical demand and cold-weather-related issues with generators and fuel supplies, an electrical generation capacity shortfall occurred as generators tripped off-line and reserves dwindled.

There were a total of 26 electric recommendations issued.

- Planning and reserves (5)
- Coordination with generator owners/operators (5)
- Winterization (10)
  - Plant design
  - Maintenance/inspections
  - Specific freeze protection maintenance items
  - Thermal insulation
  - Use of windbreaks/enclosures
  - Training
  - Other generator operator actions
  - Transmission facilities
- Communications (4)
- Load Shedding (2)
- There were 6 recommendations on the natural gas side of the inquiry.

Earl Shockley, Director of Events Analysis and Investigations, NERC, will discuss the recommendations from the final joint FERC/NERC report "Outages and Curtailments during the Southwest Cold Weather Event."

## **Election of Committee Officers for 2012**

### **Action**

Elect Officers for 2012

### **Background**

Article VIII, Section 5 of the NERC Bylaws addresses election of the chairman and vice chairman of the Member Representatives Committee. It states:

**Section 5 — Officers of the Member Representatives Committee** — At the initial meeting of the Member Representatives Committee, and annually thereafter prior to the annual election of representatives to the Member Representatives Committee, the Member Representatives Committee shall select a chairman and vice chairman from among its voting members by majority vote of the members of the Member Representatives Committee to serve as chairman and vice chairman of the Member Representatives Committee during the upcoming year; provided, that the incumbent chairman and vice chairman shall not vote or otherwise participate in the selection of the incoming chairman and vice-chairman. The newly selected chairman and vice chairman shall not have been representatives of the same sector. Selection of the chairman and vice chairman shall not be subject to approval of the board. The chairman and vice chairman, upon assuming such positions, shall cease to act as representatives of the sectors that elected them as representatives to the Member Representatives Committee and shall thereafter be responsible for acting in the best interests of the members as a whole.

The nominating period for the two officer positions of the Member Representatives Committee for 2012 opened on August 31, 2011 for a 30-day nominating period that closed September 30, 2011. The election of officers at this meeting and the currently open nominating period for sector members for 2012–2013 provides for filling sector vacancies resulting from a member being elected to an officer position. The nominating period for sector members continues through November 11, 2011.

The nominees for MRC chairman and vice chairman for 2012 are:

Chairman – Scott M. Helyer

Vice Chairman – Carol Chinn

## **Status of MRC Sector Nominations**

### **Action**

None

### **Background**

The nomination period for sector representatives to the MRC to fill terms that will expire February 2012 is September 12, 2011 to November 11, 2011, with elections scheduled to occur between December 12 and 22, 2011.

As of October 5, 2011, all sectors have nominated representatives to serve two-year terms expiring February 2013 except:

- Sector 10 – Independent System Operator/Regional Transmission Organization

Also, to comply with Article VIII, Section 4 of the NERC Bylaws — “Adequate Representation of Canadian Interests on the Member Representatives Committee,” there may be a need for one or more additional Canadian representatives beyond the one current nominee from Canada.

## **Compliance Application Notices — Status**

### **Action**

Discuss

### **Background**

The CAN Process was recently revised based on the NERC Board of Trustees' (BOT) guidance and requests from industry. NERC staff posted a redlined version on the NERC web site that incorporated the guidance provided by the BOT on August 15, 2011. The external document accepted those changes and provides a redline of additional changes that NERC incorporated, most of which were at the request of industry (**Attachment 1**).

The changes that were incorporated following guidance received from the BOT at the August meeting in Vancouver include:

1. Transpose the purpose statement so that the primary purpose is to create consistency across Compliance Enforcement Authorities (CEAs) and the secondary purpose is to provide transparency to the industry.
2. Add language in the scope section to clarify CANs are not to expand the standard or add requirements.
3. Avoid words such as "must."
4. Provide a higher level review process.

Subsequent to receiving industry comments, additional modifications were incorporated. These changes include:

1. Tracking and providing CAN requestor segment/source
2. Providing a systematic method for prioritizing CANs
3. Stating that NERC will solicit prioritization input from the Standards Committee and the Compliance and Certification Committee
4. Providing increased detail on the CAN development process, include vetting
5. Clarifying the Regional Entity comment period
6. Stating that all industry comments will be posted for transparency
7. Providing more detail in NERC's responses to groups of comments
8. Detailing the higher level review process, format and timelines
9. Detailing the higher level reviewer(s) options
10. Providing appendix templates for industry use (attached in two separate documents)

### **CAN-0016 Final Draft**

During the Member Representative Committee (MRC) meeting on August 3, 2011, there was a discussion on CAN-0016 that covers NERC Reliability Standard CIP-001 Requirement R1, Sabotage Reporting. Pursuant to the direction of the NERC Board of Trustees on August 4, 2011, all CANs that had been posted as final were to be rewritten to incorporate the guidance and to re-evaluate the compliance instruction. CAN-0016 was the first to be redrafted. Attached are two drafts – (**Attachment 2**), a redline version and (**Attachment 3**), a clean version.

When commenting on the original CAN, industry expressed concerns over whether NERC expanded the standard with regard to non-BES facilities. The original CAN stated that a registered entity's sabotage reporting procedure could not specifically exclude non-BES facilities. This was re-examined and modified in the revised CAN to state that "a CEA is not to consider whether a registered entity listed any of its facilities in its sabotage reporting procedure when assessing compliance." However, the CAN further states, "a CEA is to assess a possible non-compliance when a registered entity's sabotage reporting procedure specifically excludes facilities that have the potential to impact the reliability of the BPS."

The language in the revised CAN created a new concern from industry. The concern was over whether a CEA is to verify a registered entity's evidence of implementing its sabotage reporting procedure.

This CAN was approved by the NERC CAN Executive Approval Team and is to be provided to FERC staff for comment.

As noted in Chairman Anderson's policy input request letter, the board welcomes comment on whether the changes to date are addressing effectively the issues raised at the August meeting.

**NERC**

NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

# Compliance Application Notice (CAN) Process

October 2011

**RELIABILITY | ACCOUNTABILITY**



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# Introduction

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Compliance Applications Notices (CANs) were created by NERC to fulfill ERO obligations under FERC Order 693<sup>1</sup> to provide compliance guidance to Compliance Enforcement Authority (CEA)<sup>2</sup> staff and to provide transparency to industry in regard to compliance monitoring<sup>3</sup> with NERC Reliability Standards. CANs encourage accountability for both CEAs and registered entities<sup>4</sup>, and were issued in response to requests for compliance guidance from industry stakeholders.

## ERO Basis and Authority

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NERC is the FERC-certified ERO and is accountable to the Commission and the industry for providing compliance guidance with regard to NERC Reliability Standards. The ERO's implementation of a thorough compliance program and appropriate enforcement actions, and providing continuing education and information campaigns to assist the industry sustain compliance, will enhance reliability of the Bulk Power System (BPS).

In FERC Order No. 693,<sup>4</sup> several commenters argued that the standards were not comprehensive in nature and requested relief from monetary penalties and compliance with the NERC Reliability Standards. FERC responded, "As discussed in our standard-by-standard review, each **Reliability reliability Standard-standard** that we approve contains requirements that are sufficiently clear as to be enforceable and do not create due process concerns."<sup>5</sup>

Further, the Commission agreed with NERC that, even if some clarification of a particular NERC Reliability Standard would be desirable at the outset, making it mandatory allows the ERO and the Regional Entities to provide that clarification on a going-forward basis while still requiring compliance with NERC Reliability Standards.<sup>6</sup>

In addition, NERC and industry are accountable for the development of NERC Reliability Standards, as articulated in the 2005 Federal Power Act<sup>7</sup> and FERC Order **No. 672**,<sup>8</sup> which duly recognizes the

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<sup>1</sup> FERC Order 693, Docket No. RM06-16-000.

<sup>2</sup> Compliance Enforcement Authorities include ERO auditors, investigators, enforcement personnel or any person authorized to assess issues of concern, potential non-compliance, and possible, alleged or confirmed violations of NERC Reliability Standard requirements.

<sup>3</sup> **The Three-Year ERO Performance Assessment stated that NERC should** "evaluate and implement ways to make registered entities more aware of means currently available to them to obtain guidance on how to comply with reliability standards and how to demonstrate compliance." Appendix A – Progress in Implementing Specific NERC Actions from the Three-Year ERO Performance Assessment – March 16, 2011, p. 19.

<sup>4</sup> FERC Order No. 693, Docket No. RM06-16-000.

<sup>5</sup> *Id.* at Paragraph 274.

<sup>6</sup> "NERC can maximize consistency and appropriateness of treatment in compliance matters most efficiently if it has the ability to advise or provide direction...at an early stage..." FERC Order on NERC Three-Year Assessment, Docket Nos. RR09-7-000 and AD10-14-000, §216.

<sup>7</sup> Section 215.d.2 located at [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109\\_cong\\_bills&docid=f:h6enr.txt.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:h6enr.txt.pdf).

<sup>8</sup> **See P\_324** located at [http://www.nerc.com/files/final\\_rule\\_reliability\\_Order\\_672.pdf](http://www.nerc.com/files/final_rule_reliability_Order_672.pdf)



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requisite collective expertise, experience and judgment of all parties involved to develop and improve standards.

## Purpose

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There are two significant and mutually reinforcing purposes of a CAN:

1. To establish consistency in the application of compliance criteria across all CEAs; and
2. To provide transparency to industry on how a CEA will apply compliance with a NERC Reliability Standard.

NERC received numerous industry comments requesting detailed compliance clarification of the NERC Reliability Standards. Below is a sampling of comments<sup>9</sup> that NERC received during the comment periods of the NERC Three-Year Assessment<sup>10</sup> and the NOPR of FERC Order No. 693. This feedback from industry factored significantly in the decision for NERC to implement CANs.

- NERC “need[s] to provide more information and guidance to registered entities concerning the compliance and enforcement process. This includes providing guidance on what it takes to comply with and demonstrate compliance with Reliability Standards, eliminating the backlog of audit reports and enforcement violations so that more precedents are available to industry, and providing more uniformity and consistency in audits between Regional Entities and different audit teams.”<sup>11</sup>
- “A clear communication channel is fundamental to the success of the ERO. Connecting the feedback from different program areas, such as compliance monitoring and enforcement, reliability assessments and event analysis, will prove valuable.”<sup>12</sup>
- “Without a designated communication process, the most efficient and effective compliance process is not in place between compliance staff and registered entities. Currently, each company and Regional Entity struggles with this problem on an inefficient, case-by-case basis. Hence, the [CAN] process NERC is recommending will increase efficiency and use less resources.”<sup>13</sup>
- “Some commenters argue that certain Reliability Standards require additional specificity or else users, owners and operators will not understand the consequences of a violation.”<sup>14</sup>

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<sup>9</sup> Commenters included industry trade associations that represent over 70 percent of utility customers in North America.

<sup>10</sup> NERC Three-Year Assessment, Docket No. RR09-7-000, July 20, 2009.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> FERC Order No. 693, Docket No. RM06-16-000.

NERC appreciates interaction from Industry during comment periods, and channels of communication remain open at all times if questions or concerns regarding a particular CAN arise.

## Scope

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A CAN is not a formal interpretation ~~or of~~ a NERC Reliability Standard. Further, a CAN cannot modify or change an interpretation or NERC Reliability Standard. CANs instruct CEAs to assess compliance by using either a specific method, or, if there are multiple ways for a registered entity to meet the requirements of a standard, a range of acceptable compliance actions.

Concisely stated, a CAN is based on the following four principles:

- a. A CAN provides instructions to CEAs regarding the boundaries within which to assess compliance with effective standards and requirements
  - ~~i. A registered entity may demonstrate that it has an equally efficient and effective alternative to maintain compliance from a reliability objective~~
- b. A CAN cannot expand a standard
- c. A CAN cannot add new requirements
- d. A CAN applies to any facilities that affect the reliability of the BPS

The CAN process includes several crosschecks with other NERC programs and departments, including a review by NERC legal staff and the NERC Executive Approval Team.<sup>15</sup> CANs provide timely compliance instruction to CEAs to ensure consistent application of the standards. In the event that CEA practices vary, the posted CAN establishes a benchmark that all CEAs must adopt. By making instructions to CEAs transparent to industry, CANs also include the benefit of informing registered entities what to expect during an audit.

## CAN Process

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The CAN process is designed to give CEAs instruction ~~or on~~ specific compliance applications in an expeditious manner. NERC follows several steps when developing CANs, including identifying issues that need clarification, prioritizing the issues, researching and developing CANs, providing the Regional

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<sup>15</sup> Chief Executive Officer, Senior Vice President and General Counsel, Senior Vice President and Chief Reliability Officer, Vice President and Director of Standards, Vice President and Director of Reliability Assessments, Vice President and Chief Security Officer, Associate General Counsel (693), Assistant General Counsel (CIP), Director of Compliance Operations, Director of Events Analysis and Investigations, Director of Training, Director of Situation Awareness and Director of Compliance Enforcement.

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Entities and industry time to comment, and submitting CANs to the Commission for review before posting them on the NERC Web site as final.

A. Issue Identification

NERC receives CAN topics through a variety of avenues, such as:

1. Industry comments received from individual registered entities, trade associations, and large corporations that have entities in multiple Regional Entities;
2. Regional Entities and issues they observe;
3. NERC in various oversight activities in CMEP and standards development; and
4. Other regulatory bodies at the National or Provincial level.

NERC tracks the category source<sup>16</sup> of the CAN request and will include it on the CAN Status spreadsheet posted on the NERC Compliance Application Notices web page.

CAN issues may relate to specific standards and requirements, crosscutting issues that cover various standards and requirements, or compliance monitoring processes and procedures.

NERC encourages any interested party to submit an issue by sending a completed an email Appendix 1 – CAN Template to [cancomments@nerc.net](mailto:cancomments@nerc.net). ~~NERC does not require any format to submit a CAN request, and each issue will be reviewed.~~

~~B.~~ by NERC staff.

~~C.B.~~ Review Determination of whether a CAN is the Appropriate Vehicle

Once an issue is received by NERC, the issue is reviewed for relevance as to determine whether a CAN ~~will be drafted.~~ is the appropriate vehicle to resolve the issue. In this relevance determination, several factors are analyzed, including the number of entities that may be affected, the impact to reliability of the BPS, whether there are questions regarding compliance monitoring, if there are perceived inconsistencies in audit practices among Regional Entities, and if there is a need for clarity among industry stakeholders. NERC considers all requests for clarification, but in order for a CAN to be drafted, the issue must apply to multiple entities, multiple issues, or broad issues that apply to many industry members.

If it is determined that a CAN is not the appropriate vehicle to resolve the issue, NERC will determine if there is another vehicle. For example, if the issue is a question regarding the mandatory and effective date of a revision to a standard, a bulletin/public notice may be a better vehicle.

~~D.C.~~ and Prioritization of CANs

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<sup>16</sup> A category would not identify the name of source and would be a broad designation such as a Registered eEntity type, Regional Entity, Trade Association, etc. but would not identify the name of source.

After the CAN issues are reviewed and it has been determined that a CAN ~~should be drafted~~ is the appropriate vehicle to address the issue, ~~it the CAN is listed on the CAN potential issues~~ Status spreadsheet, posted on the NERC Web site<sup>17</sup> and is assigned a priority level.

There are several components that determine the priority of a CAN:

- Factors surrounding the issue
- Input from the Standards Committee (SC) and the Certification and Compliance Committee (CCC)
- Input from Industry

~~NERC uses a prioritization tool to will determine the~~ There are several CANs being drafted concurrently, and the determination of priority of the CANs based on several factors- surrounding the issue, which may include ~~ing~~ the significance of the issue,<sup>18</sup> its impact to reliability of the BPS, its urgency, and, the number of violations that have occurred due to the issue, the standard and requirement, and the number of registered entities that are affected, ~~or the level of confusion on the issue.~~

NERC will solicit input from the Standards Committee and the Certification and Compliance Committees regarding prioritization and any initial input on the issue.

Industry may also provide input as to the prioritization of a CAN and any initial comments on the issue by submitting a completed Appendix 2 – Industry Prioritization Recommendation Form to ~~the~~ NERC's [cancomments@nerc.net](mailto:cancomments@nerc.net). The posting on the CAN Status spreadsheet will strive to provide sufficient information for interested parties to be able to submit a prioritization request or initial comments on the issue. A priority level of a CAN may be changed based upon need. ~~CANs are developed in the order that will help the most registered entities at the moment.~~

~~When an CAN is prioritized, there are three buckets groups in which the issue can be placed. They are groups.~~ The priority level of a CAN may change based upon 1) a change to the factors surrounding the issue, 2) the identification of a higher priority CAN to be developed, or 3) input from either the SC, CCC, or industry. Issues that impact the BPS are the highest of priority levels, and there are moderate issues and lower level administrative issues. ~~CANs with the highest priority will be drafted first, followed by moderate issues, then lower level administrative issues. Interested parties may submit requests to change the assigned priorities of specific CANs in the queue.~~

#### E.D. Development Process

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<sup>17</sup> The complete list of CAN issues and prioritization can be found on the NERC web site: <http://www.nerc.com/files/CANs%20Status.pdf>.

<sup>18</sup> One determination of significance of the issue is whether the issue is related to one of the NERC identified high risk factors for the reliability of the BPS: (1) Misoperations of relay protection and control systems; (2) Human errors by field personnel; (3) Ambiguous or incomplete voice communications; (4) Right-of-way maintenance; (5) Changing resource mix; (6) Integration of new technologies; (7) Preparedness for high-impact, low frequency events; and (8) Non-traditional threats via cyber-security vulnerabilities.

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After an issue is identified and a priority is assigned, NERC staff begins the CAN development process. ~~Before any drafting is done, the CAN team conducts investigation reviews of the issue.~~ The first step is a review of the NERC Reliability Standard in its entirety, including applicable FERC orders, approved standards interpretations, the standards drafting team's intent, ~~investigating investigation of~~ how CEAs are currently applying compliance, and ~~any other existing~~ communications and guidance. ~~The CAN team also reviews the inputs that were received during the prioritization process.~~

The ~~n~~ research ~~process also is conducted, which~~ includes ~~obtaining receiving~~ technical information from subject matter specialists, standards drafting teams, CEAs and Regional Entities. ~~The input from subject matter specialists may include soliciting input from industry stakeholder committees or individuals their subcommittees, as appropriate. This research is conducted to determine the level of consistency that exists in regards to the issue.~~

When the research is concluded and a draft is complete, the CAN is presented to the NERC Executive Approval Team, ~~who discusses the issues, checks for accuracy, and approves the draft to move to the Regional Entities comment period, then the industry comment period for the first level of approval.~~

#### F.E. Regional Entity Comment Period

Following NERC approval, the CAN is sent to the Regional Entities for verification of ~~the~~ compliance application. ~~The Regional Entities, as a part of the ERO, have been are involved throughout the development process. At this point, the~~ Regional Entities are provided an ~~initial review period time of three to of~~ five days to ~~conduct a review of the drafted document prior to posting. This provides the Regional Entities an opportunity to~~ identify any issues or concerns ~~that occurred in the editing of the draft~~ that would prevent the CAN from moving forward in the process. In the event that a Regional Entity discovers content in the CAN that is technically incorrect or any other issue that should prevent the CAN from moving forward, the Regional Entity will notify NERC.

In the event that the Regional Entities support progression of the CAN, it will be posted on the NERC Web site for industry comment. The Regional Entities' ~~may provide additional~~ comments ~~period will continue~~ throughout the industry comment period. ~~In addition to the Regional Entities' initial review prior to posting the CAN, the Regional Entity has had opportunity to comment throughout the entire CAN development process.~~

#### G.F. Industry Comment Period

The industry period lasts 21 days, and extensions of time may be granted upon request. ~~Registered entities or their representatives may submit their comments via Appendix 3 - the CAN Comment Form.<sup>19</sup> In order to keep the CAN process transparent, NERC will will post s all industry comments on the NERC Web site as they are received.~~

After the comment period, NERC staff analyzes all comments received and reviews the CAN for potential changes based on the comments. ~~In order to keep the CAN process transparent, NERC will~~

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<sup>19</sup> ~~See Appendix 3 for the CAN Comment Form.~~

~~post all industry comments on the NERC Web site as they are received. Registered entities or their representatives may submit their comments via the CAN Comment Form.<sup>20</sup> NERC staff will review each comment and make changes to the CAN as appropriate. NERC will provide rationale for any changes made or not made to the CAN and will post the rationale on the NERC Web site.~~

Industry comments are especially important when the compliance application varies, as the CAN will establish a consistent application. Industry, in this context, includes registered entities, their trade associations or forums, and NERC stakeholder committees, as appropriate.

#### H.G. Final Review and Posting

The final draft of the CAN is presented to the CAN Executive Approval Team for a second review of the CAN, including any modifications that were made, or were not made, after industry comments. Upon approval by the CAN Executive Approval Team, the CAN is sent to FERC staff and Canadian Regulators<sup>21</sup> for review, after which it is posted as final on the NERC web site.

Once the CAN is posted, an email announcement is sent to all registered entities and CEAs.

#### H.H. Webinars and Training

NERC conducts webinars after CANs are posted as final on the NERC Web site to provide opportunities for questions from industry and CEAs. The webinar slides ~~and the Q&A from the webinars~~ are posted on the NERC Web site.

NERC also provides training for CEAs and industry to develop awareness of the CANs and consistency in the use of the compliance application. Recent CANs and the CAN process are presented at trade forums, compliance workshops and committee meetings.

#### H.I. Expiration or Removal of CANs

CANs are retired when a revised standard or interpretation that addresses the compliance application issue in the CAN is approved by FERC and ~~is~~ becomes enforceable. Further, a CAN may be revoked or revised if a higher level of review directs the CAN to be withdrawn or modified, or additional information is brought forward to demonstrate that the CAN is incorrect.

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<sup>20</sup> See Appendix 3 for the CAN Comment Form.

<sup>21</sup> As requested by each Province.

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## Benefits of CANs

The advantages of issuing a CAN are significant. CEAs receive instruction so compliance monitoring of the NERC Reliability Standards is conducted consistently. The result of the transparent process provides registered entities with visibility into how compliance will be applied. Additionally, CANs are generated in a relatively short time period compared to a much lengthier formal process.

### A. Provide Formal Feedback to Standards

For each CAN that is drafted, NERC staff submits the issues raised during the CAN development process to ~~the applicable~~ Standards Development Teams and the standards issue database, to be considered in ongoing or future standards projects, revisions to existing standards, or the initiation of new standards. All of the decisions concerning standards development rest with the stakeholders through the actions of the Standards Committee.

### B. Time to Develop

The timeline for CAN development from issue identification to final posting ~~takes approximately three~~ is measured in terms of months; ~~typically 3–6~~ three to six months. This process is designed to be much more responsive than either the formal Standards Interpretation Process or the Standards Development Process,<sup>22</sup> which may take 18 - 36 months, plus FERC approval time.

## CAN Issues and Concerns

During the development of the CAN process, NERC received issues and concerns from industry stakeholders. This section will highlight some concerns and provide answers to the questions received.

- *NERC received comments that CANs are overreaching the standards.* CANs give the necessary instruction to CEAs in order to monitor compliance to the standards in a consistent manner. CANs are temporary in nature and will be retired when a standard or interpretation that addresses the issues therein becomes effective.
- ~~NERC received comments that the CAN process is circumventing the standards process.~~ The CAN process and the standards process serve different purposes. The Standards Development Process, codified by ~~is a codified~~ the Federal Power Act of 2005, Section 215,<sup>23</sup> ~~process that~~ creates mandatory and enforceable laws ~~regulation~~. The CAN process provides instruction on how CEAs are to assess compliance with ~~those laws~~ that regulation. Therefore, NERC must balance the long-term standards development process with the day-to-day compliance monitoring and enforcement responsibilities as the FERC-certified ERO.
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<sup>22</sup> See the NERC Rules of Procedure, Appendix 3A, Standards Process Manual, Effective September 3, 2010.

<sup>23</sup> Define codified

## Contesting a CAN

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NERC's belief is that transparent, open communication of compliance applications provides an opportunity to formally address areas of concern. When industry takes issue with an application identified in a CAN, there are several existing processes available for formal resolution. In accordance with the NERC Rules of Procedure, a registered entity may contest a violation that was assessed due to the application of a CAN.

A registered entity or its representatives (requestor) may (in order of hierarchy):

1. Submit technical evidence in support of a request to NERC to have a CAN changed or removed.
  - a. ~~If NERC will acknowledge receipt of the issue within two business days and will keep the requestor informed of progress. Following NERC's determination, does not respond to the request within a reasonable time as determined by the requestor, or if the registered entity requestor is not satisfied with the change to the CAN based on NERC's review of the technical evidence provided, then the a registered entity requestor~~ may:
2. Propose a change to the standard through a request for a formal interpretation<sup>24</sup> or a Standard Authorization Request (SAR); or
3. Request a higher-level review of the CAN<sup>25</sup>
  - a. ~~The first level of review would be conducted by NERC's Chief Executive Officer.~~
  - b. If a registered entity is not satisfied with the results of the first level of review, the registered entity may request a second level of review by the NERC Board of Trustees Compliance Committee (BOTCC).

~~The higher-level review of the CAN may result in three options for disposition: (1) affirm the CAN as written, (2) make recommended changes to CAN or (3) withdraw the CAN. If a the CAN is modified or withdrawn, there will be an announcement to industry and to ERO Compliance Enforcement Authorities to clarify announce the change.~~

~~The higher-level review will begin when the registered entity or its representative submits the CAN Higher-Level Review Form (Appendix 5) to NERC. NERC will have 21 days to respond to the registered entity or its representative as to whether the request will be heard. The next step will be a review by~~

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<sup>24</sup> A formal interpretation is conducted through the Standards Development Process. As such, it is formally filed with FERC and will result in an order issued by FERC Commissioners.

<sup>25</sup> See Appendix 5 for the CAN Higher-level Review Form.



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NERC's Chief Executive Officer or his designee, who will have 1428 days to review the CAN and determine whether the CAN will be affirmed, changed, modified or withdrawn.

If a registered entity or its representative decides to continue pursue the higher level of review to the Board of Trustees Compliance Committee (BOTCC), they must submit a second request for Higher-level Review by completing additional information and re-submitting a revised Appendix 5. The BOTCC will review the comments and the applicable CAN at the next available time during its monthly closed BOTCC meeting and make a decision whether to either uphold the CAN NERC Chief Executive Officer's decision, or to overturn the decision. If the BOTCC decides to will review the decision complete record, it will do so on a de novo basis, and determine whether its decision will be to either uphold the CAN, direct the CAN to be changed, modified, or to withdraw the CAN.

At any time through the higher level review process an entity or its representative may withdraw its request for review.

## Summary

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Compliance Application Notices fulfill NERC's obligation as the ERO to provide a consistent compliance monitoring program under FERC Order No. 693. CANs carry out the requests of industry for clarification and provide timely compliance guidance in a transparent manner. CANs not only assist CEAs in monitoring compliance, but the industry benefits from understanding what the issues are and how to prepare for an upcoming audit. The CAN process is evolving, and changes have been made to the program based on feedback from industry stakeholders, Regional Entities, and the NERC Board of Trustees.

## Version History

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Version	Date	Action
0	May 2010	Initial Draft
1	December 10, 2010	Updated CAN Process
2	April 14, 2011	Updated CAN Process with detailed steps
3	July 8, 2011	Updated CAN Process to include specific industry requests
4	August 15, 2011	Updated Purpose Section, Contesting a CAN Section, based on Board of Trustee recommendations.
<u>5</u>	<u>October 2011</u>	<u>Updated CAN Prioritization Process, Regional Entity comment section, industry comment section, CAN higher-level review section, and added Appendices 1-5.</u>

## ~~Draft~~ **DRAFT** Compliance Application Notice — 0016

~~Compliance Application: CIP-001<sup>1</sup> R1 CIP-001 R1 — Sabotage Reporting Procedure  
Applicability to Non-BES Facilities~~

~~Posted: June 17, 2011~~

~~Re-Posted/vised: [DATE] Month XX, 2011~~

### Primary Interest Groups

~~Compliance Enforcement Authorities (CEA)<sup>2</sup>~~

~~NERC~~

~~Regional Entities/Entity~~

~~Registered Entities/Entity~~

~~Issue: What the inclusion of facilities should be included in a registered entity's sabotage reporting procedure?~~

~~For the purpose of aiding a CEA, this CAN provides instruction for assessing whether registered entities have developed sabotage reporting procedures that fulfill the requirements of CIP-001.~~

~~NERC received a request to clarify whether registered entities were required to include either BES or non-BES facilities in their Sabotage Reporting Procedures in order to be compliant with the NERC Reliability Standard CIP-001 Requirement (R) 1.~~

### ~~Reliability Objective~~

~~The reliability objective is to foster compliance with the NERC Reliability Standards through clear communication of performance obligations.~~

### ~~Background~~

<sup>1</sup> This CAN is in effect for CIP-001 Versions 0, 1 and 1a, and will remain in effect until the issue is addressed by a future version of the standard. In Canada, this CAN is in effect for applicable versions of CIP-001 pursuant to each Canadian Province's corresponding Memorandum of Understanding (MOU), which may be accessed on the NERC Web site.

<sup>2</sup> Compliance Enforcement Authorities include ERO auditors, investigators, enforcement personnel or any person authorized to assess issues of concern, potential non-compliance, and possible, alleged or confirmed violations of NERC Reliability Standard requirements.

Registered entities have requested clarification as to whether the Sabotage Reporting Procedures required by CIP-001-1 R1 must include a list of registered entity's facilities and whether excluding any of its facilities, specifically non-BES facilities, constitutes noncompliance with the requirement.

### CEA Compliance Application

The CIP-001-1 R1<sup>3</sup> reads/provides, in pertinent part:

**R1.** Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load Serving Entity shall have procedures for the recognition of and for making their operating personnel aware of sabotage events on its facilities<sup>4</sup> and multi-site sabotage affecting larger portions of the Interconnection.

Therefore, ~~to be compliant with~~ CEAs are instructed to verify: CIP-001-1 R1:<sup>5</sup>

- 1 a registered entity ~~is required to have~~ has procedures for the recognition of sabotage events;<sup>6</sup>
- 2 a registered entity has procedures for personnel recognizing a sabotage event to make the entity's operating personnel aware of the sabotage event(s);
- 3 pursuant to its procedures, a registered entity's employees personnel should be able to recognize sabotage events that happen on the registered entity's facilities; and
- 4 pursuant to its procedures, a registered entity's employees personnel should are able to recognize sabotage events that happen across multiple sites that would affect larger portions ~~of~~ of the interconnection/Interconnection.

The emphasis of the standard is for the registered entity's employees personnel to be able to recognize a sabotage event(s) that may impact<sup>7</sup> the reliability of the Bulk Power System (BPS) and to make operating personnel aware of a recognized sabotage event(s). A CEA is to verify that the entity's procedure provides sufficient detail as to how it will determine whether 1) events are sabotage-related and 2) the event has the potential to impact the reliability of the BPS.

<sup>3</sup> Pursuant to section 215 of the Federal Power Act (FPA), the Commission approved CIP-001-1 in FERC Order No. 693. *Mandatory Reliability Standards for the Bulk Power System*, FERC Stats. & Regs. ¶ 31,242 (2007) (Order No. 693), *rehearing denied*, 120 FERC ¶ 61,053 (2007) (Order No. 693-A).

<sup>4</sup> The standard includes the word "facilities," which is not capitalized and therefore does not denote an identified term. *The NERC Glossary of Terms Used in Reliability Standards* defines "Facility" as "A set of electrical equipment that operates as a single Bulk Electric System Element (e.g., a line, a generator, a shunt compensator, transformer, etc.)."

<sup>5</sup> In Order No. 672, the Commission concluded that it is appropriate for each user, owner and operator of the Bulk Power System to be required to abide by any such Commission-approved Rules and added a subsection (b) to 18 C.F.R. section 39.2, stating: (b) All entities subject to the Commission's reliability jurisdiction under section 39.2(a) shall comply with applicable Reliability Standards, the Commission's regulations, and applicable Electric Reliability Organization Rules and Regional Entity Rules made effective under this part. See FERC 18 C.F.R. Part 39; *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards* (Order No. 672), III FERC Stats. & Regs. ¶ 31,204 (2006).

<sup>6</sup> CEAs' verification of a registered entity's sabotage reporting procedure is to include flexibility for a registered entity to have established procedures that appropriately address the expertise of employees across the company. However, CEAs are to verify that registered entities must have a procedure where, at a minimum, employees that are not aware of how to recognize potential experts sabotage events are trained aware of to spot unusual events that could potentially be sabotage related and obtain the opinion of expert trained employees personnel.

<sup>7</sup> Examples may include but are not limited to: events or activities that may threaten the reliability of the BPS, create a threat to the reliability of the BPS or impede the utilities ability to reliably operate the BPS.

When assessing compliance, CEAs are not to consider a registered entity's determinations regarding whether events were sabotage-related or whether the events were reported. A CEA is to verify whether the registered entity made the determination and reporting decision according to the entity's sabotage reporting procedure.

While a registered entity's sabotage reporting procedure may ~~include-require personnel to be aware~~ ~~awareness~~ of specific items for a particular facility, a CEA is not to consider whether a registered entity is not required to list ~~any all~~ of its facilities in its sabotage reporting procedure when assessing compliance. If an employee is ~~properly trained~~ aware of how to recognize a sabotage event, the employee ~~should willis to~~ will be able to be able recognize a sabotage event regardless of where on, or in, the registered entity's facilities it occurred. However, a CEA is to assess a possible non-compliance when a registered entity's sabotage reporting procedure specifically excludes facilities that have the potential to impact the reliability of the BPS.

The registered entity would be considered non-compliant with the standard if its Sabotage Reporting Procedure ~~excludes~~ any of its facilities from its procedure, including but not limited to non-BES facilities.

#### **Effective Period for CAN**

This revised CAN supersedes the original CAN, as well as all prior communications. CEAs are to use this CAN to assess compliance from June 17, 2011, regardless of the start date of the violation. It will remain in effect until such time that a future version of a FERC or other applicable government authority approved standard or interpretation becomes effective and addresses the specific issue contained in this CAN.

This CAN supersedes the original CAN, as well as all prior communications. CEAs are to use this CAN to assess compliance is effective for CIP-001 upon posting the posting of this CAN on the NERC Web site. It supersedes all prior communications and it will remain in effect until a future CAN supersedes it or until such time that a future version of a standard or interpretation addresses this specific issue and is enforceable.

It is anticipated that EOP-004-2, in Standards Development Project 2009-1 Disturbance and Sabotage Reporting, will ultimately define sabotage reporting obligations in CIP-001-1a after industry approval, BOT approval and FERC approval.

CEAs are instructed to assess compliance by the registered entity's current<sup>8</sup> sabotage reporting procedure and the facts and circumstances surrounding that procedure. For example:

1. If, following the posting of this CAN, a registered entity's sabotage reporting procedure contains the elements specified by the standard and outlined in this CAN, CEAs ~~will~~ are to evaluate ~~look at~~ the entity's current sabotage reporting procedure. The CEA is not to look further back in time to determine non-compliance or a Possible Violation because prior versions of the entity's sabotage reporting procedure did not include each of the elements identified in this CAN, or specifically excluded certain facilities that, if subjected to a sabotage event, could impact the BPS.
2. ~~However~~ The CEA is to identify non-compliance and a Possible Violation, if a registered entity:

<sup>8</sup> "Current" means the Sabotage Reporting Procedure in effect at the time of the audit.

- a. did not respond to this compliance guidance and therefore its current sabotage reporting procedure specifically excludes facilities that, if subjected to a sabotage event, could impact the BPS; or
- b. responded to this compliance guidance only in preparation for an upcoming audit. In this situation a CEA is to look at the entity's previous versions of its sabotage reporting procedure and make an assessment of the registered entity's actions based on the content in its revised sabotage reporting procedure as well as the facts and circumstances surrounding the revision.

For any enforcement action in process and for audits that have been initiated,<sup>9</sup> a Regional Entity will CEA will apply the appropriate discretion, including consideration of the specific facts and circumstances of the non-compliance, in determining whether this CAN should be applied.

**Providing Evidence of Compliance**

A CEA is to assess the following to obtain reasonable assurance of the entity's compliance: An Auditor is to request:

1. evidence of the entity's sabotage reporting procedure, including how it will identify sabotage events that impact the reliability of the BPS, and
2. evidence that the entity is following its procedure, including a list of events that were analyzed.

For example:

- If a registered entity had a sabotage event or activity, the entity could demonstrate how it followed its procedure to:
  1. recognize a sabotage event that may have an impact on the BPS, and
  2. make its operating personnel aware of the event.
- If a registered entity had a suspect event or activity that the entity determined was not due to sabotage or would not have an impact on the BPS, it could demonstrate how it followed its sabotage procedure to make that determination.
- If a registered entity did not have a sabotage event or activity, the entity could demonstrate that its employees were trained aware of its procedure and would be able to implement the procedure if such an event or activity occurred. An entity may also provide an attestation that no suspect events or activities had occurred.

~~are impact the reliability of the BPS and~~

~~evidence that the entity is following its procedure.~~

~~Therefore, if a registered entity includes language in its Sabotage Reporting Procedure that non-BES, or any other, facilities are excluded from its procedure the registered entity would be non-compliant with CIP-001-1 R1.~~

For more information please contact:

<sup>9</sup> "Initiated" means that a registered entity has received notification of the upcoming audit.

Michael Moon  
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\_\_\_\_ Valerie Agnew  
\_\_\_\_ Manager of ~~Compliance Standards~~ Interface and  
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~~This document is designed to convey compliance monitoring instruction to achieve a measure of consistency among auditors and Compliance Enforcement Authorities. It is not intended to establish new requirements under NERC's Reliability Standards or to modify the requirements in any existing NERC Reliability Standard. Compliance will continue to be assessed based on language in the currently enforceable NERC Reliability Standards. This document is not intended to define the exclusive method an entity must use to comply with a particular standard or requirement, or foreclose a registered entity's demonstration by alternative means that it has complied with the language and intent of the standard or requirement, taking into account the facts and circumstances of a particular registered entity. Implementation of information in this document is not a substitute for compliance with requirements in NERC's Reliability Standards.~~

~~This document is designed to convey compliance monitoring instruction. It is not intended to establish new requirements under NERC's Reliability Standards or to modify the requirements in any existing NERC Reliability Standard. Compliance will continue to be assessed based on language in the currently enforceable NERC Reliability Standards.~~

~~This document is designed to convey compliance guidance from NERC's various activities. It is not intended to establish new requirements under NERC's Reliability Standards or to modify the requirements in any existing NERC Reliability Standards. Compliance will continue to be determined based on language in the NERC Reliability Standards as they may be amended from time to time.~~

### Revision History

<u>Posted Date</u>	<u>Action</u>	<u>Revision</u>
<u>June 17, 2011</u>	<u>Posted Final CAN</u>	
<u>[DATE] Month XX, 2011</u>	<u>Posted Revised CAN</u>	<u>Revised for target audience to CEA</u>

# DRAFT Compliance Application Notice – 0016

CIP-001 R1 Sabotage Reporting Procedure

Posted: June 17, 2011

Revised: Month day, 2011

## Primary Interest Groups

Compliance Enforcement Authority (CEA)<sup>1</sup>

NERC

Regional Entity

Registered Entity

## Issue: What facilities should be included in a registered entity's sabotage reporting procedure?

For the purpose of aiding a CEA, this CAN provides instruction for assessing whether registered entities have developed sabotage reporting procedures that fulfill the requirements of CIP-001.

## Compliance Application

CIP-001<sup>2</sup> provides, in pertinent part:

*R1. Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load Serving Entity shall have procedures for the recognition of and for making their operating personnel aware of sabotage events on its facilities<sup>3</sup> and multi-site sabotage affecting larger portions of the Interconnection.*

Therefore, CEAs are instructed to verify:

1. a registered entity has procedures for the recognition of sabotage events;
2. a registered entity has procedures for personnel recognizing a sabotage event to make the entity's operating personnel aware of the sabotage event(s);
3. pursuant to its procedures, a registered entity's personnel are able to recognize sabotage events that happen on the registered entity's facilities; and
4. pursuant to its procedures, a registered entity's personnel are able to recognize sabotage events that happen across multiple sites that would affect larger portions of the Interconnection.

<sup>1</sup> Compliance Enforcement Authorities include ERO auditors, investigators, enforcement personnel or any person authorized to assess issues of concern, potential non-compliance, and possible, alleged or confirmed violations of NERC Reliability Standard requirements.

<sup>2</sup> Pursuant to section 215 of the Federal Power Act (FPA), the Commission approved CIP-001-1 in FERC Order No. 693. *Mandatory Reliability Standards for the Bulk Power System*, FERC Stats. & Regs. ¶ 31,242 (2007) (Order No. 693), *rehearing denied*, 120 FERC ¶ 61,053 (2007) (Order No. 693-A).

<sup>3</sup> The standard includes the word "facilities," which is not capitalized and therefore does not denote an identified term. *The NERC Glossary of Terms Used in Reliability Standards* defines "Facility" as "A set of electrical equipment that operates as a single Bulk Electric System Element (e.g., a line, a generator, a shunt compensator, transformer, etc.)."



**The emphasis of the standard is for the registered entity's personnel to be able to recognize a sabotage event(s) that may impact<sup>4</sup> the reliability of the Bulk Power System (BPS) and to make operating personnel aware of a recognized sabotage event(s).** A CEA is to verify that the entity's procedure provides sufficient detail as to how it determines whether 1) events are sabotage-related and 2) the event has the potential to impact the reliability of the BPS.

When assessing compliance, CEAs are not to consider a registered entity's determinations regarding whether events were sabotage-related or whether the events were reported. A CEA is to verify whether the registered entity made the determination and reporting decision according to the entity's sabotage reporting procedure.

While a registered entity's sabotage reporting procedure may require personnel to be aware of specific items for a particular facility, a CEA is not to consider whether a registered entity listed any of its facilities in its sabotage reporting procedure when assessing compliance. If an employee is aware of how to recognize a sabotage event, the employee will be able to recognize a sabotage event regardless of where on, or in, the registered entity's facilities it occurred. However, a CEA is to assess a possible non-compliance when a registered entity's sabotage reporting procedure specifically excludes facilities that have the potential to impact the reliability of the BPS.

### **Effective Period for CAN**

This revised CAN supersedes the original CAN, as well as all prior communications. CEAs are to use this CAN to assess compliance from June 17, 2011, regardless of the start date of the violation. It will remain in effect until such time that a future version of a FERC or other applicable government authority approved standard or interpretation becomes effective and addresses the specific issue contained in this CAN.

It is anticipated that EOP-004-2, in Standards Development Project 2009-1 Disturbance and Sabotage Reporting, will ultimately define sabotage reporting obligations in CIP-001-1a after industry approval, BOT approval and FERC approval.

CEAs are instructed to assess compliance by the registered entity's current<sup>5</sup> sabotage reporting procedure and the facts and circumstances surrounding that procedure. For example:

1. If, following the posting of this CAN, a registered entity's sabotage reporting procedure contains the elements specified by the standard and outlined in this CAN, CEAs are to evaluate the entity's current sabotage reporting procedure. The CEA is not to look further back in time to determine non-compliance or a Possible Violation because prior versions of the entity's sabotage reporting procedure did not include each of the elements identified in this CAN, or specifically excluded certain facilities that, if subjected to a sabotage event, could impact the BPS.

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<sup>4</sup> Examples may include but are not limited to: events or activities that may threaten the reliability of the BPS, create a threat to the reliability of the BPS or impede the utilities ability to reliably operate the BPS.

<sup>5</sup> "Current" means the sabotage reporting procedure in effect at the time of the audit.

2. The CEA is to identify non-compliance and find a Possible Violation if a registered entity:
  - a. did not respond to compliance guidance and therefore its current sabotage reporting procedure specifically excludes facilities that, if subjected to a sabotage event, could impact the BPS; or
  - b. responded to this compliance guidance only in preparation for an upcoming audit. In this situation a CEA is to look at the entity's previous versions of its sabotage reporting procedure and make an assessment of the registered entity's actions based on the content in its revised sabotage reporting procedure as well as the facts and circumstances surrounding the revision.

For any enforcement action in process and for audits that have been initiated,<sup>6</sup> a CEA will apply the appropriate discretion, including consideration of the specific facts and circumstances of the non-compliance, in determining whether this CAN should be applied.

### **Evidence of Compliance**

A CEA is to assess the following to obtain reasonable assurance of the entity's compliance:

1. evidence of the entity's sabotage reporting procedure, including how it will identify sabotage events that impact the reliability of the BPS, and
2. evidence that the entity is following its procedure, including a list of events that were analyzed. For example:
  - If a registered entity had a sabotage event or activity, the entity could demonstrate how it followed its procedure to:
    1. recognize a sabotage event that may have an impact on the BPS, and
    2. make its operating personnel aware of the event.
  - If a registered entity had a suspect event or activity that the entity determined was not due to sabotage or would not have an impact on the BPS, it could demonstrate how it followed its sabotage procedure to make that determination.
  - If a registered entity did not have a sabotage event or activity, the entity could demonstrate that its employees are aware of its procedure and would be able to implement the procedure if such an event or activity occurred. An entity may also provide an attestation that no suspect events or activities had occurred.

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<sup>6</sup> "Initiated" means that a registered entity has received notification of the upcoming audit.

For more information please contact:

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*This document is designed to convey compliance monitoring instruction to achieve a measure of consistency among auditors and Compliance Enforcement Authorities. It is not intended to establish new requirements under NERC’s Reliability Standards or to modify the requirements in any existing NERC Reliability Standard. Compliance will continue to be assessed based on language in the currently enforceable NERC Reliability Standards. This document is not intended to define the exclusive method an entity must use to comply with a particular standard or requirement, or foreclose a registered entity’s demonstration by alternative means that it has complied with the language and intent of the standard or requirement, taking into account the facts and circumstances of a particular registered entity. Implementation of information in this document is not a substitute for compliance with requirements in NERC’s Reliability Standards.*

**Revision History**

Posted Date	Action	Revision
June 17, 2011	Posted Final CAN	
Month XX, 20XX	Posted Revised CAN	Revised target audience to CEAs

## **Status of CIP Standards Version 4 and 5 and Implementation Plans**

### **Action**

None

### **Background**

Version 4 of the CIP Standards was limited in scope and meant to be an interim step for addressing more immediate concerns raised in FERC Order No. 706, paragraph 236. The key changes to Version 4 from Version 3 include replacing the “risk-based” assessment methodology with “bright line” criteria, and an attempt to move toward more uniform application by eliminating subjectivity regarding what is “critical.”

The Industry approved Version 4 on December 30, 2010. NERC submitted a petition for approval of CIP Version 4 to FERC on February 10, 2011, requesting approval of the standards. FERC issued a NOPR proposing to approve CIP Version 4 on September 15, 2011.

Version 5 addresses the remaining FERC Order No. 706 directives. The Version 5 standards are expected to accomplish several key goals:

- Address the remaining FERC directives, approved interpretations, and existing CANs;
- Transition the concepts of “Critical Asset” and “Critical Cyber Asset” to a High, Medium, and Low impact classification system for requirement applicability;
- Provide guidance and context for each requirement, and leverage current stakeholder investment used for complying with existing standards; and
- Develop requirements that foster a “culture of security” to improve reliability.

Herb Schrayshuen, vice president of standards and training, NERC, will review the status of CIP Standards Version 4 and 5 and Implementation Plans.

This item will be presented initially in the Board Standards Oversight Technology Committee meeting, which precedes the MRC meeting on November 2. MRC members will engage in further discussion of the CIP Standards issue during the MRC meeting.

## **BES Definition and Rules of Procedure – Status**

### **Action**

None

### **Background**

As indicated in John Q. Anderson's policy input request letter, the board is very interested in how the Bulk Electric System (BES) Definition project is progressing since the August 2011 MRC and board meetings. Chairman Anderson indicated the board wants to stay actively involved as this effort progresses and asked the MRC to continue its review and discussion at this November meeting.

### **Current Status**

The proposed definition of BES and its implementation plan were posted for a 45-day concurrent posting (formal comment period and initial ballot) until October 10, 2011, as was the draft application form ([Detailed Information to Support an Exception Request](#)). The definition includes a default threshold of 100 kV augmented by a list of five categories of facilities that are included in the BES and a list of four categories of facilities that are excluded from the BES. In addition, the drafting team has clarified what is meant by 'radial' and drafted a specific exclusion for local networks serving a distribution function. The bright-line definition has established criteria for the determination of BES Elements, which can be applied consistently across North America.

The draft Rules of Procedure Exception Process was posted for comment through October 27, 2011. This is being processed following the NERC procedure for making a change to the Rules of Procedure (described in [Section 1400](#) of the NERC Rules of Procedure). Once a facility is determined to be included or excluded by application of the bright-line definition, the exceptions process may be used to adjust this determination based on whether an element is necessary for the Reliable Operation of the interconnected bulk power transmission system as evidenced by Required Information provided.

The BES Definition Standard Drafting Team (SDT) adopted the recommendations of the Member Representatives Committee and the NERC Board of Trustees and subdivided Project 2010-17 Definition of BES into multiple phases. In the opinion of the Standards Committee, SDT, and NERC staff, this establishes the best way to meet the FERC filing deadline of January 25, 2012 while also giving serious consideration to issues raised by stakeholders. The first phase of this project, which is currently in development, will address the directives established by FERC in Order Nos. 743 and 743-A. The second phase of this project will address concerns raised by SDT members and concerns received from stakeholders through the standard development process. Commenters have been informed that the issues identified above will be fully addressed in the next phase of Project 2010-17 Definition of BES.

### **Ballot Results for BES Definition and Technical Exception Request**

The ballot windows for (1) the BES Definition and associated implementation plan, and (2) the draft application form titled *Detailed Information to Support an Exception Request* referenced in the Rules of Procedure Exception Process, closed at 8 p.m. Eastern on Monday, October 10, 2011. The results were:

#### **BES Definition**

Quorum: 92.97%

Approval: 71.68%

### **Detailed Information to Support an Exception Request**

Quorum: 89.53%

Approval: 64.03%

### **Next Steps**

The SDT will consider all comments received, and decide whether to make additional revisions to the BES Definition, the associated implementation plan, and the application form titled *Detailed Information to Support an Exception Request* referenced in the Rules of Procedure Exception Process. The Rules of Procedure team will consider all comments received and decide whether to make additional changes to the Exception Process. Both teams are working to meet the regulatory deadline established in FERC Orders 743 and 743A (filing by January 25, 2012).

Pete Heidrich, chair of the BES Definition SDT, and Carter Edge, chair of the Rules of Procedure team, will discuss the current status of their teams' efforts and next steps.

## ALR Task Force Status Report

### Action

None

### Background

At its meeting in February 2011, the Member Representatives Committee (MRC) was asked to advise the Board on any policy issues related to the definitions of Bulk Electric System (BES) and Adequate Level of Reliability (ALR). A subgroup of the MRC, including leadership of NERC's Standing Committees, select experts, and NERC staff, was formed to address these specific policy issues — MRC BES/ALR Policy Issues Task Force.

Reliability priorities cannot be addressed without a common understanding of the meaning and scope of reliability, as well as what criteria will be used to determine ALR.<sup>1</sup> Therefore, the MRC task force assigned the following questions regarding the ALR definition to an *ad hoc* team, which prepared the enclosed draft white paper outlining its views on three interrelated questions, and made the following recommendations:

The task team reviewed each of the three issues developed a recommendation for each to guide the standing committees' Adequate Level of Reliability Task Force (ALRTF):

1. How should cost/benefit be factored into ALR? How and by whom should those decisions be made? [Jurisdictional issues]:

**Recommendation:** *Assess the reliability objectives of ALR criteria and provide an explicit recognition of high-level macro cost-effectiveness of requirements within a reliability standard to meet the reliability objectives.*

2. Is the impact of all load loss equal? For example, is the impact of "X" MWs of load loss in a major metropolitan area the same as "X" MWs in a rural area?

**Recommendation:** *Revise ALR defining criteria to differentiate among the different characteristics of loss of supply, transmission and load loss as a function of planning design, operator preparations and ability to control outcomes from events; and refine the incorporation of resilience and recovery in the ALR elements.*

3. How should "cascading" be defined?

**Recommendation:** *No change to the definition of Cascading.*

The whitepaper followed a pre-specified "*Issue Summary Format*" suggested by the Task Force that includes the Issue Statement, Recommendations, Background, and Options and Analysis, including advantages and disadvantages of each option. This whitepaper is offered to guide the policy-level discussion by the MRC.

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<sup>1</sup> [http://www.nerc.com/files/Adequate\\_Level\\_of\\_Reliability\\_Defintion\\_05052008.pdf](http://www.nerc.com/files/Adequate_Level_of_Reliability_Defintion_05052008.pdf)

White Paper: *September 2011*

## **Cost/Benefit, Load Loss, Cascading Task Team**

### **Introduction**

At its meeting in February 2011, the Member Representatives Committee (MRC) was asked to advise the Board on any policy issues related to the definitions of Bulk Electric System (BES) and Adequate Level of Reliability (ALR). A subgroup of the MRC, leadership of NERC's Standing Committees, select experts, and NERC staff, was formed to address these specific policy issues — MRC BES/ALR Policy Issues Task Force.

Reliability priorities cannot be addressed without a common understanding of the meaning and scope of reliability, as well as what criteria will be used to determine ALR.<sup>1</sup> Therefore, the MRC task force assigned the following questions regarding the ALR definition to an ad hoc team, which prepared this draft white paper outlining its views on three interrelated questions on the definition of ALR:

1. How should cost/benefit be factored into ALR? How and by whom should those decisions be made? [Jurisdictional issues] **Cost/Benefit**
2. Is the impact of all load loss equal? For example, is the impact of "X" MWs of load loss in a major metropolitan area the same as "X" MWs in a rural area? **Load Loss**
3. How should "cascading" be defined? **Cascading Defined**

### **Issue 1: Cost/Benefit**

#### **Issue:**

How should cost/benefit be factored into ALR? How and by whom should those decisions be made? [Jurisdictional issues]

#### **Recommendation: [Option 2]**

*Assess the reliability objectives of ALR criteria and provide an explicit recognition of high-level macro cost-effectiveness of requirements within a reliability standard to meet the reliability objectives.*

#### **Background:**

The objective of the Task Team is to advise on the policy ramifications of whether the explicit incorporation of cost/benefit analysis is warranted within the ALR measurable criteria.

<sup>1</sup> [http://www.nerc.com/files/Adequate\\_Level\\_of\\_Reliability\\_Definition\\_05052008.pdf](http://www.nerc.com/files/Adequate_Level_of_Reliability_Definition_05052008.pdf)



In the past, an essential element in the way NERC's current Reliability Standards were developed included processes to secure input from all stakeholders as well as balloting for approval of reliability standards. These aspects of NERC's stakeholder process inherently attempt to balance cost/benefit of a reliability objective with cost-effective requirements within a standard. An important consideration of reliability is cost balanced with the associated reliability benefits. Reliability investments, captured in NERC's Reliability Standards, compliance program, alerts, and other initiatives, are driven by overall objectives of balance among reliability and cost effectiveness to customers and ratepayers. It is important to achieve reliability risk mitigation in a manner that balances affordability of electricity in a global, competitive market, with the need to ensure the reliable performance and security of the North American electricity infrastructure. Priorities must be driven by a clear understanding of risks and consequences, along with the costs and benefits associated with addressing them.

As a first step, ALR criteria provide suitable and measureable reliability benefits, along with an assessment of unacceptable consequences. Risk information provides useful input to determine reliability benefits, though reliability objectives can, at times, include "defense-in-depth," considerations, where the resulting impacts on reliability (consequences) are deemed not acceptable, even though the risks may be low.

Once the reliability objectives have been refined to provide the desired reliability benefits, measureable cost-effective approaches or alternatives should be investigated. The reasonable balancing point between reliability benefits and cost-effective approaches is difficult to articulate in the abstract. For example, certain ALR criteria may provide a good measure of reliability benefits, but may not reach the balance point between cost and reliability. At first, it may be impossible to provide an acceptable balance, until the ALR is measured against specific case studies, which can be indicative of reasonableness. At the same time, the current recognized level of reliability in the North American grid can be considered to generally reflect an implicit recognition of the inherent economic/cost effective balance. Such balance points provide a long-term calibration of the validity of the current set of ALR factors, which should shift only gradually over time as the implications are potentially significant capital investments are needed to alter the balance. Yet, as additional information is obtained over time, adjustments or refinements can be made to ensure clarity in the balance of reliability objectives and cost-effective actions.

While a complete and detailed cost-effective assessment would theoretically include not only system-specific technical solutions, but represent jurisdictional considerations, and local impacts, the policy consequences of making such explicit calculations are manifestly difficult, widely susceptible to varying assumptions, inputs, and resulting conclusions. These economic effective aspects of reliability concerns are best represented by Federal jurisdictions for interstate and international responsibilities, and State/Provincial/Local regulators and end-user stakeholder groups for local considerations to ensure reliability objectives are met in a jurisdictionally cost-effective appropriate fashion.

However, on a macro level, NERC can work with its stakeholders to provide North American-wide greater transparency of the cost effectiveness of potential reliability initiatives with high-level estimates that can then be balanced against reliability objectives. In this way, making some explicit recognition of the cost effectiveness balanced against the reliability benefit objectives, can lead to adjustments to ensure that reliability objectives and cost-effective approaches remain balanced.

**Options and Analysis:**

PROS and CONS for each option that state the arguments for and against that option.

Option#	Option	Advantages	Disadvantages
1	Do not explicitly calculate or measure cost/benefit for Reliability Standards or ALR Criteria. Measurable criteria for ALR, once vetted by industry, would consider cost/benefit. Current approach for Standard generation and RoP 1600 for Data or Information, considers cost/benefit as part of industry review and comments. Also, existing Reliability Standards such as TPL (N-1), etc. are part of industry’s ability to account for jurisdictional cost/benefits.	Each jurisdiction assesses Reliability Standards and RoP based on cost/benefit specifics based on their own situation.  Measurable ALR criteria, including data requirements, would be vetted by industry and jurisdictional costs/benefits would be included in this assessment.	No rigorous calculations completed. Regional/subregional, individual assessment comparisons not possible. Industry-wide costs not accounted for, relative to potential benefits. A consistent method across all jurisdictions may be difficult to achieve.
<b>2 (Selected)</b>	Assess the reliability objectives of ALR criteria and provide an explicit recognition of high-level macro cost-effectiveness of requirements within a reliability standard to meet the reliability objectives.	Ensures that reliability objectives are balanced against more explicit recognition of cost-effective aspects.	High level analysis will not necessarily consistently predict localized cost/benefits. Specific cost-effective solutions will vary depending on system specifics and jurisdictional considerations.
3	Measure cost/benefit for ALR Criteria.	Rigorous comparison available. Regional/subregional, individual assessment comparisons possible. Industry-wide costs not accounted for, relative to potential benefits.	No consistent way to comparatively complete this analysis.

## *Issue 2: Load Loss*

### **Issue:**

Is the impact of all load loss equal? For example, is the impact of “X” MWs of load loss in a major metropolitan area the same as “X” MWs in a rural area?

**Alternative statement of question:** *To what extent is load loss, and its root causes, considered evidence of an inadequate level of reliability?*

### **Recommendation: [Option 1]**

*Revise ALR defining criteria to differentiate among the different characteristics of loss of supply, transmission and load loss as a function of planning design, operator preparations and ability to control outcomes from events; and refine the incorporation of resilience and recovery in the ALR elements.*

### **Background:**

The focus is directing efforts on determining to what extent load loss classifications should be made and how should they be incorporated into the definition of ALR. The goal is to determine what circumstances that load loss represents actions in support of ALR (i.e., Energy Emergency Alert – EEA3) and those instances in which it doesn't. As a result, only a portion of incidents occurring on the bulk system that include load loss, reflect an inadequate level of reliability, while the balance reflect controlled system actions as designed and operated.

To provide a basis for this aspect of the definition of ALR, there must be a differentiation between uncontrolled load loss caused by unexpected failures, and intentional, controlled load loss either by design or manually initiated, perhaps as part of Emergency Operating Procedures or planning design criteria, executed to maintain bulk power system reliability. Load reduction is a vital component in design and an essential operational tool for preserving the overall stability and integrity of the grid, avoiding more widespread and severe consequences, such as cascading of the bulk electric system. FERC has in several instances raised the notion of continuity of service to customers as a factor that should be considered. However, the load loss attributes are diverse, in part dependent on the nature and design of the interconnection and, for purposes of defining load loss as an attribute of an adequate level of reliability, requires greater discrimination. Those aspects that industry depends upon to preserve the integrity of the bulk electric system is separate conceptually from end-use customer service goals – recognizing that from an end-use customer perspective, an outage is directly consequential on them.

Load loss or reduction needed to preserve reliability is part of the design basis or operational procedures to ensure the bulk power system remains stable, that all power flows and voltages remain within applicable ratings, and the system is able to withstand a critical contingency, without resulting in bulk power system instability, uncontrolled separation or uncontrolled cascading; e.g., under-frequency/undervoltage load shedding, manual load shedding, etc., depending on jurisdictional requirements and operating conditions.

In normal situations, if a bulk electric system element is lost, based on design, no load is lost. In other instances, ‘consequential’ load loss is directly designed/anticipated through the bulk system protection

and network topology that, for example, interrupts a transmission circuit due a lightning strike or equipment failure with tapped transformers with attached load supply thereby localizing and controlling the extent of the disruption. Load reduction that is part of the design basis and operating procedures. Correct protection scheme operation provides the control needed to maintain reliability, and thus load loss by itself does not reflect an inadequate level of reliability.

The goal is to ensure that there is no uncontrolled load loss resulting from credible contingencies and events, as defined in NERC’s Reliability Standards. However, uncontrolled load loss can result from extreme events (severe weather, earthquakes, etc.). That said, due to the resiliency of the bulk power system, industry addresses these extreme events with an orderly restoration and recovery of the bulk electric system to service, along with system reconstruction as needed. In addition, for high-impact, low frequency event risks, NERC’s Severe Impact Resiliency Task Force will provide guidance and options to enhance the resilience of the bulk power system to withstand and recover from three severe-impact events (Coordinated physical and cyber attacks or geomagnetic disturbances) as described in the Coordinated Action Plan.<sup>2</sup>

Therefore, the amount and duration of load loss is not, by itself, an appropriate interpretation of event severity or an indicator of an inadequate level of reliability – rather those types of load losses resulting from uncontrolled or cascading actions on the bulk system or resulting from mis-operations would be indicative of an inadequate level of reliability. Even in severe weather/storm conditions where the loss of load is an anticipated consequence, the most relevant aspect for ALR purposes is the resilience/recovery aspect, rather than the direct measure of load lost. To this extent, some additional reflection of the resilience and recovery aspects should be incorporated in the ALR elements. NERC has recognized the need to measure relative severity and risk to reliability, through the development of its Risk/Severity metrics, where weightings of various events include the amount of lost generation, transmission, and if it occurs, both controlled and uncontrolled load loss.

**Options and Analysis:**

Option #	Option	Advantages	Disadvantages
1 (Selected)	Revise ALR defining criteria to differentiate among the different characteristics of loss of supply, transmission and load loss as a function of planning design, operator preparations and ability to control outcomes from events; and refine the incorporation of resilience and recovery in the ALR elements.	Develop categories of supply, transmission and controlled/uncontrolled load loss based on a set of agreed upon causes. Also gather the effect of load loss, including duration and customer type (residential, commercial and industrial).	Must be clear and concise definitions and categorization. Otherwise, inaccurate interpretations could result.

<sup>2</sup><http://www.nerc.com/docs/ciscap/Critical Infrastructure Strategic Initiatives Coordinated Action Plan BOT Apprd 11-2010.pdf>

Option #	Option	Advantages	Disadvantages
2	Do not include load loss in the ALR criteria.	Easy to implement. Load loss is only an indication of the relative severity, but sever events can occur without load loss.	Identification of causes and impacts could be lost.

**Issue 3: Definition of Cascading**

**Issue:**

How should “cascading” be defined?

**Recommendation: [Option 1]**

*No change to Cascading definition.*

**Background:**

The Task Team’s goal is to define cascading, in light of the cost/benefit and load loss recommendations, and to make this a measurable part of ALR criteria.

The current definition in NERC’s Glossary<sup>3</sup> for Cascading is:

*The uncontrolled successive loss of system elements triggered by an incident at any location. Cascading results in widespread electric service interruption that cannot be restrained from sequentially spreading beyond an area predetermined by studies.*

“Cascading” is included in the statutory language of FPA Section 215 (a)(4) in the definition of “reliable operation:”

FPA Sec 215 (a)(4): *“The term ‘reliable operation’ means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such a system will not occur as a result of a sudden disturbance, including a cybersecurity incident, or unanticipated failure of system elements”*

Assessment of Cascading is a system planning and operational planning activity; operators can intervene with the processes already developed, once it begins. Planners test the bulk power system for B, C and D category events as defined in the TPL<sup>4</sup> Reliability Standards. If the bulk power system cannot survive these tests, Cascading is assumed to result. In NERC’s TPL Reliability Standards, a number of extreme contingencies resulting in the unplanned loss of two or more (multiple) elements are studied (Category D events) to test the system’s robustness and evaluate the reliability risks and consequences of such extreme contingencies. These extreme contingencies may result in substantial loss of load and/or generation in a widespread area or areas. Portions or all of the interconnected systems may or may not achieve a new, stable operating point. The extreme event evaluation may

<sup>3</sup> [http://www.nerc.com/files/Glossary\\_of\\_Terms\\_2011Mar15.pdf](http://www.nerc.com/files/Glossary_of_Terms_2011Mar15.pdf)

<sup>4</sup> [http://www.nerc.com/files/Reliability\\_Standards\\_Complete\\_Set.pdf](http://www.nerc.com/files/Reliability_Standards_Complete_Set.pdf)

require joint studies with neighboring systems. Planning Coordinators and Transmission Planners study these extreme events annually.

As described above, Cascading is far more than results from a single relay misoperation. For several decades, reliability has meant preventing Cascading, preserving the integrity of the grid, and providing an adequate bulk power supply. This could mean local load shedding to ensure that the effects from system failures are localized and managed so as to not spread.

The Federal Energy Regulatory Commission (FERC) has, in several instances, raised the notion of continuity of service to customers as an additional factor for consideration. However, there must be a differentiation between intentional load shedding used as an essential operational tool, and load loss caused by transitioning into abnormal operating states. Jurisdictional issues are also an important consideration, as increased costs may result from adding facilities which are focused on load loss reduction brought on by system failures.

If normally expected preparations by planners, operational planners and operators are undertaken, and events unfold as expected, then the event should not be classified as a cascade. However, if the bulk power system transitions in an unplanned, unexpected manner into an abnormal operating state, which results in uncontrolled system element and/or load loss, then the event should be classified as cascading.

**Options and Analysis:**

Option #	Option	Advantages	Disadvantages
<p><b>1</b> <b>(Selected)</b></p>	<p>No change to the definition of Cascading.</p>	<p>Easy to implement and measurable. The following information can be probed to measure cascading events:</p> <ul style="list-style-type: none"> <li>1. Transmission Availability Data</li> <li>2. Generator Availability Data</li> <li>3. Events Analysis database and OE-417</li> </ul> <p>As suggested in the “Load Loss” response, further data collection on the controlled/uncontrolled load loss can add measurability</p>	<p>None</p>

**Conclusions and Actions**

The task team reviewed each of the three issues, and, for each, developed a recommendation for each to guide the standing committee’s Adequate Level of Reliability Task Force (ALRTF):

1. How should cost/benefit be factored into ALR? How and by whom should those decisions be made? [Jurisdictional issues]:

**Recommendation:** *Assess the reliability objectives of ALR criteria and provide an explicit recognition of high-level macro cost-effectiveness of requirements within a reliability standard to meet the reliability objectives.*

2. Is the impact of all load loss equal? For example, is the impact of “X” MWs of load loss in a major metropolitan area the same as “X” MWs in a rural area?

**Recommendation:** *Revise ALR defining criteria to differentiate among the different characteristics of loss of supply, transmission and load loss as a function of planning design, operator preparations and ability to control outcomes from events; and refine the incorporation of resilience and recovery in the ALR elements.*

3. How should “cascading” be defined?

**Recommendation:** *No change to the definition of Cascading.*

## **Culture of Reliability Excellence – LG&E and KU Energy**

### **Action**

None

### **Background**

The MRC is continuing with its series of presentations on the “Culture of Reliability Excellence.” At this meeting, Ed Staton, Director Transmission, LG&E and KU Energy, will discuss what his organization is doing to incorporate a culture of reliability excellence and compliance into its strategic agenda.

**Attachment 1** – Ed Staton biography





**Ed Staton**  
Director, Transmission  
LG&E and KU Energy

Ed Staton is Director, Transmission, within the Energy Services organization of LG&E and KU Energy LLC. The company provides natural gas, electricity and related services to 1.2 million customers in Kentucky and Virginia. LG&E and KU Energy is owned by PPL Corporation, based in Allentown, Pennsylvania, which delivers electricity and natural gas to about 5.2 million customers in the United States and United Kingdom.

In his role, Ed leads the people, strategic planning and performance of activities necessary to support LG&E and KU's electric transmission systems. Ed directs all aspects of the transmission organization, including line and substation engineering and construction, system planning and operations, policy and tariff administration, and reliability compliance. He is responsible for establishing and implementing strategic objectives and long- and short-range investment planning for the electric transmission business. Ed currently serves on the SERC board of directors and is a member of both the Board Executive and the Human Resource Compensation Committees.

Ed has over 28 years experience in the electric and gas utility industry. He began his career with Kentucky Utilities Company as a student laborer in the Substation Construction Department. He subsequently held positions in the Transmission Engineering, Line Construction, and Service departments. In 1992, Ed was promoted to Service Manager in KU's Eddyville office in western Kentucky. In 1998, after the successful merger of LG&E Energy and KU Energy, Ed was named District Manager of the Heritage District (Elizabethtown) in central Kentucky. Upon completion of the "One Utility" initiative merging operations between LG&E and KU, Ed was named Manager, Operations, for LG&E's Auburndale Operations Center. In 2003, he assumed the role of Director, Distribution Operations, for KU. He was named to his current position in August 2007.

Ed holds a bachelor's degree in business administration from the University of Southern Indiana and a master's degree in business administration from the Gordon Ford School of Business, Western Kentucky University. He has also completed the Executive Management Program in Innovation and Corporate Strategy at the Sloan School of Management at MIT.

Ed has been very involved during his career in civic organizations and professional development. He has been a board member of the Larue County Industrial Foundation and a member of the Kentucky Industrial Development Council. He also has served as Vice Chairman of the Eddyville Industrial Foundation, President of the Lyon County Chamber of Commerce, a board member of the Elizabethtown Chamber of Commerce, a Louisville Junior Achievement classroom instructor, and participated in the Elizabethtown Leadership Program. Ed is currently a board member of Junior Achievement of the Bluegrass in Lexington, Ky. Ed is married and has two sons.

## Rules of Procedure Changes

### Action

Discussion

### Background

#### Non-substantive revisions

On November 3, 2011, NERC will request that the Board of Trustees approve proposed revisions to the NERC Rules of Procedure and all existing Appendices to the Rules of Procedure (3A, 3B, 3C, 4A, 4B, 4C, 4D, 4E, 5A, 5B, 6 and 8), as well as proposed new Appendix 2, Definitions of Terms Used in the Rules of Procedure. The objectives of the proposed revisions are: (1) to place all definitions of defined terms used anywhere in the Rules of Procedure in a single, readily-accessible location (proposed Appendix 2); (2) to capitalize defined terms throughout the Rules of Procedure where they are intended to be used in their defined meanings; and (3) to lower-case other terms that are currently capitalized in the Rules of Procedure but are not defined terms.

These revisions are being proposed in response to Paragraph 93 of the Order of the Federal Energy Regulatory Commission (FERC or Commission) issued October 21, 2010,<sup>1</sup> in which the Commission invited NERC to submit a filing making consistent use of defined terms throughout the Rules of Procedure and Appendices. The October 21, 2010 Order invited NERC to make such a filing by January 1, 2011. NERC was unable to develop, post for comment, obtain Board of Trustees approval, and file the proposed revisions for this purpose by January 1, 2011; however, NERC recognizes that there is a need for greater consistency in definitions and the use of capitalization in the Rules of Procedure and Appendices, and therefore is proceeding with this initiative at this time. If these revisions are approved by the Board, NERC will file the proposed revisions with Applicable Governmental Authorities promptly thereafter.

#### Substantive revisions

Provided for discussion purposes in Attachment 1 is a summary of proposed Rules of Procedure revisions, many of which are being made for simplification of the documents, more consistent use of defined terms, moving provisions to different sections where they more logically belong and/or consolidation of material from multiple sections to one place, greater consistency among different documents that address the same topic, conforming cross references, and similar reasons.

An initial set of proposed revisions to Sections 100-1600 and Appendices 4B and 4C was posted for public comment on June 30, 2011. Comments were submitted on August 15, 2011. Based on the comments received, some additional changes have been made. Other revisions also

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<sup>1</sup> *North American Electric Reliability Corporation*, 133 FERC ¶ 61,061 (2010).

have been developed in addition to the first posted set. Following the Board meeting in November, 2011, a consolidated and further revised set of changes to the NERC Rules of Procedure and applicable Appendices will be posted for public comment. The revisions will be submitted for Board approval at the February, 2012 meeting. If these revisions are approved by the Board, NERC will file the proposed revisions with Applicable Governmental Authorities promptly thereafter.

October 20, 2011

## Summary of Proposed Rules of Procedure Revisions

### **I. Rules of Procedure Sections 100-1600<sup>1</sup>**

#### **A. Section 200 – Definitions of Terms**

Confirmed Violation – revised definition to be consistent with revised definition in Appendix 4C, Compliance Monitoring and Enforcement Program.

Compliance enforcement authority – added definition (same definition as in Appendix 4C, CMEP).

Entity variance – deleted definition – this term is not used.

Remedial action directive – added definition here (same definition as in Appendix 4C, CMEP).

Variance – revised definition to be consistent with definition in Appendix 3A, Standard Processes Manual.

#### **B. Section 300 – Reliability Standards Development**

Section 304.1 – Added “and entities” for clarity and completeness.

Section 304.4 – Revised for consistency with Appendix 3A, Standard Processes Manual.

Section 305.5 – Corrected Appendix reference from Appendix 3A to Appendix 3D.

Section 306.1 – Added text to reflect that the Standards Committee will include “two officers elected to represent the interests of the industry as a whole.”

Section 306.2 – Corrected reference from Appendix 2 to Appendix 3B.

Section 306.3 – Deleted specific provisions on Canadian representation and replaced them with: “The Standards Committee will include Canadian representation as provided in **Appendix 3B**, *Procedure for the Election of Members of the NERC Standards Committee*.” This topic is covered substantively in Appendix 3B.

Section 307 – Changed title to “Standards Process Management”; revised text to describe functions of the NERC regional standards manager as well as the NERC standards process manager.

Sections 308.1 – Revised text to refer to expedited processes for developing reliability standards, including developing reliability standards to address national security situations that involve

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<sup>1</sup> Sections that do not have proposed revisions are not listed in this Summary.

confidential issues (replacing reference to “urgent action” reliability standards). “Urgent action” is no longer used in Appendix 3A.

Section 308.2 & 308.3 – Revised text to reflect that reliability standards are “adopted,” not “approved,” by the NERC Board of Trustees (in accordance with ANSI requirements).

Section 309.1 -- Revised text to reflect that reliability standards are “adopted,” not “approved,” by the NERC Board of Trustees (in accordance with ANSI requirements).

Section 309.2 – Changed reference from “expedited action procedure” to “expedited standards development process”.

Section 309.3 – Deleted provision that where an ERO governmental authority directs development of a standard by a deadline, NERC staff must, after preparing a SAR, attempt to find a stakeholder sponsor for the SAR. Also changed reference from “expedited action procedures” to “expedited action process” for consistency with Appendix 3A.

Section 309.3.1 – Deleted this section as no longer necessary based on the current version of Appendix 3A.

Section 311.3.1.3 – Changed text from “control the vote on a matter” to “dominate a matter” to be consistent with terminology in §304.4 and in Appendix 3A.

Section 311.3.1.6 – Deleted reference to accreditation of a Regional Standards Development Procedure by the Standards Council of Canada as sufficient to establish compliance with the evaluation criteria in §311.3.1. The Standards Council of Canada has advised NERC that accreditation by that body is not available to entities based in the U.S.

Section 312.1 – Revised text to make clear that Regional Reliability Standards must be submitted to NERC for adoption, and, if adopted, become part of the NERC reliability standards.

Section 313.1 – Added “NERC” before “reliability standards” for clarity.

Section 315 – Changed title of section to refer to the NERC Standard Processes Manual, which is the current title of Appendix 3A.

Section 316 – Deleted reference to seeking “continuing” accreditation since ANSI does not grant “continuing” accreditation, and replaced it with a statement that NERC will “seek and maintain” accreditation. Also, deleted reference to seeking accreditation from the Standards Council of Canada; the Standards Council of Canada has advised that accreditation is not available to NERC since it is not based in Canada.

Section 317 – Revised text as follows: “NERC shall complete a review of each NERC reliability standard at least once every five years, or such longer period as is permitted by the American National Standards Institute, from the effective date of the standard or the latest revision to the

standard, whichever is later.” It may be possible to obtain relief from ANSI from the requirement that each standard be reviewed at least every five years.

Section 318 – Deleted reference to ISO/RTO Council. Although NERC strives to maintain close working relationships with the ISO/RTO Council and with industry associations and other, similar organizations, based on experience NERC has not found it necessary to work specifically with the ISO/RTO Council to coordinate wholesale electric business standards and market protocols with NERC reliability standards.

Section 319 – Changed reference to “standards that expired or were replaced” to “standards that have been retired,” which is consistent with the terminology NERC uses elsewhere to describe standards no longer in effect. Also, changed reference to “NERC standards manager” to “NERC standards information manager” – the position of standards information process manager will be responsible for receiving and responding to requests for archived standards information.

Section 320 – The section has been revised to describe generally the process for developing and approving VRFs and VSLs, rather than just the alternate method for adopting VRFs. New §320.1 states that NERC will follow the process for developing VRFs and VSLs set forth in the Standard Processes Manual. New §320.2 states that if an ERO governmental authority remands or directs a revision to a Board-approved VRF or VSL, the NERC director of standards (based on consultation with the standard drafting team), the Standards Committee, and the NERC director of compliance options, will recommend one of three actions to the Board: (1) file a request for clarification, (2) file a request for rehearing, or (3) approve the directed revision. Section 320.3, which now contains the “alternative procedure,” has been amended to apply to VSLs and well as to VRFs. Section 320.3 (which includes content being moved from ROP §1403, as it is more appropriately located in §300), has also been amended to specify that there will be notice and opportunity for comment before the Board approves a VRF or VSL, and that the Board will consider the inputs of the MRC and affected stakeholders.

### **C. Section 400 – Compliance Enforcement**

Section 401.6 – For clarity of this point, the second sentence is amended as follows: “Compliance is required, and NERC and the regional entities have authority to monitor compliance, with all NERC reliability standards whether or not they are included in the subset of reliability standards and requirements designated to be actively monitored and audited in the NERC annual compliance program.” Registered entities are subject to monitoring for compliance with all standards applicable to their registered functions, not just the standards on the actively monitored list.

Section 401.7 – Changed reference to “remedial actions” to “remedial action directives,” which is a defined term. (This change has been made in a number of places throughout the ROP.)

Section 401.8 – Amended section to specify that a registered entity shall not be subject to an enforcement action by more than one Regional Entity for the same violation.

Section 401.9 – Changed reference to “remedial actions” to “remedial action directives.”

Section 401.11 – Added reference to “or other mitigating activities” after “mitigation plan.” This revision, which is made in a number of places throughout the ROP, reflects the fact that actions taken by a registered entity to correct and prevent recurrence of a non-compliance, while they are accepted by the CEA, are not always memorialized in a formal mitigation plan.

Section 402.5 – The revisions are intended to make the text more consistent with the definition of remedial action directive.

Section 402.6 – Changed reference to “remedial actions” to “remedial action directives.”

Section 403.4 – Changed reference to “Hearing Process” to “Hearing Procedures” (Attachment 2 to Appendix 4C).

Section 403.6 – Added reference to “mitigating activities” and changed reference to “remedial actions” to “remedial action directives.”

Section 403.7.3 – Changed reference to “remedial actions” to “remedial action directives.”

Section 403.14 – In the title of this section, changed reference to “remedial actions” to “remedial action directives.” Also, this section is amended to make clear that confirmed violations, penalties and sanctions specified in a Regional Entity hearing body final decision (as well as confirmed violations, penalties and sanctions developed by the Regional Entity through the enforcement process without a hearing) will be provided to NERC for review and filing with the applicable ERO governmental authorities as a notice of penalty.

Section 403.15 – The last paragraph of this section is amended to provide that a regional entity (as well as a bulk power system owner, operator or user) may appeal a Regional Entity hearing body decision to NERC in accordance with §409.

Section 403.16 – Amended to advance the date by which annual Regional Entity compliance enforcement program implementation plans are to be submitted to NERC, from November 1 to October 1 of the preceding year.

Section 407.1 – Changed references to “remedial actions” to “remedial action directives” to reflect the context. In addition, the section is amended to provide that NERC will review penalties, sanctions and remedial action directives specified by a Regional Entity hearing body final decision, to determine if the determination is supported by a sufficient record, consistent with the *Sanction Guidelines* and other directives, guidance and directions issued by NERC pursuant to the delegation agreement, and consistent with penalties, sanctions and remedial action directives imposed by the Regional Entity and by other Regional Entities for violations involving the same or similar facts and circumstances. In order to perform its function of ensuring consistency in penalty determinations for similar violations and among Regional Entities, it is necessary for NERC to review penalties determined by Regional Entity hearing bodies just as it determines penalties determined by Regional Entity compliance enforcement staff.

Section 408 – Several references to the NERC director of compliance are changed to the NERC director of enforcement. Additionally, §408.1 is revised to add reference to Regional Entities appealing decisions of Regional Entity hearing bodies pursuant to ROP §409.

Section 409.1 – The section is amended to reflect that a Regional Entity acting as the compliance enforcement authority, as well as a bulk power system owner, operator or user, may appeal a final decision of a Regional Entity hearing body. Additional amendments are made to use defined terms. Another amendment specifies that the entity appealing must submit its notice of appeal to the NERC director of enforcement (formerly director of compliance) and provide copies to the Regional Entity and any other participants in the Regional Entity hearing body proceeding. The last sentence of the section is deleted as unnecessary.

Section 409.2 – Changed “compliance hearing” to “proceeding.”

Section 409.3 & 409.4 – Changed to reflect that the Regional Entity may file an appeal of a Regional Entity hearing body decision, to specify that the Regional Entity shall file the entire record of the Regional Entity hearing body with the NERC director of enforcement, to specify that participants in the hearing body proceeding other than the appellant shall file their responses to the issues raised in the notice of appeal 35 days after the date of appeal (which will allow for at least a 14-day period after the record of the hearing body proceedings is filed with the NERC director of enforcement), and to provide that the appellant may file a reply to the responses within 7 days.

Section 409.5 – Changed to specify that in considering an appeal from a Regional Entity hearing body decision, the BOTCC may allow other participants to the Regional Entity (in addition to the party appealing), to appear before the BOTCC.

Section 409.8 – New section is added to specify that Section 409 is not applicable to an appeal taken from a decision of the Regional Entity hearing body granting or denying a motion to intervene in the Regional Entity hearing, and that such appeals shall be conducted in accordance with ROP §414.

Section 412 – This new section sets forth the procedures by which the NERC BOTCC will accept or reject a question certified to the BOTCC by a Regional Entity hearing body (pursuant to §1.5.12 of the Hearing Procedures in Appendix 4C), and if the BOTCC decides to accept the certified question, the procedure for receiving argument from the participants on, and deciding, the question. Section 412.2 specifies that written decisions of the BOTCC on certified questions will be posted on the NERC web site, with redaction of the names of the participants and of any other information that is necessary to maintain the non-public nature of the Regional Entity hearing body proceeding.

Section 413 – This new section specifies that NERC shall review and process final decisions of Regional Entity hearing bodies concerning alleged violations, proposed penalties or sanctions, or proposed mitigation plans, that are not appealed to the BOTCC, as though the determination was made by the Regional Entity compliance program, and may require that the decision be modified by the Regional Entity, in accordance with sections 5.8, 5.9 and 6.5 of Appendix 4C. In order to



perform its function of ensuring consistency in violation, penalty and mitigation plan determinations for similar facts and circumstances and among Regional Entities, it is necessary for NERC to review penalties determined by Regional Entity hearing bodies just as it reviews violations, penalties and mitigation plans determined or approved by Regional Entity compliance enforcement staffs.

Section 414 – This new section establishes procedures for review and decision by the NERC BOTCC of appeals of decisions of a Regional Entity hearing body to grant or deny a request for intervention in the Regional Entity hearing body proceeding. Addition of these procedures is needed due to the proposed amendment to §1.4.4 of the Hearing Procedures to allow the Regional Entity hearing body to grant requests to intervene in limited circumstances. New §414.5 recognizes that the BOTCC’s decision on the appeal may thereafter be appealed to FERC or to another ERO governmental authority having jurisdiction over the matter, in accordance with the authorities, rules and procedures of the ERO governmental authority.

**D. Section 500 – Organization Registration and Certification**

Section 501 – The first paragraph is revised for clarification to refer to certification of entities performing certain functions, rather than entities applying to a RC, BA or TOP.

Section 501.1.3.1 – This section is revised to provide greater specificity with respect to the effective date of an entity’s registration, particularly in the case of registrations resulting from sales or transfers of BPS assets or from corporate reorganizations that result in a new legal entity owning BPS assets formerly owned by another registered entity. The effective date will be stated in NERC’s notification of registration. Where the organization is being registered for the first time and its BPS facilities were not previously owned by another registered entity, the effective date of the registration will be the date agreed to by the entity to be registered and the applicable Regional Entity. Where the organization is being registered because it has acquired BPS facilities from a registered entity, or based on an internal restructuring or name change where the organization has been registered under a different entity name, the effective date of the registration will be the effective date of the transaction that results in the organization performing the reliability functions that require it to be registered.

Section 501.2 – This section is amended to refer to the need for certification of RCs, TOPs and BAs and entities that perform some or all of the reliability functions of RCs, TOPs and BAs. Additionally, reference to the NERC Provisional Certification Process is deleted, as that process is no longer needed and is being eliminated.

Section 501.2.1 – Amended to refer to entities intending to perform (as well as entities performing) the functions of RC, TOPs and BAs, since the certification process applies to entities seeking to perform these functions as well as entities already performing the functions.

**E. Section 600 – Personnel Certification**

Section 600 has been substantially revised and expanded. Appendix 6, System Operator Certification Program Manual, is being deleted in its entirety and its substantive provisions are

being moved into Section 600.

Section 601 – Scope of Personnel Certification – This section is amended to state (1) that the Personnel Certification Program awards system operator certification credentials to individuals who demonstrate that they have attained essential knowledge relating to NERC reliability standards as well as principles of BPS operations, and (2) that except as necessary to obtain approval of the ROP, the NERC Personnel Certification Governance Committee (PCGC) is the governing body that establishes the policies, sets fees, and monitors the performance of the Personnel Certification Program for system operators.

Section 602 – Structure of ERO Personnel Certification Program – This section contains existing provisions describing the structure of the Personnel Certification Program.

Section 603 – Examination and Maintenance of NERC System Operator Certification Credentials – Section 603 is a new section encompassing material being moved from Appendix 6. It describes the basic requirements for obtaining a system operator certification (*i.e.*, passing an examination) and maintaining the certification (*i.e.*, earning the necessary number of Continuing Education (CE) hours during the ensuing three-year period). It also states what occurs should the certified operator fail to obtain the necessary amount of CE hours during the three-year period, including the procedure for requested a hardship clause exception.

Section 604 – Dispute Resolution Process – Section 604 is a new section encompassing material being moved from Appendix 6. It describes the NERC System Operator Certification Dispute Resolution Process for resolving disputes that arise under the System Operator Certification Program concerning any aspect of the certification process. The Dispute Resolution Process is for the use of persons who hold an operator certification or persons wishing to be certified to dispute the validity of the examination, the content of the test, the content outlines, or the registration process.

Section 605 – Disciplinary Action – Section 605 is a new section encompassing material being moved from Appendix 6. It describes the grounds and procedures for disciplinary action against a system operator, including the hearing process and the possible decisions that may be rendered against the system operator. It also describes the Credential Review Task Force, which will make factual determinations and ultimate determinations as to disciplinary action.

Section 606 – Candidate Testing Mechanisms – This section is currently Section 603 of the ROP. The text has not been revised.

Section 607 – Public Information About the Personnel Certification Program – This section is currently Section 604 of the ROP. It has been revised to state that the Personnel Certification Program shall maintain and publish publicly a System Operator Certification Program Manual, covering listed topics; and shall maintain and publish publicly a comprehensive summary or outline of the of the information, knowledge, or functions covered by each system operator certification examination and a summary of certification activities for the program.

Section 608 – Responsibilities to Applicants for Certification or Recertification – This section is currently Section 605 of the ROP. Items 8 and 9 in the list of duties and responsibilities of the Personnel Certification Program (implement and publish policies and procedures providing due process for applicants questioning eligibility determination, examination results and certification status, and develop and maintain a program manual containing the processes and procedures for applicants for certification and recertification) have been deleted since these topics are covered in Sections 604 and 607.

Section 609 – Responsibilities to the Public and to Employers of Certified Practitioners – This section is currently Section 606 of the ROP. It has been revised (1) to delete the provision that the Personnel Certification Program shall periodically publish a current list of those persons who are certified, and (2) to delete a reference to the disciplinary action program being contained in Appendix 6, as it will be included in Section 605.

#### **F. Section 800 – Reliability Assessment and Performance Analysis**

Sections 807 and 808 have been revised to provide for a more consistent use of terms in these sections including “major event” and “occurrences.” Similar revisions have been made in Appendix 8.

Section 807a is revised to state that in responding to a major event, NERC will work with registered entities as well as with Regional Entities and RCs.

Sections 807c and 808.3 are amended to refer to NERC Reliability Standard EOP-004 which sets forth specific criteria and procedures for reporting BPS disturbances and events described in that standard, with which registered entities subject to EOP-004 must comply. These sections further states that BPS users, owners and operators shall also provide NERC and Regional Entities with such additional information they request as is necessary to enable them to carry out their responsibilities under these sections.

Section 807e is amended to provide that NERC will establish, maintain, and revise from time to time based on experience a manual setting forth procedures and protocols for communications and sharing and exchange of information between and among NERC, Regional Entities, governmental authorities, industry organizations, and BPS users, owners and operators, concerning the investigation and analysis of major events.

Section 807f is amended to reflect the revised title of Appendix 8.

Section 807g is amended to state that NERC will disseminate to the industry findings and recommendations of general applicability from event analyses, “through various means appropriate to the circumstances,” including in accordance with ROP §810. This revision will give NERC greater flexibility in determining and using the most effective means to disseminate information gained from event analyses to the industry.

Section 808.2 has a similar amendment to §807g as described immediately above.

Section 810.4 has been amended to provide that failure to submit, in a timely manner or in the form requested, reports requested by NERC in a Level 2 (Recommendations) or Level 3 (Essential Actions) notifications may result in imposition of a fine, or other action, to the BPS user, operator or owner in accordance with ROP §1800.

**G. Section 1000 – Situation Awareness and Infrastructure Security**

Section 1002 has been amended to state NERC’s new policy regarding maintenance and financial support of existing and potential new reliability tools and support services. NERC will work with industry to identify new tools, collaboratively develop requirements, support development, provide an incubation period, and at the end of that period transition the tool or service to another group or owner for long term operation of the tool or provision of the service. NERC may also develop reliability tools on its own, but will consult with industry concerning the need for the tool prior to development. Tools and services being maintained by NERC as of January 1, 2012 will be reviewed and, as warranted, transitioned to an appropriate industry group or organization.

**H. Section 1200 – Regional Delegation Agreements**

Section 1208 – The title is revised to delete the word “Audits,” thereby correcting a previous scrivener’s error.

**I. Section 1400 – Amendments to the NERC Rules of Procedure**

Section 1401 is revised to provide that requests to amend or repeal the ROP may be submitted by (among other sources) (i) fifty (rather than ten) members of NERC, which must include members from at least three membership sectors (rather than “segments”), (ii) a committee (rather than “standing committee”) of NERC, or (iii) an officer of NERC (rather than of “the ERO”). These revisions are necessary to correct inconsistencies with Article XI, section 2 of the NERC Bylaws.

Section 1403 is deleted and its subject matter, which is more appropriately placed in ROP §300, is moved to §320.3.

**J. Section 1500 – Confidential Information**

Section 1502.1 is revised to correct an existing typographical error.

**K. Section 1700 – Placeholder**

Section 1700 is noted as a placeholder. Other new provisions for the ROP that will be placed in Section 1700 are under development in a separate process. These new provisions are not part of this package.

**L. Section 1800 (New) – Non-Submittal of Requested Information by Registered Entities**

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New Section 1800 provides procedures to be used by NERC in the event that a registered entity fails to provide request information in response to a NERC Level 2 (Recommendations) or Level 3 (Essential Actions) notification. The procedures include the potential imposition of a fine, not to exceed \$5,000, on the registered entity for failure to provide requested information. As originally proposed, these procedures would also have applied to failure to provide information requested of a registered entity in connection with a compliance monitoring and enforcement process or an event analysis. However, as now proposed, the provisions will apply only to failure to provide requested information in response to NERC Level 2 or Level 3 notifications. The procedures detailed in Section 1800 will be employed by NERC and not by Regional Entities.

Section 1802 details the steps that NERC will take where a registered entity has not provided data, information or reports requested or required pursuant to Section 810 of the ROP. The procedures require two follow-up notifications to the registered entity (in addition to the original request or requirement), before NERC may consider imposition of a fine.

Section 1803 sets forth the procedures for imposition of a fine for failure to provide data, information or reports. The procedures include issuing a notice of the proposed fine to the registered entity, stating the circumstances that have resulted in the proposed fine, and opportunity for the registered entity to submit a response (14 days allowed). Further, imposition of the fine (which may be in a different amount than initially proposed) must be approved by resolution of the NERC Board or a Board-level committee. The specific amount of the fine shall be set based on consideration of all the facts and circumstances, including the number of follow-up notifications that are sent to the registered entity and the volume, detail and complexity of the data, information or report requested or required.

Section 1803.8 is a statement of intent that the provisions of §1803 are intended to be applied where a registered entity does not respond by the required due date to an initial request for information and does not respond to one or more subsequent request(s) by the stated deadline(s), and is not intended to apply where the registered entity seasonably responds to the initial request or requirement with requests for clarification, definition or scope, or similar questions concerning the request, or seasonably requests additional time to respond based on the scope or difficulty of the request or requirement or the amount or form of the information requested or required, and works with NERC in good faith to respond to the request or requirement.

**II. Appendix 3C – Procedure for Coordinating Reliability Standards Approvals, Remands, and Directives**

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Appendix 3C is revised to eliminate the list of specific names and contact information for persons at the various U.S. and Canadian regulatory authorities. As amended, Appendix 3C states that NERC will maintain a current list of government contacts at Applicable Governmental Authorities and other relevant government entities, and lists the Applicable Governmental Authorities and other relevant government entities for which contact information will be maintained. With this amendment, it will not be necessary to revise Appendix 3C when the

name of or contact information for the specific contact person at an Applicable Governmental Authority or other relevant government entity changes.

### **III. Appendix 4B – Sanction Guidelines**

A principal objective of the proposed amendments to Appendix 4B is to eliminate text that does not relate to the purpose of the Sanction Guidelines, namely, how penalties and sanctions for violations of reliability standards are determined, and to eliminate internally duplicative or repetitive text. The following portions of Appendix 4B are being completely or substantially deleted consistent with this objective: (1) current section 2, Document Scope and Exclusions; (2) current §3.1, Necessary Elements of NERC Compliance Program; (3) current §3.2, Settlement of Compliance Violations, as well as the current sections captioned “Settlement Request” and “Settlement Effect on Continuation of Determination of Penalties, Sanctions, or Remedial Actions;” (4) current §3.7, “No Influence of Penalty, Sanction or Remedial Action Upon Violation Confirmation Process;” and (5) current §6, “Remedial Action” (remedial action directives are covered in §7.0 of Appendix 4C); as well as portions of the texts of other sections.

Text paraphrasing or referring to various statutory provisions and Commission regulations and orders has also been deleted, as these authorities speak for themselves; however, a statement has been added in §1 that “NERC and the regional entities will apply the provisions of this document in accordance with applicable statutory provisions and with the regulations, orders, and statements of policy of FERC and other ERO governmental authorities that are applicable to the determination and imposition of penalties and sanctions for violations of reliability standards in the respective jurisdictions.”

Revisions have been made throughout Appendix 4B for more consistent use of terms within the document and as used elsewhere in the ROP, such as remedial action directive, possible violation, alleged violation, and registered entity.

In current §3.2/renumbered §2.1, text is retained specifying that provisions in a settlement agreement regarding penalties or sanctions can supersede any corresponding penalties or sanctions that would otherwise be determined pursuant to the Sanction Guidelines.

In renumbered §2.5, “Multiple Violations,” text has been added to state that where penalties or sanctions for several unrelated violations by an entity are being determined at the same time, NERC or the regional entity may determine and issue a single aggregate penalty or sanction bearing a reasonable relationship to the aggregate of the violations. This is consistent with long-standing practice.

In renumbered §3.2.2, which discusses how the fact that a violation is a registered entity’s first violation will be considered in determining (reducing or excusing) the Base Penalty Amount, text has been added to provide that this relief generally will not be afforded if NERC or the regional entity determines the violator has a poor internal compliance program or culture of compliance (as well as a poor compliance record, as stated in the existing text). This is consistent with longstanding practice, and also consistent with the increased emphasis NERC is placing in

compliance monitoring and enforcement activities on the registered entity's internal compliance program and culture of compliance.

In renumbered §3.3, which lists adjustment factors that will be considered in determining the penalty after the Base Penalty Amount is established, subpart c lists as an adjustment factor disclosure of the violation by the violator through self-reporting, or as the result of a compliance self-analysis following a bulk power system event, and voluntary mitigating activities (which is a broader term than the current "corrective action") by the violator. Subpart d, which refers to the degree and quality of cooperation by the violator in the investigation, has been amended to include reference to the violator's cooperation in an event analysis concerning, and the performance of a compliance self-analysis by the violator following, a BPS event in which the violation occurred or to which it related. The references to cooperation in the analysis of, and performance of a compliance self-analysis following, a system event, is consistent with proposed amendments to Appendix 8 to reflect expectations that registered entities will conduct self-analyses of system events in which they are involved. In subpart f, "settlement" has been added as an explicit adjustment factor.

In renumbered §3.3.1, which discusses repetitive violations and the violator's compliance history as an adjustment factor, text has been added to state that in evaluating the violator's compliance history, NERC or the regional entity will take into account previous violations by affiliates of the violator, particularly violations of the same or similar reliability standard requirements, and will evaluate whether any such prior violations reflect recurring conduct by affiliates that are operated by the same corporate entity or whose compliance activities are conducted by the same corporate entity. This addition is consistent with a 2010 guidance order from FERC, and should also promote the sharing of compliance information and lessons learned between registered entities that are corporate affiliates.

Also, in renumbered §3.3.1, the term "violation reset time period" has been changed to "reset period or reset time frame," as these are the terms used in several reliability standards.

Renumbered §3.3.3, retitled "Disclosure of the Violation Through Self-reporting and Voluntary Mitigating Activities by the Violator," has been revised consistent with subpart c of §3.3.3 as described above. In addition, the following text has been added: "If a self-report or self-certification by the violator accurately identifies a violation of a Reliability Standard, an identification of the same violation in a subsequent compliance audit or spot check will not subject the violator to an escalated penalty as a result of the compliance audit process unless the severity of the violation is found to be greater than reported by the violator in the self-report or self-certification." A similar statement is currently contained in §3.0 of Appendix 4C, but it is being moved to Appendix 4B as it more appropriately relates to penalty determinations than to compliance monitoring processes.

Renumbered §3.3.4, retitled "Degree and Quality of Cooperation," has been revised consistent with subpart d of §3.3 as described above.

Renumbered §3.3.5, retitled “Presence and Quality of the Violator’s Internal Compliance Program,” has been revised to add reference to “other indicators of the violator’s culture of compliance” as an adjustment factor.

Section 3.3.6, “Settlement,” has been added consistent with the addition of subpart f in §3.3 as described above.

Renumbered §3.3.7, retitled “Violation Concealment and Responsiveness,” has been revised to state that NERC or the regional entity shall consider an increase to the penalty if NERC or the regional entity determines, based on its review of the facts, that the violator resisted or impeded the discovery and review of a violation.

In numerous other areas of Appendix 4B, revisions have been made for the purpose of simplifying the text. The text of current Appendix 4B is extremely elaborate and the simplification of the text will make the document easier to use for all participants. As part of this effort, in numerous places text has been revised to state that “NERC and the regional entity will do X,” rather than the current text structure of “X will occur” or “X will be taken into account.”

#### **IV. Appendix 4C – Compliance Monitoring and Enforcement Program**

Throughout Appendix 4C, “Regional Entity” has been revised to “Compliance Enforcement Authority” (CEA in this summary) in numerous places. In addition, since sections have been added and deleted and, as a result, other sections have been renumbered in this Appendix, there are revisions throughout the Appendix to change cross-references.

##### **A. Section 1.0 -- Introduction**

Section 1.1 – Definitions – A cross-reference has been added to incorporate definitions in Section 1500 of the ROP.

Section 1.1.2 – Annual Audit Plan – reference to including “Compliance Audit Participant Requirements” in the Annual Audit Plan has been deleted.

Section 1.1.9 – Confirmed Violation – the definition has been expanded to more comprehensively capture the circumstances that constitute a “Confirmed Violation,” based on experience, and will include entry into a settlement agreement.

Section 1.1.12 – Mitigation Plan – Text not necessary to define the term is being deleted.

Section 1.1.15 – The defined term “Notice of Alleged Violation” is changed to “Notice of Alleged Violation and Proposed Penalty or Sanction,” which is the term more commonly used; Notices of Alleged Violation typically include a proposed penalty or sanction.

Section 1.1.17 – Notice of Confirmed Violation – text is deleted that is not necessary to define “Notice of Confirmed Violation.” The subject matter of the deleted text is covered (more appropriately) in the definition of “Confirmed Violation.”



Section 1.1.21 – Possible Violation – text is deleted that is not necessary to define the term, and potentially inaccurate (a Possible Violation could be identified by a means other than one of the compliance monitoring and enforcement processes enumerated in Section 3.0).

Section 1.1.22 – Preliminary Screen – an additional component is added to the determinations to be made in the Preliminary Screen: “if known, the potential noncompliance is not a duplicate of a Possible Violation or Alleged Violation which is currently being processed.”

Section 1.23 – Public Notification List – This new definition pertains to new §5.11 (described below).

Section 1.1.24 (renumbered) – Regional Implementation Plan – revised to reflect that the Regional plans are now to be submitted to NERC by October 1 (rather than November 1) of the preceding year.

Section 1.1.26 (renumbered) – Remedial Action Directive – revised to state that a Remedial Action Directive is immediately necessary to protect the reliability of the Bulk Power System from an imminent or actual threat.

Section 1.1.28 (renumbered) – Self-Certification – Definition is expanded to reflect that additional possible responses to a self-certification request will be allowed, *i.e.*, that the Registered Entity does not own facilities that are subject to the Reliability Standard requirement, or that the Reliability Standard requirement is not applicable to the Registered Entity.

Section 1.1.29 (renumbered) – Self-Report – (1) The defined term is changed from Self-Reporting to Self-Report (this revision is made throughout the document). (2) Definition is revised to provide that the Self-Report may state that the Registered Entity believes it has, or may have, violated a Reliability Standard. (3) The provision that the Self-Report should state the actions that have been taken or will be taken to resolve the violation is deleted; this requirement could delay submission of a Self-Report while the Registered Entity determines what actions are to be taken.

Section 1.1.30 (renumbered) – Spot Check – (1) The defined term is changed from Spot Checking to Spot Check (this revision is made throughout the document). (2) In the third basis stated in the definition on which a Spot Check may be initiated, reference to “events, as described in the Reliability Standard” is deleted and “risk-based assessments” is added. The addition is consistent with NERC’s developing risk-based assessment approach to determining the frequency with which to conduct compliance monitoring activities.

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

Section 2.0 is revised to specify that a Registered Entity must inform NERC or the applicable Regional Entity promptly of changes to the Registered Entity’s compliance information “including planned or completed changes in ownership of Bulk Power System facilities, registration status, address or other contact information, and name of designated compliance

contact.” Experience has indicated that NERC and the Regional Entities are not receiving timely notification of such information, which may affect registration status, identification of the correct/current Registered Entity, or the ability to contact the Registered Entity.

Detailed text concerning disclosure of confidential compliance information to FERC and other Applicable Governmental Authorities has been deleted here (and in other sections where it was repeated), and replaced with: “Any such provision of information to FERC or to another Applicable Governmental Authority shall be in accordance with Section 8.0, Reporting and Disclosure.” The complete text of this provision will now appear in one section (Section 8.0).

### **C. Section 3.0 – Compliance Monitoring Processes**

In the title of Section 3.0, reference to “Enforcement” is deleted; and in the first sentence of the section, “assess and enforce” is deleted. Section 3.0 encompasses only compliance monitoring processes, while Section 5.0 encompasses enforcement.

Throughout Section 3.0, footnotes stating that a particular compliance process normally completes within a specified time period have been deleted; the time required to complete individual compliance processes has varied widely based on particular facts and circumstances.

Text has been added in the first paragraph of the section stating that scheduled compliance monitoring processes will be conducted in accordance with NERC and Regional Annual Implementation Plans and individual entity audit plans; and that compliance monitoring processes can also be initiated on an unscheduled basis as needed, based on factors such as those enumerated in the text, such as the compliance history of the Registered Entity and the quality of its internal reliability compliance program. This text is consistent with NERC’s developing risk-based assessment approach to compliance monitoring.

Text has been added to state that if a potential noncompliance is identified through one of the compliance monitoring processes described in Section 3.0 or through another means, the Compliance Enforcement Authority (CEA) will conduct a Preliminary Screen of the information in accordance with Section 3.8; if the Preliminary Screen results in an affirmative determination with respect to the Preliminary Screen criteria, a Possible Violation exists and the CEA will proceed in accordance with Section 5.0, Enforcement Actions.

Text describing the enforcement actions that may be taken by the CEA is deleted, as this topic is covered in Section 5.0, not in this section.

Text is added to state that the CEA has authority to collect documents, data and information in the manner it deems most appropriate, including removing copies of documents, data and information from the Registered Entity’s location in accordance with appropriate security procedures conforming to ROP Section 1500 and other safeguards as appropriate in the circumstances to maintain the confidential or other protected status of the documents, data and information, such as information held by a governmental entity that is subject to an exemption from disclosure under the United States Freedom of Information Act, or a comparable state or provincial law, that would be lost if the information were placed into the public domain.

This section is revised to state that a Registered Entity that believes a request for documents, data or information is unreasonable may request a determination from the NERC General Counsel (changed from the NERC “compliance program officer”).

Section 3.1 – Compliance Audits – Revised to state that Generally Accepted Auditing Standards, Generally Accepted Government Auditing Standards, and standards sanctioned by the Institute of Internal Auditors, are examples of professional auditing standards on which Compliance Audit processes for Compliance Audits in the U.S. should be based.

Section 3.1.1 – Compliance Audit Process Steps – (1) The first step is revised to state that the Annual Audit Plan will be posted, rather than distributed to all Compliance Audit Participants. (2) The second step is revised to provide that the CEA will notify the Registered Entity of the Compliance Audit and the Reliability Standards to be evaluated, 90 days (rather than 2 months) prior to commencement of a regularly scheduled Compliance Audit. (3) The fourth step is revised to delete the statement that the audit team will review the Registered Entity’s submitted information “prior to performing the Compliance Audit” – the submitted information may be reviewed before or during the on-site audit activities. Text stating that the audit team “follows NERC audit guidance in the implementation of the Compliance Audit” is also deleted here, as this statement is applicable to all the process steps. (4) The fifth step is revised to state that the audit reported will be completed in accordance with Section 3.1.6, which addresses the form and contents of the audit report. (5) A step has been added that if the audit team identifies evidence of a potential noncompliance, the CEA will conduct a Preliminary Screen in accordance with Section 3.0. Other process steps describing enforcement actions are deleted here, since enforcement processes are covered in Section 5.0.

Section 3.1.2 – Compliance Enforcement Authority Annual Audit Plan and Schedule – (1) Revised to state that Registered Entities scheduled for Compliance Audits in a year will be notified by October 1 of the preceding year (rather than by January 1 of the year in which the audit is to be conducted). (2) Text is changed to state that the CEA will give due consideration to schedule changes requested by a Registered Entity “for reasonable cause” (rather than “to avoid unnecessary burden”) which will allow a broader basis for justification of schedule change requests.

Section 3.1.3 – Frequency of Compliance Audits – The last sentence is deleted because the subject of objections to the composition of the audit team is covered in Section 3.1.5.4.

Section 3.1.4.1 – Reliability Standards – Revised to clarify that a Compliance Audit may include other standards applicable to the Registered Entity, that are not identified in the NERC Implementation Plan, whether or not the other standards are identified in the Regional Entity’s Implementation Plan.

Section 3.1.4.2 – Reliability Standards – (1) Revised to emphasize that the Registered Entity’s data and information must show compliance with the standards being audited for the entire period covered by the Compliance Audit. (2) Text is added to state that the CEA will indicate the beginning and End Date of the audit period in its notice of the Compliance Audit. (3) Revised to state that the start of the audit period will be the End Date of the previous Compliance Audit

(which may be a different date than the last day of the previous Compliance Audit). (4) The existing second sentence of this section, concerning modification of the audit period, is deleted and replaced with a more straightforward sentence (“The Compliance Enforcement Authority may modify the beginning date of the audit period for any given Reliability Standard requirement based on an intervening compliance monitoring process.”). (5) Text is revised to state that the End Date may be a predetermined specific date or may be stated generally as the last day of the Compliance Audit.

Section 3.1.4.3 – Review of Mitigating Activities – The term “Mitigation Plan” is replaced with “mitigating activities.” “Mitigating activities” is a broader term, reflecting that actions taken by a registered entity to correct and prevent recurrence of a noncompliance, while they are accepted by the CEA, are not always memorialized in a formal Mitigation Plan.

Section 3.1.5.1 – Composition of Compliance Audit Teams – (1) Revised to state that the audit team will be comprised of members who the CEA has determined to have the requisite knowledge, training, and skills to conduct the Compliance Audit. (2) Revised to clarify who may be included on Compliance Audit teams, in addition to staff of the Regional Entity: (i) contractors and industry subject matter experts, (ii) NERC staff members (which may include contractors to NERC), (iii) compliance staff members of other Regional Entities, and (iv) representatives of FERC and of other Applicable Governmental Entities that have reliability jurisdiction with respect to the Registered Entity.

Section 3.1.5.2 – Requirements for Compliance Audit Team Members – (1) First bullet is revised to state that audit team members must be free of conflicts of interest “in accordance with Compliance Enforcement Authority policies.” (2) Fourth bullet is revised to eliminate the requirement that the CEA provide to the Registered Entity copies of the confidentiality agreements or acknowledgements executed by the audit team members; instead, the CEA will provide confirmation to the Registered Entity that all audit team members have executed confidentiality agreements or acknowledgements.

Section 3.1.5.3 – Compliance Audit Observers and Other Attendees – Revised to clarify the distinctions between audit team members (§3.1.5.1), observers, and attendees. The first paragraph is amended to specify that the following may participate as observers: NERC staff, other members of the Regional Entity’s compliance staff, with the Regional Entity’s permission, compliance staff members of other Regional Entities, and representatives of FERC and of other Applicable Governmental Entities that have reliability jurisdiction with respect to the Registered Entity. The second paragraph, which is not being revised (and was approved by the Commission in its October 7, 2011 Order) states who may be attendees at the audit. A new third paragraph has been added to state that “Compliance Audit observers and attendees are not audit team members and do not participate in conducting the Compliance Audit or in making audit findings and determinations.”

Section 3.1.5.4 – Registered Entity Objections to Compliance Audit Team – (1) Revised to delete “other than a member of NERC or FERC staff” in the sentence “A Registered Entity subject to a Compliance Audit may object to any member of the audit team [deletion] on grounds of a conflict of interest or the existence of other circumstances that could interfere with the team

member’s impartial performance of his or her duties.” NERC (and numerous stakeholders who commented on this provision) believe that while a Registered Entity should not be able to object to participation by NERC staff or FERC staff on a Compliance Audit team (as FERC has indicated in prior orders), a Registered Entity should be allowed to object to the inclusion of a particular individual NERC staff or FERC staff member on the audit team based on conflict of interest, bias or similar specific grounds (e.g., the NERC staff member of FERC staff member is a former employee of the Registered Entity).

Section 3.1.6 – Compliance Audit Reports – (1) In the second line, “evidence of possible noncompliance” is changed to “evidence of potential noncompliance” to avoid confusion with the defined term “Possible Violation.” (2) In the first paragraph, the phrase “other mitigating activities” is added to “Mitigation Plan,” as not all actions taken by Registered Entities to correct a noncompliance and prevent recurrence are memorialized in formal Mitigation Plans. (3) The first paragraph is also revised to state that the audit report may also state areas of concern and recommendations identified by the audit team (rather than specifying that any recommendations of the audit team be provided in a separate document). (4) In the second paragraph, the first sentence is revised to specify that CEA will provide the final audit report to the Registered Entity on or before the date the report is provided to NERC. (5) Text concerning the provision of non-public compliance information to FERC or to another Applicable Governmental Entity is deleted and replaced with a reference to §8.0, where the full text on this topic is provided.

Section 3.2 – Self-Certification – The second paragraph of this section is deleted because its substance has been moved to Appendix 4B, *Sanction Guidelines*, where it is more appropriately placed.

Section 3.2.1 – Self-Certification Process Steps – (1) The first step is revised to specify that the posted reporting schedule should include the applicable reporting periods. (2) The first step is also revised to specify that NERC, along with the CEA, will be responsible to ensure that the appropriate standards, compliance procedures and submittal forms are maintained and available (which may be through a means other than electronic). (3) Consistent with the revised definition of Self-Certification (§1.1.27), the third step is revised to list the four possible responses in a Self-Certification. (4) The fourth step is revised to state that, at a minimum, the CEA will review Self-Certifications of non-compliance and Self-Certifications stating that the Registered Entity does not own facilities that are subject to the Reliability Standard requirement or that the requirement is not applicable to the Registered Entity. (5) The fifth step is revised to state that if the CEA identifies a potential noncompliance, the CEA conducts a Preliminary Screen. (6) A paragraph is added stating that receipt of a Self-Certification by the CEA shall not be construed as a finding by the CEA that the Registered Entity is compliant with, not compliant with, or not subject to, the Reliability Standard requirement. This additional text is intended to negate the assumption that if a CEA makes no further response to a Registered Entity concerning a Self-Certification, the CEA has determined that the Registered Entity is compliant with the Reliability Standard requirement.

Section 3.3 – Spot Check – (1) Revised to state that a Spot Check may be initiated at the discretion of the CEA or as directed by NERC, including on a random schedule. The list of potential reasons is revised to include risk-based assessments based on the Registered Entity’s

BPS facilities and operations and their significance to the reliability of the BPS and the Registered Entity's compliance history and internal compliance program or other indicators of its culture of compliance. This addition is consistent with NERC's developing program of using risk-based assessments to determine when and which compliance monitoring processes should be initiated with respect to a Registered Entity.

Section 3.3.1 – Spot Check Process Steps – (1) The first step is revised to state that a “notification letter” will be issued by the CEA to the Registered Entity, which will include the scope of the Spot Check including the Reliability Standard requirements that will be covered. (2) The second step is revised to state that the notification package will include the names and employment histories of the persons who will perform the Spot Check. It is also revised to state that the CEA shall provide confirmation to the Registered Entity that the Spot Check team members have executed confidentiality agreements or acknowledgements. (3) The third step is revised to specify that the Registered Entity must provide the required information to the CEA by the date specified in the request. (4) The fifth step is revised to state that if the Spot Check team's review of the information submitted indicates a potential noncompliance, the CEA will conduct a Preliminary Screen. (5) The sixth step is revised to state that the Spot Check team will prepare a draft Spot Check report and the Registered Entity will be given ten business days to comment on it. (6) The sixth step is revised to provide that the Spot Check team will consider any corrections based on the Registered Entity's comments, finalize the Spot Check report and provide it to the Registered Entity and to NERC. (7) The step stating that the CEA will send the Registered Entity a Notice of Possible Violation is deleted, as that step will now be covered in Section 5.0, Enforcement Actions.

Section 3.4 – Compliance Investigations – In two places, “possible violation” is replaced with “potential noncompliance” to avoid confusion with the defined term “Possible Violation.”

Section 3.4.1 – Compliance Investigation Process Steps – (1) The first step is revised to provide that the CEA will take certain actions within three (rather than within two) business days of the decision to initiate a Compliance Investigation. (2) The second step is revised to provide that within three (rather than two) business days after receiving notice of the decision to initiate a Compliance Investigation, NERC will notify FERC and other Applicable Governmental Authorities. In addition, text concerning the provision of non-public compliance information to FERC or to another Applicable Governmental Entity is deleted and replaced with a reference to Section 8.0, where the full text is provided. (4) The fourth step is revised to provide that the Registered Entity must provide any required information to the CEA by the Required Date as specified in the request. (5) The eighth step is revised to provide that the CEA may review any mitigating activities (in addition to Mitigation Plans), since not all actions taken by a Registered Entity to correct a noncompliance and prevent recurrence are memorialized in a formal Mitigation Plan. (6) The ninth step is revised to provide that if the CEA identifies a potential noncompliance, it will conduct a Preliminary Screen. (7) In the tenth step, text concerning the provision of non-public compliance information to FERC or to another Applicable Governmental Entity is deleted and replaced with a reference to Section 8.0, where the full text is provided.

Section 3.5 – Self-Reports – A sentence is added stating that if possible, and without delaying the Self-Report, a Self-Report may include the actions that have been taken or will be taken to resolve the violation. This addition is consistent with the change to the definition of Self Report (§1.1.28).

Section 3.5.1 – Self-Report Process Steps – (1) The first step is revised to delete reference to the CEA’s Web site; the CEA may make the Self-Report submittal forms available through other means. (2) The fourth step is revised to provide that the CEA will conduct a Preliminary Screen of the Self-Report information.

Section 3.6.1 – Periodic Data Submittals Process Steps – (1) The first step is revised to delete reference to the CEA’s Web site; the CEA may make the submittal forms available through other means. (2) The third step is revised to provide that the Registered Entity must provide any required information to the CEA by the Required Date as specified in the request. (3) The fifth step is revised to provide that if the CEA’s review of the data submittal indicates a potential noncompliance, the CEA will perform a Preliminary Screen. (4) A paragraph is added at the end of this section stating that receipt of a Periodic Data Submittal by the CEA shall not be construed as a finding by the CEA that the Registered Entity is compliant with, not compliant with, or not subject to, the Reliability Standard requirement. This additional text is intended to negate the assumption that if a CEA makes no further response to a Registered Entity concerning a Periodic Data Submittal, the CEA has determined that the Registered Entity is compliant with the Reliability Standard requirement.

Section 3.7 – Exception Reporting – This section is deleted and Exception Reporting will no longer be considered one of the compliance monitoring processes, as exception reports are triggered by requirements of particular Reliability Standard, and not on the initiative of the CEA. However, an exception report containing evidence of a potential noncompliance may still result in performance of a Preliminary Screen and initiation of an enforcement action (see revised Section 2.0).

Section 3.7 (as renumbered) – Complaints – In the first paragraph, text stating that NERC will review any Complaint “that is related to a Regional Entity or its affiliates, divisions, committees or subordinate structures.” Regional Entities as such are not subject to Reliability Standards; and for those Regional Entities that perform registered functions (FRCC, SPP and WECC), there are in place (or pending before the Commission for approval) agreements by which other Regional Entities, not NERC, perform the CEA responsibilities with respect to the registered functions.

Section 3.8 – Preliminary Screen – (1) The provisions relating to performance of Preliminary Screen are relocated to Section 3.8 from Section 5.1, as the Preliminary Screen is considered a step in the compliance monitoring process (Section 3.0), rather than in the compliance enforcement process (Section 5.0). (2) Section 3.8 states that the Preliminary Screen will be conducted within five business days after the CEA identifies the potential noncompliance, except that (i) if the CEA identifies the potential noncompliance during a Compliance Audit, the Preliminary Screen will be conducted immediately following the exit briefing of the Registered Entity, and (ii) if the CEA identifies the potential noncompliance during a Compliance Investigation, the Preliminary Screen shall be conducted immediately after the Registered Entity

is first notified of the potential noncompliance identified by the Compliance Investigation. The two exceptions are necessary so that the Registered Entity does not receive a Notice of Possible Violation before being notified that the Compliance Audit or Compliance Investigation has found a potential noncompliance. (3) Consistent with the change in definition (§1.1.22), the Preliminary Screen will now include a determination of whether, if known, the potential noncompliance is not a duplication of a Possible Violation or Alleged Violation that is currently being processed. (4) The revised section provides that if the Preliminary Screen results in an affirmative determination with respect to the three criteria, a Possible Violation exists and the CEA shall proceed in accordance with Section 5.0.

**D. Section 4.0 – Annual Implementation Plans**

Section 4.1 – NERC Compliance Monitoring and Enforcement Program Implementation Plans – (1) Revised to provide that the NERC Implementation Plan will be provided to the Regions by on or about September 1 (rather than October 1) of the prior year. (2) Revised to state that NERC may update and revise its Implementation Plan during the course of the year. (3) Revised to state that Regional Entities have discretion to make modifications to the NERC Implementation Plan with respect to individual Registered Entities, based on a determination concerning the Registered Entity’s past and current compliance performance.

Section 4.2 – Regional Entity Implementation Plan – (1) Consistent with the revised schedule in §4.1, revised to provide that the Regional Implementation Plans will be submitted on or about October 1 (rather than November 1) of the previous year. (2) Revised to state that a Regional Entity may update and revise its Implementation Plan during the year as necessary, with NERC approval or as directed by NERC. (3) Revised to state that Regional Entities have discretion to make modifications to their Implementation Plans with respect to individual Registered Entities, based on a determination concerning the Registered Entity’s past and current compliance performance.

**E. Section 5.0 – Enforcement Actions**

In the first paragraph of §5.0, “remedial actions” is replaced with “mitigating activities,” to avoid possible confusion with the defined term Remedial Action Directive.

A statement is added that imposition and acceptance of penalties and sanctions shall not be considered an acceptable alternative to a Registered Entity’s continuing obligations to comply with Reliability Standards.

Text is added to state that the CEA has authority to collect documents, data and information in the manner it deems most appropriate, including removing copies of documents, data and information from the Registered Entity’s location in accordance with appropriate security procedures conforming to ROP Section 1500 and other safeguards as appropriate in the circumstances to maintain the confidential or other protected status of the documents, data and information, such as information held by a governmental entity that is subject to an exemption from disclosure under the United States Freedom of Information Act, or a comparable state or provincial law, that would be lost if the information were placed into the public domain.



This section is revised to state that a Registered Entity that believes a request for documents, data or information is unreasonable may request a determination from the NERC General Counsel (changed from the NERC “compliance program officer”).

A statement is added that under the circumstances presented by some Possible Violations, Alleged Violations or Confirmed Violations, absolute adherence to the enforcement process in §5.0, to the exclusion of other approaches, may not be the most appropriate, efficient or desirable means by which to achieve the overall objectives of the Compliance Program for NERC, the CEA and the Registered Entity; in such circumstances, other approaches may be considered and employed. A similar statement is found in current Appendix 4B, but is being deleted there, as it is more appropriately placed in Appendix 4C.

Section 5.1 – Preliminary Screen – This section is deleted and the topic is now covered in Section 3.8 (as discussed above).

Section 5.1 – Notice of Possible Violation – (1) Revised to state that the Notice of Possible Violation will state the dates involved in the Possible Violation “if known.” (2) Revised to state that the CEA will report the Possible Violation to NERC (rather than entering it into the compliance reporting and tracking system). (3) Revised to state that NERC will report the Possible Violation to other Applicable Governmental Authorities, as applicable (in addition to FERC), in accordance with §8.0, Reporting and Disclosure.

Section 5.3 – Notification to Registered Entity of Alleged Violation – (1) Revised to provide that the CEA will notify the Registered Entity of the determination of an Alleged Violation, even if the CEA and the Registered Entity have entered into settlement negotiations. (2) Revised to state that the CEA will issue a Notice of Alleged Violation and Proposed Penalty or Sanction “or similar notification,” to recognize that some Registered Entities’ processes may involve providing notification through a different means than a Notice of Alleged Violation and Proposed Penalty or Sanction. Similar revisions are made in other sections. (3) Revised to state that the notification of Alleged Violation will be issued by e-mail and will be effective as of the date of the electronic mail message; this will promote consistency in the methods of delivering notification. Also, the requirements that the notification be signed by an officer or designee of the CEA, and be sent to the CEO of the Registered Entity, are deleted; the notification will be sent to the Registered Entity’s compliance contact. (4) Revised to state that the CEA will report the Alleged Violation to NERC (rather than entering it into the compliance reporting and tracking system). (5) In item (v) of the list of contents of a notification of Alleged Violation, “or other mitigating activities” is added after “implement a Mitigation Plan,” to reflect that some actions taken by Registered Entities to correct and prevent recurrence of a noncompliance, although they are approved by the CEA, are not memorialized in a formal Mitigation Plan. (6) In item (vii) of the list of contents of a notification of alleged violation, “full hearing procedure” is changed to “general hearing procedure” consistent with a revision in the Hearing Procedures. (7) Text concerning the provision of non-public compliance information to FERC or another Applicable Governmental Entity is deleted and replaced with a reference to §8.0, where the full text is provided. (8) The last paragraph of this section is deleted, as completion of the enforcement action and issuance of a Notice of Confirmed Violation is covered in later sections.

Section 5.4 – Registered Entity Response -- (1) Revised to add agreement by the Registered Entity with the notification of Alleged Violation as establishing acceptance of the CEA’s determination of violation and penalty or sanction. (2) Revised to provide that the 30 day period runs from the date of notification of Alleged Violation by electronic mail (consistent with a revision to §5.3, above). (3) Revised to state that the CEA will issue a Notice of Confirmed Violation “or similar notification,” to recognize that some Registered Entities’ processes may involve providing notification through a different means than a Notice of Confirmed Violation. Similar revisions are made in other sections. (4) Revised to state that the CEA will report the Confirmed Violation to NERC (rather than entering it into the compliance reporting and tracking system). (5) Revised to state that the Registered Entity will be allowed to provide a written explanatory statement to accompany the filing with FERC and public posting of the Confirmed Violation. (6) Revised to state that if the Registered Entity contests the Alleged Violation or proposed penalty or sanction, it must submit a response within 30 days following the date of notification of the Alleged Violation. (7) Reference to issuing a Notice of Confirmed Violation by the CEA is deleted, as this topic is covered in a subsequent section.

Section 5.6 – Settlement Process -- (1) Revised to provide that the Registered Entity or the CEA may terminate settlement negotiations at any time. Either party should have discretion to terminate settlement negotiations if they are not progressing in a productive manner. (2) Revised to provide that the time for the Registered Entity to respond to the notification of Alleged Violation pursuant to §5.4 is suspended during settlement negotiations. (3) Revised to state that the CEA and the Registered Entity will execute a settlement agreement (rather than that the CEA will issue a letter) setting forth the final settlement terms. (4) Revised to state that within five business days after NERC advises the CEA of NERC’s approval, rejection or proposed revisions to a settlement agreement, the CEA will notify the Registered Entity. Notification to the Registered Entity should come from the CEA, not from NERC which has not been in negotiation or other contact with the Registered Entity. (5) Text concerning the provision of non-public compliance information to FERC or another Applicable Governmental Entity is deleted and replaced with a reference to §8.0, where the full text is provided. (6) Text is added to clarify that in the public posting of the settlement agreement or of the terms of the settlement, any Critical Energy Infrastructure Information or Confidential Information will be redacted.

Section 5.7 – NERC Appeal Process – Revised to provide that the CEA, as well as the Regional Entity, may appeal the decision of the Regional Entity hearing body, in accordance with amended Section 409 of the ROP.

Section 5.9 – Notice of Penalty – (1) Revised to provide that the Registered Entity shall be informed that the Notice of Penalty is pending public filing at least five business days prior to the public filing and posting. (2) Text concerning the provision of non-public compliance information to FERC or another Applicable Governmental Entity is deleted and replaced with a reference to §8.0, where the full text is provided.

Section 5.10 – Completion of Enforcement Action – The title of this section is revised from “Closure of Enforcement Action.”

Section 5.11 -- Special Procedures for an Enforcement Action Against an ISO/RTO Where the Monetary Penalty May be Allocated by the ISO/RTO to Other Entities – This is a new section to establish procedures pursuant to which (1) an ISO/RTO can request the CEA to make a determination, during the enforcement process for a Notice of Possible Violation issued to the ISO/RTO, that one or more specified other entities were responsible, in whole or on part, for actions or omissions that caused or contributed to the violation (if approved), and (2) the specified other entity(ies) can request and be allowed to participate in the enforcement process.

Section 5.11.1 specifies that NERC will maintain on its website, based on information to be provided by the ISO/RTO, a Public Notification List of Entities that an ISO/RTO contends it has authority to allocate to, pursuant to a proceeding under §205 of the Federal Power Act, some or all of a monetary penalty imposed on the ISO/RTO for a violation or a Reliability Standard. Pursuant to §5.11.3, the ISO/RTO will not be allowed to invoke the procedures of §5.11, and the CEA will not make the requested determination, with respect to another Entity that was not listed on the Public Notification List as of the date of issuance of the Notice of Possible Violation to the ISO/RTO, unless the ISO/RTO demonstrates and the CEA concludes that there are extraordinary circumstances that warrant the CEA making the requested determination with respect to the specified other Entity(ies).

Section 5.11.2 specifies that in order to request the CEA to make a determination in an enforcement action that a specified other entity(ies) was responsible, in whole or in part, for actions or omissions that caused or contributed to a violation (if confirmed) of a Reliability Standard for which the ISO/RTO has received a Notice of Possible Violation, the ISO/RTO shall, no later than five business days after receiving the Notice of Possible Violation (i) submit a written request to the CEA and (ii) issue a notice to the specified other Regional Entity(ies). Section 5.11.2 contains the content and delivery requirements for the ISO/RTO's request and notice. Pursuant to §5.11.3, upon verifying that the specified other entity(ies) were on the Public Notification List as of the date of issuance of the Notice of Possible Violation, that the ISO/RTO has authority to allocate all or a portion of any monetary penalty to the other entity(ies), and that the other entity(ies) received a timely notice from the ISO/RTO in accordance with §5.11.2, the CEA will contact the other entity(ies) to provide further information concerning their right to participate in the enforcement process for the Notice of Possible Violation. In order to participate in the enforcement process, the other entity(ies) will be required to submit a written request to participate and to execute a nondisclosure agreement. The specified other entity(ies) must request to participate in the enforcement process prior to, as applicable (i) the date of execution of a settlement agreement between the CEA and the ISO/RTO, and (ii) the date that the CEA issues a Notice of Confirmed Violation to the ISO/RTO. Pursuant to §5.11.5, upon receiving notice from the CEA that it is allowed to participate in the enforcement action, the specified other entity may participate in the same manner as the ISO/RTO and shall be subject to all applicable requirements and deadlines specified in the Compliance Program.

Section 5.11.6 provides that, assuming all the precedent conditions described above have been met, and if the enforcement action is not resolved by a settlement agreement stating whether or not the specified other entity(ies) was responsible, in whole or in part, for actions or omissions that caused or contributed to the violation identified in the Notice of Possible Violation, the CEA shall make, and include in its proposed Notice of Penalty, its determination of whether or not the

specified other entity(ies) were responsible, in whole or in part, for actions or omissions that caused or contributed to the violation.

Section 5.11.7 provides that if an ISO/RTO's tariffs, agreement or other relevant governance documents establish procedures, that have been approved by FERC, that allow members of the ISO/RTO to directly assign to the ISO/RTO monetary penalties imposed on the ISO/RTO member(s) for violations of Reliability Standards, then the ISO/RTO members may follow the same requirements of §5.11.2, 5.11.3 and 5.11.5 as are applicable to an ISO/RTO under those sections, and the ISO/RTO shall be afforded the same rights to participate in the enforcement action as a specified other entity under §5.11.2, 5.11.3, 5.11.5 and 5.11.6, subject to the same requirements and conditions specified in those sections.

Section 5.11.8 specifies that the ISO/RTO shall be obligated and responsible to pay any monetary penalty imposed by the CEA on the ISO/RTO for violation of a Reliability Standard, in accordance with §5.10 of Appendix 4C, (i) regardless of whether the CEA has made a determination that a specified other entity was responsible, in whole or in part, for actions or omissions that caused or contributed to the violation, (ii) without regard to the timing of any separate proceeding(s) in which the ISO/RTO seeks to allocate some or all of the monetary penalty to a specified other entity(ies), and (iii) without regard to whether or when the ISO/RTO receives payment from the specified other entity(ies).

#### **F. Section 6.0 – Mitigation of Violations of Reliability Standards**

Text is added to state that the CEA has authority to collect documents, data and information in the manner it deems most appropriate, including removing copies of documents, data and information from the Registered Entity's location in accordance with appropriate security procedures conforming to ROP Section 1500 and other safeguards as appropriate in the circumstances to maintain the confidential or other protected status of the documents, data and information, such as information held by a governmental entity that is subject to an exemption from disclosure under the United States Freedom of Information Act, or a comparable state or provincial law, that would be lost if the information were placed into the public domain.

This section is revised to state that a Registered Entity that believes a request for documents, data or information is unreasonable may request a determination from the NERC General Counsel (changed from the NERC "compliance program officer").

Section 6.2 – Contents of Mitigation Plans – Revised to eliminate the requirement that the representative of the Registered Entity who signs the Mitigation Plan shall be (if applicable) the person that signed the Self-Certification or Self-Report submittal.

Section 6.3 – Timetable for Completion of Mitigation Plans – (1) Detailed text concerning the timing by which a Mitigation Plan should be completed is deleted and replaced with "shall be completed in accordance with its terms." (2) Examples of grounds on which the completion deadline may be extended are revised to include operational issues such as the ability to schedule an outage to complete mitigating activities and construction requirements that require longer to complete than originally anticipated.

Section 6.4 – Submission of Mitigation Plans – Revised to provide that a Mitigation Plan may be reflected in a settlement agreement or Notice of Penalty (in addition to the option of being submitted as a separate document. This is consistent with longstanding practice, *e.g.*, that the terms of the Mitigation Plan are often included in the settlement agreement rather than in a separate “Mitigation Plan” document.

Section 6.6 – Completion/Confirmation of Implementation of Mitigation Plans – (1) Revised to delete reference to the CEA verifying that the Registered Entity is in compliance with the requirements of the Reliability Standard a noncompliance with which led to the Mitigation Plan. The CEA will only be required to verify that all required actions in the Mitigation Plan have been completed. (2) Revised to state that the Regional Entity will provide to NERC the quarterly status reports from Registered Entities on progress in completing Mitigation Plans, “upon request by NERC” (rather than as a matter of course).

#### **G. Section 7.0 – Remedial Action Directives**

Consistent with the revision to the definition of Remedial Action Directive (§1.1.25), this section is revised to state that a Remedial Action Directive is issued when the action is immediately necessary to protect the reliability of the BPS from an imminent or actual threat.

The third paragraph is revised to remove the text that the CEA shall consult the Reliability Coordinator for the Registered Entity “to ensure that the Remedial Action Directive is not in conflict with directives issued by the Reliability Coordinator,” *i.e.*, the consultation will not be limited to this topic.

The fourth paragraph is revised to expand the information to be included in a notice of Remedial Action Directive, including the requirement the CEA is imposing to remove the threat to reliability of the BPS; a schedule for specific periodic updates to the CEA on progress to achieving compliance; and a statement that the Registered Entity is in a state of noncompliance with the Reliability Standard until the requirements of the Remedial Action Directive are completed and certified complete by an officer of the Registered Entity.

The fifth paragraph is revised to provide that the notice of the Remedial Action Directive that is delivered by electronic mail shall be sent to both the Registered Entity’s CEO and its designated contact person for reliability matters; and that the notice will be deemed received on the earlier of the actual date of receipt of the electronic submission or receipt of the express courier delivery of the notice as specified by the courier service’s verification of delivery.

The sixth paragraph is revised to specify that the CEA will copy NERC on all correspondence sent to the Registered Entity.

#### **H. Section 8.0 – Reporting and Disclosure**

This section is revised to contain two subsections, as described below.

Section 8.1 – Information to be Reported -- This section lists the information to be provided by Regional Entities to NERC via electronic reports. A sentence is added that NERC will work with Regional Entities to specify form, content, timing and method of submitting reports and notices. The revised list of information to be reported includes the status of the review and assessment of all Possible Violations, Alleged Violations and Confirmed Violation; the potential impact of any Alleged Violation of Confirmed Violation on the reliability of the BPS; and the name of a Regional Entity staff person knowledgeable about the information to serve as a point of contact, as well as other information specific in current §8.0.

Section 8.2 – Reporting to Applicable Governmental Authorities and Public Disclosure -- Text concerning procedures for the disclosure of non-public U.S. compliance information to Applicable Governmental Authorities other than FERC, and disclosure of non-public non-U.S. compliance information to FERC, which is currently found in several sections of Appendix 4C, has been placed into §8.2 and deleted from all other sections. As described above with respect to the revisions to other sections in which this text is being deleted, it is replaced with a reference to §8.0. This section is also revised to state that NERC will publicly post on its web site each Notice of Penalty, with any Critical Energy Infrastructure Information or Confidential Information redacted, when NERC files the Notice of Penalty with FERC pursuant to §5.9.

#### **I. Section 9.0 – Data Retention and Confidentiality**

There are no changes to Section 9.0 other than changes in capitalization of terms and changes in certain terms to be consistent with the changes to those terms elsewhere in Appendix 4C.

#### **V. Attachment 1 to Appendix 4C – Process for Non-Submittal of Requested Data**

Attachment 1 to Appendix 4C has been revised to match the process steps that the CEA will follow for non-submittal of requested or required data in proposed new ROP §1800 (described earlier in this summary), but without the authority provided in §1800 for the CEA to impose fines for the failure to provide requested or required data. However, as in the current Attachment 1, the Registered Entity’s failure to provide the requested data or information after follow-up notifications may result in a Reliability Standard violation at the severe Violation Severity Level.

#### **VI. Attachment 2 to Appendix 4C – Hearing Procedures**

Throughout Appendix 2, (1) references to “[HEARING BODY]” (which were originally intended to allow each Regional Entity to insert the name of its Hearing Body) have been replaced with “Hearing Body;” and (2) references to provisions within Attachment 2 have been changed from “Paragraph” to “Section.” Additionally, in numerous sections, the text has been divided into lettered subsections ((a), (b), (c), etc.).

#### **A. Section 1.1 -- Applicability, Definitions and Interpretation**

Section 1.1.1 – Procedure Governed – (1) Subsection (b) is revised to provide that where the Hearing Body is comprised, in whole or in part, of industry stakeholders, the composition of the hearing body shall be such that no two industry segments may control, and no single industry

segment may veto, any decision by the Hearing Body; and where the Hearing Body is comprised solely of independent members and an independent Hearing Officer, the Hearing Body, decisions shall require a majority vote. This revision is intended to accommodate NPCC's new Hearing Body composition which is presently pending before the Commission for approval. (2) A new subsection (d) has been added providing that if a final order has been entered by the Hearing Body, or the Hearing Body has issued a ruling determining that there are no issues to be decided regarding the Alleged Violation, proposed Penalty amount, proposed Mitigation Plan or proposed Remedial Action Directive, or the Registered Entity and the CEA have entered into a settlement agreement resolving the matters that are the subject of the hearing, the hearing shall be terminated by the Hearing Body and no further proceedings shall be conducted.

Section 1.1.2 – Deviation -- A reference to the Hearing Officer “as defined in Paragraph [now Section] 1.1.5 has been deleted as unnecessary.

Section 1.1.4 – Interpretation – A new subsection (b) is added to provide that “Any ruling, order or decision of the Hearing Officer referenced in these Hearing Procedures shall be made by the Hearing Body where the composition of the Hearing Body consists of independent members and an independent Hearing Officer.” This additional text is intended to accommodate NPCC's new Hearing Body composition which is presently pending before the Commission for approval; it avoids a situation in which the Hearing Officer, as a member of the Hearing Body, would be required to review his or her own decisions.

Section 1.1.5 – Definitions – (1) The definition of “Clerk” is expanded to identify his/her duties (“perform administrative tasks relating to the conduct of hearings as described in these Hearing Procedures”). (2) The definition of “Director of Compliance” is expanded to include an individual designated by the CEA (regardless of title) who is responsible for management and direction of the Compliance Staff. (3) Two new definitions are added, “Evidentiary Hearing” and “Testimonial Hearing.” An Evidentiary Hearing is a hearing at which one or more Participants submit evidence for the record, while a Testimonial Hearing is an Evidentiary Hearing at which one or more witnesses appear in person to present testimony and be subject to cross-examination. (Corresponding revisions are made throughout the Hearing Procedures as necessary to identify references to hearings as “Evidentiary” or “Testimonial”.) (4) A definition of “Hearing Body” is added, consistent with the revision of this term from “[HEARING BODY]” as described above. (5) The definition of “Participant” is revised consistent with the revisions to Section 1.2.12 (described below) that provide for the Hearing Body to be able to grant intervention into the hearing in specific, limited circumstances.

## **B. Section 1.2 – General Provisions including Filing, Service, Transcription and Participation**

Section 1.2.1 – Contents of Filing – In subsection (d) a reference to “documents” is changed to the broader term “evidence.”

Section 1.2.3 – Submission of Documents – (1) In subsection (a), the placeholder for insertion of the CEA's regular business hour is deleted and replaced with “during the Compliance Enforcement Authority's regular business hours.” (2) In subsection (b), the placeholder for

insertion of the CEA's time of close of business is deleted and replaced with "5:00 P.M." (3) In subsection (e), the statement "The signature on a filing constitutes a certificate that the signer has read the filing and knows its contents, and that the contents are true to the best of the signer's knowledge and belief" is deleted, since this topic is now covered in new §1.2.15.

Section 1.2.4 – Service – (1) In subsection (a), the statement that the Registered Entity's "designated agent for service" shall automatically be included on the service list is changed to "compliance contact." (2) In subsection (b), a proviso "subject to the provisions of Section 1.5.10" is added. Section 1.5.10 is the section of the Hearing Procedures on Protective Orders. (3) Subsection (c) is revised to state that the Clerk shall transmit a copy of the record to the ERO at the time the CEA transmits (rather than "serves") to the ERO a Notice of Penalty or a Hearing Body final order than includes a Notice of Penalty.

Section 1.2.8 – Transcripts – (1) The text in subsection (a) is amended to provide that the court reporter shall file a copy of each transcript with the Clerk, and that upon receipt of a transcript from the court reporter, the Clerk shall send notice to the Participants stating that a transcript has been filed by the court reporter, the date or dates of the hearing that the transcript records, and the date the transcript was filed with the Clerk. This filing and notice initiate the time period within which the Participants may file transcript corrections. (2) In subsection (b), the time within which a Participant may file suggested transcript corrections is changed to within 14 days from the date of the Clerk's notice that the transcript has been filed with the Clerk. In addition, this subsection is revised to provide that the Hearing Officer shall only allow changes that conform the transcript to "the statements being transcribed" (rather than suggesting that the testimony given could be revisited).

Section 1.2.11 – Participant Participation – the statement that witnesses shall personally appear at the evidentiary hearing if required by Paragraph 1.6.6 is deleted and replaced with "except as required by Section 1.6.6" (§1.6.6 addresses the requirements for witness attendance at Testimonial Hearings).

Section 1.2.12 – Interventions – (1) The title of this section is changed from "Interventions Are Not Permitted," as the revised section will authorize the Hearing Body to allow intervention under limited, specific circumstances. (2) The section is revised as necessary throughout to reflect that the Hearing Body (as well as FERC) will be allowed to permit interventions. (3) New subsection (b) provides that the Hearing Body may allow a Person to intervene only if the Hearing Body determines that the Person seeking intervention has a direct and substantial interest in the outcome of the Alleged Violation, proposed penalty or sanction, Mitigation Plan, or Remedial Action Directive that is the subject of the proceeding. Two examples of a "direct and substantial interest in the outcome" are provided in the text. Two examples of situations that will not constitute "a direct and substantial interest in the outcome" and will not be grounds on which intervention may be allowed, are also provided in the text (including "seek[ing] to intervene to advocate an interpretation of the Reliability Standard requirement(s) or provision(s) of the *Sanction Guidelines* that are at issue"). (3) Subsections (c), (d) and (e) set forth the procedures and timing requirements for submission of a motion to intervene (including the required contents), responses by other Participants, issuance of a recommendation by the Hearing Officer, and the Hearing Body's decision on the motion to intervene. (4) Subsection (f)



authorizes the Hearing Officer or the Hearing Body to stay or suspend the proceedings while a request to intervene filed with the Hearing Body or with FERC, or any appeal of the ruling on the request to intervene, is being resolved. (5) Subsection (g) provides that a Person allowed to intervene shall be deemed to be aligned with the Respondent(s), unless the Hearing Body specifies that the Person intervening shall be aligned with another Participant. (6) Subsection (h) provides that a Person allowed to intervene must take the record and procedural status of the proceeding as it stands on the date the motion to intervene is granted by the Hearing Body. (7) Subsection (i) provides that appeals of decisions of the Hearing Body granting or denying requests to intervene may be appealed to NERC in accordance with ROP §414, and that the notice of appeal must be filed with the NERC director of enforcement no later than seven days following the date of the decision of the Hearing Body granting or denying the intervention.

Section 1.2.14 – Docketing System – Revised to state that a docketed proceeding shall be created upon the filing of a request for hearing (rather than upon issuance of a Notice of Alleged Violation). Docketed hearing proceedings need to be created by the Regional Entity Hearing Body only when a request for a hearing on a matter is filed.

Section 1.2.15 – Representation Deemed to be Made in All Pleadings – This is a new section. It provides that a Participant presenting any pleading to the Hearing Officer or Hearing Body shall be deemed to certify to the best of the Participant’s knowledge, information and belief, formed after and based on an inquiry that is reasonable under the circumstances, certain specified matters as to the factual allegations in the pleading, the denials in the pleading of factual allegations made by another Participant, the claims, defenses and other contentions set forth in the pleading, and that the pleading is not being presented for any improper purpose such as to harass, cause unnecessary delay, or needlessly increase the cost incurred by any Participant.

### **C. Initiation of the Hearing Process**

Section 1.3.1 – Registered Entity’s Option to Request a Hearing – (1) This section has been divided into subsections. (2) In subsection (d), concerning notification in a Notice of Alleged Violation of hearing options, a reference to Section 5.3 of the Compliance Monitoring and Enforcement Program is added. (3) Subsection (e) sets forth the required contents of a Registered Entity’s request for hearing, and provides that the Registered Entity may state two or more alternative grounds for its position. (4) Subsection (f) contains the provisions for determining if the general hearing procedure (referred to in the current Hearing Procedures as the “full” hearing procedures) or the shortened hearing procedure will be used, based on the Registered Entity’s request and the response by the Compliance Staff and any other Participants (there are no substantive changes to this provision).

Section 1.3.2 – Compliance Staff’s Response to Request for Hearing – This section specifies that the Compliance Staff must file a response to the request for hearing (i) if the request for hearing requests use of the shortened hearing procedure or (ii) the request for hearing requests that the Registered Entity’s proposed revised Mitigation Plan be approved. In all other situations, the Compliance Staff may, but is not required to, file a response to the request for hearing. Any response by the Compliance Staff must be filed within 15 days after the date the request for hearing was filed, unless the Hearing Officer or Hearing Body allows a longer time.

Section 1.3.3 – Notice of Hearing – This new section provides that the Clerk shall issue a notice of hearing not less than 16 days nor more than 21 days after the request for hearing is filed, stating whether the shortened hearing procedure or the general hearing procedure will be used; and identifying the Hearing Officer and the date, time and place for the initial prehearing conference (which shall be set for seven days following the date of the notice if the shortened hearing procedure is to be used, and 14 days following the date of the notice if the general hearing procedure is to be used).

Section 1.3.4 – Shortened Hearing Procedure – There are a number of revisions to this section to conform to terminology changes elsewhere in the revised Hearing Procedures; however, the following two revisions are substantive: (1) Compliance Staff is to make Documents available to the Registered Entity for inspection and copying pursuant to §1.5.7 within ten days (rather than five days) after the issuance of the notice of hearing; and (2) it shall be the objective of the Hearing Body to issue its final order within 120 days (rather than 90 days) after the notice of hearing.

#### **D. General Hearing Procedure**

Section 1.4.1 – [Currently] Notice of Hearing – The text of this section, which in the current Hearing Procedures covers issuance of the initial notice of hearing, is deleted (this topic will be covered in new §1.3.3), and the section is intentionally left blank to avoid the need to renumber all the following subsections in §1.4.

Section 1.4.2 – Hearing Officer – (1) In subsection (a), text is revised to provide that the CEA shall (rather than may) utilize a Hearing Officer to preside over the hearing. (2) Correspondingly, subsection (b) is revised to provide that the Hearing Officer is responsible (rather than may be delegated authority) for the conduct of the hearing. (3) In subsection (b), the list of the Hearing Officer’s responsibilities is modified to include to “hear argument on all objections, motions and other requests.”

Section 1.4.3 – Hearing Body – (1) New subsection (a) provides that the composition of the Hearing Body, after any recusals or disqualifications, shall be such that no two industry segments may control, and no single industry segment may veto, any decision of the Hearing Body. (2) The text in subsection (b) is revised to specify that upon receiving a filing by a Participant, the Clerk shall promptly send a notice to the members of the Hearing Body identifying the date of the filing and the Participant making the filing and briefly describing the nature of the filing, and that any member of the Hearing Body may request from the Clerk a copy of any filing made by a Participant. (3) Subsection (b) is also revised to specify that the Clerk shall send all issuances of the Hearing Officer to the Hearing Body members. (4) Text is added to subsection (b) to specify that at any prehearing conference or hearing attended by a member of the Hearing Body, the Hearing Body member may ask questions directly of any Participant or witness.

Section 1.4.4 – Interlocutory Review – Revised to provide that a petition for interlocutory review shall be supported by either references to the record or by affidavit if based on facts that do not appear in the record.

Section 1.4.5 – Disqualification – Revised to provide that where a replacement Hearing Officer is appointed after the hearing has commenced, the replacement Hearing Officer may recall any witness or may take other steps necessary to ensure familiarity with the record.

Section 1.4.7 – No Ex Parte Communications – (1) Text is added to specify that the proscription against ex parte communications does not prohibit (i) communications between the Hearing Officer or members of the Hearing Body to the Clerk for the purpose of transmitting documents, giving instructions to the Clerk, or discussing scheduling or other procedural matters, or (ii) communications between or among the Clerk, the Hearing Body and representatives of the CEA for purposes of establishing the hearing forum. (2) In subsection (c), text is revised to require that a report of a prohibited communication be made by any member of the Hearing Body, the Hearing Officer or a Technical Advisor who receives or makes or knowingly allows (currently “knowingly causes to be made”) a prohibited communication.

Section 1.4.8 – Appearances – Text is added to specify that all representatives appearing before the Hearing Body or Hearing Officer shall conform to the standards of ethical conduct required of practitioners before the courts of the United States.

Section 1.4.10 – Consolidation of Proceedings – (1) Revised to provide that consolidation may be considered on motion of a Participant (in addition to by the Hearing Body on its own motion). (2) References to “transaction” are changed to “occurrence,” as more descriptive of the types of events that might result in an Alleged Violation, proposed penalty or proposed Mitigation Plan and ultimately result in a hearing before a Regional Entity Hearing Body.

#### **E. Section 1.5 – Prehearing Procedure**

Section 1.5.2 – Prehearing Conferences – (1) Revised to require the Hearing Officer to hold at least one prehearing conference. (2) Topics are added to the topics to be discussed at the initial prehearing conference. (3) Text is added to specify that the scheduled date for the Evidentiary Hearing shall be within 90 days of the initial prehearing conference, unless a different date is specified by the Hearing Officer or the Hearing Body with the consent of all Participants or for good cause shown. (4) Text is added to require the Hearing Officer to hold a final prehearing conference prior to the Evidentiary Hearing, to discuss specified topics and other topics suggested by the Participants.

Section 1.5.3 – Summary Disposition – (1) The basis for granting summary disposition is revised to state that there are no issues of material fact and a Participant is entitled to issuance of a final order in its favor. (2) More detailed requirements are added for the contents of a motion requesting summary disposition and the responses in opposition.

Section 1.5.4 – Status Hearing – (1) Text is added to expand the reasons for a status hearing to include “other matters relevant to the conduct of the hearing.” (2) Text is added to require that a Participant requesting a status hearing to resolve a dispute shall include in its request a certification that it has made a good faith effort to resolve the dispute with the other Participant(s) before requesting the status hearing.

Section 1.5.7 – Inspection and Copying of Documents in Possession of Staff – (1) Revised to specify that Staff is to make Documents available for inspection and copying by other Participants (rather than by just the Respondent) within 25 days after the request for hearing is filed (rather than within 5 days after the notice of hearing is issued). Corresponding revisions of “Respondent” to “Participants” are made throughout this section. (2) The requirements for production of later-received Documents are tied to the scheduled date of the Evidentiary Hearing (rather than “the hearing”). (3) The provision concerning privileged and work product Documents that may be withheld by Compliance Staff is revised to Documents that are privileged to, or work product of counsel to, the CEA (rather than the Compliance Staff). (4) Text is revised to provide that inspection reports, internal memoranda or other notes or writings prepared by Compliance Staff may be withheld if they will not be offered in evidence “or otherwise relied on by Staff in the hearing.” (5) The provision concerning Documents that may be withheld by Compliance Staff because they would disclose an examination, investigatory or enforcement technique or guideline is revised to specify that the protected information must not otherwise be made public. (6) Subsection (c) is revised to require that the Compliance Staff’s withheld Documents list must include a statement of the grounds that support withholding the Documents. (7) Subsection (c) is also revised to specify that the Hearing Officer, for good cause shown, may order Compliance Staff to make available any withheld Document other than a Document that is subject to attorney-client privilege. (8) Subsection (e) is revised to make it clear that a Participant may remove from the CEA’s offices copies of the Documents made available by the CEA.

Section 1.5.8 – Other Discovery Procedures – (1) Text is revised to provide that the Hearing Officer, for good cause shown, may order a Participant to make a withheld Document available to other Participants, for inspection or copying. (2) The time period during which discovery should be completed is revised to 6 months following the date the request for hearing was filed (changed from 6 months from the date of the initial prehearing conference).

Section 1.5.9 – Pre-Evidentiary Hearing Submission of Testimony and Evidence – Revised to clarify that all Participant witness direct testimony to be submitted in an Evidentiary Hearing must be prepared in written form.

Section 1.5.11 – Pre-Evidentiary Hearing Memorandum – (1) Revised to eliminate the need for the Hearing Officer or Hearing Body to have grounds for requesting submission of pre-Evidentiary Hearing memoranda. (2) Revised to provide that the topics directed to be included in the pre-Evidentiary Hearing Memoranda may include “such other matters as may be directed by the Hearing Officer or the Hearing Body.”

Section 1.5.12 – Certification of Questions to the NERC Board of Trustees – This new section provides for certification by the Hearing Body to the NERC Board of Trustees, for decision, a significant question of law, policy or procedure the resolution of which may be determinative of the issues in the proceeding in whole or in part, or as to which there are other extraordinary circumstances that make prompt consideration of the question by the Board of Trustees appropriate, pursuant to ROP §412. The section specifies that questions of fact presented by the particular matter in dispute in a hearing shall not be the subject of a certification. The section provides the procedures for requesting certification of a question or considering whether a

question should be certified. The Hearing Body shall determine whether any proposed question shall be certified to the NERC Board for decision. The Hearing Body shall also determine whether or not the hearing should be stayed or suspended while a certified question is pending before the NERC Board.

**F. Section 1.6 – Procedure at Evidentiary Hearing**

Section 1.6.1 – Purpose of Evidentiary Hearing – Revised to delete the provision that the evidentiary hearing also may be used to address any other issue pending between the Participants.

Section 1.6.6 – Witness Attendance at Testimonial Hearing – A provision is added to specify that a person compelled to appear, voluntarily testifying, or making a statement may be accompanied, represented and advised by an attorney.

Section 1.6.14 – Cross-Examination – (1) Revised to provide that leading questions are permitted on cross-examination. (2) Text is added to state that the credibility of a witness may be attacked by any Participant, including the Participant calling the witness. (3) Revised to delete the requirement that if a member of the Hearing Body seeks to ask a witness questions, the Hearing Body member shall do so by submitting the questions in writing to the Hearing Officer to ask the witness.

Section 1.6.15 – Redirect Examination – Revised to delete the requirement that if a member of the Hearing Body seeks to ask a witness questions, the Hearing Body member shall do so by submitting the questions in writing to the Hearing Officer to ask the witness.

Section 1.6.17 – Close of the Evidentiary Record – (1) Revised to state that the Hearing Officer may reopen the evidentiary record for good cause shown prior to issuance of the Hearing Body’s final order. (2) A statement is added that for purposes of reopening the evidentiary record, newly discovered evidence that is material to the issues in dispute and could not, by due diligence, have been discovered prior to or during the Evidentiary Hearing, shall constitute good cause.

**G. Section 1.7 – Post-Evidentiary Hearing Procedure**

Section 1.7.1 – Briefs – (1) Revised to allow the Hearing Officer to allow oral closing statements in addition to (not just in lieu of) briefs, and to delete the requirement that there must be agreement of the Participants in order for the Hearing Officer allow oral closing statements in addition to or in lieu of briefs. (2) Revised to allow the Hearing Officer to impose reasonable word limits (rather than page limits) on briefs.

Section 1.7.4 – Hearing Officer’s Initial Opinion – Revised to eliminate the provision that if the initial opinion proposes a Penalty, the initial opinion shall include a proposed Notice of Penalty. Notices of Penalty are prepared by NERC. Corresponding revisions are made in other sections of the Hearing Procedures to delete references to Notices of Penalty prepared by the Hearing Officer or the Hearing Body.

Section 1.7.5 – Exceptions – Revised to allow the Hearing Officer to impose reasonable word limits (rather than page limits) on briefs.

Section 1.7.7 – Additional Hearings – Revised to state that the Hearing Officer may reopen the record and hold additional hearings before issuance of the Hearing Body’s final order (rather than before issuance of the Hearing Officer’s initial decision).

Section 1.7.10 – Appeal – (1) Revised to state that a Participant or a Regional Entity acting as the CEA may appeal a final order of the Hearing Body to NERC in accordance with NERC ROP §409. (2) The statement that the Clerk shall transmit the record to NERC for any proceeding that appealed is deleted, as the procedures governing appeals are set forth in ROP §409.

#### **H. Section 1.8 -- Settlement**

Consistent with revisions in Section 5.6 of the Compliance Monitoring and Enforcement Program, this section is revised to provide that the CEA may terminate settlement negotiations at any time.

#### **I. Section 1.9 – Remedial Action Directives**

Section 1.9.1 – Initiation of Remedial Action Directive Hearing – Revised to specify that the CEA will notify NERC within two business days after issuance of a Remedial Action Directive.

Section 1.9.2 – Remedial Action Directive Hearing Procedure – (1) Revised to state that the hearing shall (rather than may) be presided over by a Hearing Officer. (2) Revised to state that the Hearing Body shall issue its summary written decision within 10 days following submission of the last brief (rather than within 10 days following the hearing). (3) Text is added to clarify that “upon issuance of the summary written decision, the Registered Entity is required to comply with the Remedial Action Directive as specified in the summary written decision;” that is, the obligation to comply is not postponed until the Hearing Body issues its full written decision.

### **VII. Appendix 5A – Organization Registration and Certification Manual**

#### **A. Section I – Executive Summary**

A number of revisions have been made throughout Appendix 4A for more consistent use of terms and acronyms, such as “BPS,” “RC,” “TOP” and BA,” and “user, owner or operator” (of the BPS).

The section captioned “Where to Access and Submit Form(s)?” is revised to specify that completed registration and certification forms should be sent to the website location and/or individual(s) responsible for registration and/or certification at the Regional Entity.

In the section captioned “Roles and Responsibilities,” the descriptions of the roles and responsibilities of NERC and the Regional Entities in the registration and certification processes have been revised in accordance with current practice.

**B. Section II – Introduction to Organization Registration and Organization Certification Processes**

In the section captioned “Organization Certification,” text has been revised to specify that all entities registered in the NERC Compliance Registry for the RC, TOP and BA functions, and entities that perform some or all of the reliability functions for or with the RC, TOP or BA, shall be certified.

**C. Section III – Organization Registration Process**

The section captioned “Organization Registration Process,” including Figure 1, Organization Registration Process Overview, has been revised consistent with current practice as to the respective responsibilities of NERC and the Regional Entities in the organization registration process.

**D. Organization Certification Process**

In the section captioned “Purpose and Scope,” the reference to certification of a new entity that will become NERC certified and registered as a BA, TOP or RC has been expanded to include those entities that perform some or all of the reliability functions of an RC, BA or TOP.

In the section captioned “Organization Certification Process,” the text describing the Provisional Certification Process has been deleted, since the Provisional Certification Process is no longer needed. In subsection 8c of that section, the reference to the Regional Entity as the entity to which an entity undergoing certification may express its objections to a member of the Certification Team (CT), has been changed to the Certification Team Lead. A new subsection 8e has been added to describe the composition of the CT where an existing certified entity is seeking to expand its footprint. In subsection 13, an exception has been added to the requirement that the CT shall conduct at least one on-site visit to the entity’s facilities, specifically, where only a minor change in the existing footprint of an existing certified entity is under review, in which case the CT may determine that an on-site visit is not necessary. In Section 21, the provision that NERC shall update the Compliance Registry (for a new certification) “prior to the entity going operational” is changed to “in accordance with the registration rules.”

**F. Section V – NERC Organization Registration Appeals Process**

The title and address of the NERC employee with whom registration appeals must be filed is revised. Registration appeals should now be submitted to the NERC Director of Compliance Operations.

**G. Section VI – NERC Organization Certification Appeals Process**

In the section captioned “Organization Certification Appeals Procedure,” the title of the NERC employee with whom registration appeals must be filed is revised. Registration appeals should now be submitted to the NERC Director of Compliance Operations. Subsection 5d has been

revised to more clearly describe the actions to be taken by NERC based on the Board of Trustees Compliance Committee’s decision on the registration dispute.

### **VIII. Appendix 6 – System Operator Program Certification Manual**

Appendix 6 is being deleted from the ROP, and, as described above in the summary of the revisions to ROP Section 600, the substantive provisions of Appendix 6 are being moved into Section 600. It was determined that Appendix 6 contained a significant amount of administrative detail about the System Operator Certification Program that does not need to be in the ROP.

### **IX. Appendix 8 – NERC Event Response Procedures**

Appendix 8 is being comprehensively revised. The title of this Appendix is changed to “NERC Event Responses Procedures.” Consistent with the proposed revisions to ROP Sections 807 and 808 (described above), Appendix 8 has been revised to provide for a more consistent use of terms including “major event” and “occurrences.”

Some material has been deleted from Appendix 8 because it will be covered in NERC’s Event Analysis Process Manual, or is otherwise administrative detail concerning event analysis that does not need to be included in the ROP. For example, current Attachments A (Typical Team Assignments for Analysis of Blackouts or Disturbances), B (Guidelines for Analysis Team Scopes), C (NERC Confidentiality Agreement for Analysis of Blackouts and Disturbances), and E (Guidelines for NERC Reports on Blackouts and Disturbances) are deleted. Current Attachment D (retitled “NERC Major Event Analysis Objectives, Analysis Approach, Schedule, and Status”) is retained, but with sections added for Personnel, Procedures and Communications; System Restoration; System Planning and Design; and Conclusions and Recommendations.

The “Introduction” section of revised Appendix 8 provides an overview of the event response and analysis procedures, including the critical components of an effective event analysis effort.

The section “Categorization of Events” provides a description of the categorization of events, both as Category 1 (least significant) to Category 5 (most significant) events, and by level of significance: “Significant,” “Conditionally Significant,” “Consequential and Noteworthy,” “Non-Consequential but Noteworthy,” and “Not Consequential.” Descriptions of the levels of significance are provided. As used in revised Appendix 8, the term “major event” is generally intended to refer to a Category 4 or 5, or a Significant or Conditionally Significant, event; and the term “other event” is generally intended to refer to a Category 1, 2 or 3, or a Consequential and Noteworthy, Non-Consequential but Noteworthy, or Not Consequential, event.

The section “Responsibility for Event Analysis Based on Category or Significance of Event” describes NERC’s role in event analysis in the case of a major event and in the case of another event.

The section “Response to and Analysis of Major Events” describes the activities that will occur or be performed by the involved participants in the case of a major event. This section describes the four phases of responding to a major event: (1) Situation Assessment and Communications,



(2) Situation Tracking and Communications, (3) Data Collection, Investigation, Analysis, and Reporting (which is the event analysis phase), and (4) Publishing of Recommendations (lessons learned, best practices, and alerts, if applicable). In the Data Collection, Investigation, Analysis, and Reporting phase (*i.e.*, event analysis), based on the scope, magnitude and impact of a major event, NERC may (1) perform an overview analysis of BPS and generator response, (2) rely on a Regional Entity to conduct the analysis and monitor the analysis results, (3) work with a Regional Entity in its analysis, or (4) conduct a NERC-level analysis. Appendix 8 describes the following steps for the Data Collection, Investigation, Analysis, and Reporting phase: (a) collecting pertinent data on the major event, (b) detailed sequence of occurrences leading to and triggering the major event, (c) detailed BPS analysis, (d) cause analysis, and (e) findings, conclusions and recommendations.

The section “Event Analysis of Other Events” describes the process steps for an event analysis of another event (*i.e.*, a non-major event).

A table is included in the revised Appendix listing, by Category of event, the reports that Registered Entities involved in the event are expected to prepare and submit and the timing requirements for each report.

The section “Development of Lessons Learned from Events” describes the process for developing lessons learned from an event, to be disseminated to the industry.

The section “Reporting and Analysis Requirements for Registered Entities in Connection with Events” specifies that Registered Entities are required to report the occurrence of defined BPS disturbances and unusual occurrences to the applicable Regional Entity and to NERC in accordance with NERC and Regional Reliability Standards and other requirements.

The section “Event Analysis Interface with Compliance” states that to support a strong culture of compliance, Registered Entities are expected to conduct a rigorous self-analysis of events to determine if there have been Possible Violation(s) of a NERC Reliability Standard(s). Registered Entities are also strongly encouraged to submit a compliance self-assessment report to the applicable Regional Entity compliance liaison. This section states that, as provided in Appendix 4B, *Sanction Guidelines*, if the Registered Entity is fully cooperative in the event analysis process, conducts a self-analysis of the event and submits a timely compliance self-assessment report, and submits Self-Reports of any Possible Violations of Reliability Standards and implements corrective and mitigating actions, then in any subsequent enforcement actions, the Registered Entities’ actions will be considered as mitigating factors in the determination of any penalties or sanctions for violations of Reliability Standards in connection with the event.

## **Comments Received on “Definitions and Capitalization” Posting**

The posting and stakeholder comment period was recently completed on NERC’s proposed revisions to the Rules of Procedure to make definitions consistent throughout the ROP and to capitalize defined terms throughout the ROP. A number of stakeholder comments were received on that posting that should be considered as a basis for revisions to the ROP, but for which the revisions would be more substantive, or otherwise outside the limited intended scope, of the “definitions and capitalization” initiative. However, these comments should be considered in connection with the set of substantive ROP revisions that will be posted for a stakeholder comments period following the November Board meeting. Following is a list (not necessarily exhaustive) of those comments. Some of the items listed below reflect aggregation of comments from several stakeholders on the same point.

1. The Standards Process Manager position should be identified and his/her duties described in Appendix 3A.
2. A broader definition of “Critical Infrastructure Protection Standards” should be developed, for example including CIP-001 and Regional CIP Standards
3. ROP §305.4 needs to be corrected to reflect that the Registered Ballot Body Segments are not defined in Appendix 3A (or, alternatively, the Segments should be defined in Appendix 3A).
4. A defined term should be developed for the date that a new or revised Reliability Standard becomes mandatory and enforceable. (The term “Effective Date” is used in Appendix 4D as the date on which the rejection, disapproval or termination of a TFE Request becomes effective).
5. ROP §1400 should not be revised to require 50 NERC Members to propose an amendment to the ROP (thereby becoming consistent with the provision in the NERC Bylaws); rather, the Bylaws should be amended to lower to number of Members required from 50. [This comment has also been received in connection with an earlier posting of the proposed substantive revisions.]
6. Inclusion of a definition of “Adequate Level of Reliability” based on current work in progress of a task force. [A definition was included in the posted version of Appendix 2, but has been deleted.]
7. Delete the term “market operator” from the list of Functional Entities in the ROP (*e.g.*, §302), as it currently is not a type of Registered Entity; or, alternatively, create or adopt a definition for “market operator.”
8. In Appendix 5B, make the list of function types consistent with the NERC *Reliability Functional Model Version 5*.
9. There is an apparent error in §1.3 of Appendix 4D, specifically, the reference to “CIP-006-3c, including the Interpretation in Appendix 3,” should refer to “Appendix 2.”

10. The defined term “Protected FOIA Information” and its applicability should be revised/expanded. [Currently only used in Appendix 4D.]
11. The defined term “Protected FOIA Information” should be added to the definition of “Confidential Information.”
12. The provision(s) describing the development of the annual Reliability Standards Development Plan should include reference to the stakeholder review aspect of the development of the plan.

## **Update on Regulatory Matters (As of October 5, 2011)**

### **Action**

None

### **Regulatory Matters in Canada**

1. Negotiation of the second agreement among NERC, the Régie and NPCC regarding implementation of mandatory standards in Québec has been tentatively concluded and the agreement is under consideration by the provincial government. The Régie has issued a preliminary decision regarding adoption of mandatory standards for Québec.
2. NERC Reliability Standards adopted as mandatory July 2011 in Nova Scotia.
3. Adoption of NERC Reliability Standards ongoing in Alberta.
4. Implementing regulations being developed in Manitoba.
5. Implementing regulations being developed in British Columbia.

### **FERC Orders Issued Since the Last Update**

1. July 13, 2011 – Order Nos. 748-A and 749-A – Order on Clarification in which the Commission granted NERC's request for clarification of certain aspects of Order No. 748 including: (1) the proper effective date language for Reliability Standard IRO-004-2; (2) the correct version identification for the approval of EOP-001 intended by the Commission; and (3) the proper effective date for Reliability Standard EOP-001-2. The Commission also granted NERC's request for clarification of Order No. 749 with respect to the version EOP-001 the Commission intended to approve and its effective date. *Docket Nos. RM10-15-001 and RM10-16-001*
2. July 20, 2011 – Commission found there is insufficient consensus for the five families of smart grid interoperability standards under consideration and declined to institute a rulemaking proceeding with respect to these standards and terminated this docket. Docket No. RM11-2-000
3. July 21, 2011 – Commission denied Nebraska Public Power District's and Southwest Power Pool Regional Entity's requests to permit transfer of the Nebraska Entities' compliance registrations from Midwest Reliability Organization to Southwest Power Pool Regional Entity. Docket Nos. RR11-1-000, RR11-1-001
4. July 29, 2011 – Order on Notices of Penalty – June 29, 2011 Notices of Penalty –The Commission issued an Order stating that it would not further review, on its own motion, the following Notices of Penalty in Docket Nos. NP11-201-000 Lane Electric Cooperative Inc.; NP11-202-000 High Desert Power Project, LLC; NP11-203-000 City of Loveland, Colorado;

NP11-204-000 Unidentified Registered Entity; NP11-205-000 Unidentified Registered Entity; NP11-206-000 Unidentified Registered Entity; NP11-207-000 Troy Energy, LLC; NP11-208-000 Black Hills/Colorado Electric Utility Co.; NP11-209-000 Blachly-Lane Electric Cooperative; NP11-210-000 Indianapolis Power & Light Co.; NP11-211-000 Unidentified Registered Entity; NP11-212-000 Unidentified Registered Entity; NP11-213-000 Unidentified Registered Entity; NP11-214-000 T.E.S. Filer City Station, LP; NP11-215-000 Boise-Kuna Irrigation District; NP11-216-000 Merced Irrigation District; NP11-217-000 High Trail Wind Farm, LLC; NP11-218-000 Unidentified Registered Entity; NP11-219-000 City of Batavia Municipal Electric ; NP11-220-000 Elwood Energy, LLC; NP11-221-000 Columbia Rural Electric Assoc.; NP11-222-000 Luminant Energy Co.; NP11-223-000 Unidentified Registered Entity; NP11-224-000 Alcoa Power Generating Inc.; NP11-225-000 Unidentified Registered Entity; NP11-226-000 Unidentified Registered Entity; NP11-227-000 Springfield Utility Board and NP11-228-000 Administrative Citation NOP.

5. August 2, 2011 – Order Approving Reliability Standard CIP-001-2a Sabotage Reporting with a Regional Variance for Texas Reliability Entity, Inc. Docket No. RD11-6-000
6. August 22, 2011 – Notice of FERC Audit of NERC – The Division of Audits in the Office of Enforcement of FERC commenced an audit of NERC. Docket No. FA11-21-000
7. August 25, 2011 – Letter Order Approving NERC's December 1, 2010 Standards Process Manual Filing in compliance with FERC's September 2010 Order. Docket No RR10-12-001
8. August 29, 2011 – Order on Notices of Penalty – July 28 and July 29, 2011 Notices of Penalty – The Commission issued an Order stating that it would not further review, on its own motion, the following Notices of Penalty in Docket Nos. NP11-229-000 Unidentified Registered Entity; NP11-230-000 Unidentified Registered Entity; NP11-231-000 Ripon Cogeneration LLC; NP11-232-000 The Detroit Edison Company; NP11-233-000 Unidentified Registered Entity; NP11-234-000 Unidentified Registered Entity; NP11-235-000 New Covert Generating Company, LLC; NP11-236-000 Scurry County Wind LP; NP11-237-000 Unidentified Registered Entity; NP11-239-000 Public Utility District No. 1 of Snohomish County; NP11-240-000 Public Service Company of New Mexico; NP11-241-000 Dynegy Inc.; NP11-242-000 Panoche Energy Center LLC; NP11-243-000 Unidentified Registered Entity; NP11-244-000 NextEra Energy Resources, LLC; NP11-245-000 Exelon Generation Co., LLC; NP11-246-000 Scrubgrass Generating Company, LP; NP11-247-000 Unidentified Registered Entity; NP11-248-000 Unidentified Registered Entity; NP11-249-000 Unidentified Registered Entity; NP11-250-000 Unidentified Registered Entity; NP11-251-000 Unidentified Registered Entity; NP11-252-000 Arizona Electric Power Cooperative, Inc.; NP11-253-000 Administrative Citation Notice of Penalty.
9. August 29, 2011 – The Commission issued an order initiating a review of the July 28, 2011 Notice of Penalty for Southwestern Power Administration and established a filing deadline for any answers, interventions or comments. Docket No. NP11-238-000
10. August 29, 2011 – The Commission approves the Stipulation and Consent Agreement between the Office of Enforcement, NERC, and Grand River Dam Authority. Docket No. IN11-7-000

11. September 9, 2011 – The Commission issued an Order stating that it would not further review, on its own motion, the following Notice of Penalty regarding an Unidentified Registered Entity. Docket No. NP11-184-000
12. September 9, 2011 – The Commission issued an Order stating that it would not further review, on its own motion, the following Notices of Penalty in Docket Nos. NP11-254-000 Rochester Public Utilities; NP11-255-000 AES Deepwater, Inc.; NP11-256-000 Progress Energy Florida; NP11-257-000 Optim Energy Marketing, LLC; NP11-258-000 Iberdrola Renewables and NP11-259-000 Western Electricity Coordinating Council.
13. September 15, 2011 – Notice of Proposed Rulemaking proposing to approve the Transmission Relay Loadability Standard PRC-023-2 and accompanying NERC Rules of Procedure modifications. Docket No. RM11-16-000
14. September 15, 2011 – Order No. 754 – Order Approving Interpretation of TPL-002-0 Requirement R1.3.10. Docket No. RM10-6-000; Order No. 754
15. September 15, 2011 – Notice of Proposed Rulemaking on Version 4 CIP Reliability Standards proposed to approve eight modified Critical Infrastructure Protection (CIP) Reliability Standards, CIP-002-4 through CIP-009-4. Docket RM11-11-000
16. September 15, 2011 – Order No. 733-B – Order Denying Reconsideration and Granting Clarification in Part and Denying Clarification in Part regarding the requests for clarification or reconsideration of Order No. 733-A, which addressed requests for rehearing and clarification of FERC's Final Rule on NERC Reliability Standard PRC-023-1 regarding "Relay Loadability." Docket No. RM08-13-004
17. September 15, 2011 – Order Approving Personnel Performance, Training, and Qualification Reliability Standard PER-003-1. Docket No. RD11-7-000
18. September 15, 2011 – Order No. 753 – Order Approving ERO Interpretation of Transmission Operations Reliability Standard TOP-001-1 Requirement R8. Docket No. RM10-29-000; Order No. 753
19. September 21, 2011 – A Technical Conference on Penalty Guidelines to discuss the impact of the guidelines on compliance and enforcement matters will be held on November 17, 2011. Docket No. PL10-4-000
20. September 26, 2011 – Order Approving Interpretations to PRC-004-1 and PRC-005-1. Docket No. RD11-5-000
21. September 26, 2011 – A Technical Conference on CIP-006-2 to explore the risks of leaving dial-up intelligent electronic devices that are part of the Bulk-Power System and that use non-routable protocols physically unprotected will be held on October 25, 2011. Docket No. RD10-8-000
22. September 30, 2011 – Order on Notices of Penalty – August 31, 2011 Notices of Penalty – The Commission issued an Order stating that it would not further review, on its own motion, the following Notices of Penalty in Docket Nos. NP11-260-000 Louisiana Energy and Power Authority; NP11-261-000 Unidentified Registered Entity; NP11-262-000 Unidentified Registered Entity; NP11-263-000 Unidentified Registered Entity; NP11-264-000 Unidentified

Registered Entity; NP11-265-000 Cleco Corporation; and NP11-266-000 Administrative Citation Notice of Penalty.

### **NERC Filings Since the Last Update**

1. July 13, 2011 - Comments in Support of the Supplemental Comments in the July 13, 2011 filing of the Trade Associations (Edison Electric Institute, the American Public Power Association, the National Rural Electric Cooperative Association, the Electric Power Supply Association, the Transmission Access Policy Study Group, and the Canadian Electricity Association) regarding the proposed interpretation of Reliability Standard TPL-002, Requirement R1.3.10. Docket No. RM10-6-000
2. July 15, 2011 - Supplemental Informational Filing regarding the June 29, 2011 Notice of Penalty for an Unidentified Registered Entity. Docket No. NP11-213-000
3. July 18, 2011 - Request for Clarification or, in the Alternative, Rehearing of the Order Denying Appeals of Compliance Registry Determinations of Milford Wind Corridor Phase I, LLC, and Cedar Creek Wind Energy. Docket Nos. RC11-1-001 and RC11-2-001
4. July 20, 2011 - Supplemental Filing for a Notice of Penalty regarding an Unidentified Registered Entity. Docket No. NP11-206-000
5. July 21, 2011 - Filing in Support of the June 20, 2011 compliance filing of the Western Electricity Coordinating Council in Response to Order Numbers 751 and 752 on Version One Regional Reliability Standards. Docket No. RM11-11-000
6. July 21, 2011 - Informational Filing in Response to Order 733-A on Rehearing, Clarification, and Request for an Extension of Time addressing certain aspects of the August 14, 2003 blackout investigation relative to operation of protective relays in response to stable power swings. Docket No. RM08-13-000
7. July 26, 2011 - Informational Report on NERC Standards Status and Timetable for Addressing Regulatory Directives received from applicable ERO governmental authorities. Docket No. RR09-6-003
8. July 28, 2011 – Notices of Penalty regarding the following entities in Docket Nos. NP11-229-000 Unidentified Registered Entity; NP11-230-000 Unidentified Registered Entity; NP11-231-000 Ripon Cogeneration LLC; NP11-232-000 The Detroit Edison Company; NP11-233-000 Unidentified Registered Entity; NP11-234-000 Unidentified Registered Entity; NP11-235-000 New Covert Generating Company, LLC; NP11-236-000 Scurry County Wind LP; NP11-237-000 Unidentified Registered Entity; NP11-239-000 Public Utility District No. 1 of Snohomish County; NP11-240-000 Public Service Company of New Mexico; NP11-241-000 Dynegy Inc.; NP11-242-000 Panoche Energy Center LLC; NP11-243-000 Unidentified Registered Entity; NP11-244-000 NextEra Energy Resources, LLC; NP11-245-000 Exelon Generation Co., LLC; NP11-246-000 Scrubgrass Generating Company, LP; NP11-247-000 Unidentified Registered Entity; NP11-248-000 Unidentified Registered Entity; NP11-249-000 Unidentified Registered Entity; NP11-250-000 Unidentified Registered Entity; NP11-251-000 Unidentified Registered Entity; and NP11-252-000 Arizona Electric Power Cooperative, Inc.

9. July 29, 2011 - Informational Report on Analysis of Standard Process Results for the Second Quarter 2011. Docket Nos. RR06-1-000, RR09-7-000
10. July 29, 2011 – Administrative Citation Notice of Penalty in NP11-253-000.
11. August 11, 2011 - Motion to Further Defer Action on Time Error Correction Reliability Standard. Docket No. RM09-13-000
12. August 11, 2011 – Notices of Penalty regarding the following entities in Docket Nos. NP11-254-000 Rochester Public Utilities; NP11-255-000 AES Deepwater, Inc.; NP11-256-000 Progress Energy Florida; NP11-257-000 Optim Energy Marketing, LLC; NP11-258-000 Iberdrola Renewables and NP11-259-000 Western Electricity Coordinating Council.
13. August 24, 2011 - Request of NERC for Acceptance of 2012 Business Plan and Budget and the 2012 Business Plans and Budget of Regional Entities and for Approval of Proposed Assessments to Fund Budgets. Docket No. RR11-7-000
14. August 31, 2011 - Second Quarter 2011 Compliance Filing in Response to Paragraph 629 of Order No. 693. Docket No. RM06-16-000
15. August 31, 2011 – Notices of Penalty regarding the following entities in Docket Nos. NP11-260-000 Louisiana Energy and Power Authority; NP11-261-000 Unidentified Registered Entity; NP11-262-000 Unidentified Registered Entity; NP11-263-000 Unidentified Registered Entity; NP11-264-000 Unidentified Registered Entity; NP11-265-000 Cleco Corporation; and NP11-266-000 Administrative Citation Notice of Penalty.
16. September 6, 2011 – Supplemental Informational Filing regarding the August 31, 2011 Administrative Citation Notice of Penalty. Docket No. NP11-266-000
17. September 9, 2011 - Petition for Approval of Interpretations to Requirements to Requirements R1 and R3.2 of EOP-001-0 — Emergency Operations Planning (EOP-001-0). Docket No. RM11- 32-000
18. September 13, 2011 - NERC and WECC submit a joint motion for extension of time from September 14, 2011 to November 14, 2011 to allow NERC to submit a compliance filing in response to the Commission’s June 16, 2011 Order regarding the registration of Cedar Creek Wind Energy, LLC and Milford Wind Corridor Phase I, LLC. The Commission directed NERC to submit a compliance filing identifying the Reliability Standards and Requirements that will be applicable to Cedar Creek and Milford. Docket Nos. RC11-1-000 and RC11-2-000
19. September 19, 2011 Additional Comments in Support of the Notice of Penalty filed on July 28, 2011 regarding Southwestern Power Administration. Docket No. NP11-238-000
20. September 28, 2011 - First Annual Report on Wide-Area Analysis of Technical Feasibility Exceptions. Docket No. RR10-1-000
21. September 30, 2011 - Petition Requesting Approval of New Enforcement Mechanisms and Submittal of Initial Find Fix and Track (FFT) Informational Filing. Docket No. RC11-6-000
22. September 30, 2011 - Notices of Penalty regarding the following entities in Docket Nos. NP11-267-000 Metropolitan Edison Company; NP11-268-000 Electric Reliability Council of



Texas, Inc.; NP11-269-000 Unidentified Registered Entity; and NP11-270 Spreadsheet Notice of Penalty.

23. October 3, 2011 - Motion to Intervene and Comments regarding the appeal of the City of Holland, Michigan Board of Public Works. Docket No. RC11-5-000

### **Anticipated NERC Filings**

1. October 14, 2011 – NERC will file a Petition for Approval of Revised Transmission Planning System Performance Requirements Reliability Standard and Seven Glossary Terms and for Retirement of Six Existing Reliability Standards for the TPL-001-2 standard.
2. November/December 2011 – NERC will submit proposed changes to the NERC Rules of Procedure.
3. November 21, 2011 – NERC must submit comments in response to the September 15, 2011 Transmission Relay Loadability Notice of Proposed Rulemaking. Docket No. RM11-16-000
4. November 21, 2011 – NERC must submit comments in response to the September 15, 2011 Version 4 Critical Infrastructure Protection Reliability Standards Notice of Proposed Rulemaking. Docket No. RM11-11-000
5. December 2011 – Reliability Standards Development Plan: 2012-2014. NERC is required, pursuant to Rule 310 of the NERC Rules of Procedure, to file an updated annual work plan for the development of Reliability Standards. Docket Nos. RM05-25-000, RM05-17-000, RM06-16-000.
6. December 31, 2011 – NERC must submit an informational filing regarding the restructured audit program of the Regional Entities. (see December 23, 2010) Docket Nos. RR09-7-000 and RR10-11-000
7. January 25, 2012 – NERC must submit a filing within one year of the January 25, 2011 effective date of the November 18, 2010 Order regarding the Revision to ERO Definition of the Bulk Electric System. NERC's filing will include a proposed change to the definition of "Bulk Electric System" and corresponding changes to the NERC Rules of Procedure. NERC, Order No. 743, Docket No. RM09-18-000
8. March 15, 2012 – NERC must submit an informational filing, six months from the issuance of the Order No. 754 which approved the interpretation of Requirement R1.3.10 of TPL-002-0, to explain whether there is a further system protection issue that needs to be addressed and if so, what forum and process should be used to address that issue and what priority it should be accorded relative to the other reliability initiatives planned by NERC. Docket No. RM10-6-000
9. April to June 2012 (Second Quarter 2012) – NERC's timeline to address all outstanding issues from Order No. 706 directives, anticipated that NERC will submit next version of CIP Standards to the NERC Board of Trustees. See NERC's May 27, 2011 Response to Data Requests, Response 1 and the 2011-2013 Informational Filing on the Standards Development Plan. Docket Nos. RM05-17-000, RM05-25-000, RM06-16-000 and RM11-11-000

10. May 2012 – NERC must submit a revised BAL-003 Standard (See October 25, 2010 NERC Filing). Docket No. RM06-16-011
11. May 22, 2012 –NERC and WECC will submit a revised Standard that includes the Violation Severity Levels associated with each requirement of the revised BAL-004-WECC-1 Standard (See May 21, 2009 Order) (See November 22, 2010 NERC submittal). Docket No. RM08-12-000
12. May 31, 2012 – NERC’s true-up filing for the 2010 business plans and budgets.
13. July to September 2012 (Third Quarter 2012) – NERC’s timeline to address all outstanding issues from Order No. 706 directives, anticipated that NERC will file next version of CIP Standards at FERC. See NERC’s May 27, 2011 Response to Data Requests, Response 1 and the 2011-2013 Informational Filing on the Standards Development Plan. Docket Nos. RM05-17-000, RM05-25-000, RM06-16-000 and RM11-11-000
14. August 23, 2012 – NERC must address Order No. 693 Directives to consider if EMS application support personnel should be included in training Reliability Standard. Docket No. RM09-25-000
15. February 17, 2013 – NERC must comply with directives in Order No. 733 for filing the test and the results from a representative sample of utilities in each of the three Interconnections (see February 17, 2011 Order No. 733-A). Docket No. RM08-13-001