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I. INTRODUCTION

The North American Electric Reliability Corporation (“NERC”) submits this filing in compliance with the Commission’s directives in its Order issued March 18, 2010 in this docket.¹ In the March 18, 2010 Order, the Commission directed NERC to propose revisions to NERC’s Rules of Procedure (“ROP”) governing its standards development process and to submit those revisions within 90 days.² The Commission stated it would give NERC discretion to propose specific modifications that address the concerns expressed in the order. Further, the Commission stated it would issue a final order after receiving comments on NERC’s proposed modifications.

NERC’s compliance with the directive in the March 18, 2010 Order is comprised of (1) revisions to the NERC *Standard Processes Manual* (which replaced the *Reliability Standards Development Procedure*, Appendix 3A to the NERC ROP that the Commission has already approved on September 3, 2010;³ (2) the formation of a Board-level committee, the Standards Oversight and Technology Committee (“SOTC”), by the NERC Board of Trustees; and (3) proposed revisions to Section 309, and a new Section 321, of the NERC ROP that are submitted with this compliance filing for approval. **Attachment 1** is the proposed revised Section 300, Reliability Standards Development, of NERC’s Rules of Procedure, incorporating revisions to Section 309 and new Section 321 in response to the directives in the March 18, 2010 Order.

¹ *North American Electric Reliability Corporation, Order Directing NERC to Propose Modification of Electric Reliability Organization Rules of Procedure*, 130 FERC ¶ 61,203 (2010) (“March 18, 2010 Order”); *Order Denying Rehearing, Denying Clarification, Denying Reconsideration, and Denying Request for a Stay*, 132 FERC ¶ 61,218 (2010).

² The due date for the compliance filing was subsequently extended to December 23, 2010. *See, Notice of Extension of Time*, Docket No. RR09-6-000 (November 10, 2009). *See also, Notice of Extension of Time*, Docket No. RR09-6-000 (August 19, 2010), and *Order Granting Extension of Time to Comply with Commission Directive*, 131 FERC ¶ 61,237 (June 15, 2010).

³ FERC approved NERC’s *Standards Process Manual* on September 3, 2010, thereby replacing the Reliability Standards Development Procedure (Version 7) in its entirety. *See, Order Approving Petition and Directing Compliance Filing*, 132 FERC ¶ 61,200 (September 3, 2010) (“Standard Processes Manual Order”).

Attachment 2 is the proposed revised Section 300, redlined to show the revisions from Section 300 as it is currently in effect.

Prior to submitting this compliance filing, NERC posted three alternative versions of proposed revisions to Section 300 on its website for a 45-day public comment period (October 18, 2010 – December 2, 2010) as required by Article XI, section 2 of the NERC Bylaws. NERC received a total of 25 sets of comments in response to the posting, from both individual stakeholders and from associations representing groups of stakeholders. **Attachment 3** to this compliance filing is a summary of the stakeholder comments that were received, showing the wide range of stakeholder views on the proposals. The full text of all of the comments is available at <http://www.nerc.com/page.php?cid=1|8|169>. The comments included a number of useful suggestions in regard to the three alternatives that had been posted for comment. As a result, in consideration of the comments, NERC Staff developed a fourth version of the proposed revisions to Section 300 of the ROP, which was presented to the Board along with the three alternatives that had been posted for comment. The Board adopted the fourth alternative version of the revisions to Section 300. The revisions to Section 300 of the NERC ROP were approved by the NERC Board of Trustees on December 16, 2010.

II. NOTICES AND COMMUNICATIONS

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III. RESPONSE TO DIRECTIVES IN MARCH 18, 2010 ORDER

A. The Commission's Directive

The March 18, 2010 Order specified the following directive at PP 3-5:

3. Specifically, NERC should develop a proposed modification to its Rules of Procedure to address a conflict between NERC's Standards Development Process and its obligation as the ERO to comply with a Commission directive pursuant to section 215(d)(5) of the FPA. Section 215(d)(5) authorizes the Commission to direct the ERO to submit to the Commission a proposed new or modified Reliability Standard that addresses a specific matter if the Commission considers such a new or modified Standard appropriate to carry out section 215. Under NERC's Standards Development Process, however, each new or modified Reliability Standard must be approved by two-thirds of the stakeholder ballot body before it can be presented to the NERC board of trustees. Consequently, if just more than one third of a ballot pool votes against a Reliability Standard drafted to comply with a Commission directive, the Standard will be rejected, not presented to the NERC board of trustees for a vote, and not submitted to the Commission for review – even in circumstances where the Standard would have complied with the Commission's directive. Thus, under current ERO rules, the ballot body can delay or prevent NERC's compliance with its obligation under section 215(d) of the FPA. As discussed in more detail below, this occurred with respect to a Commission order directing the ERO to modify FAC-008-1, a Reliability Standard governing Bulk-Power System facility ratings.

4. We further note that before a new or modified draft Reliability Standard reaches the stakeholder ballot body, it is drafted by a team of industry volunteers that may or may not agree with the Commission's directive. Under the current process, a Standards drafting team populated by industry volunteers can develop a new or modified draft Reliability Standard that is not responsive to a Commission directive to draft a new or modified Standard, and the ballot body can approve the non-responsive Standard. If this occurs, it would leave the NERC board of trustees with a Hobson's choice of either rejecting the draft Reliability Standard or approving a Standard not responsive to a Commission directive for submission to the Commission.

5. To resolve the conflict between the Standards Development Process and the ERO's statutory obligation to comply with Commission directives to develop or modify a particular Reliability Standard, we direct the ERO, within 90 days of the date of this order, to submit to the Commission a filing containing specific proposed modifications to the NERC Standards Development Process. These proposed modifications shall be designed to ensure that NERC's Rules of Procedure allow it to comply with Commission directives to submit new or modified Reliability Standards. The Commission will notice NERC's filing for public comment and issue a subsequent order on proposed modifications to NERC's rules. As discussed herein, we also direct the ERO, within 90 days after our subsequent order, to fully comply with our previous directive to develop modifications to Reliability Standard FAC-008-1.⁴

In its Order issued September 16, 2010, on the requests for reconsideration or, in the alternative, rehearing of the March 18, 2010 Order ("Rehearing Order"),⁵ the Commission, although denying the request for rehearing, made a number of statements that provide guidance in interpreting and applying the directives in the March 18, 2010 Order.⁶ In the Rehearing Order, the Commission stated that:

⁴ This compliance filing addresses only the directive regarding revisions to the standards development process. The directive to submit modifications to Reliability Standard FAC-008-1 will be addressed in a subsequent filing.

⁵ *Order Denying Rehearing, Denying Clarification, Denying Reconsideration, and Denying Request for a Stay*, 132 FERC ¶61,218 (September 16, 2010) ("Rehearing Order").

⁶ On November 10, 2010, NERC filed an appeal in the D.C. Circuit of the March 18, 2010 Order and the September 16, 2010 Order Denying Rehearing in this matter. *See*, North American Electric Reliability Corporation, Petitioner, v. Federal Energy Regulatory Commission, Respondent, *Petition for Review*, D.C. Cir. Case No. 10-1383, Document No. 1276859 (November 10, 2010). Several trade associations also filed a notice of appeal from those orders. *See, Motion to Intervene of the American Public Power Association, the Edison Electric Institute, the Electricity Consumers Resource Council, the Large Public Power Council, the National Rural Electric Cooperative Association, and the Transmission Access Policy Study Group*, D.C. Cir. Case No. 10-1383, Document No. 1282387 (December 10, 2010). Following discussions with the Commission's Solicitor, NERC and the trade associations filed a consent motion to consolidate the two appeals and hold them in abeyance, pending the decision on this compliance filing. *See, Consent Motion to Consolidate and to Hold Petitions for Review in Abeyance*, Case No. 10-1038, Document No. 1281826 (December 8, 2010). On December 9, 2010, the D.C. Circuit granted the motion. *See, Order*, Case No. 10-1038, Document No. 1282214 (December 9, 2010).

P30: . . . As we explained in Order No. 693, and confirm today, when the Commission issues a directive pursuant to 215(d)(5) of the FPA, the ERO has the flexibility to respond with an alternative that is an equally effective and efficient means of addressing the Commission's underlying goal or concern.

P32: . . . Thus, while Order No. 693 recognizes the Commission's need to provide the ERO with detailed and specific information about its directives, and the ERO's statutory right (or, from a different perspective, obligation) to exercise its technical expertise to develop new and modified Reliability Standards through an open and collaborative stakeholder process, Order No. 693 always contemplates that the ERO will, at the conclusion of the Standards Development Process, submit some affirmative response to the Commission's directive.

P46: . . . The Commission's directive, does not impede the ERO in providing "reasonable notice and opportunity for public comment, due process, openness, and balance of interests." The Standards Development Process can satisfy each of these requirements and still provide a mechanism to guarantee that NERC can comply with a Commission directive to submit a new or modified Reliability Standard. As we discuss above, it did not require NERC to let the Commission dictate the specific content of Reliability Standards, but simply to propose revisions that would let NERC comply with final Commission directives under section 215(d)(5) of the FPA. We would expect that, in most circumstances, the existing Standards Development Process would result in a new or modified Standard responsive to a Commission directive. However, in those instances where this does not happen, such as the case of Reliability Standard FAC-008-2, the Commission needs assurance that the ERO has the authority, in conjunction with or in addition to the current structure, to deliver a Standard or modification as directed.

P51: . . . As we noted previously, the March 18 Order does not require NERC to let the Commission dictate the specific content of Reliability Standards and that the ERO remains free to develop equivalent alternatives to Commission directives. Thus, the Commission's directive does not conflict with section 215(d)(2) of the FPA or Order No. 693, because it does not foreclose the ERO from exercising its technical expertise during the Standards Development Process.

Based on the Commission's guidance in the Rehearing Order, NERC understands that FERC's issuance of a directive requiring a change to a standard or submission of a new standard is not meant to prescribe the text or the substance of the standard. Rather, FERC is relying on NERC to use its technical expertise to develop a standard that addresses the Commission's concerns. Moreover, NERC may respond to the directive with an alternative that is an equally effective and efficient means of addressing the Commission's underlying goal or concern.

B. NERC's Actions in Response to the Commission's Directive

NERC has taken a number of actions in response to the directive in PP 3-5 of the March 18, 2010 Order. Taken together, these changes will provide increased emphasis on addressing directives in the normal standards development process, provide the NERC Board with authority to respond to Commission directives in the event an appropriate response does not come out of the standards development process, and provide transparency as to the status and timetable for addressing such outstanding directives. These specific actions are described below.

First, a change to the NERC *Standard Processes Manual* that NERC submitted for approval on June 10, 2010 and the Commission approved on September 3, 2010 clarifies the responsibility of the Standards Committee and provides the Standards Committee specific authority over the work of the standards drafting teams.

The Standards Committee has the right to remand work to a drafting team, to reject the work of a drafting team, or to accept the work of a drafting team. The Standards Committee may direct a drafting team to revise its work to follow the processes in this manual or to meet the criteria for NERC's benchmarks for reliability standards, or to meet the criteria for governmental approval however the Standards Committee shall not direct a drafting team to change the technical content of a draft standard.⁷

Following the March 18 Order, the NERC Board of Trustees and the Commission approved the new Standard Processes Manual that NERC anticipates will help to improve the timeliness and responsiveness of NERC's standards development efforts. Notably, the new Standard Processes Manual authorizes the Standards Committee to send a draft standard back to the standard drafting team with instructions that the standard drafting team's work product is not responsive to a FERC directive, including suggestions on how to be responsive. This is

⁷ See, Standard Processes Manual, Appendix 3A to the NERC Rules of Procedure at pp. 8-9.

significant because the Standards Committee is tasked with overseeing and prioritizing all of NERC's standards development activities.

Second, on November 5, 2010, the Board of Trustees expanded the mandate of its existing Board level Technology Committee to establish the Standards Oversight and Technology Committee ("SOTC"). With respect to standards development, the objective of the SOTC is to provide the Board and the NERC Standards Committee with a thorough evaluation of and recommendations for action regarding the strategic direction of NERC's standards development program. The tasks assigned to the SOTC include, inter alia,

- (i) monitoring overall results, including quality and timeliness of standards development work, and make recommendations to NERC Standards Committee and board regarding needed improvements; and
- (ii) monitoring progress in addressing regulatory mandates and directives related to standards.⁸

Therefore, this committee of the NERC Board of Trustees will have more visibility into the standards development process and can work with the stakeholder Standards Committee to ensure that Commission directives are addressed appropriately in the standards development process.

Third, NERC is proposing amendments to Section 300, Reliability Standards Development, of NERC's Rules of Procedure to add further requirements for assuring that directives received from ERO governmental authorities are adequately addressed. Those changes, which consist of revisions to Section 309 and a new Section 321 of the ROP, are described in detail in the next section of this filing.

NERC is firmly committed to the consensus-based stakeholder standards development process that is set out in NERC's Rules of Procedure. This process is one of the bases by which

⁸ Mandate of Standards Oversight and Technology Committee, approved by NERC Board of Trustees November 5, 2010.

NERC meets the statutory requirements for certification as the electric reliability organization (“ERO”) that it have rules that “provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising the duties of the ERO.”⁹ NERC believes this process has served well to improve the reliability of the bulk power system of North America. It is the best process NERC is aware of to bring together the subject matter experts from many different disciplines and perspectives to work together to make needed improvements to the body of Reliability Standards that NERC has responsibility for.

The standards development process also provides a centralized forum where the interests of Canadian governmental authorities with jurisdiction over bulk-power system reliability, and Canadian stakeholders, can be addressed, so that a single set of enforceable Reliability Standards can be in place for the entire interconnected and interdependent North American bulk power system. The presence and continued operation of that centralized forum was a key element in NERC’s success in gaining wide-spread recognition and acceptance of its Reliability Standards and, specifically, in achieving adoption of the standards as mandatory in Canadian jurisdictions.

NERC also recognizes its obligation as the ERO for the United States certified by the Commission under section 215 of the Federal Power Act to comply with orders issued by the Commission, and in particular with directives that the Commission issues pursuant to section 215(d)(5) to submit a new or modified Reliability Standard to address a particular matter. NERC believes that, in the vast majority of the cases, the consensus-based stakeholder standards development process will produce new or modified Reliability Standards that satisfy the Commission’s directives. Indeed, NERC has already submitted to the Commission new or

⁹ Section 215(c)(2)(B)(iv) of the FPA. This requirement is, of course, also embodied in the Commission’s ERO regulations at 18 C.F.R. §39.3(b)(2)(iv).

modified Reliability Standards that address hundreds of Commission directives. NERC's actions in response to the directive in PP 3-5 of the March 18, 2010 Order will further increase the ability of the consensus-based stakeholder standards development process to produce Reliability Standards that are responsive to Commission directives (including, as the Commission made clear in the Rehearing Order, by developing alternatives that are an effective, efficient and technically sound means of addressing the Commission's underlying goal or concern).

Nonetheless, NERC also recognizes the possibility that the standards development process embodied in NERC's Rules of Procedure may fail to produce a new or modified Reliability Standard that is responsive to a Commission directive. Therefore, NERC is proposing in this compliance filing adding a new section to its Rules of Procedure that provides the NERC Board of Trustees the authority to adopt a new or modified Reliability Standard in response to a Commission directive in the event the standards development process fails to produce such a standard.

Because of the importance that NERC places on using the consensus-based stakeholder standards development process to develop standards in response to Commission directives, the proposed new Section 321 of the ROP seeks to maximize stakeholder participation to the extent feasible, even in the process that leads to action on a standard by the Board of Trustees in the absence of an affirmative stakeholder ballot approving a responsive standard. NERC believes these proposed rule changes strike the appropriate balance between the role of stakeholders in the standards process and the ultimate exercise of the Board's authority. In approving these ROP changes, the Board expressed its firm belief that the authority they grant to the Board would need to be used only rarely, if at all. The Board fully expects that the standards development process will address Commission directives in an appropriate and timely manner. It will be a failure of

the electric reliability organization model reflected in section 215, the Commission's implementing regulations, and NERC's Rules of Procedure if the Board of Trustees ends up needing to resort to the authority provided by these rule changes on a frequent basis.

The Commission, too, has an important role to play in assuring the success of the electric reliability organization model by how it chooses to exercise its Section 215 authority. The Commission strengthens the electric reliability organization model when it exercises its section 215(d)(5) powers for important reliability matters by identifying the problem to be addressed and providing a sound technical explanation for its directives. In the Rehearing Order, the Commission recognized the importance of providing clear direction and a clear statement of its underlying concerns:

By the same token, when the Commission issues a specific directive pursuant to section 215(d)(5), it should be supported by a clear technical rationale that explains how the directive is related to Bulk-Power System reliability.¹⁰

NERC and the entire stakeholder body appreciate that when the Commission identifies an issue to be addressed under section 215(d)(5), it is describing the nature of the concern and (again, as the Commission made clear in the Rehearing Order) it is not dictating specific content of the Reliability Standard. Instead, it is placing an expectation that the ERO and stakeholder subject matter experts address the problem identified.

By contrast, the Commission diminishes its authority and undercuts the role of the electric reliability organization when it issues large numbers of section 215(d)(5) directives to address wording changes in NERC's standards filings. Note that this is not a question of whether the Commission has authority to issue such directives. Rather, it concerns the wisdom of the Commission in doing so. The Commission has other vehicles to communicate those kinds of changes. Commission staff has full opportunity to participate in standards drafting team

¹⁰ Rehearing Order at P 53.

meetings. Concerns of the Commission staff can be communicated there as “suggested edits” along with the collective technical input of the industry. In addition, NERC’s rules call for Reliability Standards to be reviewed on a regular cycle. If the Commission has detailed edits it wishes to see in a standard, it can always convey those suggested edits as items for consideration during the next scheduled review of that standard.

B. Specific Proposed Revisions to Section 300 of the Rules of Procedure Submitted for Approval in this Filing

NERC is proposing revisions to Section 300, Reliability Standards Development, of NERC’s Rules of Procedure as part of its response to address the directives in the March 18, 2010 Order. **Attachment 1** provides a clean version of the proposed revisions to Section 300. **Attachment 2** provides a redlined version of the proposed revisions to Section 300.

First, NERC proposes to amend existing Section 309.2 by adding the following sentence (new language underscored):

309.2 Remanded Reliability Standards and Directives to Develop Standards — If an ERO governmental authority remands a reliability standard to NERC or directs NERC to develop a reliability standard, NERC shall within five (5) business days notify all other applicable ERO governmental authorities, and shall within thirty (30) calendar days report to all ERO governmental authorities a plan and timetable for modification or development of the reliability standard. Standards that are remanded or directed by an ERO governmental authority shall be modified or developed using the *Standard Processes Manual*. NERC shall, during the development of a modification for the remanded standard or directed standard, consult with other ERO governmental authorities to coordinate any impacts of the proposed standards in those other jurisdictions. The expedited action procedure may be applied if necessary to meet a timetable for action required by the ERO governmental authorities, respecting to the extent possible the provisions in the standards development process for reasonable notice and opportunity for public comment, due process, openness, and a balance of interest in developing reliability standards. If the Board of Trustees determines that the standards process did not result in a standard that addresses a specific matter that is identified in a directive issued by an applicable ERO governmental authority, then Rule 321 of these Rules of Procedure shall apply.

and existing Section 309.3 by adding the following sentence (new language underscored):

309.3 Directives to Develop Standards under Extraordinary Circumstances — An ERO governmental authority may, on its own initiative, determine that extraordinary circumstances exist requiring expedited development of a reliability standard. In such a case, the applicable agency may direct the development of a standard within a certain deadline. NERC staff shall prepare the standards authorization request and seek a stakeholder sponsor for the request. If NERC is unable to find a sponsor for the proposed standard, NERC will be designated as the requestor. The proposed standard will then proceed through the standards development process, using the expedited action procedures described in the *Standards Process Manual* as necessary to meet the specified deadline. The timeline will be developed to respect, to the extent possible, the provisions in the standards development process for reasonable notice and opportunity for public comment, due process, openness, and a balance of interests in developing reliability standards. If the Board of Trustees determines that the standards process did not result in a standard that addresses a specific matter that is identified in a directive issued by an applicable ERO governmental authority, then Rule 321 of these Rules of Procedure shall apply, with appropriate modification of the timeline.

The purpose of adding these two sentences is to provide a mechanism for triggering the special provisions for dealing with directives from ERO governmental authorities that are being added by proposed new Section 321.¹¹

Second, NERC proposes to add a new Section 321 that establishes specific provisions for dealing with certain directives from ERO governmental authorities. The operation of proposed Section 321 would be triggered with a determination by the NERC Board of Trustees that the standards process did not result in a standard that adequately addresses a specific matter that is identified in a directive issued by an applicable ERO governmental authority.

Paragraph 1 of proposed Section 321 states it is the Standards Committee's responsibility to ensure that regulatory directives are addressed in the standards developed or modified through the standards development procedure. Paragraph 1 also provides the NERC Board of Trustees

¹¹ The other revisions to Section 300 are several conforming changes for consistency with revised Appendix 3A, *Standards Process Manual*, to the ROP as approved by the Commission on September 3, 2010, including to adopt the revised title of Appendix 3A.

with the authority to remand a standard to the Standards Committee, with instructions, if a proposed standard fails to address a regulatory directive.

Paragraph 2 of proposed Section 321 states that if a ballot pool fails to approve a proposed Reliability Standard that contains a provision addressing a regulatory directive, the NERC Board of Trustees may direct the Standards Committee to convene a public technical conference to discuss the issues, make revisions to the proposed standard in light of input from the technical conference, prepare a memorandum describing the issues surrounding the regulatory directive, and conduct one additional re-ballot, with that re-ballot to be completed within 45 days.

In any such re-ballot, negative votes without comment would be considered for purposes of establishing a quorum, but only affirmative votes and negative votes with comments would be counted in determining the approval percentage for the ballot. NERC wants to encourage those who do not support the posted draft of a reliability standard to explain the reasons for their negative vote. The goal of the standard drafting team process is to develop consensus around a particular proposal. Negative votes without comments do not provide a basis for the discussions that could lead to greater consensus.

Paragraph 3 of proposed Section 321 states that if the re-balloted standard achieves a two-thirds affirmative vote (with votes counted in the manner described in Section 321.2), then the standard shall be deemed approved by the registered ballot pool and shall be submitted to the Board for approval.

Paragraph 4 of proposed Section 321 states that if the standard fails to achieve a two-thirds affirmative vote, but does achieve at least a 60 percent affirmative vote (again, with votes counted in the manner described in Section 321.2), then the Board may proceed to consider the

standard for approval. The Board must give notice of its intent to consider the standard and may convene a public technical conference to gain additional input. The Board must consider the entire developmental record and has the authority to act on the proposed Reliability Standard and direct that it be filed with applicable ERO governmental authorities. The Board must provide a written explanation for the decision it reaches. Because the Board would be acting on the Reliability Standard with less than the normal affirmative supermajority vote for adoption of the standard, the proposed rule identifies matters that the Board is to consider in deciding whether the proposed Reliability Standard should be adopted.

NERC lowered the approval percentage from two-thirds to sixty percent to address the Commission's concern that just more than one third of a ballot pool could block the board's consideration of a proposed Reliability Standard that addressed a directive. In the March 18 Order, the Commission expressed concern that:

Under NERC's Standards Development Process, however, each new or modified Reliability Standard must be approved by two-thirds of the stakeholder ballot body before it can be presented to the NERC board of trustees. Consequently, if just more than one third of a ballot pool votes against a Reliability Standard drafted to comply with a Commission directive, the Standard will be rejected, not presented to the NERC board of trustees for a vote, and not submitted to the Commission for review – even in circumstances where the Standard would have complied with the Commission's directive. Thus, under current ERO rules, the ballot body can delay or prevent NERC's compliance with its obligation under section 215(d) of the FPA.¹²

Requiring a sixty percent affirmative vote will still assure substantial support for a proposed reliability standard and will also satisfy the ANSI requirement that consensus means “more than a simple majority.”¹³

¹² March 18 Order at P 3.

¹³ See, *ANSI Essential Requirements: Due process requirements for American National Standards*, American National Standards Institute, January 2010. In that document, “Consensus” means that: “substantial agreement has been reached by directly and materially affected interests. This signifies the concurrence of more than a simple majority, but not necessarily unanimity. Consensus requires that all views and objections be considered, and that an effort be made toward their resolution.

Additionally, the proposed rule requires the Board, in considering whether to remand the proposed standard to the Standards Committee, to consider the issues surrounding the regulatory directive, including whether or not the proposed standard is just, reasonable, not unduly discriminatory or preferential, in the public interest, helpful to reliability, practical, technically sound, technically feasible, and cost-justified. These factors are a distillation of the general considerations that the Commission articulated for its consideration of Reliability Standards in Order No. 672.¹⁴ The NERC Board determined these to be important factors in their consideration of a standard similar to the factors that a stakeholder ballot body would consider in the development and approval of a standard.

Paragraph 5 of proposed Section 321 states that upon a written determination by the NERC Board that a standards drafting team has not developed, or a ballot pool has failed to approve, a standard that addresses a specific regulatory directive, the Board has authority to direct the Standards Committee, with the assistance of stakeholders and NERC staff, to prepare a draft Reliability Standard that addresses the directive. In the event the Standards Committee is unable to prepare such a draft, the Board may direct NERC management to prepare the draft.

The draft Reliability Standards must be posted for a 45-day comment period, and the Board may convene a public technical conference to gain additional input. The Board must consider the entire developmental record and has the authority to act on the draft Reliability Standard and direct that it be filed with applicable ERO governmental authorities. The Board must provide a written explanation for the decision it reaches. Because the Board would be acting on the Reliability Standard without the normal affirmative supermajority vote for

¹⁴ Order No. 672, PP 320 ff.

approval of the standard, the proposed rule identifies matters that the Board is to consider in deciding whether the draft Reliability Standard should be adopted. As noted above, these factors are a distillation of the general considerations the Commission approved in Order No. 672 for its consideration of proposed Reliability Standard. They also reflect the judgments that stakeholders exercise when they are making their decisions on whether to vote to approve a particular proposed Reliability Standard. Under paragraph 5, the Board would be making those judgments.

Paragraph 5.5 states that a Reliability Standard adopted under paragraph 5 would not be eligible for submission for approval as an American National Standard.¹⁵ Based on discussions with ANSI staff, NERC understands that a standard adopted under paragraph 5 would not qualify as an American National Standard because it does not meet the ANSI Essential Requirements. NERC fully expects to maintain ANSI-accreditation for its standards development process. NERC included the language in Paragraph 5.5 to protect that accreditation by making clear that a standard developed under paragraph 5 of Section 321 is outside of the ANSI process. It is NERC's understanding that some other standards development organizations with ANSI accreditation also develop standards outside of the ANSI process, and doing so does not affect their ANSI accreditation.

Paragraph 6 states that on or before March 31st each year, NERC is to file a report with all ERO governmental authorities regarding the status and timetable for addressing each outstanding directive to address a specific matter received from an applicable ERO governmental authority.

¹⁵ The procedure set out in paragraph 5 likely does not meet all the requirements of the ANSI Essential Requirements: Due Process Requirements for American National Standards. See <http://publicaa.ansi.org/sites/apdl/Documents/Standards%20Activities/American%20National%20Standards/Procedures,%20Guides,%20and%20Forms/2010%20ANSI%20Essential%20Requirements%20and%20Related/2010%20ANSI%20Essential%20Requirements.pdf>

IV. CONCLUSION

For the reasons stated above, NERC believes the actions it is taking or has taken in response to the directives in PP 3-5 of the March 18, 2010 Order will provide: (i) increased emphasis on addressing directives in the normal standards development process, (ii) the NERC Board with authority to respond to Commission directives in the event an appropriate response does not come out of the standards development process, and (iii) greater transparency as to the status and timetable for addressing such outstanding directives.

The North American Electric Reliability Corporation respectfully requests that the Commission (i) accept the actions described in this compliance filing, including the proposed amendments to NERC's Rules of Procedure as set out in **Attachments 1 and 2** of this filing, in compliance with the directives in the March 18, 2010 Order, and (ii) approve the proposed amendments to the NERC Rules of Procedure provided in **Attachments 1 and 2** to this filing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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

Dated at Washington, DC this 23th day of December, 2010.

/s/ Holly A. Hawkins
Holly A. Hawkins
*Attorney for North American Electric
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ATTACHMENT 1

**REVISED APPENDIX 4D
TO THE NERC RULES OF PROCEDURE**

CLEAN VERSION

SECTION 300 — RELIABILITY STANDARDS DEVELOPMENT

301. General

NERC shall develop and maintain reliability standards that apply to bulk power system owners, operators, and users and that enable NERC and regional entities to measure the reliability performance of bulk power system owners, operators, and users; and to hold them accountable for reliable operation of the bulk power systems. The reliability standards shall be technically excellent, timely, just, reasonable, not unduly discriminatory or preferential, in the public interest, and consistent with other applicable standards of governmental authorities.

302. Essential Attributes for Technically Excellent Reliability Standards

1. **Applicability** — Each reliability standard shall clearly identify the functional classes of entities responsible for complying with the reliability standard, with any specific additions or exceptions noted. Such functional classes¹ include: reliability coordinators, balancing authorities, transmission operators, transmission owners, generator operators, generator owners, interchange authorities, transmission service providers, market operators, planning authorities, transmission planners, resource planners, load-serving entities, purchasing-selling entities, and distribution providers. Each reliability standard shall also identify the geographic applicability of the standard, such as the entire North American bulk power system, an interconnection, or within a regional entity area. A standard may also identify any limitations on the applicability of the standard based on electric facility characteristics.
2. **Reliability Objectives** — Each reliability standard shall have a clear statement of purpose that shall describe how the standard contributes to the reliability of the bulk power system. The following general objectives for the bulk power system provide a foundation for determining the specific objective(s) of each reliability standard:
 - 2.1 **Reliability Planning and Operating Performance**— Bulk power systems shall be planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions.
 - 2.2 **Frequency and Voltage Performance**— The frequency and voltage of bulk power systems shall be controlled within defined limits through the balancing of real and reactive power supply and demand.
 - 2.3 **Reliability Information** — Information necessary for the planning and operation of reliable bulk power systems shall be made available to those entities responsible for planning and operating bulk power systems.

¹ These functional classes of entities are derived from NERC's Reliability Functional Model. When a standard identifies a class of entities to which it applies, that class must be defined in the Glossary of Terms Used in Reliability Standards.

- 2.4 **Emergency Preparation** — Plans for emergency operation and system restoration of bulk power systems shall be developed, coordinated, maintained, and implemented.
 - 2.5 **Communications and Control** — Facilities for communication, monitoring, and control shall be provided, used, and maintained for the reliability of bulk power systems.
 - 2.6 **Personnel** — Personnel responsible for planning and operating bulk power systems shall be trained and qualified, and shall have the responsibility and authority to implement actions.
 - 2.7 **Wide-area View** — The reliability of the bulk power systems shall be assessed, monitored, and maintained on a wide-area basis.
 - 2.8 **Security** — Bulk power systems shall be protected from malicious physical or cyber attacks.
3. **Performance Requirement or Outcome**— Each reliability standard shall state one or more performance requirements, which if achieved by the applicable entities, will provide for a reliable bulk power system, consistent with good utility practices and the public interest. Each requirement is not a “lowest common denominator” compromise, but instead achieves an objective that is the best approach for bulk power system reliability, taking account of the costs and benefits of implementing the proposal.
 4. **Measurability** — Each performance requirement shall be stated so as to be objectively measurable by a third party with knowledge or expertise in the area addressed by that requirement. Each performance requirement shall have one or more associated measures used to objectively evaluate compliance with the requirement. If performance can be practically measured quantitatively, metrics shall be provided to determine satisfactory performance.
 5. **Technical Basis in Engineering and Operations**— Each reliability standard shall be based upon sound engineering and operating judgment, analysis, or experience, as determined by expert practitioners in that particular field.
 6. **Completeness** — Reliability standards shall be complete and self-contained. The standards shall not depend on external information to determine the required level of performance.
 7. **Consequences for Noncompliance** — In combination with guidelines for penalties and sanctions, as well as other ERO and regional entity compliance documents, the consequences of violating a standard are clearly presented to the entities responsible for complying with the standards.

8. **Clear Language** — Each reliability standard shall be stated using clear and unambiguous language. Responsible entities, using reasonable judgment and in keeping with good utility practices, are able to arrive at a consistent interpretation of the required performance.
9. **Practicality** — Each reliability standard shall establish requirements that can be practically implemented by the assigned responsible entities within the specified effective date and thereafter.
10. **Consistent Terminology** — To the extent possible, reliability standards shall use a set of standard terms and definitions that are approved through the NERC reliability standards development process.

303. Relationship between Reliability Standards and Competition

To ensure reliability standards are developed with due consideration of impacts on competition, to ensure standards are not unduly discriminatory or preferential, and recognizing that reliability is an essential requirement of a robust North American economy, each reliability standard shall meet all of these market-related objectives:

1. **Competition** — A reliability standard shall not give any market participant an unfair competitive advantage.
2. **Market Structures** — A reliability standard shall neither mandate nor prohibit any specific market structure.
3. **Market Solutions** — A reliability standard shall not preclude market solutions to achieving compliance with that standard.
4. **Commercially Sensitive Information** — A reliability standard shall not require the public disclosure of commercially sensitive information or other confidential information. All market participants shall have equal opportunity to access commercially non-sensitive information that is required for compliance with reliability standards.
5. **Adequacy** — NERC shall not set standards defining an adequate amount of, or requiring expansion of, bulk power system resources or delivery capability.

304. Essential Principles for the Development of Reliability Standards

NERC shall develop reliability standards in accordance with the NERC *Standard Processes Manual*, which is incorporated into these rules as **Appendix 3A**. Appeals in connection with the development of a reliability standard shall also be conducted in accordance with the NERC *Standard Processes Manual*. Any amendments or revisions

to the *Standard Processes Manual* shall be consistent with the following essential principles:

1. **Openness** — Participation shall be open to all persons who are directly and materially affected by the reliability of the North American bulk power system. There shall be no undue financial barriers to participation. Participation shall not be conditional upon membership in NERC or any other organization, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements.
2. **Transparency** — The process shall be transparent to the public.
3. **Consensus-building** — The process shall build and document consensus for each standard, both with regard to the need and justification for the standard and the content of the standard.
4. **Fair Balance of Interests** — The process shall fairly balance interests of all stakeholders and shall not be dominated by any single interest category.
5. **Due Process** — Development of standards shall provide reasonable notice and opportunity for any person with a direct and material interest to express views on a proposed standard and the basis for those views, and to have that position considered in the development of the standards.
6. **Timeliness** — Development of standards shall be timely and responsive to new and changing priorities for reliability of the bulk power system.

305. Registered Ballot Body

NERC reliability standards shall be approved by a registered ballot body prior to submittal to the board and then to ERO governmental authorities for their approval, where authorized by applicable legislation or agreement. This Section 305 sets forth the rules pertaining to the composition of, and eligibility to participate in, the registered ballot body.

1. **Eligibility to Vote on Standards** — Any person or entity may join the registered ballot body to vote on standards, whether or not such person or entity is a member of NERC.
2. **Inclusive Participation** — The segment qualification guidelines are inclusive; i.e., any entity with a legitimate interest in the reliability of the bulk power system that can meet any one of the eligibility criteria for a segment is entitled to belong to and vote in each segment for which it qualifies, subject to limitations defined in Sections 305.3 and 305.5.

3. **General Criteria for Registered Ballot Body Membership** — The general criteria for membership in the segments are:
 - 3.1 **Multiple Segments** — A corporation or other organization with integrated operations or with affiliates that qualifies to belong to more than one segment (e.g., transmission owners and load serving entities) may join once in each segment for which it qualifies, provided that each segment constitutes a separate membership and the organization is represented in each segment by a different representative. Affiliated entities are collectively limited to one membership in each segment for which they are qualified.
 - 3.2 **Withdrawing from a Segment or Changing Segments** — After its initial registration in a segment, each registered participant may elect to withdraw from a segment or apply to change segments at any time.
 - 3.3 **Review of Segment Criteria** — The board shall review the qualification guidelines and rules for joining segments at least every three years to ensure that the process continues to be fair, open, balanced, and inclusive. Public input will be solicited in the review of these guidelines.
4. **Proxies for Voting on Standards** — Any registered participant may designate an agent or proxy to vote on its behalf. There are no limits on how many proxies an agent may hold. However, for the proxy to be valid, NERC must have in its possession written documentation signed by the representative of the registered participant that the voting right by proxy has been transferred from the registered participant to the agent.
5. **Stakeholder Segments** — The specific criteria for membership in each registered ballot body segment are defined in the *Standard Processes Manual* in **Appendix 3A**.
6. **Review of Stakeholder Segment Entries**

NERC shall review all applications for joining the registered ballot body, and shall make a determination of whether the applicant's self-selection of a segment satisfies at least one of the guidelines to belong to that segment. The entity shall then become eligible to participate as a voting member of that segment. The Standards Committee shall resolve disputes regarding eligibility for membership in a segment, with the applicant having the right of appeal to the board.

306. Standards Committee

The Standards Committee shall provide oversight of the reliability standards development process to ensure stakeholder interests are fairly represented. The Standards Committee shall not under any circumstance change the substance of a draft or approved standard.

1. **Membership** — The Standards Committee is a representative committee comprising representatives of two members of each of the segments in the registered ballot body.
2. **Elections** — Standards Committee members are elected for staggered (one per segment per year) two-year terms by the respective stakeholder segments in accordance with the *Procedure for the Election of Members of the NERC Standards Committee*, which is incorporated into these rules as **Appendix 2**. Segments may use their own election procedure if such a procedure is ratified by two-thirds of the members of a segment and approved by the board.
3. **Canadian Representation**
 - 3.1 **Provision for Sufficient Canadian Representation** — If any regular election of Standards Committee members does not result in at least two Canadian members on the Standards Committee, the Canadian nominees who were not elected but who received the next highest percentage of votes within their respective segment(s) will be designated as additional members of the Standards Committee, as needed to achieve a total of two Canadian members.
 - 3.2 **Terms of Specially Designated Canadian Members** — Each specially designated Canadian member of the Standards Committee shall have a term ending with the next annual election.
 - 3.3 **Segment Preference** — If any segment has an unfilled representative position on the Standards Committee following the annual election, the first preference is to assign each specially designated Canadian representative to a segment with an unfilled representative position for which his or her organization qualifies.
 - 3.4 **Rights of Specially Designated Canadian Members** — Any specially designated Canadian members of the Standards Committee shall have the same rights and obligations as all other members of the Standards Committee.
4. **Open Meetings** — All meetings of the Standards Committee shall be open and publicly noticed on the NERC Web site.

307. Standards Process Manager

NERC shall assign a standards process manager to administer the development of reliability standards. The standards process manager shall be responsible for ensuring that the development and revision of standards are in accordance with the NERC *Standard Processes Manual*. The standards process manager shall work to achieve the highest degree of integrity and consistency of quality and completeness of the reliability standards. The standards process manager shall coordinate with any regional entities that develop regional reliability standards to ensure those standards are effectively integrated with the NERC reliability standards.

308. Steps in the Development of Reliability Standards

1. **Procedure** — NERC shall develop reliability standards through the process set forth in the *NERC Standard Processes Manual (Appendix 3A)*. The procedure includes a provision for approval of urgent action standards that can be completed within 60 days and emergency actions that may be further expedited.
2. **Board Approval** — Reliability standards or revisions to reliability standards approved by the ballot pool in accordance with the *Standard Processes Manual* shall be submitted for approval by the board. No reliability standard or revision to a reliability standard shall be effective unless approved by the board.
3. **Governmental Approval** — After receiving board approval, a reliability standard or revision to a reliability standard shall be submitted to all applicable ERO governmental authorities in accordance with Section 309. No reliability standard or revision to a reliability standard shall be effective within a geographic area over which an ERO governmental authority has jurisdiction unless approved by such ERO governmental authority or is otherwise made effective pursuant to the laws applicable to such ERO governmental authority.

309. Filing of Reliability Standards for Approval by ERO Governmental Authorities

1. **Filing of Reliability Standards for Approval** — Where authorized by applicable legislation or agreement, NERC shall file with the applicable ERO governmental authorities each reliability standard, modification to a reliability standard, or withdrawal of a standard that is approved by the board. Each filing shall be in the format required by the ERO governmental authority and shall include: a concise statement of the basis and purpose of the standard; the text of the standard; the implementation plan for the reliability standard; a demonstration that the standard meets the essential attributes of reliability standards as stated in Section 302; the drafting team roster; the ballot pool and final ballot results; and a discussion of public comments received during the development of the reliability standard and the consideration of those comments.
2. **Remanded Reliability Standards and Directives to Develop Standards** — If an ERO governmental authority remands a reliability standard to NERC or directs NERC to develop a reliability standard, NERC shall within five (5) business days notify all other applicable ERO governmental authorities, and shall within thirty (30) calendar days report to all ERO governmental authorities a plan and timetable for modification or development of the reliability standard. Standards that are remanded or directed by an ERO governmental authority shall be modified or developed using the *Standard Processes Manual*. NERC shall, during the development of a modification for the remanded standard or directed standard, consult with other ERO governmental authorities to coordinate any impacts of the proposed standards in those other jurisdictions. The expedited action procedure

may be applied if necessary to meet a timetable for action required by the ERO governmental authorities, respecting to the extent possible the provisions in the standards development process for reasonable notice and opportunity for public comment, due process, openness, and a balance of interest in developing reliability standards. If the Board of Trustees determines that the standards process did not result in a standard that addresses a specific matter that is identified in a directive issued by an applicable ERO governmental authority, then Rule 321 of these Rules of Procedure shall apply.

3. **Directives to Develop Standards under Extraordinary Circumstances** — An ERO governmental authority may, on its own initiative, determine that extraordinary circumstances exist requiring expedited development of a reliability standard. In such a case, the applicable agency may direct the development of a standard within a certain deadline. NERC staff shall prepare the standards authorization request and seek a stakeholder sponsor for the request. If NERC is unable to find a sponsor for the proposed standard, NERC will be designated as the requestor. The proposed standard will then proceed through the standards development process, using the expedited action procedures described in the *Standard Processes Manual* as necessary to meet the specified deadline. The timeline will be developed to respect, to the extent possible, the provisions in the standards development process for reasonable notice and opportunity for public comment, due process, openness, and a balance of interests in developing reliability standards. If the Board of Trustees determines that the standards process did not result in a standard that addresses a specific matter that is identified in a directive issued by an applicable ERO governmental authority, then Rule 321 of these Rules of Procedure shall apply, with appropriate modification of the timeline.

3.1 Consistent with all reliability standards developed under the expedited action process, each of the three possible follow-up actions as documented in the *Standard Processes Manual* are to be completed through the standards development process and are subject to approval by the ERO governmental authorities in the U.S. and Canada.

310. Reliability Standards Annual Work Plan

NERC shall develop and provide an annual work plan for development of reliability standards to the applicable ERO governmental authorities. NERC shall consider the comments and priorities of the ERO governmental authorities in developing and updating the work plan. Each annual work plan shall include a progress report comparing results achieved to the prior year's plan.

311. Regional Entity Standards Development Procedures

1. **NERC Approval of Regional Entity Reliability Standards Development Procedure** — To enable a regional entity to develop regional reliability standards that are to be recognized and made part of NERC reliability standards, a regional entity may request NERC to approve a regional entity reliability standards development procedure.
2. **Public Notice and Comment on Regional Reliability Standards Development Procedure** — Upon receipt of such a request, NERC shall publicly notice and request comment on the proposed regional standards development procedure, allowing a minimum of 45 days for comment. The regional entity shall have an opportunity to resolve any objections identified in the comments and may choose to withdraw the request, revise the procedure and request another posting for comment, or submit the procedure, along with its consideration of any objections received, for approval by NERC.
3. **Evaluation of Regional Reliability Standards Development Procedure** — NERC shall evaluate whether a regional reliability standards development procedure meets the criteria listed below and shall consider stakeholder comments, any unresolved stakeholder objections, and the consideration of comments provided by the regional entity, in making that determination. If NERC determines the regional reliability standards development procedure meets these requirements, the procedure shall be submitted to the board for approval. The board shall consider the recommended action, stakeholder comments, any unresolved stakeholder comments, and the regional entity consideration of comments in determining whether to approve the regional reliability standards development procedure.
 - 3.1 **Evaluation Criteria** — The regional reliability standards development procedure shall be:
 - 3.1.1 **Open** — The regional reliability standards development procedure shall provide that any person or entity who is directly and materially affected by the reliability of the bulk power systems within the regional entity shall be able to participate in the development and approval of reliability standards. There shall be no undue financial barriers to participation. Participation shall not be conditional upon membership in the regional entity, a regional entity or any organization, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements.
 - 3.1.2 **Inclusive** — The regional reliability standards development procedure shall provide that any person with a direct and material interest has a right to participate by expressing an opinion and its basis, having that position considered, and appealing through an established appeals process if adversely affected.

- 3.1.3 **Balanced** — The regional reliability standards development procedure shall have a balance of interests and shall not permit any two interest categories to control the vote on a matter or any single interest category to defeat a matter.
 - 3.1.4 **Due Process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.
 - 3.1.5 **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.
 - 3.1.6 **Accreditation of Regional Standards Development Procedure** — A regional entity's reliability standards development procedure that is accredited by the American National Standards Institute or the Standards Council of Canada shall be deemed to meet the criteria listed in this Section 311.3.1, although such accreditation is not a prerequisite for approval by NERC.
 - 3.1.7 **Use of NERC Procedure** — A regional entity may adopt the NERC *Standard Processes Manual* as the regional reliability standards development procedure, in which case the regional entity's procedure shall be deemed to meet the criteria listed in this Section 311.3.1.
- 4. **Revisions of Regional Reliability Standards Development Procedures** — Any revision to a regional reliability standards development procedure shall be subject to the same approval requirements set forth in Sections 311.1 through 311.3.
 - 5. **Duration of Regional Reliability Standards Development Procedures** — The regional reliability standards development procedure shall remain in effect until such time as it is replaced with a new version approved by NERC or it is withdrawn by the regional entity. The regional entity may, at its discretion, withdraw its regional reliability standards development procedure at any time.

312. Regional Reliability Standards

- 1. **Basis for Regional Reliability Standards** — Regional entities may propose regional reliability standards that set more stringent reliability requirements than the NERC reliability standard or cover matters not covered by an existing NERC

reliability standard. Such regional reliability standards shall in all cases be approved by NERC and made part of the NERC reliability standards and shall be enforceable in accordance with the delegation agreement between NERC and the regional entity or other instrument granting authority over enforcement to the regional entity. No entities other than NERC and the regional entity shall be permitted to develop regional reliability standards that are enforceable under statutory authority delegated to NERC and the regional entity.

2. **Regional Reliability Standards That are Directed by a NERC Reliability Standard** — Although it is the intent of NERC to promote uniform reliability standards across North America, in some cases it may not be feasible to achieve a reliability objective with a reliability standard that is uniformly applicable across North America. In such cases, NERC may direct regional entities to develop regional reliability standards necessary to implement a NERC reliability standard. Such regional reliability standards that are developed pursuant to a direction by NERC shall be made part of the NERC reliability standards.
3. **Procedure for Developing an Interconnection-wide Regional Standard** — A regional entity organized on an interconnection-wide basis may propose a regional reliability standard for approval as a NERC reliability standard to be made mandatory for all applicable bulk power system owners, operators, and users within that interconnection.
 - 3.1 **Presumption of Validity** — An interconnection-wide regional reliability standard that is determined by NERC to be just, reasonable, and not unduly discriminatory or preferential, and in the public interest, and consistent with such other applicable standards of governmental authorities, shall be adopted as a NERC reliability standard. NERC shall rebuttably presume that a regional reliability standard developed, in accordance with a regional reliability standards development process approved by NERC, by a regional entity organized on an interconnection-wide basis, is just, reasonable, and not unduly discriminatory or preferential, and in the public interest, and consistent with such other applicable standards of governmental authorities.
 - 3.2 **Notice and Comment Procedure for Interconnection-wide Regional Reliability Standard** — NERC shall publicly notice and request comment on the proposed interconnection-wide regional reliability standard, allowing a minimum of 45 days for comment. NERC may publicly notice and post for comment the proposed regional reliability standard concurrent with similar steps in the regional entity's reliability standards development process. The regional entity shall have an opportunity to resolve any objections identified in the comments and may choose to comment on or withdraw the request, revise the proposed regional reliability standard and request another posting for comment, or

submit the proposed regional reliability standard along with its consideration of any objections received, for approval by NERC.

3.3 **Approval of Interconnection-wide Regional Reliability Standard by NERC** — NERC shall evaluate and recommend whether a proposed interconnection-wide regional reliability standard has been developed in accordance with all applicable procedural requirements and whether the regional entity has considered and resolved stakeholder objections that could serve as a basis for rebutting the presumption of validity of the regional reliability standard. The regional entity, having been notified of the results of the evaluation and recommendation concerning NERC proposed regional reliability standard, shall have the option of presenting the proposed regional reliability standard to the board for approval as a NERC reliability standard. The board shall consider the regional entity's request, NERC's recommendation for action on the regional reliability standard, any unresolved stakeholder comments, and the regional entity's consideration of comments, in determining whether to approve the regional reliability standard as a NERC reliability standard.

3.4 **ERO Governmental Authority Approval** — An interconnection-wide regional reliability standard that has been approved by the board shall be filed with the applicable ERO governmental authorities for approval, where authorized by applicable legislation or agreement, and shall become effective when approved by such ERO governmental authorities or on a date set by the ERO governmental authorities.

3.5 **Enforcement of Interconnection-wide Regional Reliability Standard** — An interconnection-wide regional reliability standard that has been approved by the board and by the applicable ERO governmental authorities or is otherwise made effective within Canada as mandatory within a particular region shall be applicable and enforced as a NERC reliability standard within the region.

4. **Procedure for Developing Non-Interconnection-Wide Regional Reliability Standards**

Regional entities that are not organized on an interconnection-wide basis may propose regional reliability standards to apply within their respective regions. Such standards may be developed through the NERC reliability standards development procedure, or alternatively, through a regional reliability standards development procedure that has been approved by NERC.

4.1 **No Presumption of Validity** — Regional reliability standards that are not proposed to be applied on an interconnection-wide basis are not presumed to be valid but may be demonstrated by the proponent to be valid.

- 4.2 **Notice and Comment Procedure for Non-Interconnection-wide Regional Reliability Standards** — NERC shall publicly notice and request comment on the proposed regional reliability standard, allowing a minimum of 45 days for comment. NERC may publicly notice and post for comment the proposed regional reliability standard concurrent with similar steps in the regional entity’s reliability standards development process. The regional entity shall have an opportunity to comment on or resolve any objections identified in the comments and may choose to withdraw the request, revise the proposed regional reliability standard and request another posting for comment, or submit the proposed regional reliability standard along with its consideration of any objections received, for approval by NERC.
- 4.3 **NERC Approval of Non-Interconnection-wide Regional Reliability Standards** — NERC shall evaluate and recommend whether a proposed non-Interconnection-wide regional reliability standard has been developed in accordance with all applicable procedural requirements and whether the regional entity has considered and resolved stakeholder objections. The regional entity, having been notified of the results of the evaluation and recommendation concerning proposed regional reliability standard, shall have the option of presenting the proposed regional reliability standard to the board for approval as a NERC reliability standard. The board shall consider the regional entity’s request, the recommendation for action on the regional reliability standard, any unresolved stakeholder comments, and the regional entity’s consideration of comments, in determining whether to approve the regional reliability standard as a NERC reliability standard.
- 4.4 **NERC Governmental Authority Approval** — A non-Interconnection-wide regional reliability standard that has been approved by the board shall be filed with the applicable ERO governmental authorities for approval, where authorized by applicable legislation or agreement, and shall become effective when approved by such ERO governmental authorities or on a date set by the ERO governmental authorities.
- 4.5 **Enforcement of Non-Interconnection-wide Regional Reliability Standards** — A non-Interconnection-wide regional reliability standard that has been approved by the board and by the applicable ERO governmental authorities or is otherwise made effective within Canada as mandatory within a particular region shall be applicable and enforced as a NERC reliability standard within the region.

5. Appeals

A Regional Entity shall have the right to appeal NERC's decision not to approve a proposed regional reliability standard or variance to the Commission or other applicable governmental authority.

313. Other Regional Criteria, Guides, Procedures, Agreements, Etc.

1. **Regional Criteria** — Regional entities may develop regional criteria that are necessary to implement, to augment, or to comply with reliability standards, but which are not reliability standards. Regional criteria may also address issues not within the scope of reliability standards, such as resource adequacy. Regional criteria may include specific acceptable operating or planning parameters, guides, agreements, protocols or other documents used to enhance the reliability of the regional bulk power system. These documents typically provide benefits by promoting more consistent implementation of the NERC reliability standards within the region. These documents are not NERC reliability standards, regional reliability standards, or regional variances, and therefore are not enforceable under authority delegated by NERC pursuant to delegation agreements and do not require NERC approval.
2. **Catalog of Regional Reliability Criteria** — NERC shall maintain a current catalog of regional reliability criteria. Regional entities shall provide a catalog listing of regional reliability criteria to NERC and shall notify NERC of changes to the listing. Regional entities shall provide any listed document to NERC upon written request.

314. Conflicts with Statutes, Regulations, and Orders

Notice of Potential Conflict — If a bulk power system owner, operator, or user determines that a NERC or regional reliability standard may conflict with a function, rule, order, tariff, rate schedule, legislative requirement or agreement that has been accepted, approved, or ordered by a governmental authority affecting that entity, the entity shall expeditiously notify the governmental authority, NERC, and the relevant regional entity of the conflict.

1. **Determination of Conflict** — NERC, upon request of the governmental authority, may advise the governmental authority regarding the conflict and propose a resolution of the conflict, including revision of the reliability standard if appropriate.
2. **Regulatory Precedence** — Unless otherwise ordered by a governmental authority, the affected bulk power system owner, operator, or user shall continue to follow the function, rule, order, tariff, rate schedule, legislative requirement, or agreement accepted, approved, or ordered by the governmental authority until the governmental authority finds that a conflict exists and orders a remedy and such remedy is affected.

315. Revisions to NERC Reliability Standards Development Procedure

Any person or entity may submit a written request to modify NERC *Standard Processes Manual*. Consideration of the request and development of the revision shall follow the process defined in the NERC *Standard Processes Manual*. Upon approval by the board, the revision shall be submitted to the ERO governmental authorities for approval. Changes shall become effective only upon approval by the ERO governmental authorities or on a date designated by the ERO governmental authorities or as otherwise applicable in a particular jurisdiction.

316. Accreditation

NERC shall seek continuing accreditation of the NERC reliability standards development process by the American National Standards Institute and the Standards Council of Canada.

317. Five-Year Review of Standards

NERC shall complete a review of each NERC reliability standard at least once every five years from the effective date of the standard or the latest revision to the standard, whichever is later. The review process shall be conducted in accordance with the NERC *Standard Processes Manual*. The standards process manager shall be responsible for administration of the five-year review of reliability standards. As a result of this review, the NERC reliability standard shall be reaffirmed, revised, or withdrawn. If the review indicates a need to revise or withdraw the standard, a request for revision or withdrawal shall be prepared, submitted and addressed in accordance with the NERC *Standard Processes Manual*.

318. Coordination with the North American Energy Standards Board

NERC shall, through a memorandum of understanding, maintain a close working relationship with the North American Energy Standards Board and ISO/RTO Council to ensure effective coordination of wholesale electric business practice standards and market protocols with the NERC reliability standards.

319. Archived Standards Information

NERC shall maintain a historical record of reliability standards information that is no longer maintained on-line. For example, standards that expired or were replaced may be removed from the on-line system. Archived information shall be retained indefinitely as practical, but in no case less than five years or one complete standards review cycle from the date on which the standard was no longer in effect. Archived records of reliability standards information shall be available electronically within 30 days following the receipt by the standards process manager of a written request.

320. Alternate Method for Adopting Violation Risk Factors

In the event the standards development process fails to produce violation risk factors for a particular standard in a timely manner, the Board of Trustees may adopt violation risk factors for that standard using the procedures set out in Section 1400 of these Rules of Procedure.

321. Special Rule to Address Certain Regulatory Directives

In circumstances where this Rule 321 applies, the Board of Trustees shall have the authority to take one or more of the actions set out below. The Board of Trustees shall have the authority to choose which one or more of the actions are appropriate to the circumstances and need not take these actions in sequential steps.

1. The Standards Committee shall have the responsibility to ensure that standards drafting teams address specific matters that are identified in directives issued by applicable ERO governmental authorities. If the Board of Trustees is presented with a proposed standard that fails to address such directives, the Board of Trustees has the authority to remand, with instructions (including establishing a timetable for action), the proposed reliability standard to the Standards Committee.
2. Upon a written finding by the Board of Trustees that a ballot pool has failed to approve a proposed reliability standard that contains a provision to address a specific matter identified in a directive issued by an ERO governmental authority, the Board of Trustees has the authority to remand the proposed reliability standard to the Standards Committee, with instructions to (i) convene a public technical conference to discuss the issues surrounding the regulatory directive, including whether or not the proposed standard is just, reasonable, not unduly discriminatory or preferential, in the public interest, helpful to reliability, practical, technically sound, technically feasible, and cost-justified; (ii) working with NERC staff, prepare a memorandum discussing the issues, an analysis of the alternatives considered and other appropriate matters; and (iii) re-ballot the proposed reliability standard one additional time, with such adjustments in the schedule as are necessary to meet the deadline contained in paragraph 2.1 of this Rule.
 - 2.1 Such a re-ballot shall be completed within forty-five (45) days of the remand. The Standards Committee memorandum shall be included in the materials made available to the ballot pool in connection with the re-ballot.
 - 2.2 In any such re-ballot, negative votes without comments related to the proposal shall be counted for purposes of establishing a quorum, but only affirmative votes and negative votes with comments related to the

proposal shall be counted for purposes of determining the number of votes cast and whether the proposed standard has been approved.

3. If the re-balloted proposed reliability standard achieves at least an affirmative two-thirds majority vote of the weighted segment votes cast, with a quorum established, then the proposed reliability standard shall be deemed approved by the ballot pool and shall be considered by the Board of Trustees for approval.
4. If the re-balloted proposed reliability standard fails to achieve at least an affirmative two-thirds majority vote of the weighted segment votes cast, but does achieve at least a sixty percent affirmative majority of the weighted segment votes cast, with a quorum established, then the Board of Trustees has the authority to consider the proposed reliability standard for approval under the following procedures:
 - 4.1 The Board of Trustees shall issue notice of its intent to consider the proposed reliability standard and shall solicit written public comment particularly focused on the technical aspects of the provisions of the proposed reliability standard that address the specific matter identified in the regulatory directive, including whether or not the proposed standard is just, reasonable, not unduly discriminatory or preferential, in the public interest, helpful to reliability, practical, technically sound, technically feasible, and cost-justified.
 - 4.2 The Board of Trustees may, in its discretion, convene a public technical conference to receive additional input on the matter.
 - 4.3 After considering the developmental record, the comments received during balloting and the additional input received under paragraphs 4.1 and 4.2 of this Rule, the Board of Trustees has authority to act on the proposed reliability standard.
 - 4.3.1 If the Board of Trustees finds that the proposed reliability standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is helpful to reliability, practical, technically sound, technically feasible, and cost-justified, then it has authority to approve the proposed reliability standard and direct that it be filed with applicable ERO governmental authorities with a request that it be made effective.
 - 4.3.2 If the Board of Trustees is unable to find that the proposed reliability standard is just, reasonable, not unduly discriminatory or

preferential, and in the public interest, considering (among other things) whether it is helpful to reliability, practical, technically sound, technically feasible, and cost-justified, then it has authority to treat the proposed reliability standard as a draft reliability standard and direct that the draft reliability standard and complete developmental record, including the additional input received under paragraphs 4.1 and 4.2 of this Rule, be filed with the applicable ERO governmental authorities as a compliance filing in response to the order giving rise to the regulatory directive, along with a recommendation that the standard not be made effective and an explanation of the basis for the recommendation.

5. Upon a written finding by the Board of Trustees that standard drafting team has failed to develop, or a ballot pool has failed to approve, a proposed reliability standard that contains a provision to address a specific matter identified in a directive issued by an ERO governmental authority, the Board of Trustees has the authority to direct the Standards Committee (with the assistance of stakeholders and NERC staff) to prepare a draft reliability standard that addresses the regulatory directive, taking account of the entire developmental record pertaining to the matter. If the Standards Committee fails to prepare such draft reliability standard, the Board of Trustees may direct NERC management to prepare such draft reliability standard.
 - 5.1 The Board of Trustees may, in its discretion, convene a public technical conference to receive input on the matter. The draft reliability standard shall be posted for a 45-day public comment period.
 - 5.2 If, after considering the entire developmental record (including the comments received under paragraph 5.1 of this Rule), the Board of Trustees finds that the draft reliability standard, with such modifications as the Board of Trustees determines are appropriate in light of the comments received, is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is practical, technically sound, technically feasible, cost-justified and serves the best interests of reliability of the bulk power system, then the Board of Trustees has the authority to approve the draft standard and direct that the proposed standard be filed with ERO governmental authorities with a request that the proposed standard be made effective.

- 5.3 If, after considering the entire developmental record (including the comments received under paragraph 5.1 of this Rule), the Board of Trustees is unable to find that the draft reliability standard, even with modifications, is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is practical, technically sound, technically feasible, cost-justified and serves the best interests of reliability of the bulk power system, then the Board of Trustees has the authority to direct that the draft standard and complete developmental record be filed as a compliance filing in response to the regulatory directive with the ERO governmental authority issuing the regulatory directive, with a recommendation that the draft standard not be made effective.
- 5.4 The filing of the reliability standard under either paragraph 5.2 or paragraph 5.3 of this Rule shall include an explanation of the basis for the decision by the Board of Trustees.
- 5.5 A reliability standard approved under paragraph 5 of this Rule shall not be eligible for submission as an American National Standard.
6. NERC shall on or before March 31st of each year file a report with applicable ERO governmental authorities on the status and timetable for addressing each outstanding directive to address a specific matter received from an applicable ERO governmental authority.

ATTACHMENT 2

**REVISED APPENDIX 4D
TO THE NERC RULES OF PROCEDURE**

REDLINED VERSION

SECTION 300 — RELIABILITY STANDARDS DEVELOPMENT

301. General

NERC shall develop and maintain reliability standards that apply to bulk power system owners, operators, and users and that enable NERC and regional entities to measure the reliability performance of bulk power system owners, operators, and users; and to hold them accountable for reliable operation of the bulk power systems. The reliability standards shall be technically excellent, timely, just, reasonable, not unduly discriminatory or preferential, in the public interest, and consistent with other applicable standards of governmental authorities.

302. Essential Attributes for Technically Excellent Reliability Standards

1. **Applicability** — Each reliability standard shall clearly identify the functional classes of entities responsible for complying with the reliability standard, with any specific additions or exceptions noted. Such functional classes¹ include: reliability coordinators, balancing authorities, transmission operators, transmission owners, generator operators, generator owners, interchange authorities, transmission service providers, market operators, planning authorities, transmission planners, resource planners, load-serving entities, purchasing-selling entities, and distribution providers. Each reliability standard shall also identify the geographic applicability of the standard, such as the entire North American bulk power system, an interconnection, or within a regional entity area. A standard may also identify any limitations on the applicability of the standard based on electric facility characteristics.
2. **Reliability Objectives** — Each reliability standard shall have a clear statement of purpose that shall describe how the standard contributes to the reliability of the bulk power system. The following general objectives for the bulk power system provide a foundation for determining the specific objective(s) of each reliability standard:
 - 2.1 **Reliability Planning and Operating Performance**— Bulk power systems shall be planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions.
 - 2.2 **Frequency and Voltage Performance**— The frequency and voltage of bulk power systems shall be controlled within defined limits through the balancing of real and reactive power supply and demand.
 - 2.3 **Reliability Information** — Information necessary for the planning and operation of reliable bulk power systems shall be made available to those entities responsible for planning and operating bulk power systems.

¹ These functional classes of entities are derived from NERC's Reliability Functional Model. When a standard identifies a class of entities to which it applies, that class must be defined in the Glossary of Terms Used in Reliability Standards.

- 2.4 **Emergency Preparation** — Plans for emergency operation and system restoration of bulk power systems shall be developed, coordinated, maintained, and implemented.
- 2.5 **Communications and Control** — Facilities for communication, monitoring, and control shall be provided, used, and maintained for the reliability of bulk power systems.
- 2.6 **Personnel** — Personnel responsible for planning and operating bulk power systems shall be trained and qualified, and shall have the responsibility and authority to implement actions.
- 2.7 **Wide-area View** — The reliability of the bulk power systems shall be assessed, monitored, and maintained on a wide-area basis.
- 2.8 **Security** — Bulk power systems shall be protected from malicious physical or cyber attacks.
3. **Performance Requirement or Outcome**— Each reliability standard shall state one or more performance requirements, which if achieved by the applicable entities, will provide for a reliable bulk power system, consistent with good utility practices and the public interest. Each requirement is not a “lowest common denominator” compromise, but instead achieves an objective that is the best approach for bulk power system reliability, taking account of the costs and benefits of implementing the proposal.
4. **Measurability** — Each performance requirement shall be stated so as to be objectively measurable by a third party with knowledge or expertise in the area addressed by that requirement. Each performance requirement shall have one or more associated measures used to objectively evaluate compliance with the requirement. If performance can be practically measured quantitatively, metrics shall be provided to determine satisfactory performance.
5. **Technical Basis in Engineering and Operations**— Each reliability standard shall be based upon sound engineering and operating judgment, analysis, or experience, as determined by expert practitioners in that particular field.
6. **Completeness** — Reliability standards shall be complete and self-contained. The standards shall not depend on external information to determine the required level of performance.
7. **Consequences for Noncompliance** — In combination with guidelines for penalties and sanctions, as well as other ERO and regional entity compliance documents, the consequences of violating a standard are clearly presented to the entities responsible for complying with the standards.

8. **Clear Language** — Each reliability standard shall be stated using clear and unambiguous language. Responsible entities, using reasonable judgment and in keeping with good utility practices, are able to arrive at a consistent interpretation of the required performance.
9. **Practicality** — Each reliability standard shall establish requirements that can be practically implemented by the assigned responsible entities within the specified effective date and thereafter.
10. **Consistent Terminology** — To the extent possible, reliability standards shall use a set of standard terms and definitions that are approved through the NERC reliability standards development process.

303. Relationship between Reliability Standards and Competition

To ensure reliability standards are developed with due consideration of impacts on competition, to ensure standards are not unduly discriminatory or preferential, and recognizing that reliability is an essential requirement of a robust North American economy, each reliability standard shall meet all of these market-related objectives:

1. **Competition** — A reliability standard shall not give any market participant an unfair competitive advantage.
2. **Market Structures** — A reliability standard shall neither mandate nor prohibit any specific market structure.
3. **Market Solutions** — A reliability standard shall not preclude market solutions to achieving compliance with that standard.
4. **Commercially Sensitive Information** — A reliability standard shall not require the public disclosure of commercially sensitive information or other confidential information. All market participants shall have equal opportunity to access commercially non-sensitive information that is required for compliance with reliability standards.
5. **Adequacy** — NERC shall not set standards defining an adequate amount of, or requiring expansion of, bulk power system resources or delivery capability.

304. Essential Principles for the Development of Reliability Standards

NERC shall develop reliability standards in accordance with the NERC *Reliability Standards Processes Manual Development Procedure*, which is incorporated into these rules as **Appendix 3A**. Appeals in connection with the development of a reliability standard shall also be conducted in accordance with the NERC *Reliability Standards*

~~*Processes Manual*~~ ~~*Development Procedure*~~. Any amendments or revisions to the ~~*Reliability Standards*~~ ~~*Processes Development Procedure*~~ ~~*Manual*~~ shall be consistent with the following essential principles:

1. **Openness** — Participation shall be open to all persons who are directly and materially affected by the reliability of the North American bulk power system. There shall be no undue financial barriers to participation. Participation shall not be conditional upon membership in NERC or any other organization, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements.
2. **Transparency** — The process shall be transparent to the public.
3. **Consensus-building** — The process shall build and document consensus for each standard, both with regard to the need and justification for the standard and the content of the standard.
4. **Fair Balance of Interests** — The process shall fairly balance interests of all stakeholders and shall not be dominated by any single interest category.
5. **Due Process** — Development of standards shall provide reasonable notice and opportunity for any person with a direct and material interest to express views on a proposed standard and the basis for those views, and to have that position considered in the development of the standards.
6. **Timeliness** — Development of standards shall be timely and responsive to new and changing priorities for reliability of the bulk power system.

305. Registered Ballot Body

NERC reliability standards shall be approved by a registered ballot body prior to submittal to the board and then to ERO governmental authorities for their approval, where authorized by applicable legislation or agreement. This Section 305 sets forth the rules pertaining to the composition of, and eligibility to participate in, the registered ballot body.

1. **Eligibility to Vote on Standards** — Any person or entity may join the registered ballot body to vote on standards, whether or not such person or entity is a member of NERC.
2. **Inclusive Participation** — The segment qualification guidelines are inclusive; i.e., any entity with a legitimate interest in the reliability of the bulk power system that can meet any one of the eligibility criteria for a segment is entitled to belong to and vote in each segment for which it qualifies, subject to limitations defined in Sections 305.3 and 305.5.

3. **General Criteria for Registered Ballot Body Membership** — The general criteria for membership in the segments are:
 - 3.1 **Multiple Segments** — A corporation or other organization with integrated operations or with affiliates that qualifies to belong to more than one segment (e.g., transmission owners and load serving entities) may join once in each segment for which it qualifies, provided that each segment constitutes a separate membership and the organization is represented in each segment by a different representative. Affiliated entities are collectively limited to one membership in each segment for which they are qualified.
 - 3.2 **Withdrawing from a Segment or Changing Segments** — After its initial registration in a segment, each registered participant may elect to withdraw from a segment or apply to change segments at any time.
 - 3.3 **Review of Segment Criteria** — The board shall review the qualification guidelines and rules for joining segments at least every three years to ensure that the process continues to be fair, open, balanced, and inclusive. Public input will be solicited in the review of these guidelines.
4. **Proxies for Voting on Standards** — Any registered participant may designate an agent or proxy to vote on its behalf. There are no limits on how many proxies an agent may hold. However, for the proxy to be valid, NERC must have in its possession written documentation signed by the representative of the registered participant that the voting right by proxy has been transferred from the registered participant to the agent.
5. **Stakeholder Segments** — The specific criteria for membership in each registered ballot body segment are defined in the *Reliability Standards Processes Manual Development Procedure* in **Appendix 3A**.
6. **Review of Stakeholder Segment Entries**
 NERC shall review all applications for joining the registered ballot body, and shall make a determination of whether the applicant’s self-selection of a segment satisfies at least one of the guidelines to belong to that segment. The entity shall then become eligible to participate as a voting member of that segment. The Standards Committee shall resolve disputes regarding eligibility for membership in a segment, with the applicant having the right of appeal to the board.

306. Standards Committee

The Standards Committee shall provide oversight of the reliability standards development process to ensure stakeholder interests are fairly represented. The Standards Committee shall not under any circumstance change the substance of a draft or approved standard.

1. **Membership** — The Standards Committee is a representative committee comprising representatives of two members of each of the segments in the registered ballot body.
2. **Elections** — Standards Committee members are elected for staggered (one per segment per year) two-year terms by the respective stakeholder segments in accordance with the *Procedure for the Election of Members of the NERC Standards Committee*, which is incorporated into these rules as **Appendix 2**. Segments may use their own election procedure if such a procedure is ratified by two-thirds of the members of a segment and approved by the board.
3. **Canadian Representation**
 - 3.1 **Provision for Sufficient Canadian Representation** — If any regular election of Standards Committee members does not result in at least two Canadian members on the Standards Committee, the Canadian nominees who were not elected but who received the next highest percentage of votes within their respective segment(s) will be designated as additional members of the Standards Committee, as needed to achieve a total of two Canadian members.
 - 3.2 **Terms of Specially Designated Canadian Members** — Each specially designated Canadian member of the Standards Committee shall have a term ending with the next annual election.
 - 3.3 **Segment Preference** — If any segment has an unfilled representative position on the Standards Committee following the annual election, the first preference is to assign each specially designated Canadian representative to a segment with an unfilled representative position for which his or her organization qualifies.
 - 3.4 **Rights of Specially Designated Canadian Members** — Any specially designated Canadian members of the Standards Committee shall have the same rights and obligations as all other members of the Standards Committee.
4. **Open Meetings** — All meetings of the Standards Committee shall be open and publicly noticed on the NERC Web site.

307. Standards Process Manager

NERC shall assign a standards process manager to administer the development of reliability standards. The standards process manager shall be responsible for ensuring that the development and revision of standards are in accordance with the NERC *Reliability Standard Processes Manuals Development Procedure*. The standards process manager shall work to achieve the highest degree of integrity and consistency of quality and completeness of the reliability standards. The standards process manager shall coordinate with any regional entities that develop regional reliability standards to ensure those standards are effectively integrated with the NERC reliability standards.

308. Steps in the Development of Reliability Standards

1. **Procedure** — NERC shall develop reliability standards through the process set forth in the NERC ~~Reliability Standard Processes Manual s-Development Procedure~~ (Appendix 3A). The procedure includes a provision for approval of urgent action standards that can be completed within 60 days and emergency actions that may be further expedited.
2. **Board Approval** — Reliability standards or revisions to reliability standards approved by the ballot pool in accordance with the ~~Reliability Standards Processes Manual -Development Procedure~~ shall be submitted for approval by the board. No reliability standard or revision to a reliability standard shall be effective unless approved by the board.
3. **Governmental Approval** — After receiving board approval, a reliability standard or revision to a reliability standard shall be submitted to all applicable ERO governmental authorities in accordance with Section 309. No reliability standard or revision to a reliability standard shall be effective within a geographic area over which an ERO governmental authority has jurisdiction unless approved by such ERO governmental authority or is otherwise made effective pursuant to the laws applicable to such ERO governmental authority.

309. Filing of Reliability Standards for Approval by ERO Governmental Authorities

1. **Filing of Reliability Standards for Approval** — Where authorized by applicable legislation or agreement, NERC shall file with the applicable ERO governmental authorities each reliability standard, modification to a reliability standard, or withdrawal of a standard that is approved by the board. Each filing shall be in the format required by the ERO governmental authority and shall include: a concise statement of the basis and purpose of the standard; the text of the standard; the implementation plan for the reliability standard; a demonstration that the standard meets the essential attributes of reliability standards as stated in Section 302; the drafting team roster; the ballot pool and final ballot results; and a discussion of public comments received during the development of the reliability standard and the consideration of those comments.
2. **Remanded Reliability Standards and Directives to Develop Standards** — If an ERO governmental authority remands a reliability standard to NERC or directs NERC to develop a reliability standard, NERC shall within five (5) business days notify all other applicable ERO governmental authorities, and shall within thirty (30) calendar days report to all ERO governmental authorities a plan and timetable for modification or development of the reliability standard. Standards that are remanded or directed by an ERO governmental authority shall be modified or developed using the ~~Reliability Standards Development~~

~~Procedure~~*Processes Manual*. NERC shall, during the development of a modification for the remanded standard or directed standard, consult with other ERO governmental authorities to coordinate any impacts of the proposed standards in those other jurisdictions. The ~~urgent approval~~expedited action procedure may be applied if necessary to meet a timetable for action required by the ERO governmental authorities, respecting to the extent possible the provisions in the standards development process for reasonable notice and opportunity for public comment, due process, openness, and a balance of interest in developing reliability standards. If the Board of Trustees determines that the standards process did not result in a standard that addresses a specific matter that is identified in a directive issued by an applicable ERO governmental authority, then Rule 321 of these Rules of Procedure shall apply.

3. **Directives to Develop Standards under Extraordinary Circumstances** — An ERO governmental authority may, on its own initiative, determine that extraordinary circumstances exist requiring expedited development of a reliability standard. In such a case, the applicable agency may direct the development of a standard within a certain deadline. NERC staff shall prepare the standards authorization request and seek a stakeholder sponsor for the request. If NERC is unable to find a sponsor for the proposed standard, NERC will be designated as the requestor. The proposed standard will then proceed through the standards development process, using the ~~urgent and emergency~~expedited action procedures described in the ~~Reliability Standards Processes Manual Development Procedure~~ as necessary to meet the specified deadline. The timeline will be developed to respect, to the extent possible, the provisions in the standards development process for reasonable notice and opportunity for public comment, due process, openness, and a balance of interests in developing reliability standards. If the Board of Trustees determines that the standards process did not result in a standard that addresses a specific matter that is identified in a directive issued by an applicable ERO governmental authority, then Rule 321 of these Rules of Procedure shall apply, with appropriate modification of the timeline.

- 3.1 Consistent with all reliability standards developed under the ~~urgent or emergency~~expedited action process, each of the three possible follow-up actions as documented in the ~~Reliability Standards Processes Manual Development Procedure~~ are to be completed through the standards development process and are subject to approval by the ERO governmental authorities in the U.S. and Canada.

310. Reliability Standards Annual Work Plan

NERC shall develop and provide an annual work plan for development of reliability standards to the applicable ERO governmental authorities. NERC shall consider the comments and priorities of the ERO governmental authorities in developing and updating

the work plan. Each annual work plan shall include a progress report comparing results achieved to the prior year's plan.

311. Regional Entity Standards Development Procedures

1. **NERC Approval of Regional Entity Reliability Standards Development Procedure** — To enable a regional entity to develop regional reliability standards that are to be recognized and made part of NERC reliability standards, a regional entity may request NERC to approve a regional entity reliability standards development procedure.
2. **Public Notice and Comment on Regional Reliability Standards Development Procedure** — Upon receipt of such a request, NERC shall publicly notice and request comment on the proposed regional standards development procedure, allowing a minimum of 45 days for comment. The regional entity shall have an opportunity to resolve any objections identified in the comments and may choose to withdraw the request, revise the procedure and request another posting for comment, or submit the procedure, along with its consideration of any objections received, for approval by NERC.
3. **Evaluation of Regional Reliability Standards Development Procedure** — NERC shall evaluate whether a regional reliability standards development procedure meets the criteria listed below and shall consider stakeholder comments, any unresolved stakeholder objections, and the consideration of comments provided by the regional entity, in making that determination. If NERC determines the regional reliability standards development procedure meets these requirements, the procedure shall be submitted to the board for approval. The board shall consider the recommended action, stakeholder comments, any unresolved stakeholder comments, and the regional entity consideration of comments in determining whether to approve the regional reliability standards development procedure.
 - 3.1 **Evaluation Criteria** — The regional reliability standards development procedure shall be:
 - 3.1.1 **Open** — The regional reliability standards development procedure shall provide that any person or entity who is directly and materially affected by the reliability of the bulk power systems within the regional entity shall be able to participate in the development and approval of reliability standards. There shall be no undue financial barriers to participation. Participation shall not be conditional upon membership in the regional entity, a regional entity or any organization, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements.

- 3.1.2 **Inclusive** — The regional reliability standards development procedure shall provide that any person with a direct and material interest has a right to participate by expressing an opinion and its basis, having that position considered, and appealing through an established appeals process if adversely affected.
 - 3.1.3 **Balanced** — The regional reliability standards development procedure shall have a balance of interests and shall not permit any two interest categories to control the vote on a matter or any single interest category to defeat a matter.
 - 3.1.4 **Due Process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.
 - 3.1.5 **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.
 - 3.1.6 **Accreditation of Regional Standards Development Procedure** — A regional entity's reliability standards development procedure that is accredited by the American National Standards Institute or the Standards Council of Canada shall be deemed to meet the criteria listed in this Section 311.3.1, although such accreditation is not a prerequisite for approval by NERC.
 - 3.1.7 **Use of NERC Procedure** — A regional entity may adopt the NERC *Reliability Standard Processes Manual & Development Procedure* as the regional reliability standards development procedure, in which case the regional entity's procedure shall be deemed to meet the criteria listed in this Section 311.3.1.
- 4. **Revisions of Regional Reliability Standards Development Procedures** — Any revision to a regional reliability standards development procedure shall be subject to the same approval requirements set forth in Sections 311.1 through 311.3.
 - 5. **Duration of Regional Reliability Standards Development Procedures** — The regional reliability standards development procedure shall remain in effect until such time as it is replaced with a new version approved by NERC or it is withdrawn by the regional entity. The regional entity may, at its discretion, withdraw its regional reliability standards development procedure at any time.

312. Regional Reliability Standards

1. **Basis for Regional Reliability Standards** — Regional entities may propose regional reliability standards that set more stringent reliability requirements than the NERC reliability standard or cover matters not covered by an existing NERC reliability standard. Such regional reliability standards shall in all cases be approved by NERC and made part of the NERC reliability standards and shall be enforceable in accordance with the delegation agreement between NERC and the regional entity or other instrument granting authority over enforcement to the regional entity. No entities other than NERC and the regional entity shall be permitted to develop regional reliability standards that are enforceable under statutory authority delegated to NERC and the regional entity.
2. **Regional Reliability Standards That are Directed by a NERC Reliability Standard** — Although it is the intent of NERC to promote uniform reliability standards across North America, in some cases it may not be feasible to achieve a reliability objective with a reliability standard that is uniformly applicable across North America. In such cases, NERC may direct regional entities to develop regional reliability standards necessary to implement a NERC reliability standard. Such regional reliability standards that are developed pursuant to a direction by NERC shall be made part of the NERC reliability standards.
3. **Procedure for Developing an Interconnection-wide Regional Standard** — A regional entity organized on an interconnection-wide basis may propose a regional reliability standard for approval as a NERC reliability standard to be made mandatory for all applicable bulk power system owners, operators, and users within that interconnection.
 - 3.1 **Presumption of Validity** — An interconnection-wide regional reliability standard that is determined by NERC to be just, reasonable, and not unduly discriminatory or preferential, and in the public interest, and consistent with such other applicable standards of governmental authorities, shall be adopted as a NERC reliability standard. NERC shall rebuttably presume that a regional reliability standard developed, in accordance with a regional reliability standards development process approved by NERC, by a regional entity organized on an interconnection-wide basis, is just, reasonable, and not unduly discriminatory or preferential, and in the public interest, and consistent with such other applicable standards of governmental authorities.
 - 3.2 **Notice and Comment Procedure for Interconnection-wide Regional Reliability Standard** — NERC shall publicly notice and request comment on the proposed interconnection-wide regional reliability standard, allowing a minimum of 45 days for comment. NERC may publicly notice and post for comment the proposed regional reliability standard concurrent with similar steps in the regional entity's reliability

standards development process. The regional entity shall have an opportunity to resolve any objections identified in the comments and may choose to comment on or withdraw the request, revise the proposed regional reliability standard and request another posting for comment, or submit the proposed regional reliability standard along with its consideration of any objections received, for approval by NERC.

3.3 Approval of Interconnection-wide Regional Reliability Standard by NERC — NERC shall evaluate and recommend whether a proposed interconnection-wide regional reliability standard has been developed in accordance with all applicable procedural requirements and whether the regional entity has considered and resolved stakeholder objections that could serve as a basis for rebutting the presumption of validity of the regional reliability standard. The regional entity, having been notified of the results of the evaluation and recommendation concerning NERC proposed regional reliability standard, shall have the option of presenting the proposed regional reliability standard to the board for approval as a NERC reliability standard. The board shall consider the regional entity's request, NERC's recommendation for action on the regional reliability standard, any unresolved stakeholder comments, and the regional entity's consideration of comments, in determining whether to approve the regional reliability standard as a NERC reliability standard.

3.4 ERO Governmental Authority Approval — An interconnection-wide regional reliability standard that has been approved by the board shall be filed with the applicable ERO governmental authorities for approval, where authorized by applicable legislation or agreement, and shall become effective when approved by such ERO governmental authorities or on a date set by the ERO governmental authorities.

3.5 Enforcement of Interconnection-wide Regional Reliability Standard — An interconnection-wide regional reliability standard that has been approved by the board and by the applicable ERO governmental authorities or is otherwise made effective within Canada as mandatory within a particular region shall be applicable and enforced as a NERC reliability standard within the region.

4. Procedure for Developing Non-Interconnection-Wide Regional Reliability Standards

Regional entities that are not organized on an interconnection-wide basis may propose regional reliability standards to apply within their respective regions. Such standards may be developed through the NERC reliability standards development procedure, or alternatively, through a regional reliability standards development procedure that has been approved by NERC.

- 4.1 **No Presumption of Validity** — Regional reliability standards that are not proposed to be applied on an interconnection-wide basis are not presumed to be valid but may be demonstrated by the proponent to be valid.
- 4.2 **Notice and Comment Procedure for Non-Interconnection-wide Regional Reliability Standards** — NERC shall publicly notice and request comment on the proposed regional reliability standard, allowing a minimum of 45 days for comment. NERC may publicly notice and post for comment the proposed regional reliability standard concurrent with similar steps in the regional entity’s reliability standards development process. The regional entity shall have an opportunity to comment on or resolve any objections identified in the comments and may choose to withdraw the request, revise the proposed regional reliability standard and request another posting for comment, or submit the proposed regional reliability standard along with its consideration of any objections received, for approval by NERC.
- 4.3 **NERC Approval of Non-Interconnection-wide Regional Reliability Standards** — NERC shall evaluate and recommend whether a proposed non-Interconnection-wide regional reliability standard has been developed in accordance with all applicable procedural requirements and whether the regional entity has considered and resolved stakeholder objections. The regional entity, having been notified of the results of the evaluation and recommendation concerning proposed regional reliability standard, shall have the option of presenting the proposed regional reliability standard to the board for approval as a NERC reliability standard. The board shall consider the regional entity’s request, the recommendation for action on the regional reliability standard, any unresolved stakeholder comments, and the regional entity’s consideration of comments, in determining whether to approve the regional reliability standard as a NERC reliability standard.
- 4.4 **NERC Governmental Authority Approval** — A non-Interconnection-wide regional reliability standard that has been approved by the board shall be filed with the applicable ERO governmental authorities for approval, where authorized by applicable legislation or agreement, and shall become effective when approved by such ERO governmental authorities or on a date set by the ERO governmental authorities.
- 4.5 **Enforcement of Non-Interconnection-wide Regional Reliability Standards** — A non-Interconnection-wide regional reliability standard that has been approved by the board and by the applicable ERO governmental authorities or is otherwise made effective within Canada as mandatory within a particular region shall be applicable and enforced as a NERC reliability standard within the region.

5. Appeals

A Regional Entity shall have the right to appeal NERC's decision not to approve a proposed regional reliability standard or variance to the Commission or other applicable governmental authority.

313. Other Regional Criteria, Guides, Procedures, Agreements, Etc.

1. **Regional Criteria** — Regional entities may develop regional criteria that are necessary to implement, to augment, or to comply with reliability standards, but which are not reliability standards. Regional criteria may also address issues not within the scope of reliability standards, such as resource adequacy. Regional criteria may include specific acceptable operating or planning parameters, guides, agreements, protocols or other documents used to enhance the reliability of the regional bulk power system. These documents typically provide benefits by promoting more consistent implementation of the NERC reliability standards within the region. These documents are not NERC reliability standards, regional reliability standards, or regional variances, and therefore are not enforceable under authority delegated by NERC pursuant to delegation agreements and do not require NERC approval.
2. **Catalog of Regional Reliability Criteria** — NERC shall maintain a current catalog of regional reliability criteria. Regional entities shall provide a catalog listing of regional reliability criteria to NERC and shall notify NERC of changes to the listing. Regional entities shall provide any listed document to NERC upon written request.

314. Conflicts with Statutes, Regulations, and Orders

Notice of Potential Conflict — If a bulk power system owner, operator, or user determines that a NERC or regional reliability standard may conflict with a function, rule, order, tariff, rate schedule, legislative requirement or agreement that has been accepted, approved, or ordered by a governmental authority affecting that entity, the entity shall expeditiously notify the governmental authority, NERC, and the relevant regional entity of the conflict.

1. **Determination of Conflict** — NERC, upon request of the governmental authority, may advise the governmental authority regarding the conflict and propose a resolution of the conflict, including revision of the reliability standard if appropriate.
2. **Regulatory Precedence** — Unless otherwise ordered by a governmental authority, the affected bulk power system owner, operator, or user shall continue to follow the function, rule, order, tariff, rate schedule, legislative requirement, or agreement accepted, approved, or ordered by the governmental authority until the governmental authority finds that a conflict exists and orders a remedy and such remedy is affected.

315. Revisions to NERC Reliability Standards Development Procedure

Any person or entity may submit a written request to modify NERC *Reliability Standards Processes Manual Development Procedure*. Consideration of the request and development of the revision shall follow the process defined in the NERC *Reliability Standard Processes Manuals Development Procedure*. Upon approval by the board, the revision shall be submitted to the ERO governmental authorities for approval. Changes shall become effective only upon approval by the ERO governmental authorities or on a date designated by the ERO governmental authorities or as otherwise applicable in a particular jurisdiction.

316. Accreditation

NERC shall seek continuing accreditation of the NERC reliability standards development process by the American National Standards Institute and the Standards Council of Canada.

317. Five-Year Review of Standards

NERC shall complete a review of each NERC reliability standard at least once every five years from the effective date of the standard or the latest revision to the standard, whichever is later. The review process shall be conducted in accordance with the NERC *Reliability Standards Processes Manual Development Procedure*. The standards process manager shall be responsible for administration of the five-year review of reliability standards. As a result of this review, the NERC reliability standard shall be reaffirmed, revised, or withdrawn. If the review indicates a need to revise or withdraw the standard, a request for revision or withdrawal shall be prepared, submitted and addressed in accordance with the NERC *Reliability Standard Processes Manuals Development Procedure*.

318. Coordination with the North American Energy Standards Board

NERC shall, through a memorandum of understanding, maintain a close working relationship with the North American Energy Standards Board and ISO/RTO Council to ensure effective coordination of wholesale electric business practice standards and market protocols with the NERC reliability standards.

319. Archived Standards Information

NERC shall maintain a historical record of reliability standards information that is no longer maintained on-line. For example, standards that expired or were replaced may be removed from the on-line system. Archived information shall be retained indefinitely as practical, but in no case less than five years or one complete standards review cycle from the date on which the standard was no longer in effect. Archived records of reliability standards information shall be available electronically within 30 days following the receipt by the standards process manager of a written request.

320. Alternate Method for Adopting Violation Risk Factors

In the event the standards development process fails to produce violation risk factors for a particular standard in a timely manner, the Board of Trustees may adopt violation risk factors for that standard using the procedures set out in Section 1400 of these Rules of Procedure.

321. Special Rule to Address Certain Regulatory Directives

In circumstances where this Rule 321 applies, the Board of Trustees shall have the authority to take one or more of the actions set out below. The Board of Trustees shall have the authority to choose which one or more of the actions are appropriate to the circumstances and need not take these actions in sequential steps.

1. The Standards Committee shall have the responsibility to ensure that standards drafting teams address specific matters that are identified in directives issued by applicable ERO governmental authorities. If the Board of Trustees is presented with a proposed standard that fails to address such directives, the Board of Trustees has the authority to remand, with instructions (including establishing a timetable for action), the proposed reliability standard to the Standards Committee.
2. Upon a written finding by the Board of Trustees that a ballot pool has failed to approve a proposed reliability standard that contains a provision to address a specific matter identified in a directive issued by an ERO governmental authority, the Board of Trustees has the authority to remand the proposed reliability standard to the Standards Committee, with instructions to (i) convene a public technical conference to discuss the issues surrounding the regulatory directive, including whether or not the proposed standard is just, reasonable, not unduly discriminatory or preferential, in the public interest, helpful to reliability, practical, technically sound, technically feasible, and cost-justified; (ii) working with NERC staff, prepare a memorandum discussing the issues, an analysis of the alternatives considered and other appropriate matters; and (iii) re-ballot the proposed reliability standard one additional time, with such adjustments in the schedule as are necessary to meet the deadline contained in paragraph 2.1 of this Rule.
 - 2.1 Such a re-ballot shall be completed within forty-five (45) days of the remand. The Standards Committee memorandum shall be included in the materials made available to the ballot pool in connection with the re-ballot.

- 2.2 In any such re-ballot, negative votes without comments related to the proposal shall be counted for purposes of establishing a quorum, but only affirmative votes and negative votes with comments related to the proposal shall be counted for purposes of determining the number of votes cast and whether the proposed standard has been approved.
3. If the re-balloted proposed reliability standard achieves at least an affirmative two-thirds majority vote of the weighted segment votes cast, with a quorum established, then the proposed reliability standard shall be deemed approved by the ballot pool and shall be considered by the Board of Trustees for approval.
4. If the re-balloted proposed reliability standard fails to achieve at least an affirmative two-thirds majority vote of the weighted segment votes cast, but does achieve at least a sixty percent affirmative majority of the weighted segment votes cast, with a quorum established, then the Board of Trustees has the authority to consider the proposed reliability standard for approval under the following procedures:
 - 4.1 The Board of Trustees shall issue notice of its intent to consider the proposed reliability standard and shall solicit written public comment particularly focused on the technical aspects of the provisions of the proposed reliability standard that address the specific matter identified in the regulatory directive, including whether or not the proposed standard is just, reasonable, not unduly discriminatory or preferential, in the public interest, helpful to reliability, practical, technically sound, technically feasible, and cost-justified.
 - 4.2 The Board of Trustees may, in its discretion, convene a public technical conference to receive additional input on the matter.
 - 4.3 After considering the developmental record, the comments received during balloting and the additional input received under paragraphs 4.1 and 4.2 of this Rule, the Board of Trustees has authority to act on the proposed reliability standard.
 - 4.3.1 If the Board of Trustees finds that the proposed reliability standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is helpful to reliability, practical, technically sound, technically feasible, and cost-justified, then it has authority to approve the proposed reliability standard and direct that it be filed with applicable ERO governmental authorities with a request that it be made effective.

- 4.3.2 If the Board of Trustees is unable to find that the proposed reliability standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is helpful to reliability, practical, technically sound, technically feasible, and cost-justified, then it has authority to treat the proposed reliability standard as a draft reliability standard and direct that the draft reliability standard and complete developmental record, including the additional input received under paragraphs 4.1 and 4.2 of this Rule, be filed with the applicable ERO governmental authorities as a compliance filing in response to the order giving rise to the regulatory directive, along with a recommendation that the standard not be made effective and an explanation of the basis for the recommendation.
5. Upon a written finding by the Board of Trustees that standard drafting team has failed to develop, or a ballot pool has failed to approve, a proposed reliability standard that contains a provision to address a specific matter identified in a directive issued by an ERO governmental authority, the Board of Trustees has the authority to direct the Standards Committee (with the assistance of stakeholders and NERC staff) to prepare a draft reliability standard that addresses the regulatory directive, taking account of the entire developmental record pertaining to the matter. If the Standards Committee fails to prepare such draft reliability standard, the Board of Trustees may direct NERC management to prepare such draft reliability standard.
- 5.1 The Board of Trustees may, in its discretion, convene a public technical conference to receive input on the matter. The draft reliability standard shall be posted for a 45-day public comment period.
- 5.2 If, after considering the entire developmental record (including the comments received under paragraph 5.1 of this Rule), the Board of Trustees finds that the draft reliability standard, with such modifications as the Board of Trustees determines are appropriate in light of the comments received, is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is practical, technically sound, technically feasible, cost-justified and serves the best interests of reliability of the bulk power system, then the Board of Trustees has the authority to approve the draft standard and direct that the

proposed standard be filed with ERO governmental authorities with a request that the proposed standard be made effective.

5.3 If, after considering the entire developmental record (including the comments received under paragraph 5.1 of this Rule), the Board of Trustees is unable to find that the draft reliability standard, even with modifications, is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is practical, technically sound, technically feasible, cost-justified and serves the best interests of reliability of the bulk power system, then the Board of Trustees has the authority to direct that the draft standard and complete developmental record be filed as a compliance filing in response to the regulatory directive with the ERO governmental authority issuing the regulatory directive, with a recommendation that the draft standard not be made effective.

5.4 The filing of the reliability standard under either paragraph 5.2 or paragraph 5.3 of this Rule shall include an explanation of the basis for the decision by the Board of Trustees.

5.5 A reliability standard approved under paragraph 5 of this Rule shall not be eligible for submission as an American National Standard.

6. NERC shall on or before March 31st of each year file a report with applicable ERO governmental authorities on the status and timetable for addressing each outstanding directive to address a specific matter received from an applicable ERO governmental authority.

ATTACHMENT 3

**SUMMARY OF STAKEHOLDER COMMENTS IN RESPONSE TO
PROPOSED SECTION 321 ALTERNATIVES**

Summary of Comments on Proposed Rule 321 – Alternatives A, B, and C

Commenter	Alternative A	Alternative B	Alternative C	Notes
Ameren Services	No comments	No comments	Supports	Supports Alternative C with no suggested modifications.
American Electric Power	Could support, but prefers that process not be changed at all.	Opposed	Opposed	Does not want the process changed at all, but if it must be, supports A the most. Notes that improvements to the standards drafting process would resolve the issue so that none of the alternatives are required.
American Transmission Company	No comments	No comments	Supports	Supports Alternative C because it gives the BOT the authority to take several courses of action without mandating that specific steps be taken in a prescribed order. Supports C on the condition that NERC's ANSI accreditation is not affected.
Arizona Public Service Company	No comments	No comments	Supports	Alternative C strikes a reasonable compromise, alleviating FERC's concern while balancing technical expertise from industry and maintaining spirit of standards process.
Allegheny Power and Trans-Allegheny Interstate Line Company	No comments	No comments	Supports	Alternative C provides the industry to greatest opportunity to collaborate with the drafting team, the Standards Committee, and NERC management.
Bonneville Power Administration	Opposed	Opposed	Supports with modifications	BPA supports Alternative C because it strikes the right balance between ensuring NERC's ability to submit reliability standards that satisfy FERC directives and using the expertise of industry participants. Proposes changing "address a directive" to "adequately addresses a directive."
Canadian Electricity Association	Can support with modification	No comments	2 nd choice, but only with modifications	Prefers Alternative A, but modified to allow a standard to be revised before it is re-balloted. If Alternative C is adopted, would like to stress the importance of communication and coordination with Canadian governmental authorities by adding in Section 5.2 the following (bold text added): "If after considering the entire developmental record

Summary of Comments on Proposed Rule 321 – Alternatives A, B, and C

Commenter	Alternative A	Alternative B	Alternative C	Notes
				(including the comments received under paragraph 5.1 of this Rule), and including the results from consultations with the ERO governmental authorities other than the ERO governmental authority that issued the directive as required under section 309.2 . . .
City of Garland	Strongly supports	Opposed	Opposed	States that both Alternatives B and C provide a way for the BOT to bypass the industry approval process, which it cannot support.
Duke Energy	Could support with modifications identified in its comments filed in the period ending June 4, 2010	No comments	Can support with modifications proposed by EEI and other trade associations.	Believes that the BOT must adhere to the standards development process and the principles in it that are essential for accreditation of that process by ANSI.
Electric Reliability Council of Texas	Supports	Opposed	Opposed	Cannot support Alternatives B and C because they provide opportunities for the standards drafting process to become too far removed from the stakeholders.
Entergy	No comments	No comments	Supports a modified version.	Agrees with EEI and other trade association's comments.
ELCON	Prefers Alternative A	Strongly opposed	Opposes, but would be comfortable with it if the changes proposed by APPA, LPPC, EPSA, and other trade associations were incorporated.	Will not support any changes to the RoP that would result in loss of ANSI certifications.
FirstEnergy	No comments	No comments	Supports if EEI and other trade association comments are incorporated.	States that any changes in the process for developing a NERC standard must preserve ANSI and avoid any unintended liability for the NERC BOT collectively or individually.

Summary of Comments on Proposed Rule 321 – Alternatives A, B, and C

Commenter	Alternative A	Alternative B	Alternative C	Notes
Georgia System Operations Corporation	Supports, with slight revisions	Strongly Opposed	Strongly Opposed	<p>GSOC opposes Alternative B and C, arguing that they contravene FERC’s Order No. 672.</p> <p>GSOC could support Alternative A with revisions.</p>
Hydro One Networks, Inc.	Opposed	Opposed	Opposed	<p>Opposes all three alternatives. Hydro One expresses concern over modifying the Rules of Procedure based on a directive from FERC, which does not have jurisdictional authority over Canadian members.</p> <p>Notes that addressing whether drafting teams address regulatory directives is not the responsibility of the Standards Committee (as specified in the SC charter), and the Standards Committee’s role is to manage the process of standards development.</p> <p>Alternative A provides least amount of contradiction, but cannot fully agree with it.</p>
ISO/RTO Council Standards Review Committee	Does not endorse any alternative	Does not endorse any alternative	Does not endorse any alternative	<p>NERC’s standards development process should always provide for a stakeholder comment and ballot period for any proposed standard or revision to a standard to address a regulatory directive. Additional comments provided on each alternative, but will not support any of them in particular.</p>
Luminant Generation Company	No comments	No comments	Supports with modifications	<p>Modifications proposed:</p> <ol style="list-style-type: none"> 1) Remove P 321, which gives the BOT discretion to choose one or more actions proposed in Rule 321, and provide a structured, consistent process. 2) Add to Section 321, P2, a requirement that the BOT use the input from the technical conference to revise the standard.
Manitoba Hydro	Most preferred, with revisions	Opposed	Opposed	<p>Supports Alternative A with:</p> <ol style="list-style-type: none"> 1) a provision that allows a standard to be revised before it is re-balloted; 2) a technical conference be held to garner more industry consensus; and

Summary of Comments on Proposed Rule 321 – Alternatives A, B, and C

Commenter	Alternative A	Alternative B	Alternative C	Notes
				3) clarification to specify at what point the BOT can exercise discretion to invoke additional procedures.
Midwest ISO	See notes	No Comments	See notes	Comments do not support one over another but mentions clarifications to be added to the FERC standards filings in cases where Rule 321 was used.
Midwest Reliability Organization	No comments	No comments	Supports	Supports Alternative C as providing NERC sufficient authority to be responsive to regulatory mandate, retains and enhances the standards setting process, and is responsive to technical expertise of the industry.
NRECA	Supports	Opposed	Opposed	NRECA can only support an alternative that: <ul style="list-style-type: none"> • does not jeopardize NERC’s ANSI accreditation; and • ensures that the BOT retains independent authority not to submit to governmental authorities a proposed standard that it believes, in its best judgment and informed by the views of industry subject matter experts, does not serve the best interests of reliability of the bulk power system.
Ontario Power Generation	No comments	No comments	Supports, but with one wording revision	Proposing that the language in Alternative C be revised by removing the language: “(in the first instance), or NERC management (in the alternative)”.
PacifiCorp	No comments	No comments	No comments	Does not support any alternative, but notes that the following should be reflected in whatever choice the BOT makes: <ul style="list-style-type: none"> • proposal should maintain an opportunity for industry comment on any draft standard directed by the BOT to address a FERC directive; and • no draft standard developed under these procedures should bypass the balloting and voting procedures.
Trade Associations (APPA, EEI, EPSA, LPPC, TAPS)	First choice	Firmly opposes	Would support, but only with modifications	Modifications to Alternative C are based on the following principles: <ul style="list-style-type: none"> • RoP changes must not jeopardize NERC’s ANSI

Summary of Comments on Proposed Rule 321 – Alternatives A, B, and C

Commenter	Alternative A	Alternative B	Alternative C	Notes
				accreditation; <ul style="list-style-type: none"> • Must ensure that the BOT retains independent authority NOT to submit to ERO governmental authorities a proposed standard that it believes, in its best judgment and informed by the views of industry subject matter experts, does not serve the best interests of reliability of the bulk power system; and • Alternative selected must be responsive to the FERC directive.
United Illuminating Company	Opposed	Supports as best alternative, but needs modification	Opposed	Supports Alternative B. Opposes Alternative A because it does not consider the time and effort expended in the normal standards development process. Opposes Alternative C because it provides too much flexibility by authorizing the BOT to determine a process as it sees fit when it sees fit.
Wisconsin Electric Power Company	No comments	No comments	Supports, but with EEI's comments incorporated	The BOT would need to ensure that its actions, to the maximum extent practicable, respect the standards development process and the views of the ballot body.