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**UNITED STATES OF AMERICA**  
Before the  
**FEDERAL ENERGY REGULATORY COMMISSION**

**NORTH AMERICAN ELECTRIC RELIABILITY  
CORPORATION**

Docket No. RR06-1-\_\_\_

**DELEGATION AGREEMENT BETWEEN THE NORTH  
AMERICAN ELECTRIC RELIABILITY CORPORATION  
AND WESTERN ELECTRICITY COORDINATING  
COUNCIL**

Docket No. RR07-7-\_\_\_

**STATUS REPORT OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
AND WESTERN ELECTRICITY COORDINATING COUNCIL  
IN RESPONSE TO PARAGRAPH 226 OF MARCH 21, 2008 COMMISSION ORDER**

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September 22, 2008

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**STATUS REPORT OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
AND WESTERN ELECTRICITY COORDINATING COUNCIL  
IN RESPONSE TO PARAGRAPH 226 OF MARCH 21, 2008 COMMISSION ORDER**

**I. INTRODUCTION**

The North American Electric Reliability Corporation (“NERC”) and the Western Electricity Coordinating Council (“WECC”) file this status report in response to P 226 of the Commission’s Order issued March 21, 2008 in Docket Nos. RR06-1-012 and RR07-7-002.<sup>1</sup> In P 226, the Commission directed NERC and WECC to file a status report six months following the date of the March 21 2008 Order, and every six months thereafter as necessary, concerning the steps being taken by NERC and WECC to reach a permanent solution for the need to maintain appropriate separation between WECC’s compliance monitoring and enforcement activities and its reliability coordination function.

NERC and WECC have reached agreement on the key components of a permanent approach to maintaining appropriate separation between WECC’s compliance monitoring and enforcement activities and its reliability coordination function. Specifically, NERC and WECC agree that NERC should be responsible for compliance monitoring and enforcement program (“CMEP”) activities with respect to the WECC reliability coordination function and should carry out all compliance monitoring processes with respect to the WECC reliability coordination function, including conducting compliance audits, spot-checking and compliance violation investigations (if necessary), reviewing the results of self-certifications, periodic data submittals, self-reports and exception reports from the WECC reliability coordination function, and investigating complaints (if any) concerning the WECC reliability coordination function. NERC

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<sup>1</sup> *Order Addressing Revised Delegation Agreements*, 122 FERC ¶ 61,245 (2008) (“March 21 2008 Order”).

and WECC also recognize that any penalties imposed by NERC for violations of reliability standards by the WECC reliability coordination function should be paid to NERC, to be used as a general offset to NERC's budget for statutory activities for the following year.<sup>2</sup> NERC and WECC are still discussing whether and in what circumstances (if at all) NERC should be able to call on subject matter experts from the WECC compliance and enforcement staff to assist NERC in carrying out CMEP responsibilities with respect to the WECC reliability coordination function. Additionally, NERC and WECC have not developed language for an agreement or agreements to memorialize the arrangements by which NERC will assume responsibility for CMEP activities regarding the WECC reliability coordination function. NERC and WECC anticipate they will finalize definitive agreement language, obtain the approvals of their respective Boards, and file the resulting agreement(s) and any further implementing documents with the Commission within 60 days of the date of this status report. The objective of NERC and WECC is to have the arrangements in place for NERC to take full responsibility for CMEP activities over the WECC reliability coordination function by January 1, 2009, when WECC expects to begin operation of its two new Reliability Coordination Centers in Vancouver, Washington and Loveland, Colorado.

In addition, as specified in P 226 of the March 21 2008 Order, in this status report NERC and WECC provide a discussion of the compliance audits of the WECC reliability coordination function that have been conducted subsequent to the June 18, 2007 effective date of the initial set of Commission-approved NERC reliability standards as mandatory and enforceable standards.

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<sup>2</sup> The provision concerning the disposition of penalties is already embodied in §4 of Exhibit E to the NERC-WECC Delegation Agreement as filed with the Commission on October 30, 2007 in the *Compliance Filing of the North American Electric Reliability Corporation in Response to April 19, 2007 Order* in Docket Nos. RR06-1-012 and RR07-7-002 ("October 30 2007 Compliance Filing") and accepted by the Commission in the March 21 2008 Order at P 225.

## **II. NOTICES AND COMMUNICATIONS**

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## **III. STATUS REPORT OF NERC AND WECC IN RESPONSE TO PARAGRAPH 226 OF THE MARCH 21 2008 ORDER**

### **A. Background**

In its Order issued April 19, 2007 concerning the NERC-Regional Entity delegation agreements, the Commission reviewed proposals submitted by NERC and WECC to maintain separation between WECC’s oversight functions and its operational functions, including its reliability coordination function.<sup>3</sup> These proposals included having NERC serve as the lead on compliance audits of the WECC reliability coordination function, leading audit teams that would also include WECC compliance staff; and that the final compliance audit report would be

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<sup>3</sup> *Order Accepting ERO Compliance Filing, Accepting ERO/Regional Entity Delegation Agreements, and Accepting Regional Entity 2007 Business Plans*, 119 FERC ¶ 61,060 (2007) (“April 19 2007 Order”), at PP 453-456.

prepared by the NERC audit team leader. WECC proposed that violations of reliability standards would be documented in the final audit report and transmitted to WECC's independent compliance staff for processing by WECC in accordance with the NERC uniform CMEP.<sup>4</sup> In the April 19 2007 Order, the Commission stated these proposals "represent a good first step and demonstrate a significant effort to meet the Commission's requirements," but expressed concern that WECC's compliance staff was not sufficiently separated from its reliability coordinators, resulting in a lack of independence in compliance monitoring and enforcement for WECC operational functions.<sup>5</sup> Accordingly, the Commission "direct[ed] NERC and WECC to remedy these deficiencies." The Commission suggested, as one possibility, that "if it chooses, and NERC agrees, WECC may engage NERC to oversee the compliance and enforcement functions as they relate to WECC's compliance with reliability standards."<sup>6</sup>

In response to this Commission directive in the April 19 2007 Order, NERC and WECC stated, in the October 30 2007 Compliance Filing:

In response to the Commission's concerns, WECC discussed with NERC the potential for an expanded NERC role in compliance monitoring and enforcement relating to WECC's reliability coordination functions, as identified by the Commission. NERC has indicated, however, that it does not currently have the resources with the necessary expertise related to WECC's requirements and practices regarding the Reliability Coordination function to implement an expanded role. WECC will continue to discuss the issue with NERC and to explore other alternatives to address the Commission's concerns.<sup>7</sup>

NERC and WECC also detailed existing safeguards that would provide for adequate separation in the interim until additional, more permanent measures could be developed and put in place,

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<sup>4</sup> See April 19 2007 Order at P 454.

<sup>5</sup> April 19 2007 Order at P 456.

<sup>6</sup> April 19 2007 Order at P 456.

<sup>7</sup> October 30 2007 Compliance Filing at p. 109.

including (1) NERC and the Commission receive notice of all allegations or evidence of reliability standards violations, (2) NERC and the Commission may participate in any investigation, and NERC will review any complaints relating to WECC's reliability coordination function, (3) all WECC compliance and enforcement activities relating to the WECC reliability coordinators are subject to comprehensive NERC and Commission oversight, and (4) any penalties resulting from WECC reliability coordinator violations of reliability standards will be forwarded to NERC, to be used as a general offset to NERC's budget for statutory activities for the following year.<sup>8</sup>

In its March 21 2008 Order concerning the October 30 2007 Compliance Filing, P 226, the Commission stated, with respect to the need to provide for greater separation between WECC's CMEP activities and its reliability coordination function:

We accept WECC's proposal regarding the separation of its compliance and reliability coordinator functions as an interim measure, i.e., until additional measures can be put in place that will ensure that WECC does not monitor compliance of its own operations. If NERC continues to be unable to assume an expanded role regarding these matters, NERC and WECC will be required to assign this role to: (i) another Regional Entity; or (ii) a third party who reports directly to NERC and who is approved by NERC and the Commission. We direct NERC and WECC to submit a status report within six months of the date of this order and every six months thereafter, as may be necessary, detailing its efforts to address these requirements. These status reports should include, but not be limited to, a description of any audits conducted by WECC regarding its reliability coordinator functions and a summary of the results of the audits.<sup>9</sup>

**B. Proposed Approach to Achieving Appropriate Separation Between WECC CMEP and WECC Reliability Coordination Functions**

As noted above, in P 226 of the March 21 2008 Order, the Commission gave WECC three options for performance of the CMEP function with respect to the WECC reliability

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<sup>8</sup> October 30 2007 Compliance Filing at pp. 109-110.

<sup>9</sup> March 21 2008 Order at P 226.

coordinator function: (1) assign this role to NERC, (2) assign this role to another Regional Entity, or (3) assign this role to a third party that reports directly to NERC and is approved by NERC and the Commission. Although, as noted in P 226 of the March 21 2008 Order, NERC previously did not believe it had sufficient compliance resources in place to take on this additional CMEP responsibility, NERC now believes it is staffed and positioned to be able to carry out the CMEP responsibilities with respect to the WECC reliability coordination function. NERC and WECC are in agreement that of the three alternatives identified by the Commission in P 226, having the NERC Compliance Program staff assume this responsibility is the superior alternative.<sup>10</sup>

Accordingly, NERC and WECC are in agreement that NERC should be assigned full responsibility for compliance monitoring and enforcement with respect to the WECC reliability coordination function. NERC will be responsible for leading and carrying out all of the compliance monitoring and enforcement processes specified in the uniform CMEP, *i.e.*, compliance audits, spot checking, self-certifications, periodic data submittals, receipt and review of self-reports and exception reports submitted by the WECC reliability coordinators, compliance violation investigations, and receipt and investigation of complaints. Any alleged violations by, and proposed penalties to be imposed on, the WECC reliability coordination

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<sup>10</sup> Section 404 of the NERC Rules of Procedure provides that NERC compliance enforcement staff “shall monitor the compliance of [a] regional entity . . . with the reliability standards for which the regional entities . . . are responsible. . . . NERC shall evaluate compliance and noncompliance with all of the reliability standards that apply to the regional entities . . . and shall impose sanctions, penalties, or remedial action directives when there is a finding of noncompliance.” In addition, “NERC shall post all violations of reliability standards that apply to the regional entities . . . .” WECC is registered on the NERC Compliance Registry for the reliability coordination function in the WECC Region and is responsible for compliance with those requirements of Reliability Standards that are applicable to reliability coordinators; therefore, pursuant to §404, it is appropriate that NERC undertake the compliance monitoring and enforcement responsibilities with respect to the WECC reliability coordination function.



function will be determined by NERC; any notices of alleged violations and proposed penalties will be issued by NERC; and the ensuing processes provided for in the CMEP will be implemented and managed by NERC. NERC will evaluate and determine the appropriateness of any mitigation plans required to be submitted by the WECC reliability coordination function. In summary, NERC will be the “Compliance Enforcement Authority” (“CEA”), within the meaning of the uniform CMEP, with respect to the WECC reliability coordination function.

Although NERC will be the CEA for the WECC reliability coordination function and will lead all compliance audit teams and other compliance review teams (*e.g.*, reviews of self-certifications, periodic data submittals and responses to spot checks submitted by the WECC reliability coordinators), NERC and WECC are continuing to discuss whether, to what extent and under what circumstances (if at all) any WECC Compliance Program employees would participate as subject matter experts in NERC’s CMEP activities with respect to the WECC reliability coordinators. NERC and WECC are mindful of the Commission’s concerns that there be appropriate separation between WECC’s compliance program and its reliability coordination function. At the same time, NERC and WECC believe it could enhance the quality of NERC’s CMEP oversight of the WECC reliability coordination function if NERC can draw on appropriate subject matter expertise within the WECC Compliance Program when necessary. NERC and WECC will report their final resolution of this topic in a future status report or when they submit their agreement(s) memorializing NERC’s responsibilities as the CEA with respect to the WECC reliability coordination function to the Commission.

NERC and WECC have not yet developed specific language for an agreement or agreements, for any other implementing documents that may be necessary, to memorialize NERC’s assumption of CMEP responsibilities with respect to the WECC reliability coordination

function.<sup>11</sup> NERC and WECC anticipate they will complete negotiation of agreement terms, obtain the approval of their respective Boards, and submit the agreement(s) to the Commission, within 60 days following the date of this status report.

NERC and WECC note that in 2007 and continuing into 2008, WECC has performed the reliability coordination function through three Reliability Coordination Centers in the WECC Region that are hosted by major Transmission Operators/Balancing Authorities. The host organizations charge WECC for overhead and other costs associated with the centers. The reliability coordinators at the Reliability Coordination Centers are employees of the host organizations or of WECC or are independent contractors to WECC, with all compensation ultimately paid by WECC. However, on or before January 1, 2009, WECC will complete development and begin operation of its two new Reliability Coordination Centers in Vancouver, Washington, and Loveland, Colorado. The third Reliability Coordination Center will be eliminated. The new Reliability Coordination Centers will be owned and operated by WECC and will no longer be hosted by third-party organizations. All Reliability Coordinators and other staff will be WECC employees; staffing will no longer be provided by third-party organizations or (except as may be necessary on a short-term, interim basis due to unfilled position vacancies or similar causes) through contract personnel. It is NERC and WECC's objective to have NERC fully established and in place as the CEA for the WECC reliability coordination function on or before January 1, 2009, when the new WECC Reliability Coordination Centers are scheduled to go into full operation.

Finally, NERC and WECC note that their Delegation Agreement already provides for any penalties imposed on the WECC reliability coordination function for violations of reliability

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<sup>11</sup> The agreement(s) could take the form of an amendment(s) to the existing NERC-WECC Delegation Agreement, or a separate agreement(s).

standards to be paid to NERC, to be used by NERC as a general offset to NERC’s budget for statutory activities for the following year. Section 4, “Application of Penalties,” of Exhibit E to the NERC-WECC Delegation Agreement states in pertinent part:

Any penalty monies received from an operational function or division or affiliated entity of WECC shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC’s budget for its activities as the ERO under the [Federal Power] Act for the following year.

This provision was included in the revised NERC-WECC Delegation Agreement that was filed with the Commission in the October 30 2007 Compliance Filing and approved by the Commission in the March 21 2008 Order.<sup>12</sup>

**C. Discussion of Compliance Audits of WECC Reliability Coordination Function Conducted Subsequent to June 18, 2007**

Subsequent to the initial set of Commission-approved NERC reliability standards becoming effective as mandatory and enforceable standards on June 18, 2007, a total of three compliance audits of the WECC reliability coordination function have been conducted. The three compliance audits were conducted during the period September through November, 2007, and were conducted on-site at the three existing WECC Reliability Coordination Centers: the Pacific Northwest Security Center located in Vancouver, Washington; the Rocky Mountain/Desert Southwest Reliability Center located in Loveland, Colorado; and the California-Mexico Reliability Center located in Folsom, California.

<b><u>Reliability Coordination Center</u></b>	<b><u>Location</u></b>	<b><u>Date (2007)</u></b>	<b><u>Audit Lead</u></b>
Pacific Northwest Security Center	Vancouver WA	Sept. 19-21	NERC
Rocky Mountain/Desert Southwest Reliability Center	Loveland CO	Oct. 30 – Nov. 1	NERC
California-Mexico Reliability Center	Folsom CA	Nov. 13-15	NERC

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<sup>12</sup> March 21 2008 Order at P 225.

The compliance audit of the Pacific Northwest Security Center was conducted by an audit team that was led by a NERC Regional Compliance Program Coordinator and also included two other NERC Regional Compliance Program Coordinators, the WECC Manager of Compliance Administration, two other members of the WECC Compliance Program staff and one consultant to WECC. The compliance audit of the Rocky Mountain/Desert Southwest Reliability Center was conducted by an audit team that was led by a NERC Regional Compliance Program Coordinator and also included the NERC Vice President and Director of Compliance, an additional NERC Regional Compliance Program Coordinator, the WECC Regional Compliance Manager and three other members of the WECC Compliance Program staff. Finally, the compliance audit of the California-Mexico Reliability Center was conducted by an audit team that was led by a NERC Regional Compliance Program Coordinator and also included two other NERC Regional Compliance Program Coordinators, one member of the WECC Compliance Program staff and two consultants to WECC.

The three compliance audits of the WECC reliability coordination function covered the fourteen reliability standards applicable to reliability coordinators on the NERC list of actively-monitored standards for 2007, plus several additional reliability standards applicable to reliability coordinators. Following are the reliability standards covered by the compliance audits (not all requirements of each of these standards are applicable to reliability coordinators):

- CIP-001-1, Sabotage Reporting
- COM-001-1, Telecommunications
- COM-002-2, Communications and Coordination
- EOP-002-2, Capacity and Energy Emergencies
- EOP-006-1, Reliability Coordination – System Restoration
- EOP-008-0, Plans for Loss of Control Center Functionality
- INT-004-1, Dynamic Interchange Transaction Modifications

IRO-001-1, Reliability Coordination – Responsibilities and Authorities  
IRO-002-1, Reliability Coordination – Facilities  
IRO-003-2, Reliability Coordination – Wide Area View  
IRO-004-1, Reliability Coordination – Operations Planning  
IRO-005-1/2, Reliability Coordination – Current Day Operations  
IRO-006-3, Reliability Coordination – Transmission Loading Relief  
IRO-014-1, Procedures, Processes or Plans to Support Coordination Between Reliability Coordinators  
IRO-015-1, Notification and Information Exchanges Between Reliability Coordinators  
IRO-016-1, Coordination of Real-Time Activities Between Reliability Coordinators  
PER-003-0, Operating Personnel Credentials  
PER-004-1, Reliability Coordination - Staffing  
TOP-003-0, Planned Outage Coordination  
TOP-005-1, Operational Reliability Information  
TOP-006-1, Monitoring System Conditions<sup>13</sup>  
TOP-007-0, Reporting System Operating Limit and Interconnection Reliability Operating Limit Violations

The respective NERC audit team leaders were responsible for preparing the audit reports on the three compliance audits. The three compliance audit reports have been delivered to NERC, but have not yet been publicly posted to NERC’s website. NERC has provided the three compliance audit reports to the Commission on a non-public basis, pending public posting of the audit reports.

In addition to the three compliance audits described above, the WECC reliability coordination function has been subject to other compliance monitoring processes under the CMEP, including self-certifying compliance with applicable reliability standards. Any required notifications resulting from the compliance processes have been provided to the Commission, and any alleged violations and proposed penalties resulting from any of the compliance

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<sup>13</sup> Compliance audit of the Rocky Mountain/Desert Southwest Reliability Center only.

processes will be reported and processed in accordance with the provisions of the CMEP and the Commission's rules.

#### IV. CONCLUSION

NERC and WECC respectfully request that the Commission accept this status report as compliant with P 226 of the March 21 2008 Order.

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 Chicago, Illinois this 22d day of September, 2008.

/s/ Owen E. MacBride  
Owen E. MacBride

*Attorney for North American Electric  
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