

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

Southwest Power Pool Regional Entity        )

Docket No. RR11-\_\_\_\_\_

**PETITION OF  
SOUTHWEST POWER POOL REGIONAL ENTITY  
FOR REVIEW OF DECISION OF  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION**

Pursuant to Rule 207 of the Federal Energy Regulatory Commission’s (“Commission’s”) Rules of Practice and Procedure, 18 C.F.R. § 385.207, Southwest Power Pool Regional Entity (“SPP RE”) petitions the Commission for review of the decision of the North American Electric Reliability Corporation (“NERC”) to deny the request of Nebraska Public Power District (“NPPD”), the City of Grand Island, Nebraska (“Grand Island”), the City of Hastings, Nebraska (“Hastings”), and Omaha Public Power District (“OPPD”) to transfer their NERC compliance registrations from Midwest Reliability Organization (“MRO”) to the SPP RE.

SPP RE is informed that NPPD, Grand Island, and Hastings (collectively, “the Nebraska Entities”) continue to seek to transfer their registrations, and is aware that NPPD filed its own petition with the Commission on March 18, 2011, in Docket No. RR11-1-000 seeking review of NERC’s denial of the transfer requests.<sup>1</sup> As discussed below, because of the benefits and efficiencies that the transfers will provide, with no offsetting detriment to reliability or to the affected regional entities, SPP RE agrees that

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<sup>1</sup> Grand Island and Hastings are both within the NPPD balancing area, and it is SPP RE’s understanding that both seek to maintain registration with the same regional entity as NPPD.

the Commission should review and reverse NERC's decision, should approve the transfer of the Nebraska Entities' registrations to SPP RE, and should direct NERC to submit revised delegation agreements reflecting the requested transfers.

## **I. BACKGROUND**

In September 2008, the Nebraska Entities (along with OPPD) requested that their compliance registrations with NERC be transferred from MRO to SPP RE. This request was premised on the Nebraska Entities' decision to become members of the SPP Regional Transmission Organization ("SPP RTO"), effective April 1, 2009. SPP RE formally submitted the requested transfers to NERC along with information describing its plan for implementing the transfer.<sup>2</sup> SPP RE explained that the Nebraska Entities were becoming members of the SPP RTO, and as a result, SPP would become the Reliability Coordinator for each of them. Following various correspondence and discussions among NERC, the Nebraska Entities, SPP RE, and MRO, NERC initially decided in May 2009 to defer its decision on the transfer requests until the completion of the Commission's triennial performance assessment of NERC.<sup>3</sup>

More than a year later, by letter dated June 29, 2010, NERC commenced its consideration of the Nebraska Entities' requests. NERC then directed SPP RE and MRO to submit written reports addressing various issues, including: the effect of the proposed transfers on each Regional Entity's staffing needs; the effects, if any, on other users of the

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<sup>2</sup> See Attachment A, Letter from Charles Yeung to David Cook dated December 17, 2008.

<sup>3</sup> See Attachment B, Letter from David Cook to Patrick L. Pope, *et al.*, dated May 4, 2009.

bulk power system; the compliance histories of the Nebraska Entities; and plans for making the transition from MRO to SPP RE if the transfer requests were granted.<sup>4</sup>

SPP RE and MRO separately submitted their reports to NERC on August 16, 2010.<sup>5</sup> NERC posted the reports on its website and set a public comment period ending September 21, 2010. After the close of the comment period, NERC asked SPP RE and MRO to make presentations to its Board of Trustees (“NERC Board”). Both REs did so at the NERC Board’s meeting of February 17, 2011.<sup>6</sup>

By correspondence dated March 3, 2011, NERC formally advised SPP RE and MRO that the NERC Board, by a vote of five affirmative votes to six negative votes, had denied the requests of the Nebraska Entities and OPPD to transfer their compliance registrations.<sup>7</sup> No basis for the decision was provided. Instead, NERC’s communication of the decision simply indicated that the NERC Board by this narrow vote rejected a “draft decision” approving the transfers, which had been previously circulated to the board.

Accordingly, SPP RE submits this petition to request that the Commission reverse NERC’s decision, approve the transfer of the Nebraska Entities’ compliance registrations

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<sup>4</sup> See Attachment C, Letter from David Cook to Stacy Dochoda, *et al.*, dated June 29, 2010.

<sup>5</sup> See Attachment D, Report of the SPP RE Regarding the Transfer of the Compliance Registration of Certain Nebraska Utilities from MRO to SPP RE (“SPP RE Report”); Attachment E, MRO August 16 Report (“MRO Report”).

<sup>6</sup> See Attachments F and G, SPP RE and MRO Prepared Remarks, respectively.

<sup>7</sup> See Attachment H, Letter from David Cook to Stacy Dochoda, *et al.*, dated March 3, 2011 (“NERC Decision Letter”).

from MRO to SPP RE, and direct NERC to submit revisions of the SPP RE and MRO delegation agreements to the Commission to reflect the requested transfers.

## **II. THE COMMISSION SHOULD REVIEW *DE NOVO* NERC'S DENIAL OF THE PROPOSED TRANSFERS.**

SPP RE submits this appeal under the Commission's Rule 207, which permits a party to seek "action which is in the discretion of the Commission and for which [its rules] prescribe[] no other form of pleading."<sup>8</sup> The Commission has recently confirmed the right to appeal NERC decisions on compliance registration transfers,<sup>9</sup> but the rules concerning such appeals did not become effective until January 1, 2011, and are not applicable to the instant transfer request.<sup>10</sup> No other procedural rules appear to govern this matter. Accordingly, SPP RE is proceeding under Rule 207.<sup>11</sup>

The Commission plainly has authority to review the proposed transfer of the Nebraska Entities' registration. Section 215(e)(4)(C) of the Federal Power Act,<sup>12</sup> authorizes the Commission to approve delegations of authority to regional entities that promote effective and efficient administration of bulk-power system reliability.

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<sup>8</sup> 18 C.F.R. § 385.207.

<sup>9</sup> *N. Am. Elec. Reliability Corp.*, 133 FERC ¶ 61,061 (2010), *reh'g denied*, 134 FERC ¶ 61,179 (2011).

<sup>10</sup> *N. Am. Elec. Reliability Corp.*, 133 FERC ¶ 61,061, at P 2.

<sup>11</sup> No time is specified by the Commission for a petition of this type, even in the newly approved NERC rules. SPP RE is filing this petition less than 30 days after NERC's notification to SPP RE of the NERC Board's decision on the proposed transfer.

<sup>12</sup> 15 U.S.C. § 824o(e)(4)(C).

Consistent with section 215, the Commission’s regulations empower the Commission to modify such delegations.<sup>13</sup>

The Commission’s review of NERC’s decision on the proposed transfer of registration should be *de novo*. In fact, in the circumstances of this case, no other type of review is possible. NERC’s letter informing SPP RE and MRO of the NERC Board’s narrow decision provides no basis for the NERC Board’s vote not to approve the proposed transfer. The entirety of that decision is:

[T]he motion by Ken Peterson to approve the request from the Nebraska Entities . . . to transfer their compliance registration from the Midwest Reliability Organization to the Southwest Power Pool Regional Entity, subject to certain conditions as contained in the draft decision previously circulated to the Board of Trustees, failed on a vote of five affirmative votes and six negative votes.<sup>14</sup>

Accordingly, the Commission has no means of determining whether or to what extent the NERC Board weighed the evidence presented by SPP RE, which clearly established that the proposed transfers would promote effective administration of, and have no adverse effect on, reliability of the bulk power system; would have no significant effect on the overall cost of compliance enforcement; and would produce efficiencies for the Nebraska Entities. The NERC decision discusses none of this evidence. The Commission likewise is unable to assess whether the NERC Board’s decision properly took account of the Commission’s recognition that there are “potential benefits of having

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<sup>13</sup> 18 C.F.R. § 39.8(d) (“The Commission may modify such delegation.”).

<sup>14</sup> See NERC Decision Letter. NERC has not yet published minutes of the February 17, 2011 meeting.

the same boundaries for an RTO/ISO and a Regional Entity.”<sup>15</sup> Indeed, there is no way to tell what the NERC Board considered.

In numerous compliance registry challenges, the Commission has found that NERC must, at a minimum, consider the issues before it and provide a detailed analysis of the facts on which it bases its decisions.<sup>16</sup> Nevertheless, in this case, there is no way to determine the basis of the NERC Board’s decision. The board has already met and voted, and NERC has informed the parties of the board’s unexplained decision. There is no documentation that can explain the board’s rationale, as apparently all the NERC Board had before it when it voted was a draft decision *approving* the transfers. The Commission should not permit NERC to attempt to provide a *post hoc* explanation of the decision.<sup>17</sup> Rather, the absence of any explanation of the NERC Board’s denial of the transfers here compels the Commission’s *de novo* review of the record developed before NERC.

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<sup>15</sup> *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards*, Order No. 672, 2006-2007 FERC Stats. & Regs., Regs. Preambles ¶ 31,204, at P 697, *order on reh’g*, Order No. 672-A, 2006-2007 FERC Stats. & Regs., Regs. Preambles ¶ 31,212 (2006).

<sup>16</sup> *See, e.g., Southeastern Power Admin.*, 122 FERC ¶ 61,140, at P 22 (2008); *Mosaic Fertilizer, LLC*, 121 FERC ¶ 61,058, at P 1 (2007) (admonishing NERC that it must adequately address issues raised on appeal); *Constellation Energy Commodities Grp., Inc.*, 125 FERC ¶ 61,205 (2008). NERC has effectively acknowledged this obligation in similar contexts. For example, when NERC proposed amendments to delegation agreements to transfer compliance enforcement authority for SPP RTO and FRCC from SPP RE and FRCC to SERC, it provided a detailed explanation of its evaluation and approval of the transfer request. *See* NERC Petition, Docket No. RR10-7, at 26-27 (Mar. 10, 2010); *see also* NERC Response to MRO Protest, Docket No. RR10-7 (Apr. 16, 2010).

<sup>17</sup> *Cf. SEC v. Chenery Corp.*, 332 U.S. 194 (1942) (the validity of an administrative agency order’s must be determined solely from the rationale expressed by the agency in its decision).

Particularly in view of the narrow vote (6-5) denying the transfer, this case requires the Commission's *de novo* review under the standards of section 215 of the FPA.<sup>18</sup>

### **III. THE PROPOSED TRANSFER OF COMPLIANCE REGISTRATION IS JUSTIFIED AND SHOULD BE APPROVED.**

Although not specifically applicable to this appeal, the Commission has recently elaborated on the factors that should be considered in the review of a registration transfer. It approved consideration of the factors that are now listed in NERC Rule 1208.2, including:

- the location of the registered entity's bulk power system facilities in relation to the geographic and electrical boundaries of the respective regions;
- the impacts of the proposed transfer on other bulk power system owners, operators and users;
- the impacts of the proposed transfer on the current and future staffing, resources, budgets and assessments to other load serving entities of each regional entity, including the sufficiency of the proposed transferee regional entity's staffing and resources to perform compliance monitoring and enforcement activities with respect to the registered entity;
- the registered entity's compliance history with its current regional entity;

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<sup>18</sup> See *N. Am. Elec. Reliability Corp.*, 134 FERC ¶ 61,179, at P 9 (The Commission will review transfers of registered entities between Regional Entities based on the "overriding consideration" of whether the transfers "promote effective and efficient administration of Bulk-Power System reliability."). Additionally, the Commission has affirmed its authority to conduct a *de novo* review of NERC decisions in other contexts, such as notice of penalty decisions. See Order No. 672 at P 614.

- the manner in which pending compliance monitoring and enforcement matters concerning the registered entity would be transitioned from the current regional entity to the transferee regional entity; and
- any other reasons for the proposed transfer stated by the registered entity and any other reasons either regional entity considers relevant.<sup>19</sup>

In clarifying these factors, the Commission noted that the listed items are not exclusive and emphasized that “other reasons” for a transfer stated by either the registered entity or the regional entity should be considered.<sup>20</sup> It further clarified that “financial impacts” would not be the “determinative factor.”<sup>21</sup> The “overriding consideration” is “to promote effective and efficient administration of Bulk-Power System reliability.”<sup>22</sup>

#### **A. Location of the Requesting Entity’s Bulk Power Facilities**

The instant transfer request necessarily changes the geographic boundary between SPP RE and MRO by dividing portions of the state of Nebraska between the entities. State boundaries, however, generally have no effect on the reliability of the bulk power system and, therefore, were not a major consideration during the original assignment of registered entities to the various REs. In fact, during the original assignments in 2007, registered entities were generally assigned to the reliability organization of which they then were members. Thus, there can be little doubt that the Nebraska Entities would have

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<sup>19</sup> *N. Am. Elec. Reliability Corp.*, 134 FERC ¶ 61,179, at P 8.

<sup>20</sup> *Id.* at P 10.

<sup>21</sup> *Id.* at P 8.

<sup>22</sup> *Id.* at P 9.



been assigned to SPP RE if they had been members of the SPP RTO at that time; every member of the SPP RTO was a member of the SPP reliability organization as well. Further, the Nebraska Entities together serve approximately 85 percent of the state of Nebraska; thus, granting their transfer requests will not cause a dramatic division of the state. In any event, SPP RE currently has intra-state borders in several other states, including Louisiana, Texas, Missouri, and New Mexico, all without consequence to its reliability administration and enforcement responsibilities.

#### **B. Impact on Bulk Power System Owners, Operators, and Users**

The proposed transfer of the Nebraska Entities' registrations will have little to no impact on other Bulk Power System owners, operators and users, other than a modest re-allocation of the affected Regional Entities' respective costs. The requested transfer will only require the transferring utilities to register in the SPP RE for the same functions for which they are now registered in MRO. No change in the assignment of the Nebraska Entities' Reliability Coordinator, Planning Authority, Transmission Service Provider or Interchange Authority will occur as a result of the requested transfer, nor will any other registered entity be required to make any changes in these registrations. As further described in Section III.C. below, the transfer will not result in a change to the SPP RE's overall cost structure; rather, the addition of the Nebraska Entities to SPP RE's Compliance Monitoring and Enforcement Program will likely reduce fees for all current load serving entities in SPP RE by approximately 6 percent of the SPP RE portion of the fee that is assessed by NERC each quarter.

#### **C. Impact on Regional Entities**

The allocation of SPP RE's and MRO's costs to the registered entities in their respective regions initially will change as result of the transfer. This should surprise no

one. *Any* change in the footprint of an RE inevitably will change the distribution of responsibility for its costs. However, such a change cannot justify denying a transfer request which, like the one at issue here, is soundly based on revised regional relationships, and which presents significant advantages for the requesting entities. The present transfer requests would not increase the overall costs of SPP RE and MRO; there would simply be a slight shift in per MWh costs among registered entities in the two regions. The immediate, and likely the only short-term, effect of the Nebraska Entities' transfers would be, in essence, a wash: SPP RE registered entities' average cost responsibility will decline by about 6 percent; MRO registered entities' average cost responsibility will increase by about 5 percent.<sup>23</sup> Notably, even if all of the Nebraska Entities' transfer requests are approved, SPP RE will still be the smaller entity in terms of the net energy for load ("NEL") that supports the region's costs. In fact, among the eight RE regions, SPP RE has the fewest MWhs of NEL over which it can spread its costs.

In a longer view, aggregate costs should be unchanged, and perhaps will decline. SPP RE will incur no additional staff or other costs due to the transfer.<sup>24</sup> MRO's costs potentially will decrease when it has sufficient time to re-evaluate its staffing needs and other costs after the transfer is completed.<sup>25</sup> In any event, the Commission has confirmed that "financial impacts" will not be the "determinative factor" in evaluating transfers.<sup>26</sup>

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<sup>23</sup> See Attachment I for supporting calculations, which are premised on data found in the SPP RE Report at 3 and the MRO Report at 3, adjusted to reflect OPPD remaining in MRO.

<sup>24</sup> SPP RE Report at 3-4.

<sup>25</sup> See MRO Report at 18.

<sup>26</sup> *N. Am. Elec. Reliability Corp.*, 134 FERC ¶ 61,179, at P 8.

#### **D. Compliance History**

While SPP RE does not have direct access to the Nebraska Entities' compliance history within MRO, the MRO Report indicates that, when the transfer becomes effective, MRO would provide SPP RE with copies of all historic compliance monitoring data of the Nebraska Entities.<sup>27</sup> The MRO Report also states that MRO has processed violations by NPPD and Grand Island and that MRO would provide SPP RE with copies of any confidential documents or information related to these matters that were not included in the relevant Notice of Penalty filings.<sup>28</sup>

#### **E. Transition Plan**

SPP RE is fully capable and prepared to take on all compliance enforcement activities for the Nebraska Entities in a timely and seamless manner. As noted above, no change in the assignment of the Nebraska Entities' Reliability Coordinator, Planning Authority, Transmission Service Provider or Interchange Authority would occur with the transfer, and no other registered entity would be required to change any such assignments. Further, a change to the compliance registrations is a simple and straightforward process that takes less than two weeks to complete. SPP RE and MRO use the same automated data management system, which should help to minimize any

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<sup>27</sup> MRO Report at 18.

<sup>28</sup> *Id.* MRO argued to NERC that registered entities should not be permitted to engage in forum shopping for their RE. MRO Report at 5. However, any suggestion that a more favorable compliance enforcement environment motivates the present transfer requests has no credibility. The Nebraska Entities are seeking to move from a region that finds among the fewest (0.86) violations per registered entity to a region that has recorded among the highest (2.09) violations per registered entity since 2007. *See* Attachment J, excerpt from NERC presentation "Key Compliance Trends" (NERC 2011), available at <http://www.nerc.com/files/Feb%20Public%20Posting%20Statistics.pdf>.

training or transition issues related to the transfer. MRO and SPP RE have both confirmed that they can coordinate the monitoring and validation of any open matters at the time of the transfer, with MRO retaining responsibility, including the filing with and approval by the Commission of any financial penalties, for any violations that are in process at that time.<sup>29</sup>

#### **F. Other Considerations**

The Commission has specifically recognized that there are “potential benefits of having the same boundaries for an RTO/ISO and a Regional Entity.” The transfer requested here will increase administrative efficiency and provide other important synergies for the Nebraska Entities and SPP RE.

The SPP RTO is the Nebraska Entities’ Reliability Coordinator, providing real-time interaction, monitoring and training for each of them. With the approval of the requested transfer, the Nebraska Entities will be able to concentrate all of their efforts in one reliability region, rather than split resources between the SPP RTO activities and the MRO RE activities. SPP RE and SPP RTO closely coordinate many of their public activities and meetings. This provides valuable efficiencies in the form of decreased time and travel costs and improved personnel assignments for registered entities that are both members of the SPP RTO and registered with the SPP RE.

The Nebraska Entities currently are excluded from enjoying such efficiencies as SPP members because they must participate in SPP RTO activities and meetings, as well as continue to participate in MRO’s regional entity activities. The proposed transfer of compliance registration would lift this unnecessary cost and administrative burden. It also

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<sup>29</sup> MRO Report at 18; SPP RE Report at 3-4.

would eliminate the need for the Nebraska Entities to understand and comply with the different regional criteria maintained by SPP RTO, as a Reliability Coordinator, and MRO as a Regional Entity. Consequently, approving the transfer would achieve the “overriding consideration” of “promot[ing] effective and efficient administration of Bulk-Power System reliability.”

Finally, as it reviews this transfer request, the Commission also should weigh the negative effect of NERC’s decision on the attractiveness of RTO membership for entities that are not currently participating in an RTO. Denying the Nebraska Entities’ transfer request essentially penalizes them for their decision to join an RTO by requiring them to continue to report to, and participate in, a separate RE in another region. This is not an outcome the Commission should accept. Even with the proviso that transfers between REs should be the exception rather than the rule, a transfer in connection with the voluntary election of non-jurisdictional utilities, such as the Nebraska Entities, to join an RTO is exactly the type of situation for which such an exception should be available.<sup>30</sup>

When the Commission articulated the benefits of RTOs in Order No. 2000, including increased efficiency in the operation of the transmission system, improved congestion management, and less need for regulatory scrutiny, it also recognized that “public power and cooperative participation in RTOs will enhance the reliability and economic benefits of an RTO.”<sup>31</sup> When it approved the Nebraska Entities’ membership

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<sup>30</sup> See *N. Am. Elec. Reliability Corp.*, 133 FERC ¶ 61,061, at P 74.

<sup>31</sup> *Regional Transmission Organizations*, Order No. 2000, 1996-2000 FERC Stats. & Regs., Regs. Preambles ¶ 31,089, at 31,024-27, 31,200-01 (1999), *order on reh’g*, Order No. 2000-A, 1996-2000 FERC Stats. & Regs., Regs. Preambles ¶ 31,092 (2000), *petitions for review dismissed sub nom. Pub. Util. Dist. No. 1 v. FERC*, 272 F.3d 607 (D.C. Cir. 2001).

(continued . . .)

in the SPP RTO, the Commission acknowledged even more explicitly that such public power membership “will enhance the reliability and economic benefits of SPP.”<sup>32</sup> Accordingly, the Commission’s general policy goal of encouraging RTO membership provides another compelling basis for the Commission to grant this petition and to direct NERC to approve and implement transfer of the Nebraska Entities’ compliance registrations from MRO to SPP RE.

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( . . . continued)

<sup>32</sup> *Southwest Power Pool, Inc.*, 125 FERC ¶ 61,239, at P 15 (2008).

#### IV. CONCLUSION

The Commission should review *de novo* NERC's denial of the Nebraska Entities' proposed transfers of their compliance registrations from MRO to SPP RE and approve the requested transfers. The Commission should direct NERC to file revisions to Attachment A of the REs' respective delegation agreements to reflect the transfers.

Stacy Dochoda  
Regional Entity General Manager  
Southwest Power Pool Regional Entity  
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(501) 688-1730  
sdochoda@spp.org

Respectfully submitted,

/s/ Barry S. Spector  
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Counsel for  
Southwest Power Pool  
Regional Entity

March 31, 2011

# ATTACHMENT A



December 17, 2008

David Cook  
NERC  
Princeton Forrestal Village  
116-390 Village Boulevard  
Princeton, New Jersey 08540-5721

Dear Sir,

Omaha Public Power District (OPPD), Nebraska Public Power District (NPPD), Lincoln Electric System (LES), and Municipal Energy Authority of Nebraska (MEAN) have executed Southwest Power Pool (SPP) Membership Agreements to be members of SPP. OPPD, NPPD, and MEAN have submitted their withdrawal from the Midwest Reliability Organization (MRO) effective April 1, 2009. OPPD, NPPD, and LES as well as SPP have filed with FERC to put their transmission facilities under the functional control of SPP and operate under the authority of the Reliability Coordinator of SPP.

OPPD, NPPD, MEAN, City of Hastings, City of Grand Island, City of Fremont, Falls City, and Nebraska City have also applied to be registered entities under the SPP Regional Entity (RE) (See attached letters and SPP RE Registration forms). The SPP RE is capable of and has the authority to fulfill all the roles of an RE for these parties as required in the SPP RE Delegation Agreement and listed below.

- Develop regional reliability standards;
- Administer the compliance monitoring and enforcement program
- Organization registration and certification;
- Conduct reliability readiness evaluations;
- Provide training, education and operator certification;
- Conduct reliability assessment and performance analysis;
- Conduct situational awareness and infrastructure security;

The SPP RE is fully ready to fulfill these requirements and roles for the entities listed above effective April 1, 2009.

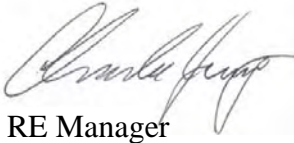
As SPP understands the process, we have attached changes to the following items to incorporate these entities into the SPP RE.

1. Attached is an updated Exhibit A - Regional Boundaries

2. Attached are a number of the 2007 NELs for the entities to ease the change in their funding of NERC and SPP RE and removal from MRO funding. SPP is working to obtain the other 2007 NELs for those missing.

To ensure continuity of the reliability services facilitated by the Regional Entities, SPP will work with NERC to file these updates to the SPP Regional Entity Delegation Agreement in order to effectuate this change.

Charles Yeung



RE Manager

CC: Dan Skaar – MRO  
Craig Lawrence - NERC



**NMPP • MEAN • NPGA • ACE**

**NMPP Energy** ■ 1111 O Street - Suite 200 ■ Lincoln, NE 68508 ■ Phone: 402.474.4759 ■ Fax: 402.474.0473  
P.O. Box 95124 ■ Lincoln, NE 68509 ■ [www.nmppenergy.org](http://www.nmppenergy.org)

Charles Yeung, SPP Regional Entity Manager  
415 North McKinley St., Suite 140  
Little Rock, AR 72205

Dear Mr. Yeung;

The Municipal Energy Agency of Nebraska (MEAN) will be under the authority of the SPP reliability coordinator and will be receiving Regional Transmission Organization services effective April 1, 2009. As a result of this transition, MEAN is requesting to move our current Registration for compliance and enforcement of North American Electric Reliability Corporation standards for bulk power system reliability from the MRO to the authority of the SPP Regional Entity (SPP RE).

To effectuate this transfer of Registration, we request that the SPP RE make the necessary changes to its Regional Entity Delegation Agreement with NERC so that MEAN will be registered in the SPP RE footprint. We also understand that NERC and the SPP RE will need to revise its billing for reliability services and we are providing our 2007 Net Energy for Load data on the attached completed NEL data submittal form. Finally, we recognize that such changes between NERC and SPP, and NERC and the MRO will need to be accepted by the FERC, and that SPP Inc. will work with NERC to make such appropriate regulatory filings.

As a matter of consistency and to avoid duplication, this letter shall serve as MEAN's official request for the MRO, who currently provides the RE services for MEAN, to update its Regional Entity Delegation Agreement and any relevant filings to reflect this change effective as of April 1, 2009.

Please make all the necessary changes so that MEAN will begin taking SPP RE services on April 1, 2009.

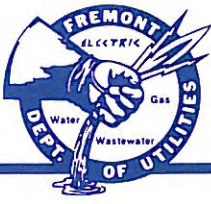
Sincerely,

Charles J. Langston  
Manager, Electric Markets  
Municipal Energy Agency of Nebraska

Attachment

C; Midwest Reliability Organization





# FREMONT Department of Utilities

Operated by the  
Board of Public Works

400 EAST MILITARY AVENUE • P.O. BOX 1468 • FREMONT, NE 68026  
BUSINESS PHONE 402-727-2600 • FAX PHONE 402-727-2667

December 2, 2008

Charles Young  
SPP Regional Entity Manager  
415 North McKinley Street  
Suite 140  
Little Rock AR 72205

Dear Mr. Young:

Fremont Department of Utilities is requesting to move our current registration for compliance and enforcement of the North American Electric Reliability Corporation standards for system reliability from the Midwest Reliability Organization (MRO) to the authority of the SPP Regional Entity (SPPRE).

We request that the SPPRE modify its Regional Entity Delegation Agreement with NERC as required so that Fremont will be registered in the SPPRE footprint. We understand that FERC will have to accept this change and request that SPP work with NERC to make the required regulatory filings.

We are copying the MRO with this letter so they can update their Regional Entity Delegation Agreement and any other relevant filings to reflect the changes as well.

Please make all necessary changes so that Fremont will begin taking SPPRE services on April 1, 2009.

If you have any questions feel free to contact me at 402-727-2610.

Sincerely,

Derril Marshall, P.E.  
General Manager

cc: Dan Shaw, MRO  
David Ried, OPPD  
Carol Monroe, SPP



Natural Gas

Electricity

Water

Waste Water

**FALLS CITY UTILITIES**

Tele: 402.245.2724

Fax: 402.245.2741

Emergency: 402.245.3521

1820 Towle Street

P.O. Box 158

Falls City NE 68355-0158

December 5, 2008

SPP Regional Entity Manager  
Charles Yeung  
415 North McKinley Street Suite 140  
Little Rock, AR 72205

Dear Mr. Yeung:

Falls City Utilities (FCU) is a Load Serving Entity in the Omaha Public Power District (OPPD) Balancing Authority Area. OPPD has filed with FERC to join Southwest Power Pool, Inc. and upon FERC approval will be receiving Regional Transmission Organization services effective April 1, 2009, including being under the authority of the SPP reliability coordinator. As a result of this transition, FCU is requesting to move our current Registration in North American Electric Reliability Corporation funding and Regional Entity NEL funding from the MRO to the authority of the SPP Regional Entity (SPP RE).

To effectuate this transfer, we request that the SPP RE make the necessary changes to its Regional Entity Delegation Agreement with NERC so that FCU will be in the SPP RE footprint. We also understand that NERC and the SPP RE will need to revise its billing for reliability services and our 2007 Net Energy for Load data has been submitted by OPPD. The FCU ID number in the MRO Regional Entity is 1205 and is listed as Falls City Water & Light Department. Finally, we recognize that such changes between NERC and SPP, and NERC and the MRO will need to be accepted by the FERC, and that SPP, Inc. will work with NERC to make such appropriate regulatory filings.

As a matter of consistency and to avoid duplication we have requested that the Midwest Reliability Organization, who currently provides the RE services for us, update its Regional Entity Delegation Agreement and any relevant filings to reflect this change.

Please make all the necessary changes so that FCU will begin taking SPP RE services on April 1, 2009

Sincerely,

Alan Romine  
Utilities Operations Superintendent  
Falls City Utilities

CC David Ried, OPPD  
Gary Jorn, FCU



444 South 16th Street Mall  
Omaha NE 68102-2247

November 7, 2008

SPP Regional Entity Manager  
Charles Yeung  
415 North McKinley Street Suite 140  
Little Rock, AR 72205

Dear Mr. Yeung:

The Omaha Public Power District (OPPD) has filed with FERC to join Southwest Power Pool, Inc. and upon FERC approval will be receiving Regional Transmission Organization services effective April 1, 2009, including being under the authority of the SPP reliability coordinator. As a result of the transition, OPPD is requesting to move our current Registration for compliance and enforcement of North American Electric Reliability Corporation standards for bulk power system reliability from the MRO to the authority of the SPP Regional Entity (SPP RE).

To effectuate this transfer of Registration, we request that the SPP RE make the necessary changes to its Regional Entity Delegation Agreement with NERC so that OPPD will be registered in the SPP RE footprint. We also understand that NERC and the SPP RE will need to revise its billing for reliability services and we are providing our 2007 Net Energy for Load data on the attached completed NEL data submittal form. Finally, we recognize that such changes between NERC and SPP, and NERC and the MRO will need to be accepted by the FERC, and that SPP, Inc. will work with NERC to make such appropriate regulatory filings.

As a matter of consistency and to avoid duplication we have requested that the Midwest Reliability Organization, who currently provides the RE services for us, update its Regional Entity Delegation Agreement and any relevant filings to reflect this change.

Please make all the necessary changes so that OPPD will begin taking SPP RE services on April 1, 2009

Sincerely,

David Ried  
Division Manager  
Energy Marketing and Trading

DGR:DLC

Encl.

c: Dan Skaar, MRO  
Carl Monroe, SPP  
Dale Widoe, OPPD  
Blaine Dinwiddie, OPPD

**SOUTHWEST POWER POOL  
Assessment Information Form**

Company Name:	Omaha Public Power District
Date:	30-Oct-08
Your Name:	David G. Ried
Your Phone #:	402-514-1025

**2007 NET ENERGY FOR LOAD (MWh)**

**Definition :** The electrical energy requirements of an electric system are defined as system net generation plus energy received from others less energy delivered to others through interchange. It includes system losses but excludes energy required for the storage at energy storage facilities. (As defined in Section 1.10 of the SPP Bylaws).

Purpose: For NERC Annual Assessment.

**INSTRUCTIONS:**

**For Balancing Authorities**

1. Enter the Net Energy for Load (NEL) Total for your Control Area - Section 1
2. Enter the Net Energy for Load (NEL) for your company and each LSE by Control Area - Section 2
3. Subtotals in Section 1 and Section 2 should equal by Control Area
4. Totals in Section 1 and Section 2 should equal

**For LSE's:**

1. Enter the Net Energy for Load (NEL) for each Control Area where your company serves load - Section 2

**Section 1 - Net Energy for Load (MWh) - Control Area Totals**

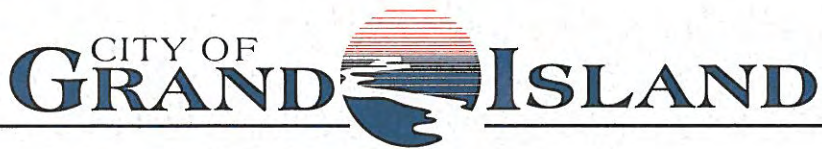
Control Area	Net Energy for Load
OPPD	11,110,236

**Section 2 - Net Energy for Load (MWh) - LSE Subtotals**

NERC ID
1232
1205
1206
1229

Control Area	LSE Name	Net Energy for Load
OPPD	OPPD	10,585,160
OPPD	FCU	38,267
OPPD	Fremont	448,542
OPPD	NCU	38,267





*Working Together for a  
Better Tomorrow. Today.*

November 21, 2008

SPP Regional Entity Manager  
Charles Yeung  
415 North McKinley St., Suite 140  
Little Rock, AR 72205

Dear Mr. Yeung;

The City of Grand Island owns and operates an electrical utility including generation and distribution. The City of Grand Island is totally surrounded by and exclusively interconnected with Nebraska Public Power District (NPPD). NPPD has filed with FERC to join the Southwest Power Pool (SPP), which is scheduled to become effective April 1, 2009. The City of Grand Island, as an entity within NPPD's Balancing Area, will also be under the authority of the SPP reliability coordinator and will be receiving Regional Transmission Organization services. As a result of the transition, the City of Grand Island is requesting to move our current Registration for compliance and enforcement of North American Electric Reliability Corporation standards for bulk power system reliability from the MRO to the authority of the SPP Regional Entity (SPP RE).

To effectuate this transfer of Registration, we request that the SPP RE make the necessary changes to its Regional Entity Delegation Agreement with NERC so that the City of Grand Island (GRIS) will be registered in the SPP RE footprint. We also understand that NERC and the SPP RE will need to revise its billing for reliability services and we are providing our 2007 Net Energy for Load data on the attached completed NEL data submittal form. Finally, we recognize that such changes between NERC and SPP, and NERC and the MRO will need to be accepted by the FERC, and that SPP Inc. will work with NERC to make such appropriate regulatory filings.

As a matter of consistency and to avoid duplication, we have requested that the Midwest Reliability Organization, who currently provides the RE services for us, update its Regional Entity Delegation Agreement and any relevant filings to reflect this change.

Please make all the necessary changes so that the City of Grand Island will begin taking SPP RE services on April 1, 2009.

Sincerely,

A handwritten signature in cursive script that reads "Gary F. Mader".

Gary Mader  
Utilities Director  
City of Grand Island

pc: Daniel P. Skaar, President, MRO

**SOUTHWEST POWER POOL  
Assessment Information Form**

Company Name:	City of Grand Island (GRIS)
Date:	11/10/2008
Your Name:	Jeffrey Mead
Your Phone #:	(308) 385-5465

**2007 NET ENERGY FOR LOAD (MWh)**

**Definition :** The electrical energy requirements of an electric system are defined as system net generation plus energy received from others less energy delivered to others through interchange. It includes system losses but excludes energy required for the storage at energy storage facilities. (As defined in Section 1.10 of the SPP Bylaws).

Purpose: For NERC Annual Assessment.

**INSTRUCTIONS:**

**For Balancing Authorities**

1. Enter the Net Energy for Load (NEL) Total for your Control Area - Section 1
2. Enter the Net Energy for Load (NEL) for your company and each LSE by Control Area - Section 2
3. Subtotals in Section 1 and Section 2 should equal by Control Area
4. Totals in Section 1 and Section 2 should equal

**For LSE's:**

1. Enter the Net Energy for Load (NEL) for each Control Area where your company serves load - Section 2

**Section 1 - Net Energy for Load (MWh) - Control Area Totals**

Control Area	Net Energy for Load

**Section 2 - Net Energy for Load (MWh) - LSE Subtotals**

Control Area	LSE Name	Net Energy for Load
*NPPD	GRIS	718837

\* Nebraska Public Power District  
(402) 845-6789



# NEBRASKA CITY UTILITIES

100 CENTRAL AVENUE

NEBRASKA CITY, NE 68410-0670

LEROY J. FRANA, Manager

Telephone: (402) 873-3353

Fax: (402) 873-5397

[www.nebraskacityutilities.com](http://www.nebraskacityutilities.com)

Email: [ncu@alltel.net](mailto:ncu@alltel.net)

December 5, 2008

SPP Regional Entity Manager  
Charles Yeung  
415 North McKinnley Street  
Suite 140  
Little Rock, AR 72205

Dear Mr. Yeung:

The City of Nebraska City Nebraska City Utilities receives transmission services from the Omaha Public Power District (OPPD). OPPD has filed with FERC to join Southwest Power Pool, Inc. and upon FERC approval will be receiving regional transmission organization services effective April 1, 2009. OPPD therefore will be under the authority of the SPP Reliability Coordinator. As a result of the transition to SPP, the City of Nebraska City Nebraska City Utilities is requesting to move its' current registration for compliance and enforcement of the North American Electric Reliability Corporation (NERC) standards reliability from the MRO to the authority of the SPP Regional Entity (SPP RE).

To effectuate this transfer of registration, we request that the SPP RE make the necessary changes to its Regional Entity Delegation Agreement with NERC so that the City of Nebraska City Nebraska City Utilities will be registered in the SPP RE footprint. As a result of this transfer, we understand that NERC and the SPP RE will need to revise its' billing for reliability services and we understand OPPD has submitted our 2007 Net Energy for Load Data. We recognize that these changes between NERC and SPP and NERC and the MRO will need to be accepted by FERC and that SPP will work with NERC to make such appropriate regulatory filings.

To avoid duplication, we have requested that the Midwest Reliability Organization, who currently provides the RE services for us update its' Regional Entity Delegation Agreement and any relevant filings to reflect this change.

Please make all necessary changes that are required so that the City of Nebraska City Nebraska City Utilities will begin taking SPP RE services effective April 1, 2009.

Sincerely,

Leroy Frana  
General Manager  
Nebraska City Utilities

LF:tmr

CC: Dan Skaar, MRO  
David Ried, OPPD  
file



November 14, 2008

To: SPP Regional Entity Manager

Charles Yeung  
415 North McKinley St., Suite 140  
Little Rock, AR 72205

Dear Mr. Yeung;

The City of Hastings, Nebraska, a Municipal Corporation, dba Hastings Utilities will be under the authority of the SPP reliability coordinator and will be receiving Regional Transmission Organization services effective April 1, 2009. As a result of the transition, Hastings Utilities is requesting to move our current Registration for compliance and enforcement of North American Electric Reliability Corporation standards for bulk power system reliability from the MRO to the authority of the SPP Regional Entity (SPP RE).

To effectuate this transfer of Registration, we request that the SPP RE make the necessary changes to its Regional Entity Delegation Agreement with NERC so that Hastings Utilities will be registered in the SPP RE footprint. We also understand that NERC and the SPP RE will need to revise its billing for reliability services and we are providing our 2007 Net Energy for Load data on the attached completed NEL data submittal form. Finally, we recognize that such changes between NERC and SPP, and NERC and the MRO will need to be accepted by the FERC, and that SPP Inc. will work with NERC to make such appropriate regulatory filings.

As a matter of consistency and to avoid duplication, we have requested that the Midwest Reliability Organization who currently provides the RE services for us, to update its Regional Entity Delegation Agreement and any relevant filings to reflect this change.

Please make all the necessary changes so that Hastings Utilities will begin taking SPP RE services on April 1, 2009.

Sincerely,

Marvin H Schultes  
Manager of Utilities  
Hastings Utilities

*"Locally owned and operated since 1886"*



**Nebraska Public Power District**

*"Always there when you need us"*

Patrick L. Pope  
Vice President & Chief Operating Officer  
(402) 563-5029 / 5145 fax  
[plpope@nppd.com](mailto:plpope@nppd.com)

November 21, 2008

SPP Regional Entity Manager  
Charles Yeung  
415 North McKinley St., Suite 140  
Little Rock, AR 72205

Dear Mr. Yeung:

Nebraska Public Power District (NPPD) is joining the Southwest Power Pool (SPP), Inc, contingent upon FERC approval, and plans to start receiving SPP Regional Transmission Organization services effective April 1, 2009 including being under the authority of the SPP Reliability Coordinator. As a result of the transition, NPPD is requesting to move our current Registration for compliance and enforcement of the North American Electric Reliability Corporation (NERC) standards for bulk power system reliability from the Midwest Reliability Organization (MRO) to the authority of the SPP Regional Entity (SPP RE).

To effectuate this transfer of Registration, we request that the SPP RE make the necessary changes to its Regional Entity Delegation Agreement with NERC so that NPPD will be registered in the SPP RE footprint. We also understand that NERC and the SPP RE will need to revise its billing for reliability services and we are providing our 2007 Net Energy for Load data on the attached completed NEL data submittal form. Finally, we recognize that such changes between NERC and SPP, and NERC and the MRO will need to be accepted by the FERC, and that SPP Inc. will work with NERC and MRO to make such appropriate regulatory filings.

By copy of this letter to the MRO, as a matter of consistency and to avoid duplication, we are requesting that the MRO who currently provides the RE services for NPPD, update its Regional Entity Delegation Agreement and any relevant filings to reflect this change.

Please make all the necessary changes so that NPPD can begin taking SPP RE services on April 1, 2009.

Sincerely,

**Patrick L. Pope**  
Vice President &  
Chief Operating Officer

cc: Daniel P. Skaar, President, MRO

**General Office**

1414 15th Street / P.O. Box 499 / Columbus, NE 68602-0499  
**Telephone:** (402) 564-8561 / **Fax:** (402) 563-5551  
[www.nppd.com](http://www.nppd.com)



## **Regional Boundaries**

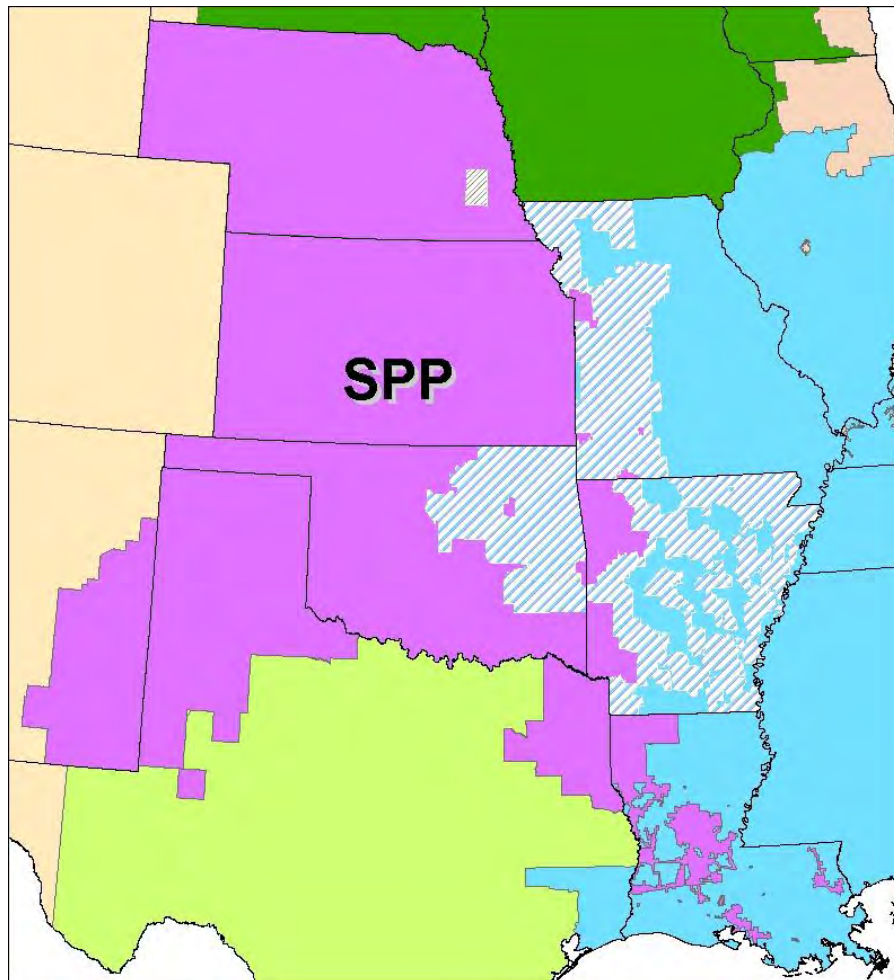
### Exhibit A Regional Boundaries

The geographic boundaries of Southwest Power Pool (SPP) are determined by the service areas of its membership, comprised of investor-owned utilities, municipal, cooperative, state and federal systems, merchant electricity generators and power marketers.

SPP covers an area of approximately 336,000 square miles of service territory (purple region depicted below) in all or part of nine states: Arkansas, Kansas, Louisiana, Nebraska, New Mexico, Mississippi, Missouri, Oklahoma, and Texas.

Service provided by SPP members in areas which overlap with neighboring regions:

- ◆ The area in northeastern Oklahoma is served by Western Farmers Electric Cooperative, Oklahoma Gas & Electric Company, Oklahoma Municipal Power Authority, Grand River Dam Authority, and AEP West.
- ◆ The area in Arkansas is served by Arkansas Electric Cooperative Corporation, Oklahoma Gas & Electric Company, and AEP West.
- ◆ The area in western Missouri is served by Aquila, Empire District Electric Company, City Power & Light (Independence, MO), City Utilities (Springfield, MO), Grand River Dam Authority, Kansas City Power & Light Company, City Power & Light (Independence, MO), and Southwestern Power Administration.
- ◆ The area in central Nebraska is served by Lincoln Electric System.





# ATTACHMENT B

# NERC

NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

May 4, 2009

Mr. Patrick L. Pope  
Vice President and Chief Operating Officer  
Nebraska Public Power District  
2060 W. Platte River Dr.  
P.O. Box 1000  
Doniphan, Nebraska 68832-1000

Mr. Dale F. Widoe  
Vice President, Operations  
Omaha Public Power District  
Nebraska City Station Box 241  
Nebraska City, Nebraska 68410

Mr. Kevin Gaden  
Director of Wholesale Electric Operations  
Municipal Energy Agency of Nebraska  
1111 O Street  
PO 95124  
Lincoln, Nebraska 68509

RE: Request to transfer from MRO to SPP RE

Dear Messrs. Pope, Widoe and Gaden:

This letter is in response to your March 3, 2009 letter providing additional information in support of your request to transfer from the Midwest Reliability Organization to the SPP Regional Entity. Your letter also describes the actions Nebraska Public Power District, Omaha Public Power District, and the Municipal Energy Agency of Nebraska have taken to date in furtherance of the request you have made.

As noted in your letter, your three organizations are now taking reliability coordination services from SPP instead of the Midwest ISO. That expansion of the SPP reliability coordinator footprint required NERC to audit and re-certify SPP as a reliability coordinator. The audit team completed its work in March 2009, and NERC conditionally re-certified the SPP reliability coordinator on March 27, 2009, thus enabling you to shift reliability coordinators by the requested April 1 start-up date.

Your request to move from MRO to the SPP Regional Entity would also require an amendment to the delegation agreements that NERC has with both MRO and SPP RE. At this time, NERC is deferring decisions on changes to the regional delegation agreements. Currently, NERC and the Regional Entities are in the process of completing a three-year performance assessment required by the Federal Energy Regulatory Commission of NERC's implementation of the reliability legislation and the Regional Entities' implementation of the functions delegated to them under the delegation agreements. NERC expects that one result of the performance assessment will be a need for revisions to the delegation agreements. Until the performance assessment is completed and we begin to look at actual amendments to the delegation agreements, we will not be in a position to consider your request.

I understand the concerns you have raised in your letter about the potential for being subject to different expectations from the two Regional Entities. Until such time as NERC has been able to consider amendments to the delegation agreements and the amendments have been approved by FERC, you will formally be subject to monitoring by only the MRO. By copy of this letter, I am requesting Dan Skaar of MRO and Stacy Dochoda of SPP RE to coordinate with each other, and with you, to minimize duplication of effort, data requests, modeling and the like to the maximum extent practicable.

I appreciate your forbearance in this matter. Please contact me if you have questions or need additional information.

Sincerely,



David Cook  
Vice-President and General Counsel

Cc: Stacy Dochoda, SPP RE  
Dan Skaar, MRO  
David Hilt, NERC  
Joel deJesus, NERC

# ATTACHMENT C



**NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION**

June 29, 2010

Daniel P. Skaar  
Midwest Reliability Organization  
2774 Cleveland Ave. North  
Roseville, MN 55113

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

Dear Mr. Skaar and Ms. Dochoda:

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

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

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

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

JUL 02 2010

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

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

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

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

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

Thank you,



David Cook  
VP & General Counsel

Mr. Daniel P. Skaar and Ms. Stacy Dochoda

June 29, 2010

Page 3

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

# ATTACHMENT D





Ms. Stacy Dochoda  
Regional Entity General Manager  
[sdochoda@spp.org](mailto:sdochoda@spp.org)

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

August 16, 2010

*Via Electronic Mail*

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

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

Dear Mr. Cook:

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

Respectfully submitted,

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

Stacy Dochoda  
Regional Entity General Manager

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

## I. BACKGROUND

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

## II. SPP RE RESPONSE

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

### Specific Issues Listed in the June 29 Letter

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

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

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

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

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

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

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

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

<sup>2</sup> *See* Petition for Approval of Revised Pro Forma Delegation Agreement, Revised Delegation Agreements with the Eight Regional Entities, and Amendments to the NERC Rules of Procedure of the North American Electric Reliability Corporation, Docket No. RR10-11 at 87 (“June 9 NERC Petition”) (June 9, 2010).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### III. CONCLUSION

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

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<sup>3</sup> See June 9 NERC Petition at 87.

# ATTACHMENT E



August 16, 2010

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

Subject: Nebraska Entities request for transfer from MRO to SPP RE

Dear Mr. Cook:

In correspondence dated June 29, 2010, you requested responses to specific questions to evaluate whether the NERC Board of Trustees should grant or deny the request by the Nebraska Entities<sup>1</sup> to change their Compliance Enforcement Authority from Midwest Reliability Organization (“MRO”) to Southwest Power Pool Regional Entity (“SPP RE”). See [Exhibit F](#) for MRO’s answers to the questions. This letter is MRO’s response to the Nebraska Entities’ request.

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

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

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







## Background and MRO's Position

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

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

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

<sup>3</sup> Motion of the North American Electric Reliability Corporation to submit Answer to Comments on Petition for Approval of Revised Pro Forma Delegation Agreement, Revised Delegation Agreements with the Eight Regional Entities, and Amendments to the NERC Rules of Procedure in Docket No. RR-10-11-000, page 19 (NERC Comments Delegation Agreement).

<sup>4</sup> NPPD Comments Delegation Agreement, page 1.





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

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

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

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

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<sup>5</sup>Id., page 4.

<sup>6</sup> 16 U.S.C. §824o (e)(4)(C) (2006).

<sup>7</sup>NPPD Comments Delegation Agreement, page 4.

<sup>8</sup> See Footnote 7, *supra*..





NERC approved MRO budget the Nebraska Entities would be responsible for \$738,560 and assessed \$750,399.<sup>9</sup> See [Exhibit B](#). Moving the Nebraska Entities out of the MRO footprint would not change the overall MRO 2011 funding requirement at this time, and therefore, these costs would be allocated to the remaining Registered Entities. The Registered Entities remaining in MRO would see their assessed costs increase by \$750,399 in 2011, and, all other factors equal, the increase would be carried forward into future budget years. Therefore, granting the request does not economically benefit the Nebraska Entities or the remaining MRO Registered Entities. Only current SPP RE Registered Entities would derive an economic benefit from the proposed change.

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

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

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

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

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





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

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

### **Policy Considerations Raised by the Nebraska Entities' Request**

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

As noted above, NERC has stated that NPPD does not define its policy priorities<sup>12</sup> and NERC should not let the Nebraska Entities demands to join SPP RE set NERC's policy priorities. The policy priority that NERC should consider is whether granting the Nebraska Entities request promotes the effective and efficient administration of the bulk-power system reliability under Section 215 of the Federal Power Act?

### **MRO's Recommendation**

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

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

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

<sup>12</sup>See *supra* note 3.





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

Sincerely,

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

Daniel P. Skaar  
President

Cc: Stacy Dochoda, SPP RE General Manager  
Nebraska Entities





## Exhibit A

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

June 11, 2010

### Background

On April 19, 2007, the Federal Energy Regulatory Commission (“Commission” or “FERC”) issued an order accepting Delegation Agreements between the North American Electric Reliability Corporation (NERC) and eight Regional Entities (REs), including the Midwest Reliability Organization (MRO) and Southwest Power Pool, Inc. (SPP) Regional Entity division<sup>13</sup>. In each Delegation Agreement, NERC assigned authority to the RE to, among other things, enforce compliance with Reliability Standards within the geographic boundaries set forth in Exhibit A of the RE’s Delegation Agreement.

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

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

### Nebraska area changes

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

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





## Coordination Guidelines

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

### Model Building

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

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

### Seasonal and Long Term Assessments

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

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

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

### Periodic Data Reporting

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

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





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

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

#### Additional Clarifications on Requirements for Nebraska entities and SPP RTO

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

#### Regional Standards

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







## Exhibit B

NERC's entire Assessment Schedule for 2011 can be found by following:  
[http://www.nerc.com/docs/bot/finance/Appendix\\_2\\_AssessmentCalculations.pdf](http://www.nerc.com/docs/bot/finance/Appendix_2_AssessmentCalculations.pdf)

### 2011 Budget and Assessment Impacts

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

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

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

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

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

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





## Exhibit C



August 12, 2010

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

**Re: Nebraska Utilities Transfer Request**

Dear Mr. Skaar:

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

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





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

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

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

These comments may be shared with NERC if you wish.

Sincerely,

A handwritten signature in black ink, appearing to read 'Doug Bantam', written over a light blue circular stamp.

Doug Bantam  
Chief Operating Officer

cc: Kevin Wailes





## Exhibit D

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

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

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

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

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

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

Thanks

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





## Exhibit E

February 3, 2010

Mr. Tom Burgess  
NERC Planning Committee, Chair

Mr. Jeff Mitchell  
NERC Planning Committee, Vice Chair

Subject: Aligning Assessment Geographies with Planning Authorities

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

### Background:

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

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





### Existing Process:

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

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

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

### Proposal:

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

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





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

Regards,

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

Dan Schoenecker  
Vice President, Operation  
Midwest Reliability Organization

Cc: MRO Reliability Assessment Committee  
Mark Lauby, NERC





## Exhibit F

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

*Whether the Requesting Parties still wish to make the transfer*

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

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

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

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

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

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

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

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

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







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

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

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

To date, MRO has processed violations by NPPD via a Settlement Agreement which was approved by FERC on March 3, 2010<sup>14</sup>. MRO would provide copies of any documents or information related to the confidential settlement discussions that were not included in the Notice of Penalty filing.

MRO has also processed violations by the City of Grand Island which were approved by FERC on November 13, 2009.<sup>15</sup> MRO would provide copies of any documents or information related to this enforcement action that were not included in the Notice of Penalty filing.

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

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

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

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

---

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

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



# ATTACHMENT F

Prepared Remarks of Stacy Dochoda

SPP RE General Manager

February 17, 2011

Good Morning, I'm Stacy Dochoda, the General Manager of the Southwest Power Pool Regional Entity. I'm going to provide my view of the request made by Nebraska Public Power District, Omaha Public Power District, Hastings Utilities and the City of Grand Island, to become registered entities of the SPP Regional Entity.

While I am supportive of the requested change in registration, I want to be clear that I do not believe that Regional Entities should be in the business of recruiting registered entities. As a compliance enforcement authority, I don't believe that would be appropriate and that is not the situation here. My support for this particular transfer is case specific.

The SPP RE is unique in that it is the only FERC approved Regional Transmission Organization that is also a FERC approved Regional Entity. The SPP RTO reports to an Independent Board and the SPP RE reports to a completely separate but also independent board. One of the SPP core values is that reliability and economics are inseparable and that forms the basis for why the members wanted SPP to be both an RTO and a Regional Entity.

The Southwest Power Pool was formed on December 14, 1941, by 11 utilities as a way to provide power to an aluminum plant during World War II. Then, SPP became a founding member of NERC in 1968.

However, to really understand the character of SPP, it is important to know that SPP did not even exist as a legal entity until 1994, and from 1941-1998 the SPP membership agreement was one-paragraph. Many of our member companies have been working together for decades; these relationships are SPP's foundation and why being relationship-based is a key corporate strategy.

In 2008, several utilities in Nebraska made the decision to join the SPP RTO with the thinking that they would also become SPP RE registered entities.

After all, when the eight regional entity footprints were established in 2007, the boundary for the SPP Regional Entity included all the Balancing Authorities and transmission Owners that had committed their transmission facilities to the SPP Open Access Transmission Tariff. If the Nebraska Utilities had been members of the SPP RTO during the original assignment in 2007, it is almost certain that they would have been registered in the SPP RE.

No one is arguing that a transfer in registration should be automatic but in this case, where certain entities have requested the transfer, we see no reason to arbitrarily disallow it.

There is precedent for registered entities to request and be allowed to change regional entities.

For example, Valley Electric was originally registered in the SERC Reliability Corporation region. When they changed wholesale suppliers to a supplier in the SPP RE region, they requested and were allowed to become a registered entity in SPP RE. SERC did not oppose the transfer.

While transfers in registration have not been common, this transfer is not an unusual transfer. The reason it is unusual is that MRO has opposed the transfer. As far as I can tell it is the only time a regional entity has opposed a transfer of registration.

Why Does MRO oppose the transfer?

They have identified no negative impacts to reliability.

They offer a policy argument that registered entities shouldn't be allowed to change regional entities on a case by case basis.

However, that argument has already been decided by NERC and FERC. Recent changes to the rules of procedure that NERC and FERC have approved include a process to allow registered entities to request changes in registration on a case by case basis.

How is this transfer different from others that have been allowed? How can NERC justify allowing some but not allowing others merely on the basis of the objection of the regional entity for no reliability reason?

MRO argues that entities shouldn't be allowed to forum shop. I agree. However, there is no support for that here. In this case the registered entities would be moving from a region that finds among the fewest violations per registered entity to a region that has recorded among the highest violations per registered entity. Any argument of forum shopping is a red herring.

One reason MRO raises in opposition to the transfer is that the costs to their remaining entities would go up. Currently, SPP RE happens to have the fewest number of MWHs or NEL among the eight regions over which we spread our costs. If the transfer were approved, MRO would still have more MWHs than the SPP RE. MRO should not be given veto power based on the cost argument. MRO has estimated that costs to their remaining entities will go up about 9% due to the transfer. SPP RE's existing registered entity costs would go down approximately 10% due to the transfer.

In closing, no one has identified any negative impact to reliability for the registration of Nebraska Entities in SPP RE. Consistency with the logic underlying the original footprints and decisions allowing prior transfers argues in favor of allowing this transfer.

Thank you. I'd be happy to answer any questions.

# ATTACHMENT G

**Prepared Remarks of Dan Skaar, MRO President,  
Before NERC Board of Trustees  
February 17, 2011**

Good morning, Ladies and Gentlemen.

Thank you for giving Stacy and me the opportunity to speak briefly regarding the request of Nebraska Public Power District (or "NPPD") to transfer its registration from MRO to SPP RE. I will refer to NPPD as they are the only petitioner at FERC on this matter.

I respectfully ask that you deny the request, because the requested transfer would not, as required by the Commission, improve the effectiveness or efficiency of the Regional Entities' and NERC's administration of reliability.

NPPD's request stems from its voluntary transfer to the SPP RTO in 2008. Creating a reliable bulk electric system does not, however, require an identity of boundaries between the organizations that oversee reliability, the Regional Entities, and electric markets.

-- Logically, if you were to agree with NPPD and SPP RE's reasoning, you would have to consider a realignment of four or five of the Eastern Interconnection Regional Entities – we've been dealing with these issues for over four years now.

-- But, to my knowledge, there is no groundswell or even a little tremor for such realignment.

-- In fact, other MRO registered entities that are part of SPP RTO, such as Lincoln Electric System, are not requesting a transfer and support MRO here.

-- Similarly, Entergy for which SPP RTO acts as the Reliability Coordinator and tariff administrator has not requested a transfer from SERC.

-- And, Omaha Public Power District, one of the entities that originally sought a change in REs, has submitted a letter of withdraw from SPP and any future relationship is uncertain.

-- Now what? Does it mean that every time market participation changes, the Board will have to revisit the delegation agreements? The Trustees need to set a precedent that will avoid instability in our delegated authorities.

In our industry, there will always be seams to manage, especially as market participation evolves over time. It's most important that we effectively manage and thoughtfully work towards eliminating those seams, rather than granting requests which will in effect create more seams and more costs for Regional Entities.

Specifically, across the Eastern Interconnection, we need to look at boundaries and seams of Reliability Coordinators and Planning Authorities to assure they are effectively managed as a whole. A change in boundaries for a single entity or a few entities, as proposed in this request, puts the cart before the horse and leaves the changes to the regulated choosing their regulator – a type of forum shopping, or perhaps more accurately in light of the enforcement implications, cop shopping. Forum shopping may be appropriate for markets, but not for regulators.

As you know, the Commission addressed NPPD's concerns in its order on NERC's proposed revisions to the Regional Delegation Agreements and Rules.

While the Commission agreed that the process approved in that order would not apply to NPPD's current request, the principles that the Commission stated there regarding its review of your decisions on such transfers clearly apply to NPPD's request, because they are grounded in the Federal Power Act and a long line of Commission decisions.

An application of those principles requires denial of the request.



As the Commission reiterated in the delegation agreement order:

- Registered Entities do not have the right to choose the Regional Entity that will be their Compliance Enforcement Authority.
- Those Entities have no justification to shop for a Regional Entity.
- The transfer of Registered Entities between two Regional Entities should be the exception not the rule.

The standard that the Commission has established for considering transfers comes straight out of Section 215 of the Federal Power Act – boundary changes should be carefully considered and should serve to improve the effectiveness or efficiency of the Regional Entities' and NERC's administration of reliability. The decision should not merely be driven by a perceived benefit to an individual registered entity or a small group of entities.

The case before you today is a clear example of the latter, it's for individual convenience.

NPPD believes the transfer would be beneficial, pointing, for example, to fewer out of town meetings and decreased travel costs. But these are individual benefits, flowing from the close affiliation between SPP RE and SPP RTO, not a better alignment of regional boundaries. Individual entity conveniences simply cannot be the standard.

Put another way, the standard for approving a transfer requires an improvement in the efficiency and effectiveness of the Regional Entities. It is NOT a "no harm" standard. Therefore, SPP RE misses the mark when it states in its past written submission that there are no negatives resulting from the transfer. The statement clearly misstates the applicable standard. The absence of a negative is not an improvement and is no more appropriate than granting transfers merely for the convenience of the requesting entity.

And, in this case, there are negatives. As detailed in MRO's written submissions, the transfer would shift costs from one Region to another without any reliability benefit.

MRO costs increase. Ironically, NPPD's costs increase with the transfer. WAPA and Basin Electric also note that the transfer would be inefficient because jointly owned equipment in substations would fall within both the MRO and SPP jurisdictions. And in its objection to the transfer, Lincoln Electric System described how the SPP RTO's membership criteria provided to Lincoln when it joined the RTO embed the SPP RE criteria, creating confusion between RTO and RE requirements. And while perhaps efficient for an RTO member subject to the jurisdiction of SPP RE, it required Lincoln to seek waivers.

Lincoln's experience, of course, underscores another issue that has been on the Commission's radar for years, namely the independence of SPP RE from SPP RTO.

Finally, SPP's belief, as stated in its 2010 Strategic Plan, that the combination of the RTO and RE functions would result in greater cost-effectiveness and organizational efficiency for SPP's members does not help justify the transfer request either. Just the opposite. The convenience of, or even the benefits to, the market participants in SPP's electricity market obviously cannot be the basis for a transfer of a registered entity from one reliability Region to another. To grant this request on this basis supports SPP's market growth objectives and would simply be wrong.

The appropriate response to this request is to apply the logic of Section 215 and opt for the solution that supports stability rather than individual preference.

For all these reasons, the Board should deny the request to change the boundaries of the MRO.

Thank you again for the opportunity to address this very important issue. I would be happy to answer any questions you may have.

# ATTACHMENT H



# NERC

NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

March 3, 2011

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

Daniel P. Skaar  
Midwest Reliability Organization  
2774 Cleveland Ave. North  
Roseville, MN 55113

Re: Request of Nebraska Entities to Transfer Registration from MRO to SPP RE

Dear Ms. Dochoda and Mr. Skaar:


This letter is formal notice that at the February 17, 2011 meeting of the NERC Board of Trustees, the motion by Ken Peterson to approve the request from the Nebraska Entities (Nebraska Public Power District, Omaha Public Power District, City of Hastings, and City of Grand Island ) to transfer their compliance registration from the Midwest Reliability Organization to the Southwest Power Pool Regional Entity, subject to certain conditions as contained in the draft decision previously circulated to the Board of Trustees, failed on a vote of five affirmative votes and six negative votes. Trustee Roy Thilly recused himself from participation in the matter. Accordingly, the request to transfer was not approved.

Sincerely,



David N. Cook  
Corporate Secretary

cc: All parties



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# ATTACHMENT I

**SPP 2011 Statutory Funding Requirement** \$ 9,282,485

	NELs	\$/NEL
SPP RE Unadjusted	203,022,708	\$ 0.046

	<u>% of RE Total</u>	
	<u>Adjusted</u>	
Nebraska Public Power District	5.843%	12,666,632
Omaha Public Power District	0.000%	-
Grand Island Utilities Department	0.314%	681,421
Hasting Utilities	0.182%	395,028

	<u>13,743,081</u>	
SPP RE Adjusted	216,765,789	\$ 0.043

Estimated \$ Decrease/NEL	\$ (0.003)
Estimated % Decrease	-6.340%

<b>MRO Exhibit B</b>	<b>Assessment</b>	<b>Budget</b>
Nebraska Public Power District	395,211	389,006
Omaha Public Power District	321,524	316,495
Grand Island Utilities Department	21,261	20,927
Hasting Utilities	12,325	12,132
	<u>750,321</u>	<u>738,560</u>
Total MRO	8,260,502	8,130,824
	9.083%	9.083%

<b>MRO Exhibit B Adjusted</b>	<b>Assessment</b>	<b>Budget</b>
Nebraska Public Power District	395,211	389,006
Omaha Public Power District		
Grand Island Utilities Department	21,261	20,927
Hasting Utilities	12,325	12,132
	<u>428,797</u>	<u>422,065</u>
Total MRO	8,260,502	8,130,824
	<b>5.191%</b>	<b>5.191%</b>

**Sources:**

NERC 2011 BPB, Appendix 2-- Assessment Calculations, pages 1-2, 7

SPP RE BPB, page 3

MRO Response, Exhibit B

# ATTACHMENT J



# NERC

NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

## Key Compliance Trends

to ensure  
the reliability of the  
bulk power system

## C-RATS

### Summary of all Post June 18, 2007 Alleged Violations by Region

Below is a breakdown, as of February 28, 2011 of the Compliance Monitoring and Enforcement (CMEP) alleged violation summary for all 6201 violations.

	Dismissed	Previously Closed	Newly Closed	FERC Enforceable			Total Canadian Violations	Total
				Total	Normalized by Registered Entity	% Non-Document Related		
FRCC	100	60	0	266	2.27	59%	0	426
MRO	66	55	0	149	0.86	59%	7	277
NPCC	42	55	0	127	0.33	72%	14	238
RFC	70	106	2	589	1.14	74%	0	767
SERC	79	214	15	466	1.42	62%	0	774
SPP	81	54	2	391	2.09	52%	0	528
TRE	46	28	0	193	0.62	63%	0	267
WECC	963	812	17	1025	1.52	52%	0	2817
NERC	36	17	0	54	10.80	96%	0	107
<b>TOTAL</b>	<b>1483</b>	<b>1401</b>	<b>36</b>	<b>3260</b>	<b>1.21</b>	<b>61%</b>	<b>21</b>	<b>6201</b>

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Includes new violations received through 2/28/2011.

C-RATS Report Date: 3/2/2011

## CERTIFICATE OF SERVICE

I hereby certify on this 31st day of March, 2011, I have this day served a copy of the foregoing document, via electronic mail or first class mail, upon each party representative listed below:

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Princeton, NJ 08540

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Michael J. Thompson

**Attorney for  
Southwest Power Pool Regional Entity**