

UNITED STATES OF AMERICA
before the
FEDERAL ENERGY REGULATORY COMMISSION

NORTH AMERICAN ELECTRIC)
RELIABILITY COUNCIL and)
NORTH AMERICAN ELECTRIC)
RELIABILITY CORPORATION)

Docket No. RR06-1-____

ADDITIONAL COMPLIANCE FILING AND REQUEST BY
THE NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
TO APPROVE REGIONAL DELEGATION AGREEMENTS

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I. INTRODUCTION

On July 20, 2006, the Commission issued an order in Docket No. RR06-1-000 certifying the North American Electric Reliability Corporation (“NERC”) as the nation’s Electric Reliability Organization (“ERO”) under Section 215 of the Federal Power Act (the “Act”).¹ Section 215(e)(4) of the Act and § 39.8 of the Commission’s regulations² make provision for the ERO to delegate authority for the purpose of proposing Reliability Standards to the ERO and enforcing Reliability Standards in particular regions of the country, by entering into delegation agreements with Regional Entities. Such delegation agreements must be approved by the Commission before they may take effect. In this filing NERC requests that the Commission approve the following proposed delegation agreements between NERC and the following proposed Regional Entities:

- Texas Regional Entity, a Division of the Electric Reliability Council of Texas (“ERCOT”) (**Attachment 1**)
- Midwest Reliability Organization (“MRO”) (**Attachment 2**)

¹*Order Certifying NERC as the Electric Reliability Organization (ERO) and Ordering Compliance Filing*, 116 FERC ¶ 61,062 (2006) (“ERO Certification Order”).

²16 U.S.C. § 824o(e)(4); 18 C.F.R. § 39.8.

- Northeast Power Coordinating Council: Cross Border Regional Entity, Inc. (“NPCC CBRE”) (**Attachment 3**)
- ReliabilityFirst Corporation (“ReliabilityFirst”) (**Attachment 4**)
- SERC Reliability Corporation (“SERC”) (**Attachment 5**)
- Southwest Power Pool, Inc. (“SPP”) (**Attachment 6**)
- Western Electricity Coordinating Council (**Attachment 7**)

In addition, NERC is filing for the Commission’s information the current version of the delegation agreement NERC is negotiating with the Florida Reliability Coordinating Council (“FRCC”) (**Attachment 8**). The FRCC delegation agreement is not complete because FRCC has not yet provided Exhibit D (compliance monitoring and enforcement program) to the agreement; therefore, in the absence of an Exhibit D for FRCC, NERC is unable to represent to the Commission at this time that the proposed delegation agreement with FRCC conforms to the requirements of the Act and § 39.8 of the Commission’s regulations. FRCC has advised that it intends to act on a compliance program at its Board meeting scheduled for December 7, 2006. Assuming that FRCC provides an acceptable compliance program, NERC intends to supplement this filing following such action by FRCC to submit a complete delegation agreement with FRCC and request that it be approved by the Commission.

In a separate filing in this docket, NERC is filing as a compliance filing to the ERO Certification Order (i) a uniform Compliance Monitoring and Enforcement Program (“Compliance Program” or “CMEP”), to be included as Appendix 4C to NERC’s Rules of Procedure; (ii) a revised *pro forma* delegation agreement implementing the directions from the ERO Certification Order concerning the *pro forma* delegation agreement that was submitted on April 4, 2006, with NERC’s application for certification as the ERO; and (iii) certain conforming revisions to Section 400 of the NERC Rules of Procedure. As required by the proposed

delegation agreements, each Regional Entity will follow the uniform CMEP when it acts as the Compliance Enforcement Authority, subject only to such deviations from the uniform CMEP as are identified and justified in Exhibit D to the Regional Entity's delegation agreement. NERC will follow the uniform CMEP when it acts as the Compliance Enforcement Authority.

Part III of this filing describes the criteria a delegation agreement must meet to obtain Commission approval. Part IV provides an overview of NERC's program to delegate authority to the Regional Entities and the process NERC and the prospective Regional Entities followed to develop the delegation agreements, exhibits and the uniform Compliance Program.³ Part V discusses the eight individual delegation agreements and any departures those agreements make from the *pro forma* delegation agreement or the uniform CMEP.

II. NOTICES AND COMMUNICATIONS

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

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*Persons to be included on the Commission's service list are indicated with an asterisk.

³Each of the eight prospective Regional Entities is an existing regional reliability organization or an affiliated entity that has been formed by a regional reliability organization to perform the functions of the Regional Entity. NERC worked with the management and staffs of the regional reliability organizations to develop the *pro forma* and individual delegation agreements and the uniform CMEP.

III. CRITERIA FOR APPROVAL OF DELEGATION AGREEMENTS

The criteria governing approval of a delegation agreement are set forth in the Act, Part 39 of the Commission's regulations and the ERO Certification Order. The Commission may approve a delegation agreement if (1) the Regional Entity is governed by an independent board, a balanced stakeholder board or a combination independent and balanced stakeholder board; (2) the Regional Entity otherwise meets the requirements of Section 215(c)(1) and (2) of the Act; and (3) the agreement promotes effective and efficient administration of bulk-power system reliability. 16 U.S.C. § 824o(e)(4); 18 C.F.R. § 39.8(c). The other applicable requirements of Section 215(c)(1) and (2) of the Act are that the Regional Entity:

- (A) has the ability to develop and enforce, subject to the provisions of Section 215(e)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system; and
- (B) has established rules that—
 - (i) ensure the independence of the Regional Entity from the users and owners and operators of the bulk-power system, while ensuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any committee or subordinate organizational structure;
 - (ii) allocate equitably reasonable dues, fees, and other charges among end users for all activities under Section 215;
 - (iii) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with Section 215(e), including limitations on activities, functions, or operations, or other appropriate sanctions;
 - (iv) provide for reasonable notice and opportunity for public comments, due process, openness, and balance of interests in developing reliability standards and otherwise exercising the duties of the ERO; and
 - (v) provide for taking appropriate steps to gain recognition in Canada and Mexico.⁴

⁴Section 215(c)(2) (16 U.S.C. § 824o(c)(2)). As a practical matter, the provision of Section

In addition, NERC and the Commission shall rebuttably presume that a delegation agreement proposed by a Regional Entity organized on an interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. 16 U.S.C. § 824o(e)(4); 18 C.F.R. § 39.8(e). For purposes of this filing, ERCOT and WECC are organized on an Interconnection-wide basis and qualify for the rebuttable presumption that a delegation agreement proposed by such an organization promotes effective and efficient administration of bulk-power system reliability.

IV. OVERVIEW OF NERC'S PROGRAM TO DELEGATE AUTHORITY TO REGIONAL ENTITIES

NERC intends to enter into delegation agreements with eight Regional Entities for the purpose of delegating authority as the ERO for proposing Reliability Standards to NERC and enforcing Reliability Standards in particular regions of the country. Section 215(e)(4) of the Act and § 39.8 of the Commission's regulations make provision for the ERO to delegate such authority. This is the approach that NERC presented to the Commission in its 2007 business plan and budget that the Commission approved on October 24, 2006.⁵

NERC believes that delegating authority to the Regional Entities to propose and enforce Reliability Standards is the most effective and efficient way to administer a program to maintain and improve the reliability of the bulk power system. For example, enforcement of Reliability Standards is most effective when performed regionally. There the Compliance Enforcement Authority may more closely observe the performance of bulk power system owners, operators, and users for the purpose of evaluating compliance. The prospective Regional Entities also

215(c)(2)(B)(v) is only applicable to MRO, NPCC CBRE and WECC.

⁵*Order on Petitions for Rehearing and Clarification; Order on Compliance Filing*, 117 FERC ¶ 61,126 (2006).

possess detailed knowledge of bulk power system design, configuration, and electrical characteristics, as well as operating and planning protocols, within their respective areas.

NERC and the eight prospective Regional Entities worked together to develop the *pro forma* delegation agreement that was filed with NERC's application for certification as the ERO on April 4, 2006. After issuance of the ERO Certification Order, NERC and the prospective Regional Entities engaged in further negotiations to arrive at agreement on the revisions to the *pro forma* delegation agreement that were necessary to implement the Commission's directives in the ERO Certification Order. The revised *pro forma* delegation agreement is included in the separate compliance filing NERC is making in this docket.

It is important to recognize that the delegation agreements are, in fact, *agreements*. NERC is engaging the Regional Entity to carry out certain activities on NERC's behalf. Therefore, the delegation agreement memorializes the set of mutually agreeable terms under which those activities are to take place. NERC and the Regional Entities will execute the individual agreements once the Commission has approved them.

A. Base Delegation Agreement

Each individual delegation agreement follows the general format of the *pro forma* delegation agreement, which is described in more detail in the separate compliance filing NERC is making in this docket. The base delegation agreement sets out the rights and responsibilities of each party. The base delegation agreement is substantially identical for each of the individual agreements.

B. Exhibit A

Exhibit A to the delegation agreements sets out the geographic boundaries of the area within which each Regional Entity will exercise its delegated authority. It is important that there

be neither gaps nor overlaps in coverage. The boundaries for the ERCOT Interconnection and the Western Interconnection are fairly straightforward and well known. The six Regional Entities within the Eastern Interconnection worked together to develop their Exhibits A's. Those Regional Entities are satisfied that they have properly identified their boundaries so as to avoid both gaps and overlaps, and know which owners, operators and users of the bulk-power system located along the boundaries are in which regions.

C. Exhibit B

Exhibit B to the delegation agreements deals with the governance of each Regional Entity and demonstrates how that Regional Entity meets the statutory and regulatory requirements to qualify for delegated authority. Because Section 215(e)(4) of the Act permits regional entities to have different governance structures, the governing documents for the different Regional Entities do not need to be uniform. To facilitate the analysis of the governing documents for each Regional Entity, Exhibit B is in the form of a template that lists, in five separate criteria, the statutory and regulatory requirements that each Regional Entity must meet. All eight of the Regional Entities have provided the requisite information. Seven of the Regional Entities have inserted into the template the portions of their bylaws and other governance documents that demonstrate how they meet each criterion. The full text of each of these Regional Entities' bylaws and other relevant documents referred to in Exhibit B are provided as supplemental information to this filing, in the Attachment for each Regional Entity. The eighth Regional Entity, WECC, has included its full bylaws as Exhibit B to its delegation agreement and has provided the analysis of how it meets each of the five criteria in its supplemental information (**Attachment 7**).

D. Exhibit C

Exhibit C to the delegation agreements deals with the Regional Entity's standards development process. NERC has worked closely with each of the Regional Entity candidates to attain a high level of consistency among the proposed regional entity standards development procedures. As a foundation to guide this activity, NERC created a *Pro Forma Regional Reliability Standards Development Procedure*.⁶ The pro forma procedure identifies 34 common attributes that NERC believes are essential for the development of regional reliability standards, based on Order No. 672⁷, the ERO Certification Order, and NERC's Rules of Procedure.

The 34 common attributes establish a uniform framework of essential elements that ensure that any resulting Regional Reliability Standard is technically sound and the technical specifications proposed would achieve a valuable reliability goal. The 34 common attributes ensure that any Regional Entity reliability standard development procedure meets the following overarching objectives:

- **Open** - Participation in the development of a regional reliability standard shall be open to all organizations that are directly and materially affected by the bulk power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in the region, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to the regional entity's members and others.
- **Balanced** - The regional standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.

⁶The NERC Pro Forma Regional Reliability Standards Development Procedure is posted on NERC's website at http://www.nerc.com/~filez/regional_standards/.

⁷*Rules Concerning Certification of the Electric Reliability Organization, and Procedures for the Establishment, Organization and Enforcement of Electric Reliability Standards*, 114 FERC ¶ 61,104 (2006).

- **Inclusive** — Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the region's area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.
- **Fair due process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.
- **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.
- **Timely** — The procedure does not unnecessarily delay development of the proposed regional reliability standard.
- **No adverse impact on competition** — the procedure includes steps to evaluate the effect of the proposed regional reliability standard on competition and avoid proposing standards that have undue adverse impacts on competition.

Each Regional Entity standards development procedure should meet the same statutory and regulatory requirements as the *NERC Reliability Standards Development Procedure* (Appendix 3A to the NERC Rules of Procedure), although the Regional Entity procedures do not need to be identical to the NERC procedure.

NERC presented the initial draft of the *Pro Forma Regional Reliability Standards Development Procedure* to the prospective Regional Entities in early August 2006. NERC and the Regional Entities then worked together to arrive at a pro forma procedure acceptable to NERC and all of the Regional Entities.

Each Regional Entity had already developed a Regional Entity reliability standards development procedure, and in some cases had already implemented its procedure. Therefore, NERC worked with the Regional Entities to compare their existing procedures to the pro forma procedure. Where significant differences existed, NERC requested the Regional Entity to make

conforming changes to its regional procedure. As a result of these efforts, there is a high degree of consistency among the Regional Entity reliability standards development procedures (and with the pro forma procedure) on the essential elements. To the extent there are any remaining differences of interest, they are identified in the discussions below of the individual delegation agreements.⁸

Exhibit C to each delegation agreement identifies each of the 34 common attributes from the *Pro Forma Regional Reliability Standards Development Procedure*, followed by references to and the actual language of applicable Regional Entity documentation relative to each common attribute, thus providing a mapping between the essential elements of the pro forma procedure and the Regional Entity's reliability standards development procedure. NERC believes this approach ensures that the Regional Entity procedures meet the minimum essential requirements for a standards development procedure and provide for consistency of the Regional Entity procedures on these essential elements, while allowing the Regional Entities flexibility to manage administrative details that do not need to be uniform.

All eight of the Regional Entities have provided the requisite information for Exhibit C. Seven of the Regional Entities have cited specific language from their regional procedure, bylaws, or other documents that demonstrates how the Regional Entity's standards development procedure meets the essential element. A copy of the complete Regional Entity standards

⁸The difference of interest noted by NERC in this filing between the standards development procedures of certain Regional Entities and the 34 common attributes do not rise to a level that cause NERC to conclude that the proposed delegation agreements with these Regional Entities fail to meet the applicable statutory and regulatory requirements for submission, approval and execution. NERC emphasizes that in all cases, both NERC and the Commission must approve any Reliability Standards (including Regional Reliability Standards) proposed by a Regional Entity before the proposed Reliability Standard can become effective under Section 215 of the Act.

development procedure of each of these seven Regional Entities has been included in this filing as supplemental information in the Attachment for each Regional Entity. WECC has taken a slightly different approach by including its entire Regional Entity reliability standards development procedure in Exhibit C to its delegation agreement, and providing the mapping of its procedure against the essential elements as a supporting reference in its Attachment **(Attachment 7)**.

NERC believes the approach described above provides consistency with respect to regional standards development across the eight prospective Regional Entities sufficient to begin the operation of the ERO. NERC has emphasized the need for the standards development template to be uniform across the eight Regional Entities, and this objective has been met. Thus, each Reliability Standard that will be proposed to the ERO by a Regional Entity will, regardless of the specific details of the Regional Entity's standards development procedure, look just like a NERC Reliability Standard, will contain all the same elements as a NERC Reliability Standard, and will have been developed through a process meeting the common procedural elements. Additionally, and most importantly, each Regional Reliability Standard must be presented to NERC for approval before it is submitted to the Commission for approval. Although NERC will not duplicate the development or voting procedure for each regionally-developed standard, NERC's rules provide for an evaluation of the proposed Regional Reliability Standard to ensure it meets the statutory requirements and the Commission's criteria for a reliability standard. NERC can send a proposed standard that is unacceptable back to the Regional Entity for further work.

Each of the eight proposed Regional Entity standards development procedures was posted for public comment from mid-September through October 20, 2006. The public

comments received for each Regional Entity procedure were relatively minor, with no substantive issues raised relative to the 34 common attributes. The Regional Entity procedures that were posted for comment, the comments received, and each Regional Entity's reply comments, are posted on the regional standards portion of the NERC website at http://www.nerc.com/~filez/regional_standards/nerc_regional_procedures_comments.html.

As the drafting of the Regional Entity standards development procedures proceeded, NERC provided feedback to each Regional Entity, when requested, regarding consistency of the draft Regional Entity procedure with the 34 common attributes. This resulted in the vast majority of NERC's concerns being remedied prior to the submittal of the proposed delegation agreements in this filing.

While, as noted earlier, some areas of difference remain among the Regional Entity standards development procedures, one area of variation among the Regional Entity procedures that was expected is in the method of voting on standards. The fact that Section 215 of the Act allows for varying governance models among the Regional Entities dictated allowing some flexibility in the area of voting on standards. NERC proposed that the Regional Entities be allowed to provide for voting on Regional Reliability Standards by an open ballot body, by ballot pools (as in the NERC *Reliability Standards Development Procedure*), or by a balanced committee of stakeholders. Each of the Regional Entities intends to use its existing practices relative to balloting of Regional Reliability Standards (either registered ballot body or stakeholder committee); however, the segmentation of each balloting methodology and the threshold to participate (membership and membership fees, if any) imposed by each Regional Entity varies, as outlined in Table 1.

TABLE 1
Summary of Voting Structures

Entity	Voting Structure	Committee/Ballot Body Segments
NERC	Registered Ballot Body	1) Transmission Owners 2) RTO's and ISO's 3) Load Serving Entities 4) Transmission Dependent Utilities 5) Electric Generators 6) Electricity Brokers, Aggregators, and Marketers 7) Large Electricity Users 8) Small Electricity Users 9) Federal, State and Provincial Regulatory or other Government Entities 10) Regional Reliability Organizations and Regional Entities
Texas Regional Entity	Registered Ballot Body	1) Independent Generators 2) Investor-Owned Utilities 3) Power Marketers 4) Retail Electric Providers 5) Municipally-Owned Utilities 6) Cooperatives 7) Consumers
FRCC	Stakeholder Committee	1) Supplier 2) Non-Investor Owned Utility Wholesale 3) Load Serving Entity (Cooperative) 4) Load Serving Entity (Municipal) 5) Generating Load Serving Entity 6) Investor Owned Utility Notes: <ul style="list-style-type: none"> • must be FRCC member • annual membership fee required
MRO	Registered Ballot Body	1) Transmission Owners 2) RTO's, ISO's, RRO's, and Reliability Coordinators 3) Load Serving Entities 4) Electric Generators 5) Electricity Brokers, Aggregators, and Marketers 6) Electricity End Users 7) Federal, State, and Provincial Regulatory or other Government Entities

NPCC CBRE	Registered Ballot Body	<ol style="list-style-type: none"> 1) Transmission Owners 2) Reliability Coordinators 3) Transmission Dependent Utilities; Distribution Companies and Load-Serving Entities 4) Generator Owners 5) Marketers, Brokers and Aggregators 6) Customers 7) State and Provincial Regulatory and/or Governmental Authorities 8) Sub-Regional Reliability Councils, other Regional Entities and Interested Entities
RFC	Registered Ballot Body	Only regular members of RFC are eligible to vote
SERC	Stakeholder Committee	<p>Voting is generally by consensus, with each member having one vote.</p> <p>At member request, vote outcome determined by Bicameral Simple Majority using calculated Adjusted Weighted Vote based on transmission and generation ownership.</p> <p>Notes:</p> <ul style="list-style-type: none"> • must be SERC member • no annual membership fee required
SPP	Registered Ballot Body	<ol style="list-style-type: none"> 1) Transmission 2) Generation 3) Marketer/Broker 4) Distribution/Load Serving Entity 5) End User
WECC	Stakeholder Committee	<ol style="list-style-type: none"> 1) Transmission Provider 2) Transmission Customer <p>Notes:</p> <ul style="list-style-type: none"> • must be WECC member • annual membership fee required

NERC believes these variations in voting structures for adoption of standards are acceptable because the standards procedures permit any entity with a direct and material interest in the bulk power system in the Regional Entity's area the right to participate by: (a) expressing a

position and its basis, (b) having that position considered, and (c) having the right to appeal. NERC evaluated these voting models to ensure there were no undue financial barriers to participation and that participation shall not be unreasonably restricted on the basis of technical qualifications, membership requirements or other such requirements. Over time, NERC expects to continue to work with the Regional Entities to develop even greater consistency among the Regional Entity standards development procedures.

E. Exhibit D

Exhibit D to the delegation agreements deals with the Regional Entity compliance monitoring and enforcement program. NERC began working with the prospective Regional Entities on Exhibit D as it developed its application for certification as the ERO. The version of Exhibit D included in the *pro forma* delegation agreement submitted with NERC's application for certification as the ERO contained a list of the essential attributes of an effective Regional Entity compliance monitoring and enforcement program. In the ERO Certification Order, the Commission stated it expects

NERC and the Regional Entities to develop uniform enforcement procedures that will be included in Regional Entity delegation agreements. Deviations from the uniform procedures must be highlighted and justified, such as where the deviation provides a practice that is superior to the standard practice.⁹

In response to the ERO Certification Order, NERC and the Regional Entities worked on developing a uniform compliance monitoring and enforcement program. The uniform Compliance Monitoring and Enforcement Program included in NERC's separate compliance filing to the ERO Certification Order as proposed Appendix 4C to NERC's Rules of Procedure is the result of that effort.

⁹ERO Certification Order, P 350.

NERC and the prospective Regional Entities met several times during August, September, and October to work on the proposed uniform CMEP, and the Compliance Managers Committee of the regional reliability organizations along with the NERC Director of Compliance continued to work on the document between those meetings. NERC posted a draft of the uniform CMEP for comment by stakeholders on October 11, discussed the uniform Compliance Program at a meeting of the Stakeholders Committee of the North American Electric Reliability Council on October 31, and met with stakeholders on November 2 to obtain input on the proposed uniform CMEP. The comments NERC received are posted on the NERC website at http://www.nerc.com/~filez/ero/Compliance_Monitoring_and_Enforcement_Program.html.

The final uniform CMEP reflects that input.

The form of Exhibit D has changed from the version included with the *pro forma* delegation agreement filed with the Commission as part of NERC's April 4, 2006 application for certification as the ERO. In Section 1.1 of Exhibit D, the Regional Entity agrees to implement the uniform Compliance Monitoring and Enforcement Program (Appendix 4C to the NERC Rules of Procedure), except to the extent deviations from the uniform CMEP are specifically identified and explained in Section 1.2 of Exhibit D. In Section 2.0 of Exhibit D, the Regional Entity identifies the hearing body for its compliance program. If the hearing body is a compliance panel other than the Regional Entity's board of directors, Section 2.0 also provides a description of how the members of the compliance panel are selected and the qualifications to be selected for the compliance panel. (Such information for the Regional Entity's Board of Directors is set out in Exhibit B.) In Section 3.0, the Regional Entity identifies any other decision-making body used in its compliance program, the functions it performs, how the members of that body are selected, and the qualifications to be selected for that body.

F. Exhibit E

Exhibit E to the delegation agreements identifies the scope of Regional Entity activities to be funded through NERC, how the Regional Entity will allocate its charges for activities within the scope of the delegation agreement, how money will be collected within the Regional Entity's footprint, and how any revenues from penalties will be treated.

G. Summary

The base delegation agreement plus Exhibits A through E constitute the entirety of the delegation agreement for each Regional Entity that NERC is seeking to have the Commission approve. As supplemental information for this filing, the Regional Entities have also supplied their complete bylaws and other applicable governance documents, and their standards development procedures. In some cases, the Regional Entities have also provided a transition plan, detailing the Regional Entity's intended schedule for implementing the delegation agreement.

V. DISCUSSION OF INDIVIDUAL DELEGATION AGREEMENTS

A. Delegation Agreement Between NERC and Texas Regional Entity, a Division of ERCOT

NERC proposes to enter into a delegation agreement with Texas Regional Entity, a Division of ERCOT, as set forth in **Attachment 1**. ERCOT describes the current status of the proposed agreement and its plans for implementation of the agreement once Commission approval is received in a cover letter in its submission to NERC. (*See* cover letter in **Attachment 1**.) The base agreement between NERC and Texas Regional Entity is the same as the base revised *pro forma* delegation agreement, with one exception. Specifically, this agreement contains the following additional language in section 6(c):

However, any hearing conducted by the Public Utility Commission of Texas (PUCT) concerning an alleged violation in the ERCOT power region shall be conducted as a public hearing and any evidence or other submissions concerning the hearing, except for information that is confidential or privileged under law, shall be publicly available. Following the hearing, the PUCT shall issue its recommendation on the appropriate resolution of the allegations in a written document that will be publicly available. Notwithstanding the foregoing, the disposition of each violation or alleged violation that relates to a Cybersecurity Incident or that would jeopardize the security of the bulk power system if publicly disclosed shall be nonpublic unless the Commission directs otherwise.

Additionally, the phrase “filed with the Commission as a notice of civil penalty” has been deleted from section 6(c). This change was made to accommodate the role played by the Public Utility Commission of Texas (“PUCT”) in the Texas Regional Entity enforcement program. The PUCT will serve as the hearing body in that program, making recommended decisions to the Texas Regional Entity at the conclusion of the hearing. As a governmental body, the PUCT must conduct its activities in public, except where the matter relates to a Cybersecurity Incident or would jeopardize the security of the bulk power system if publicly disclosed. NERC supports this departure from the *pro forma* delegation agreement.

Exhibit A sets out the geographic region within which the Texas Regional Entity will exercise enforcement authority.

As demonstrated by Exhibit B, the Texas Regional Entity meets the governance requirements for receiving a delegation of authority. It has a combination independent and balanced stakeholder board. (*See* Exhibit B, Criterion 1.¹⁰) Because the Texas Regional Entity is affiliated with ERCOT, an independent system operator, it has established a strong separation of functions between its compliance monitoring and enforcement activities and its operational activities. (*See* Exhibit B, Criterion 2.) The Texas Regional Entity has an open membership

¹⁰ERCOT’s complete proposed bylaws are included in **Attachment 1** as supplemental information.

policy that permits full and fair participation of all stakeholders through their representatives, including in the development and voting on Regional Reliability Standards, and the Texas Regional Entity charges no more than a nominal membership fee and agrees to waive the fee for good cause. (See Exhibit B, Criterion 3.) The Texas Regional Entity's bylaws, procedural rules, and protocols ensure balance in how decision-making committees and subordinate organizational structures are structured and make decisions, and ensure that no two industry sectors can control any action and no one industry sector can veto any action. (See Exhibit B, Criterion 4.) The Texas Regional Entity's bylaws, procedural rules, and protocols provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (See Exhibit B, Criterion 5.)

As demonstrated in Exhibit C, the Texas Regional Entity's standards development process meets the 34 common attributes that NERC believes are essential for the development of regional reliability standards.¹¹ NERC has not identified any substantive differences between the Texas Regional Entity's standards development procedure and the 34 common attributes.

As set forth in Exhibit D, the Texas Regional Entity will implement the NERC Compliance Monitoring and Enforcement Program, with deviations from that program only to accommodate the role played by the PUCT, which serves as the hearing body for the Texas Regional Entity compliance program. The specific deviations, and the justification for those deviations, from the uniform CMEP are set forth in Section 1.2 of Exhibit D. NERC finds these deviations from the uniform CMEP to be justified, for the reasons stated in Section 1.2 of Exhibit D.

¹¹The Texas Regional Entity's complete standards development process is included in **Attachment 1** as supplemental information.

Exhibit E identifies the delegated activities and activities in support of NERC's responsibilities as the ERO that will be funded through the statutory ERO funding mechanism, indicates how costs will be allocated within the Texas Regional Entity area, identifies how monies will be collected and remitted to NERC, and indicates that any revenues from penalties will be applied as a general offset to the entity's budget requirements for U.S.-related activities under the agreement for the subsequent fiscal year.

NERC requests approval of the proposed base delegation agreement with the Texas Regional Entity, including Exhibits A, B, C, D, and E, in the form contained in **Attachment 1**.

B. Delegation Agreement Between NERC and Midwest Reliability Organization

NERC proposes to enter into a delegation agreement with the Midwest Reliability Organization, as set forth in **Attachment 2**. MRO has a portion of its footprint within the United States and a portion within Canada. MRO has provided additional details about MRO in the Introductory Statement to its submission to NERC, as set out in **Attachment 2**. The base agreement between NERC and MRO is the same as the base revised *pro forma* delegation agreement.

Exhibit A sets out the geographic region within the United States within which MRO will exercise enforcement authority.

As demonstrated by Exhibit B, MRO meets the governance requirements for receiving a delegation of authority. It has a balanced stakeholder board. (*See* Exhibit B, Criterion 1.¹²) MRO is not a user, owner, or operator of bulk power system facilities. MRO's bylaws provide for fair stakeholder representation in the selection of its directors. (*See* Exhibit B, Criterion 2.) MRO has an open membership policy that permits full and fair participation of all stakeholders through

¹²MRO's bylaws are included in **Attachment 2** as supplemental information.

their representatives, including in the development and voting on Regional Reliability Standards, and MRO charges no more than a nominal membership fee, which it agrees to waive for good cause. (See Exhibit B, Criterion 3.) MRO's bylaws, procedural rules, and protocols ensure balance in how decision-making committees and subordinate organizational structures are structured and make decisions, and ensure that no two industry sectors can control any action and no one industry sector can veto any action. (See Exhibit B, Criterion 4.) MRO's bylaws, procedural rules, and protocols provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (See Exhibit B, Criterion 5.)

As demonstrated in Exhibit C, MRO's standards development process meets the 34 common attributes that NERC believes are essential for the development of regional reliability standards.¹³ NERC has not identified any substantive differences between MRO's standards development procedure and the 34 common attributes.

As set forth in Exhibit D, MRO will implement the NERC Compliance Monitoring and Enforcement Program, with no deviations from that program. Section 2.0 of Exhibit D identifies MRO's hearing body for its compliance program as its Board of Directors. MRO has included the entire NERC uniform Compliance Monitoring and Enforcement Program document in its Exhibit D.

Exhibit E identifies the delegated activities and activities in support of NERC's responsibilities as the ERO that will be funded through the statutory ERO funding mechanism, indicates how costs will be allocated within the MRO area, identifies how monies will be collected and remitted to NERC, and indicates that any revenues from penalties will be applied

¹³MRO's complete standards development process is included in **Attachment 2** as supplemental information.

as a general offset to the entity's budget requirements for U.S.-related activities under the agreement for the subsequent fiscal year.

NERC requests approval of the proposed delegation agreement with MRO, including Exhibits A, B, C, D, and E, in the form contained in **Attachment 2**.

C. Delegation Agreement Between NERC and NPCC CBRE

NERC proposes to enter into a delegation agreement with the Northeast Power Coordinating Council: Cross Border Regional Entity, as set forth in **Attachment 3**. NPCC CBRE has a portion of its footprint within the United States and a portion within Canada. NPCC CBRE has provided additional details about NPCC CBRE and its relationship to its affiliate, Northeast Power Coordinating Council, Inc., in the Introductory Statement to its submission to NERC, as set out in **Attachment 3**. The base agreement between NERC and NPCC CBRE is the same as the base revised *pro forma* delegation agreement.

Exhibit A sets out the geographic region within the United States within which NPCC CBRE will exercise enforcement authority.

As demonstrated by Exhibit B, NPCC CBRE meets the governance requirements for receiving a delegation of authority. It has a combination independent and balanced stakeholder board. (*See* Exhibit B, Criterion 1.¹⁴) NPCC CBRE is not a user, owner, or operator of bulk power system facilities. NPCC CBRE's bylaws provide for fair stakeholder representation in the selection of its directors. (*See* Exhibit B, Criterion 2.) NPCC CBRE has an open membership policy that permits full and fair participation of all stakeholders through their representatives, including in the development and voting on Regional Reliability Standards, and NPCC CBRE charges no membership fee. (*See* Exhibit B, Criterion 3.) NPCC CBRE's bylaws, procedural

¹⁴NPCC CBRE's bylaws are included in **Attachment 3** as supplemental information.

rules, and protocols ensure balance in how decision-making committees and subordinate organizational structures are structured and make decisions, and ensure that no two industry sectors can control any action and no one industry sector can veto any action. (*See* Exhibit B, Criterion 4.) NPCC CBRE's bylaws, procedural rules, and protocols provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (*See* Exhibit B, Criterion 5.)

As demonstrated in Exhibit C, NPCC CBRE's standards development process meets the 34 common attributes that NERC believes are essential for the development of regional reliability standards.¹⁵ NERC has not identified any substantive differences between NPCC CBRE's standards development procedure and the 34 common attributes.

As set forth in Exhibit D, NPCC CBRE will implement the NERC uniform Compliance Monitoring and Enforcement Program within the United States with no deviations from that program. The single deviation identified in Section 1.2 of Exhibit D is that NPCC CBRE's compliance monitoring and enforcement programs will be implemented within the Canadian portion of NPCC CBRE's geographic area consistent with individual Canadian Provincial Memoranda of Understanding and Canadian laws. Section 2.0 of Exhibit D states that the NPCC CBRE Compliance Committee will serve as the hearing body for NPCC CBRE's compliance program. This committee will be appointed by the NPCC CBRE Board and will consist of either NPCC CBRE Board members or representatives appointed by the NPCC CBRE Board.

Exhibit E identifies the delegated activities and activities in support of NERC's responsibilities as the ERO that will be funded through the statutory ERO funding mechanism, indicates how costs will be allocated within the U.S. portion of the NPCC CBRE area, identifies

¹⁵NPCC CBRE's standards development process is included in **Attachment 3** as supplemental information.

how monies will be collected and remitted to NERC, and indicates that any revenues from penalties will be applied as a general offset to the entity's budget requirements for U.S.-related activities under the agreement for the subsequent fiscal year.

NERC requests approval of the proposed delegation agreement with NPCC CBRE, including Exhibits A, B, C, D, and E, in the form contained in **Attachment 3**.

D. Delegation Agreement Between NERC and ReliabilityFirst Corporation

NERC proposes to enter into a delegation agreement with ReliabilityFirst Corporation as set forth in **Attachment 4**. ReliabilityFirst has provided additional details about ReliabilityFirst and an explanation of how it qualifies to become a Regional Entity in the Application Preamble to its submission to NERC, as set out in **Attachment 4**. The base agreement between NERC and ReliabilityFirst is the same as the base revised *pro forma* delegation agreement.

Exhibit A sets out the geographic region within which ReliabilityFirst will exercise enforcement authority.

As demonstrated by Exhibit B, ReliabilityFirst meets the governance requirements for receiving a delegation of authority. It has a combination independent and balanced stakeholder board. (See Exhibit B, Criterion 1.¹⁶) ReliabilityFirst is not a user, owner, or operator of bulk power system facilities. ReliabilityFirst's bylaws provide for fair stakeholder representation in the selection of its directors. (See Exhibit B, Criterion 2.) ReliabilityFirst has an open membership policy that permits full and fair participation of all stakeholders through their representatives, including in the development and voting on Regional Reliability Standards, and ReliabilityFirst charges no membership fee for delegated functions, but charges a nominal application fee which it agrees to waive for good cause. (See Exhibit B, Criterion 3.)

¹⁶ReliabilityFirst's proposed bylaws are included in **Attachment 4** as supplemental information.

ReliabilityFirst's bylaws, procedural rules, and protocols ensure balance in how decision-making committees and subordinate organizational structures are structured and make decisions, and ensure that no two industry sectors can control any action and no one industry sector can veto any action. (See Exhibit B, Criterion 4.) ReliabilityFirst's bylaws, procedural rules, and protocols provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (See Exhibit B, Criterion 5.)

As demonstrated in Exhibit C, ReliabilityFirst's standards development process meets the 34 common attributes that NERC believes are essential for the development of regional reliability standards.¹⁷ NERC has not identified any substantive differences between ReliabilityFirst's standards development procedure and the 34 common attributes.

As set forth in Exhibit D, ReliabilityFirst will implement the NERC uniform Compliance Monitoring and Enforcement Program, with no deviations from that program.¹⁸ As stated in Section 2.0 of Exhibit D, ReliabilityFirst's hearing body for its compliance program is the Board Compliance Committee, which is a sub-committee of the full Board of Directors. The Compliance Committee is comprised of five directors (three independent directors and two stakeholder directors).

Exhibit E identifies the delegated activities and activities in support of NERC's responsibilities as the ERO that will be funded through the statutory ERO funding mechanism, indicates how costs will be allocated within the ReliabilityFirst area, identifies how monies will be collected and remitted to NERC, and indicates that any revenues from penalties will be

¹⁷ReliabilityFirst's complete standards development process is included in **Attachment 4** as supplemental information.

¹⁸ReliabilityFirst has included the entire text of the NERC uniform Compliance Monitoring and Enforcement Program in its Exhibit D.

applied as a general offset to the entity's budget requirements for U.S.-related activities under the agreement for the subsequent fiscal year.

NERC requests approval of the proposed delegation agreement with ReliabilityFirst, including Exhibits A, B, C, D, and E, in the form contained in **Attachment 4**.

E. Delegation Agreement Between NERC and SERC Reliability Corporation

NERC proposes to enter into a delegation agreement with SERC Reliability Corporation, as set forth in **Attachment 5**. SERC has provided additional details about SERC and an explanation of how it qualifies to become a Regional Entity in its Application for Approval submitted to NERC, as set out in **Attachment 5**. The base agreement between NERC and SERC is the same as the base revised *pro forma* delegation agreement.

Exhibit A sets out the geographic region within which SERC will exercise enforcement authority.

As demonstrated by Exhibit B, SERC meets the governance requirements for receiving a delegation of authority. SERC has a balanced stakeholder board. (*See* Exhibit B, Criterion 1.¹⁹) SERC is not a user, owner, or operator of bulk power system facilities. SERC's bylaws provide for fair stakeholder representation in the selection of its directors. (*See* Exhibit B, Criterion 2.) SERC has an open membership policy that permits full and fair participation of all stakeholders through their representatives, including in the development and voting on Regional Reliability Standards, and SERC charges no more than a nominal membership fee, which it agrees to waive for good cause. (*See* Exhibit B, Criterion 3.) SERC's bylaws, procedural rules, and protocols ensure balance in how decision-making committees and subordinate organizational structures are structured and make decisions, and ensure that no two industry sectors can control any action and

¹⁹SERC's bylaws are included in **Attachment 5** as supplemental information.

no one industry sector can veto any action. (See Exhibit B, Criterion 4.) SERC's bylaws, procedural rules, and protocols provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (See Exhibit B, Criterion 5.)

As demonstrated in Exhibit C, SERC's standards development process meets the 34 common attributes that NERC believes are essential for the development of regional reliability standards.²⁰ NERC has not identified any substantive differences between SERC's standards development procedure and the 34 common attributes.

As set forth in Exhibit D, SERC will implement the NERC Compliance Monitoring and Enforcement Program, with no deviations from that program. Section 2.0 of Exhibit D indicates that SERC's hearing body for its compliance program is its Board Compliance Committee. The Board Compliance Committee is comprised of SERC Board members and reports to the SERC Board. The Board Compliance Committee has the following composition:

- The Investor-Owned Utility Sector shall have three (3) representatives;
- The Federal/State Sector shall have two (2) representatives;
- The Cooperative Sector shall have two (2) representatives;
- The Municipal Sector shall have two (2) representatives;
- The Marketer Sector shall have one (1) representative;
- The Merchant Electricity Sector shall have one (1) representative;
- The ISO-RTO/Customer Sector shall have one (1) representative

Exhibit E identifies the delegated activities and activities in support of NERC's responsibilities as the ERO that will be funded through the statutory ERO funding mechanism,

²⁰SERC's standards development process is included in **Attachment 5** as supplemental information.

indicates how costs will be allocated within the SERC area, identifies how monies will be collected and remitted to NERC, and indicates that any revenues from penalties will be applied as a general offset to SERC's budget requirements for activities under the agreement for the subsequent fiscal year.

NERC requests approval of the proposed delegation agreement with SERC, including Exhibits A, B, C, D, and E, in the form contained in **Attachment 5**.

F. Delegation Agreement Between NERC and Southwest Power Pool, Inc.

NERC proposes to enter into a delegation agreement with Southwest Power Pool, Inc., as set forth in **Attachment 6**. SPP described the status of the proposed agreement in the cover letter to its submission to NERC, as set out in **Attachment 6**. The base agreement between NERC and SPP is the same as the base revised *pro forma* delegation agreement.

Exhibit A sets out the geographic region within which SPP will exercise enforcement authority.

As demonstrated by Exhibit B, SPP meets the governance requirements for receiving a delegation of authority. SPP has an independent board. (*See* Exhibit B, Criterion 1.²¹) Because SPP is also a regional transmission operator, SPP has established a strong separation of functions between its compliance monitoring and enforcement activities and its operational activities. It has created a three-person board of independent Regional Entity Trustees to oversee its compliance program. (*See* Exhibit B, Criterion 2.) SPP has an open membership policy that permits full and fair participation of all stakeholders through their representatives, including in the development and voting on Regional Reliability Standards, and SPP charges no more than a nominal membership fee, which it agrees to waive for good cause. (*See* Exhibit B, Criterion 3.)

²¹SPP's bylaws are included in **Attachment 6** as supplemental information.

SPP's bylaws, procedural rules, and protocols ensure balance in how decision-making committees and subordinate organizational structures are structured and make decisions, and ensure that no two industry sectors can control any action and no one industry sector can veto any action. (*See* Exhibit B, Criterion 4.) SPP's bylaws, procedural rules, and protocols provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (*See* Exhibit B, Criterion 5.)

As demonstrated in Exhibit C, SPP's standards development process generally meets the 34 common attributes that NERC believes are essential for the development of regional reliability standards.²² NERC notes three differences of interest:

- The statement in SPP's definition of "Reliability Standard" that "SPP Regional Reliability Standards may be developed and exist separately from NERC standards ..." is inconsistent with Order No. 672. However, in order to be effective under Section 215 of the Act, any SPP Regional Reliability Standard will need to be approved by NERC and the Commission, and when approved will become part of the NERC Reliability Standards.
- SPP's standards procedure states "Any documentation of the deliberations of the [standard drafting team] concerning the Standard shall be made available according to normal business rules and procedures" of the [standard drafting team] then in effect. In the absence of knowing what those normal rules and procedures are, one cannot be certain that the process will be sufficiently transparent.

²²SPP's standards development process is included in **Attachment 6** as supplemental information.

- The elements and definitions identified in the *Southwest Power Pool Regional Entity Standards Development Process Manual* do not correspond one-for-one with the elements and definitions in the *NERC Pro Forma Regional Reliability Standards Development Procedure*. Due to this lack of correspondence, it is difficult to establish the consistency of the SPP standards template with those of the other Regional Entities' standards development programs.

As set forth in Exhibit D, SPP will implement the NERC uniform Compliance Monitoring and Enforcement Program with no deviations from that program. As indicated in Section 2.0 of Exhibit D, SPP's hearing body is its three-person board of Regional Entity Trustees.

Exhibit E identifies the delegated activities and activities in support of NERC's responsibilities as the ERO that will be funded through the statutory ERO funding mechanism, indicates how costs will be allocated within the SPP area, identifies how monies will be collected and remitted to NERC, and indicates that any revenues from penalties will be applied as a general offset to SPP's budget requirements for activities under the agreement for the subsequent fiscal year.

NERC requests approval of the proposed delegation agreement with SPP, including Exhibits A, B, C, D, and E, in the form contained in **Attachment 6**.

G. Delegation Agreement Between NERC and Western Electricity Coordinating Council

NERC proposes to enter into a delegation agreement with the Western Electricity Coordinating Council ("WECC"), as set forth in **Attachment 7**. A portion of WECC's footprint is within the United States; WECC also covers parts of Canada and Mexico. WECC has provided additional details about WECC and an explanation of how it qualifies to become a

Regional Entity in its Application for Approval submitted to NERC, as set out in **Attachment 7**. The base delegation agreement between NERC and WECC is, in all material respects, equivalent to the base revised *pro forma* delegation agreement. A redlined version showing the differences between the proposed agreement with WECC and the revised *pro forma* delegation agreement is included with WECC's supplemental information in **Attachment 7**. Elements deleted from the base WECC delegation agreement are included in the relevant exhibits to the agreement.

Exhibit A sets out the geographic region within the United States within which WECC will exercise enforcement authority.

WECC has included its current bylaws as Exhibit B to the delegation agreement. WECC also included the Exhibit B template with the five criteria as part of its supplemental information in **Attachment 7**. WECC meets the governance requirements for receiving a delegation of authority, because it has a combination independent and balanced stakeholder board. (*See* WECC Supplemental Information Exhibit B template, Criterion 1.) WECC is not a user, owner, or operator of bulk power system facilities. WECC has an open membership policy that permits full and fair participation of all stakeholders through their representatives, including in the development and voting on Regional Reliability Standards, and WECC charges no more than a nominal membership fee. WECC's Board may waive the fee for any class of members. (*See* WECC Supplemental Information Exhibit B template, Criterion 3.) WECC's bylaws, procedural rules, and protocols ensure balance in how decision-making committees and subordinate organizational structures are structured and make decisions, and ensure that no two industry sectors can control any action and no one industry sector can veto any action. (*See* WECC Supplemental Information Exhibit B template, Criterion 4.) WECC's bylaws, procedural rules, and protocols provide reasonable notice and opportunity for public comment, due process,

openness, and balance of interests in exercising its duties. (See WECC Supplemental Information Exhibit B template, Criterion 5.)

WECC has included its standards development procedure as Exhibit C to the agreement; WECC also included the Exhibit C template with the 34 common attributes as supplemental information in **Attachment 7**. As demonstrated in the Supplemental Information Exhibit C template, WECC's standards development process generally meets the 34 common attributes that NERC believes are essential for the development of regional reliability standards. NERC notes five differences of interest:

- The *Process for Developing and Approving WECC Standards*, step 7 (Standing Committee Votes on Recommendation to Board) is performed in accordance with Section 8.5 of the WECC Bylaws. Section 8.5.5 of WECC's Bylaws identifies the voting within the three standing committees that vote on standards:

8.5.5 Committee Voting and Classes.

8.5.5.1 Classes. For purposes of voting, committees will have three classes of membership:

8.5.5.1.1 Transmission Provider Members;

8.5.5.1.2 Transmission Customer Members; and

8.5.5.1.3 States and Provincial Members (Member Class 5).

8.5.5.2 Voting. Except as provided in Section 4.5.2, each Committee Member will have one vote. In order for a recommendation to be made to the Board, such recommendation must receive a simple majority vote of both: 1) committee members present and voting from the Transmission Provider Class; and 2) committee members present and voting from Transmission Customer Class. Committees will adopt voting and record-keeping procedures to ensure that committee voting is conducted consistent with these Bylaws. This requirement will also apply where decision making power has been delegated to a committee pursuant to Section 6.12.

It is not clear that voting on standards in the WECC process can be determined to be balanced (at least as defined in other regions), although it may be balanced in

the view of the stakeholders in WECC. NERC notes that the multiple stakeholder classes typical in other Regional Entities appear to be combined in WECC. With only two classes of members voting, it is not clear whether one can apply the Commission's criterion that no two stakeholder sectors should be able to control the vote on any matter and no single sector should be able to defeat a matter.

- WECC has not incorporated its standards template into the *Process for Developing and Approving WECC Standards* but has instead maintained the template in a separate document that is not provided with the delegation agreement. WECC indicates the WECC standards template may be different from the NERC template. NERC believes it is important, in order to ensure consistency among WECC Regional Reliability Standards, NERC Reliability Standards and Regional Reliability Standards of other Regional Entities, that the elements and definitions identified in the template for WECC's regional standards approval process be identical to the elements and definitions identified in the *NERC Reliability Standards Development Procedure* template, and that the WECC standards template be included in the WECC regional standards development procedure.
- One of the 34 common attributes is a requirement that the Regional Entity provide notice through NERC at key steps in the standards development process, *i.e.*, notice of a new proposed standard, posting for comment, and going to ballot. Noticing these steps through NERC allows a wide, North American set of stakeholders to be aware of standards proposals in each region, in case the

stakeholders might be impacted by these standards proposals and wish to participate in the process. The *Process for Developing and Approving WECC Standards* does not explicitly state how and when such coordination between WECC and NERC will take place in the WECC standards development process.

- WECC has not incorporated its version of a Standard Authorization Request form into the *Process for Developing and Approving WECC Standards*, but has instead elected to maintain a separate Standard/Business Practice Request Form. WECC proposes to post the Standard/Business Practice Request Form on the WECC website with the *Process for Developing and Approving WECC Standards*.
- WECC does not clearly state in the *Process for Developing and Approving WECC Standards* that each WECC regional standard shall enable or support one or more of the NERC reliability principles and should be consistent with NERC's market interface principles.

WECC has included its version of the NERC uniform Compliance Monitoring and Enforcement Program as Exhibit D to its delegation agreement. WECC has also included as supplemental information in **Attachment 7** a redlined version of its compliance program that identifies deviations from the NERC uniform Compliance Monitoring and Enforcement Program. NERC has reviewed the proposed WECC Compliance Monitoring and Enforcement Program and concluded that the deviations from the uniform CMEP are insubstantial.

Exhibit E identifies the delegated activities and activities in support of NERC's responsibilities as the ERO that will be funded through the statutory ERO funding mechanism, indicates how costs will be allocated within the WECC area, identifies how monies will be collected and remitted to NERC, and indicates that any revenues from penalties will be applied

as a general offset to WECC's budget requirements for U.S.-related activities under the delegation agreement for the subsequent fiscal year. Within the Western Interconnection, WECC will send invoices to balancing authorities or load-serving entities, and Exhibit E contains a set of billing and collection rules under which WECC will collect and remit funds to NERC.

NERC requests approval of the proposed delegation agreement with WECC, including Exhibits A, B, C, D, and E, in the form contained in **Attachment 7**.

H. Status Report on Development of the Delegation Agreement Between NERC and Florida Reliability Coordinating Council

As noted in Part I of this filing, the delegation agreement between NERC and FRCC is not complete at this time because FRCC has not provided a regional compliance program or completed Exhibit D to the delegation agreement. Assuming that FRCC provides an acceptable regional compliance program and Exhibit D, NERC would intend to submit the completed delegation agreement with FRCC to the Commission for approval, through a supplement to this filing. The remainder of this Part V.H describes, for the Commission's information, the balance of the delegation agreement with FRCC, which is provided in **Attachment 8** to this filing. FRCC has provided additional details about FRCC and an explanation of how it qualifies to become a Regional Entity in its Application for Approval submitted to NERC, as set out in **Attachment 8**.

The base agreement between NERC and FRCC is the same as the base revised *pro forma* delegation agreement.

Exhibit A sets out the geographic region within which FRCC will exercise enforcement authority.

As demonstrated by Exhibit B, FRCC meets the governance requirements for receiving a delegation of authority. FRCC has a balanced stakeholder board. (*See* Exhibit B, Criterion 1.²³) FRCC is not a user, owner, or operator of bulk power system facilities, and is not affiliated with such an entity. FRCC has fair stakeholder participation in the selection of its directors. (*See* Exhibit B, Criterion 2.) FRCC has an open membership policy that permits full and fair participation of all stakeholders through their representatives, including in the development and voting on Regional Reliability Standards, and FRCC charges no more than a nominal membership fee, which it agrees to waive for good cause. (*See* Exhibit B, Criterion 3.) FRCC's bylaws, procedural rules, and protocols ensure balance in how decision-making committees and subordinate organizational structures are structured and make decisions, and ensure that no two industry sectors can control any action and no one industry sector can veto any action. (*See* Exhibit B, Criterion 4.) FRCC's bylaws, procedural rules, and protocols provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (*See* Exhibit B, Criterion 5.)

As demonstrated in Exhibit C, FRCC's standards development process generally meets the 34 common attributes that NERC believes are essential for the development of regional reliability standards.²⁴ One difference of interest is that voting on standards in FRCC is done by a balanced stakeholder committee, that one must be a member of FRCC to vote on standards, and that FRCC charges a membership fee.

²³FRCC's complete bylaws are included in **Attachment 8** as supplemental information.

²⁴FRCC's complete standards development process is included in **Attachment 8** as supplemental information.

FRCC has not yet provided an Exhibit D. FRCC has informed NERC that it will make that decision at an FRCC Board meeting scheduled for December 7. NERC will be prepared to enter into a delegation agreement with FRCC if FRCC agrees to implement the uniform Compliance Monitoring and Enforcement Program, or to implement the uniform CMEP with acceptable deviations that FRCC identifies and justifies in Exhibit D.²⁵

Exhibit E identifies the delegated activities and activities in support of NERC's responsibilities as the ERO that will be funded through the statutory ERO funding mechanism, indicates how costs will be allocated within the FRCC area, identifies how monies will be collected and remitted to NERC, and indicates that any revenues from penalties will be applied as a general offset to FRCC's budget requirements for activities under the agreement for the subsequent fiscal year.

FRCC has included as supplemental information in **Attachment 8** a statement of its activities in recent years to prepare for taking on its role as a Regional Entity. (See FRCC Supplemental Information, Transition Plan.)

VI. CONCLUSION

For the foregoing reasons, NERC requests that the Commission approve the proposed regional delegation agreements between NERC and the Texas Regional Entity, the Midwest Reliability Organization, the Northeast Power Coordinating Council: Cross Border Regional Entity, ReliabilityFirst Corporation, SERC Reliability Corporation, Southwest Power Pool, Inc., and the Western Electricity Coordinating Council.

²⁵Alternatively, NERC is prepared to propose an alternative Compliance Enforcement Authority for the FRCC region, in accordance with Section 401.5 of the NERC Rules of Procedure, should that action become necessary.

Respectfully submitted,

/s/ Rick Sergel

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