

**Attachment 1 to Exhibit D – COMPLIANCE MONITORING AND
ENFORCEMENT PROGRAM**

Texas Regional Entity Regional Hearing Process

1.0 Designation of Hearing Body

All formal compliance hearings shall be held before the Compliance Enforcement Authority's ~~hearing body~~Hearing Body. The ~~hearing body~~Hearing Body shall ~~normally~~ be the Public Utility Commission of Texas. All hearings shall be conducted under the hearing procedures set forth in Attachment 2 to Exhibit D ("Attachment 2—Rules of Procedure"), supplementing this Attachment 1. As set forth in Attachment 2— Rules of Procedure, the Hearing Body may delegate any hearing-related task to a Presiding Officer, except for the issuance of the final recommendation.

The Compliance Enforcement Authority shall initiate the hearing process following the completion of the Notice of Alleged Violation and proposed sanction and registered entity response processes in accordance with Section 5.1 of the ~~Compliance Program by issuing a written notice to the Registered Entity and the members of the hearing body convening the hearing body for a formal compliance hearing on the matter in dispute.⁴ The written notice shall state the name of the Compliance Enforcement Authority's designated representative for purposes of the formal compliance hearing.~~North American Electric Reliability Corporation ("NERC") Compliance Monitoring and Enforcement Program ("NERC CMEP"), as set forth below.

Following the ~~convening of the hearing body~~filing of a proceeding contesting an Alleged Violation or a Remedial Action Directive, no person shall engage in ex parte communications with the ~~hearing body~~Hearing Body, including without limitation any appointed Presiding Officer, concerning the matter in dispute until the Chief Compliance Officer's written decision issued pursuant to Section 9.1 is appealed or the deadline for filing an appeal has ~~past~~passed; provided, however, that: (a) a member of the Hearing Body or the Presiding Officer may communicate ex parte with another member of the Hearing Body unless prohibited by other law, and (b) a member of the Hearing Body or the Presiding Officer may communicate ex parte with a Commission employee who has not participated in a hearing in the case for the purpose of using the special skills or knowledge of the agency and its staff in evaluating the evidence.

The ~~hearing body~~Hearing Body may rule on all procedural and discovery matters. ~~By agreement of the parties and with the approval of the hearing body, any documents may be submitted or exchanged via e-mail.~~pursuant to Attachment 2—Rules of Procedure.

The ~~hearing body~~Hearing Body may delegate to ~~one or more of its employees~~a single commissioner, a hearings examiner, or an administrative law judge (a "Presiding Officer") the authority to establish the procedures and dates for the presentation of all materials concerning the alleged violation and the power to hear evidence and to issue

⁴~~If the dispute involves a proposed Mitigation Plan which has not been accepted by the Compliance Enforcement Authority, the Registered Entity may initiate the hearing process by filing a request for hearing with the Compliance Enforcement Authority.~~

a draft recommendation, but the Hearing Body may not delegate its authority to issue a final recommendation on the alleged violation to the Chief Compliance Officer of the Compliance Enforcement Authority.

~~The hearing body~~In accordance with Attachment 2—Rules of Procedure, the Hearing Body may provide for additional procedures as it deems necessary to effectively carry out a compliance hearing. To the extent permitted by law, any provision in this Attachment 1 may be waived, suspended, or modified by the Presiding Officer or the Hearing Body, as defined in Attachment 2—Rules of Procedure §1.1.5, for good cause shown, either upon the Presiding Officer's or the Hearing Body's own motion or upon the motion of any Party.

2.0 Recusal of Member of Hearing Body

A ~~hearing body~~Hearing Body member, Presiding Officer, or Technical Advisor shall ~~decline appointment to a hearing body or~~ recuse himself or herself ~~after appointment~~ if participation ~~on~~in the ~~hearing body~~enforcement proceeding would violate the Compliance Enforcement Authority's Conflict of Interest or Code of Conduct policy.

The Registered Entity may raise an objection to any member of the ~~hearing body~~Hearing Body, a Presiding Officer or Technical Advisor on grounds of a conflict of interest or the existence of other circumstances that could interfere with the ~~member~~that person's impartial performance of his or her duties. Such objections must be provided in writing ~~to the hearing body member~~and filed reasonably in advance of the start of the hearing and the ~~member~~Presiding Officer shall make a decision on the objection promptly. Upon request of the Registered Entity, the ~~hearing body~~Hearing Body (without participation of the ~~hearing body~~Hearing Body member, Presiding Officer, or Technical Advisor) may review the ~~member's~~ determination and, if so, shall issue a decision on the objection promptly.

3.0 Authorized Representatives

Both the Compliance Enforcement Authority and the Registered Entity shall submit to the ~~hearing body~~Hearing Body the names of the persons authorized to represent them in the Hearing Process pursuant to Attachment 2—Rules of Procedure. Such persons shall be officers or equivalents of the Regional Entity and the Registered Entity that have the authority to act on behalf of the Regional Entity and the Registered Entity, respectively. In addition, a party shall advise the ~~hearing body~~Hearing Body and the other party if the party will be represented by legal counsel.

4.0 Statement of Alleged Violation and Response by Registered Entity

The ~~Compliance Enforcement Authority~~Registered Entity shall initiate the compliance hearing process in accordance with Section 5.1 of the ~~Compliance Program by issuing a written notice to the Registered Entity and the members of the hearing body convening the hearing body for a compliance hearing on the matter in dispute~~NERC CMEP and Attachment 2—Rules of Procedure by filing with the Hearing Body Clerk a statement or complaint contesting the written Notice of Alleged Violation and proposed sanction and serving a copy upon the Compliance Enforcement Authority. Specifically, the Registered Entity shall file with the Hearing Body (with service of copies upon the Compliance Enforcement Authority) a written statement of reasons why the Alleged Violation is in error or a written statement of reasons why the proposed penalty or sanction is inappropriate (if applicable in the particular case), along with copies of all documents

relied on by the Registered Entity to support its position. If the dispute involves a ~~proposed~~Registered Entity's proposed mitigation plan ("Registered Entity's Mitigation Plan Proposal") that has not been accepted by the Compliance Enforcement Authority, the Registered Entity may initiate the hearing process by filing a request for hearing with the Hearing Body Clerk and serving a copy upon the Compliance Enforcement Authority.

Within five (5) business days after the ~~date the hearing body is convened~~request for review of the Alleged Violation, penalty, or mitigation plan or Remedial Action Directive is filed, the Compliance Enforcement Authority's designated representative shall file with the ~~hearing body~~Hearing Body (with copies to the Registered Entity) a copy of the written ~~notice~~Notice of the Alleged Violation and proposed sanction that was originally provided to the Registered Entity, along with copies of any non-privileged or non-exempt documents gathered and reviewed by the Compliance Enforcement Authority in the course of determining an Alleged Violation has occurred and in determining the proposed sanction or penalty. ~~Within twenty (20) days after the date the hearing body is convened, the Registered Entity shall file with the hearing body (with copies to the Compliance Enforcement Authority's designated representative) a written statement of reasons why the Alleged Violation is in error and/or a written statement of reasons why the proposed penalty or sanction is inappropriate (if applicable in the particular case), along with copies of all documents relied on by the Registered Entity to support its position.~~

If the hearing involves ~~a~~the question of whether a Registered Entity's Mitigation Plan Proposal should be accepted, within twenty (20) days after the ~~hearing body is convened~~request for review of the Alleged Violation, penalty, or mitigation plan or Remedial Action Directive is filed, the Compliance Enforcement Authority shall file a report stating why the Registered Entity's ~~proposed Mitigation Plan was not accepted.~~² Mitigation Proposal was not accepted. If the hearing involves a Registered Entity's Mitigation Proposal, the Registered Entity shall file its proposed Mitigation Plan and supporting information stating why the Mitigation Plan should be accepted within thirty (30) days after the date the request for review of the Alleged Violation, penalty, or mitigation plan or Remedial Action Directive is filed.

5.0 Setting of Hearings and Conferences

The ~~hearing body~~Hearing Body shall set a date for an initial conference within thirty (30) days after the date the ~~hearing body is convened~~request for review of the Alleged Violation, penalty, or mitigation plan or Remedial Action Directive is filed. At the initial conference, the ~~hearing body~~Hearing Body shall establish specific procedures for the hearing including (i~~1~~) any procedures for exchange of additional documents, (ii~~2~~) any written testimony, (iii~~3~~) the hearing date(s), and (iv~~4~~) dates for any briefs. Subject to ~~Sections 6.1 and 6.2 of this hearing process~~Section 6.0 and the Attachment 2—Rules of Procedure, each party shall be entitled to (i~~1~~) present the testimony of witnesses, (ii~~2~~) cross-examination of opposing witnesses, (3) make an oral presentation of position, and (iii~~4~~) file a written post-hearing brief.

The ~~hearing body~~Hearing Body may hold additional conferences. All notices of conferences and hearings shall set forth the date, time and place of hearing. The

²~~If the hearing involves a Mitigation Plan, at this point in the process the Registered Entity shall file its proposed Mitigation Plan and supporting information stating why the Mitigation Plan should be accepted.~~

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~~hearing body~~Hearing Body shall issue a written ~~memorandum~~order setting forth the agreements and rulings made at each conference.

By agreement of the ~~hearing body and the~~ parties or order of the Hearing Body, any conference or hearing may be conducted via teleconference, except that, subject to section 6.0 of this hearing process, witnesses shall personally appear at the hearing.

All prehearing conferences and hearings shall be open to the public, except when the use of a closed ~~session~~meeting is authorized by Texas law.

6.0 Conduct of Hearing

The hearing will be conducted under the provisions of this section 6.0 ~~or under shortened procedures specified in section 6.1. Unless the Registered Entity or the Compliance Enforcement Authority requests a hearing under section 6.0 no later than ten (10) business days after the Register Entity files its response requesting a hearing, the hearing will be conducted under the shortened procedures specified in section 6.1.~~ and the Attachment 2— Rules of Procedure.

The hearing need not be held on consecutive days, and shall be held at the ~~executive offices of the Compliance Enforcement Authority or the hearing body~~Hearing Body unless the ~~hearing body~~Hearing Body decides on a different location after consulting with the parties.

The party requesting transcription of the hearing, the Registered Entity or Compliance Enforcement Authority, will arrange and pay for transcription of the hearing.

The ~~hearing body~~Hearing Body shall direct ~~either (1) that the direct testimony of any witnesses be in written form, supported by affidavit, or (2) that a list of the names and addresses of the witnesses each party intends to present and a brief statement of the expected testimony of each witness be served on the other party and the hearing body no less than ten (10) business days prior to the first day of the hearing in which the witness will be testifying in accordance with Attachment 2— Rules of Procedure.~~ All witnesses shall be required to appear in person, unless waived by the parties and the ~~hearing body~~. ~~Copies of exhibits shall be served on the other party and the hearing body at least ten (10) business days and at least five (5) business days, respectively, prior to the date of the hearing in which the exhibit is introduced or cross-examination takes place.~~Hearing Body. Motions shall be made and decided, evidence shall be presented, and a record shall be made in accordance with Attachment 2— Rules of Procedure.

~~The hearing body shall determine the order of presentation of evidence. All witnesses shall testify under oath or affirmation administered by a court reporter or notary public.~~

~~The hearing body may exclude evidence that is immaterial or unduly repetitious or prejudicial. Evidence not otherwise admissible under generally recognized rules of evidence may be admitted if it is of a type commonly relied on by reasonably prudent persons in the conduct of their affairs. Any written or documentary evidence excluded by the hearing body shall be retained, and any proposed oral testimony may be documented by an offer of proof.~~

~~At the request of a party or the hearing body, each party may make an opening and closing statement.~~

~~6.1 Shortened Procedure~~

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~~By agreement of the parties and with the approval of the hearing body, the hearing may be conducted pursuant to a shortened procedure, in which (1) the requirements that testimony be under oath and transcribed shall not apply, (2) the prohibition against ex parte communications shall not apply, and (3) the hearing body may consider evidence that would otherwise be excludable.~~

6.2 Disposition without Evidentiary Hearing

~~If it appears to the hearing body, based on a review of the Notice of Alleged Violation and Response, that there are no genuine issues of material fact, it may request the parties to identify in writing any such issues. Unless the parties' responses, supported by sworn affidavits, demonstrate that there are genuine issues of material fact, the hearing body may proceed without any evidentiary hearing and render its decision based on the written filings and any oral presentation.~~

7.0 Submission of Post-Hearing Briefs

The parties may submit post-hearing briefs on a schedule established by the ~~hearing body~~Hearing Body pursuant to Attachment 2— Rules of Procedure. The parties may, and on request of the ~~hearing body~~Hearing Body shall, submit proposed findings of fact and conclusions of law.

8.0 Record of the Compliance Hearing

If applicable, copies of the following documents shall be maintained by the ~~hearing body~~Hearing Body as the record of the hearing process:

- ~~(1)~~ The written notice that ~~the hearing body has been convened~~a request for review of the Alleged Violation, penalty, or mitigation plan or Remedial Action Directive has been filed with the Hearing Body Clerk;
- ~~(2)~~ The ~~notice~~Notice of Alleged Violation and sanction issued by the Compliance Enforcement Authority and the response filed by the Registered Entity, including in each case all attachments thereto and documents provided therewith~~;~~
- ~~(3)~~ If the hearing involves a Registered Entity's Mitigation ~~Plan~~Proposal, (~~ia~~) the Registered Entity's ~~proposed~~—Mitigation ~~Plan~~Proposal and supporting information as to why the ~~mitigation plan~~Registered Entity's Mitigation Proposal should be accepted and (~~ib~~) the report of the Compliance Enforcement Authority stating why the Registrant's Mitigation ~~Plan~~Proposal was not accepted~~;~~
- ~~(4)~~ Any requests for recusal of a member of the ~~hearing body~~Hearing Body, a Presiding Officer, or a Technical Advisor, and any responses to such requests~~;~~
- ~~(5)~~ All motions, notices and responses filed by the parties during the hearing process~~;~~
- ~~(6)~~ All documents that set forth or that summarize any ex parte communications~~;~~
- ~~(7)~~ All notices and rulings issued by the ~~hearing body~~Hearing Body during the hearing process~~;~~

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- ~~The report issued by the hearing body following each conference.~~
- (8) All interlocutory orders;
- (9) All written testimony and all exhibits received into evidence;
- (10) All written testimony and documentary exhibits that were proffered but not admitted into evidence;
- (11) Any transcript(s) ~~and minutes~~;
- (12) The parties' post-hearing briefs, any exceptions to the draft recommendation, any motions for reconsideration or rehearing, and any other post-decision briefing or motion;
- ~~The written decision of the hearing body.~~
- (13) The draft recommendation of the Presiding Officer, if any; and
- (14) The final recommendation of the Hearing Body.

9.0 Timing of Written Recommendation by the Chief Compliance Officer

The Hearing Body~~The hearing body~~ shall issue its written final recommendation ~~normally to the Chief Compliance Officer~~ within thirty (30) days following the submission of post-hearing briefs, or, if briefing is waived, following the conclusion of the hearing. The ~~written~~ Hearing Body may in its discretion extend the time for the issuance of the written final recommendation to the Chief Compliance Officer for up to an additional sixty (60) days. The written final recommendation shall state the opinion of the ~~hearing body~~ Hearing Body with respect to Alleged Violations of Reliability Standards and proposed penalties or sanctions at issue in the hearing. If the hearing involves a Registered Entity's Mitigation Plan Proposal, the written final recommendation shall either propose acceptance or rejection of the Registered Entity's ~~proposed~~ Mitigation Plan Proposal. If the proposed Registered Entity's Mitigation Plan Proposal is recommended for rejection, the ~~hearing body~~ Hearing Body may specify the provisions of ~~the Mitigation Plan~~ an alternative plan of mitigation that the Registered Entity should be required to implement. The written final recommendation shall explain the reasons for the ~~hearing body~~ Hearing Body's conclusions and cite the testimony and exhibits relied on by the ~~hearing body~~ Hearing Body in reaching its opinions. Copies of the written final recommendation shall be served electronically and by certified mail on the Registered Entity and on the Compliance Enforcement Authority's designated representative at the time it is issued to the Chief Compliance Officer.

9.1 Written Decision by the CCO Chief Compliance Officer

The ~~CCO~~ Chief Compliance Officer shall issue ~~its~~ his written decision accepting, rejecting or modifying the ~~hearing body~~ Hearing Body's recommendation, ~~normally within ten~~ twenty (40)20 business days following the issuance of the ~~hearing body~~ Hearing Body's written final recommendation. The Chief Compliance Officer may extend the date for issuance of his written decision for an additional twenty (20) business days in his sole discretion. The Chief Compliance Officer's written decision shall state the conclusion of the ~~CCO~~ Chief Compliance Officer with respect to Alleged Violations of Reliability Standards and proposed penalties or sanctions at issue in the hearing. If the hearing involves a Registered Entity's Mitigation Plan Proposal, the written decision shall either accept or reject the Registered Entity's ~~proposed~~ Mitigation Plan Proposal. If the proposed

Registered Entity's Mitigation Plan~~Proposal~~ is rejected, the ~~CCO~~Chief Compliance Officer may specify the provisions of the Registered Entity's Mitigation Plan~~Proposal~~ that the Registered Entity should be required to implement, together with other mitigation measures the Chief Compliance Officer shall require. The written decision shall explain the reasons for the ~~CCO~~Chief Compliance Officer's conclusions and cite the testimony and exhibits relied on by the ~~CCO~~Chief Compliance Officer in reaching its conclusions. Copies of the written decision shall be served electronically and by certified mail on the Registered Entity, on the Compliance Enforcement Authority's designated representative, and on the ~~hearing body~~Hearing Body.

9.2 NERC Appeal Process

The Registered Entity may appeal ~~the CCO's an adverse~~ decision of the Chief Compliance Officer to NERC, as provided for in NERC Rules of Procedure, Sections 407.3 and 410.

10.0 Expedited Hearing Process for Disputes Concerning Remedial Action Directives

A Registered Entity that disputes a Remedial Action Directive issued by a Compliance Enforcement Authority may request an expedited hearing. To facilitate the expedited hearing, the Compliance Enforcement Authority may ~~establish a hearing body~~request that the Hearing Body convene for purposes of the expedited hearing process ~~consisting of three or more members of the Compliance Enforcement Authority's governing board or other designated hearing body~~. The following expedited procedures shall be followed:

- (1) The Registered Entity shall ~~provide its~~file its written response the Remedial Action Directive and request for emergency hearing with the Hearing Body, with a copy to the Compliance Enforcement Authority's designated representative ~~in writing~~ within two (2) business days after receipt of the Remedial Action Directive. The Hearing Body may appoint a Presiding Officer to conduct all proceedings under this Section 10.0, except for the issuance of a final recommendation to the Chief Compliance Officer.
- (2) The ~~hearing body~~Hearing Body shall be convened ~~within two (2)~~for purposes of a prehearing, and if requested, for interim relief, not less than two (2) nor more than five (5) business days after receipt of the Registered Entity's request for a hearing.
- (3) The ~~hearing body~~Hearing Body shall conduct a hearing on the matter, in person or by teleconference, within ~~seventy (70)~~thirty (30) business days after the ~~hearing body~~Hearing Body is convened. At the hearing, the Compliance Enforcement Authority shall explain why the Remedial Action Directive should be complied with, and the Registered Entity shall explain why the Remedial Action Directive is not necessary or should be modified.
- (4) The ~~hearing body~~Hearing Body shall issue a summary written recommendation to the Chief Compliance Officer within ~~ten~~twenty (20) business days following the hearing, stating whether the Registered Entity should or should not be required to comply with the Remedial Action Directive and identifying any modifications to the directive that it finds appropriate.

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- ~~The CCO shall issue a summary written recommendation within five~~ (5) The Chief Compliance Officer shall issue a summary written recommendation within ten (10) business days following the ~~hearing-body~~ Hearing Body's issuance of its summary written recommendation, stating whether the Registered Entity shall or shall not be required to comply with the Remedial Action Directive and identifying any modifications to the directive that it finds appropriate.
- (6) If the ~~CCO~~ Chief Compliance Officer's summary written decision concludes that the Registered Entity is required to comply with the Remedial Action Directive or any modification to such directive (including adjustments to the timetable for implementation), the Registered Entity shall be required to begin implementing the Remedial Action Directive upon receipt of the summary written decision, if it has not already implemented the Remedial Action Directive.
- (7) Within thirty (30) days following issuance of its summary written decision, the ~~CCO~~ Chief Compliance Officer shall issue a full written decision ~~confirming~~ regarding the Remedial Action Directive to the requirements of Section 9.0, above, that may be appealed consistent with Section 9.2.
- (8) This Section 10.0 provides procedures for the expeditious determination of the propriety of a contested Remedial Action Directive. Nothing in this Section shall be read to impair the Compliance Enforcement Authority's authority to issue a Notice of Alleged Violation and proposed sanction on alleged violations of standards addressed by a Remedial Action Directive or on other alleged violations occurring contemporaneously with the Remedial Action Directive or at any other time using the non-expedited procedures of this Attachment 1 or Attachment 2— Rules of Procedure.

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