

MEMORANDUM

To: Texas RE Advisory Committee
From: Larry D. Grimm
Date: April 9, 2010
Re: Modifications to Texas RE 2011 Delegation Agreement with NERC

All of the Regional Entity delegation agreements with North American Electric Reliability Corporation (NERC) were originally set to expire in May 2010¹. On January 14, 2010, in Docket No. RR10-2-000, the Federal Energy Regulatory Commission (FERC) approved an extension of all regional delegation agreements, including the Texas Regional Entity (Texas RE) delegation agreement, until May 2, 2011, to allow NERC and the regional entities time to negotiate amendments to address items learned from experience and items identified in the Three-Year ERO Performance Report of July 20, 2009.

NERC and the Regional Entities have negotiated an amended pro-forma amended and restated delegation agreement, which was posted by NERC for stakeholder and other public comments on January 29, 2010 through March 5, 2010. NERC and the Regional Entities considered the comments received and have arrived at an agreed final amended and restated pro-forma delegation agreement (Amended Delegation Agreement) for submission to each Regional Entity Board of Directors and the NERC Board of Trustees for approval, prior to submission to FERC.

The revisions to the Amended Delegation Agreement were made to focus on increasing the efficiency and consistency across the regions, transparency and collaboration between the eight Regional Entities and NERC as one ERO Enterprise. The changes provide greater specificity and detail and memorialize what the Regional Entities and NERC already do, based upon the lessons learned from experience over the past three years.

Texas RE has only one regional change to the pro-forma delegation agreement, which is to have the Public Utility Commission of Texas (PUCT) serve as its hearing body for contested enforcement cases, just as the PUCT does under the current Texas RE delegation agreement.

Substantive changes to the Amended Delegation Agreement include:

1. Specific prohibition against any Regional Entity monitoring or enforcing compliance with standards by itself or any affiliated entity. (§ 4(a))
2. Authorization for Regional Entities to arrange with other Regional Entities to perform NERC standard compliance monitoring and enforcement activities outside of their regions for registered entities that have registered functions monitored by more than one Regional Entity, with NERC approval. (§ 4(c))
3. The concept of a "Possible Violation" (prior to an "Alleged Violation") to allow NERC to have earlier notice (prior to sending notice to the registered entity) of potential violations. (§ 6(c))
4. Description of the Regional Entities' disposition of and NERC's review and disposition of Possible Violations, Alleged Violations, and Confirmed Violations. (§ 6(d))

¹ See *Order Accepting ERO Compliance Filing, Accepting ERO/Regional Entity Delegation Agreements, and Accepting Regional Entity 2007 Business Plans*, 119 FERC ¶61,060 (2007).

5. Authorization for a Regional Entity with hybrid or stakeholder board to have stakeholders participate in or lead its board compliance committee as long as integrity and independence are assured through a conflict of interest policy and reasonable and appropriate recusal procedures. (¶ 6(h))
6. Description of the registration and certification responsibilities of NERC and the Regional Entities. NERC will set criteria for certification, develop criteria for registration and apply the registration criteria to registered entities, maintain a registration database based upon information provided by Regional Entities. Regional Entities will issue certifications, provide timely and accurate information relating to registrations to NERC at least monthly. NERC Compliance Committee will hear and decide registration appeals, and NERC will defend these decisions. (¶ 7(a) and (b))
7. Description of the reliability assessment and performance analysis responsibilities of NERC and the Regional Entities, which allows Regional Entities to either (a) develop assessments of the reliability of the bulk-power system (BPS) or (b) ensure that data and information are collected, analyzed and submitted to NERC (like Texas RE). Regional Entities will also develop, maintain, and collect data in support of the develop and maintenance of reliability performance metrics and assessments of risks to the reliability of the BPS, and NERC will develop data-gathering quality control procedures, forms and reporting mechanisms. (¶ 7(c))
8. Description of Event Analysis and Reliability Improvement, Training and Education, and Situational Awareness and Infrastructure Security requirements for Regional Entities, in accordance with the NERC Rules of Procedure. (¶ 7(d), (e), and (f))
9. Description of NERC's oversight and evaluation of Regional Entity performance, including NERC's obligation to develop, in collaboration with Regional Entities, performance and financial goals, measures, and parameters, and to make standardized training available to Regional Entities. (¶ 8(a) and (b))
10. Description of process by which NERC will issue performance guidance or directives to or conduct reviews or audits of Regional Entities. (¶ 8(c), (d), (e), and (f))
11. Description of the requirements for Regional Entity business plans and budgets and funding, including that the budgets must provide adequate resources for performing the delegated activities. (¶ 9)
12. Delegation Agreement term extended to five years (from current three years). (¶ 12(b))
13. Description of a detailed dispute resolution process. (¶ 18)