

circumstances of this case. While NERC is not a named party in the Complaint, NERC requests leave to intervene and comment in response to the improper representation of NERC's action set forth therein.

I. NOTICES AND COMMUNICATIONS

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

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II. MOTION TO INTERVENE

NERC has a substantial interest in this proceeding as it is a party to a complaint pending before FERC on a related matter² and to correct the record regarding NERC's certification of the MIUP BA. The Commission certified NERC as the Electric Reliability Organization ("ERO") for the purpose of establishing and enforcing Reliability Standards for the Bulk Power System ("BPS") in the United States.³ As the ERO, NERC's mission is to improve the reliability and security of the BPS in North America.⁴ Under its FERC-approved Rules of Procedure, NERC certifies entities such as BAs to ensure that a newly operating entity "(i.e., an applicant [seeking]

² See *Michigan Pub. Serv. Comm'n. v. No. American Elec. Reliability Corp. and Wisconsin Elec. Power Co.*, Docket No. EL14-104-000.

³ *North American Electric Reliability Council, Order Certifying North American Electric Reliability Corporation as the Electric Reliability Organization and Ordering Compliance Filing*, 116 FERC ¶ 61,062 (2006) ("ERO Certification Order").

⁴ See *Id.*

to be an RC, BA, or TOP that is not already performing the function for which it is applying to be certified as) has the tools, processes, training, and procedures,” to meet the “Requirements/sub-Requirements of all Reliability Standards applicable to the function(s) for which it is applying.”⁵

While the Mines acknowledge that issues related to the allocation of SSR costs are outside of NERC’s purview, the Mines accuse NERC of being an unwitting participant to WEPCo’s scheme to shift the allocation of SSR costs under MISO’s Tariff between customers in Wisconsin and those in the Upper Peninsula of Michigan. No other party can adequately represent NERC’s interests or adequately respond to the Mines’ improper representation of NERC’s action. Therefore, it is in the public interest to permit this intervention.

III. COMMENTS

Despite NERC’s efforts to advise the Mines of the FERC-approved rules governing the certification of BAs, the Mines continue to misrepresent NERC’s action as “approving WEPCo’s proposal.”⁶ NERC did not approve WEPCo’s proposal; NERC only certified WEPCo’s proposed MIUP BA in accordance with its FERC-approved Rules of Procedure (“ROP”) and, in its review of that certification, evaluated the competency of WEPCo to reliably operate the BA. NERC advised the Mines of its jurisdiction before the Mines filed the instant complaint with FERC.⁷ NERC’s role in the certification process is to ensure that entities are technically capable of performing their functions so as to better ensure grid reliability; issues such as cost allocation are not relevant to that determination and are beyond the scope of NERC’s jurisdiction.

⁵ See ROP § 501.

⁶ See Complaint at 2.

⁷ See NERC’s August 29, 2014 Letter to W. Demarest (The Mines counsel), Complaint at Exhibit L.

In addition to improperly describing NERC’s action as approving the WEPCo proposal, the Mines allege that NERC does not have jurisdiction to certify the MIUP BA. The Mines assert that “[a]s a cost-shifting mechanism rather than a reliability enhancement, the cost allocation consequences of the split of the WEC LBA and formation of the MIUP LBA fall outside NERC’s purview.”⁸ NERC does not dispute FERC’s jurisdiction over the cost allocation issues that flow from MISO’s tariff and the calculation of SSR costs; however, the certification of the newly formed MIUP BA falls squarely within NERC’s jurisdiction. NERC’s certification process is governed by the FERC-approved ROP and is tied to registration on the NERC Compliance Registry and not, as the Mines assert, tied to reliability enhancements.

The NERC certification process flows from NERC’s obligation to “clearly identify those entities that are responsible for compliance with the FERC approved Reliability Standards.”⁹ Under the FERC-approved ROP, for all geographical or electrical areas of the BPS, NERC is to register entities on the NERC Compliance Registry to ensure that: (i) no areas are lacking any entities to perform the duties and tasks identified in and required by NERC’s Reliability Standards to the fullest extent practical; and (ii) there is no unnecessary duplication of such coverage or of required oversight of such coverage.¹⁰ In addition to NERC’s registration requirements as outlined above, NERC is to certify all entities such as BAs with primary reliability responsibilities.¹¹ NERC’s certification review evaluates the competency of a registered entity to perform the evaluated functions.¹² The proper scope of NERC’s review is not to ensure that the proposed BA remedies any physical reliability issues; rather, NERC’s

⁸ See Complaint at 13 (*internal quotation marks omitted*).

⁹ See ROP at § 501.

¹⁰ See ROP at § 501.1.4; *see also* § 501.1.4.2 *et seq.*

¹¹ See ROP at § 502.

¹² See ROP §§ 501.2–501.2.5 (specifying the criteria NERC is to use before issuing certification of a new BA).

certification review is designed to assure that the proposed BA does not create any reliability issues.

IV. CONCLUSION

WHEREFORE, NERC respectfully requests that the Commission grant this motion for leave to intervene and accept the comments herein.

Respectfully submitted,
/s/ Meredith M. Jolivert

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Dated: October 9, 2014

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document upon all parties listed on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 9th day of October, 2014.

/s/ Meredith M. Jolivert

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