

**FEDERAL ENERGY REGULATORY COMMISSION  
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**NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION**

**EXHIBIT B**

**TO**

**FIVE-YEAR  
ELECTRIC RELIABILITY ORGANIZATION  
PERFORMANCE ASSESSMENT REPORT**

**HOW THE REGIONAL ENTITIES SATISFY THE STATUTORY AND REGULATORY  
REQUIREMENTS FOR DELEGATION**

**JULY, DATE 2019**

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## **I. INTRODUCTION**

NERC is the Electric Reliability Organization (“ERO”) certified by the U.S. Federal Energy Regulatory Commission to develop and enforce mandatory Reliability Standards under Section 215 of the Federal Power Act.<sup>1</sup> Under Section 215(e)(4) of the Federal Power Act<sup>2</sup> and Section 39.8 of the regulations of the Federal Energy Regulatory Commission (“FERC or the “Commission”),<sup>3</sup> the ERO is permitted to delegate authority to one or more Regional Entities “for the purpose of proposing Reliability Standards to the [ERO] and enforcing Reliability Standards,” provided that certain criteria are met. Consistent with Section 39.3 of the Commission’s regulations<sup>4</sup> and the Commission’s September 16, 2010 Order on NERC’s *Three-Year ERO Performance Assessment Report*,<sup>5</sup> this Section of NERC’s Five Year Performance Assessment Report demonstrates that each of the Regional Entities has satisfied the relevant statutory and regulatory criteria.

## **II. BACKGROUND**

### **A. The Regional Delegation Agreements**

As provided under the authorities noted above, NERC delegates certain ERO functions to the Regional Entities, including the authority to develop and enforce Reliability Standards subject to NERC oversight, by means of a Regional Delegation Agreement (“RDA”) between NERC and each Regional Entity. As a condition of delegation, the RDA requires each Regional Entity to comply with applicable ERO Rules and Reliability Standards. These RDAs, which are periodically revised and renewed, must be approved by the Commission prior to becoming effective.

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<sup>1</sup> 16 U.S.C. § 824(o) (2018).

<sup>2</sup> 16 U.S.C. § 824(o)(e)(4) (2018).

<sup>3</sup> 18 C.F.R. § 39.8.

<sup>4</sup> 18 C.F.R. § 39.3.

<sup>5</sup> *North American Electric Reliability Corporation, Order on the Electric Reliability Organization’s Three-Year Performance Assessment*, 132 FERC ¶ 61,217 (2010), at P 36.

In its July 20, 2006 order certifying NERC as the ERO, the Commission accepted NERC's proposed *pro forma* RDA, subject to further modifications to be reflected in the final individual RDAs with the Regional Entities.<sup>6</sup> In April 2007, the Commission approved NERC's RDAs with eight Regional Entities.<sup>7</sup> Since 2007, the Commission has approved revised RDAs between NERC and the Regional Entities, including revisions to the *pro forma* and individual RDAs in 2010<sup>8</sup> and 2015.<sup>9</sup>

From 2007 until 2018, NERC maintained RDAs with the following Regional Entities:

- Florida Reliability Coordinating Council (“FRCC”);
- Midwest Reliability Organization (“MRO”);
- Northeast Power Coordinating Council, Inc. (“NPCC”);
- ReliabilityFirst Corporation (“ReliabilityFirst”);
- SERC Reliability Corporation (“SERC”);
- Southwest Power Pool Regional Entity (“SPP RE”);
- Texas Reliability Entity, Inc. (“Texas RE”); and
- Western Electricity Coordinating Council (“WECC”).

In July 2017, NERC and the Southwest Power Pool mutually agreed to terminate the responsibilities of the SPP RE as a Regional Entity. On May 4, 2018, the Commission approved the termination of the SPP RDA, proposed transfers of registered entities to the SERC and MRO footprints as of July 1, 2018, and revisions to the SERC and MRO RDAs to reflect the changed geographic footprints of those Regional Entities.<sup>10</sup> The termination of the SPP RDA became

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<sup>6</sup> *North American Electric Reliability Corp.*, 116 FERC ¶ 61,062, (ERO Certification Order), *order on reh'g and compliance*, 117 FERC ¶ 61,126 (2006), *order on compliance*, 118 FERC ¶ 61,030, *order on compliance*, 118 FERC ¶ 61,190, *order on reh'g*, 119 FERC ¶ 61,046 (2007), *aff'd sub nom. Alcoa Inc. v. FERC*, 564 F.3d 1342 (D.C. Cir. 2009).

<sup>7</sup> *See North American Electric Reliability Corp.*, 119 FERC ¶ 61,060, *order on reh'g*, 120 FERC ¶ 61,260 (2007).

<sup>8</sup> *North American Electric Reliability Corp.*, 133 FERC ¶ 61,061 (2010), *order denying reh'g*, 134 FERC ¶ 61,179 (2011), *order on compliance filing*, 137 FERC ¶ 61,028 (2011).

<sup>9</sup> *North American Electric Reliability Corp.*, 153 FERC ¶ 61,135 (2015) (approving *pro forma* and individual RDAs, subject to compliance filing) and *North American Electric Reliability Corp.*, Docket No. RR15-12-001 (Mar. 23, 2016) (delegated letter order) (accepting final *pro forma* and individual RDAs) (collectively, “2015 RDA Order”).

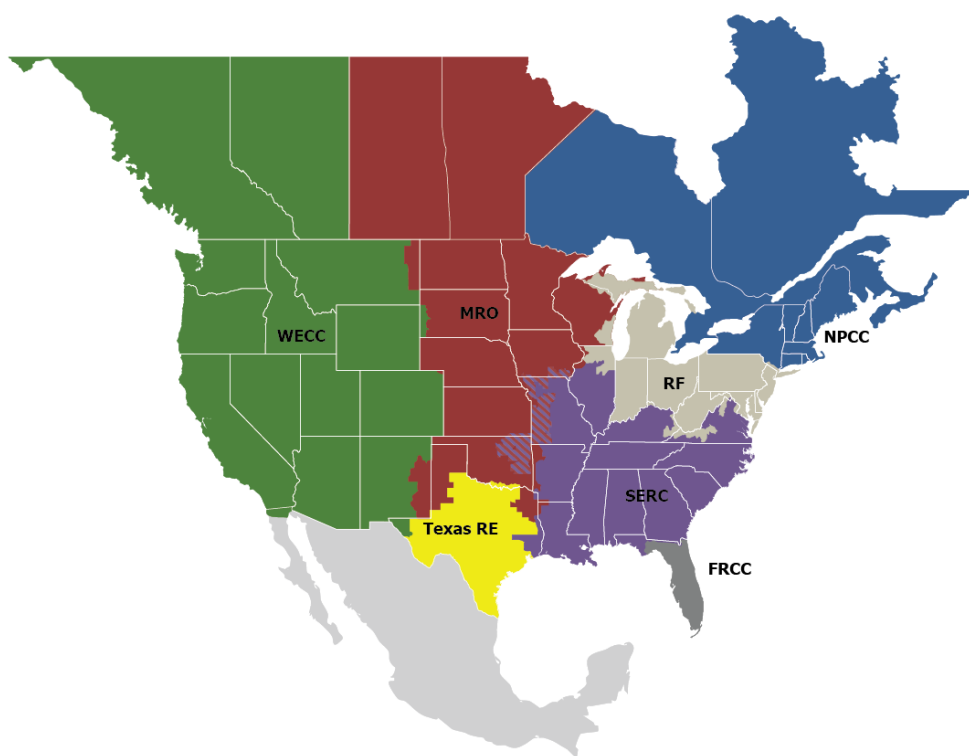
<sup>10</sup> *North American Electric Reliability Corp., Midwest Reliability Organization, and SERC Reliability Corporation*, 163 FERC ¶ 61,094 (2018).

effective August 31, 2018. The currently-effective RDAs between NERC and the remaining seven Regional Entities are due for renewal by December 31, 2020.

### **B. Geographic Footprints of the Regional Entities**

As shown in **Figure 1** below, the seven Regional Entities provide full geographic coverage for the jurisdictional scope of NERC as the ERO for North America.

**Figure 1 — Map of Regional Entities within NERC**



### **C. Statutory and Regulatory Criteria for Delegation**

Section 215(e)(4) of the Federal Power Act,<sup>11</sup> as reiterated in §39.8 of the Commission’s regulations,<sup>12</sup> provides that a Regional Entity must satisfy the following criteria to be delegated

<sup>11</sup> 16 U.S.C. §824o(e)(4).

<sup>12</sup> 18 C.F.R. §39.8.

“authority for the purpose of proposing reliability standards to the ERO and enforcing reliability standards”:

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 meets the requirements otherwise applicable to the ERO in Section 215(c)(1)(2) of the Federal Power Act,<sup>13</sup> namely that it:
  - a. has the ability to develop and enforce reliability standards that provide for an adequate level of reliability of the Bulk-Power system (“BPS”); and
  - b. has established rules that:
    - i. assure its independence of the users and owners and operators of the BPS, while assuring fair stakeholder representation in the selection of its directors and balanced decision-making in any committee or subordinate organization structure;
    - ii. allocate equitably reasonable dues, fees, and other charges among end users for all activities;
    - iii. provide fair and impartial procedures for enforcement of Reliability Standards through the imposition of penalties;
    - iv. provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing Reliability Standards and otherwise exercising its duties; and
    - v. provide for taking appropriate steps to gain recognition in Canada and Mexico.
3. The Regional Entity operates under a delegation agreement that promotes effective and efficient administration of BPS reliability.

During the Assessment Period, each of the Regional Entities has continued to meet the statutory and regulatory criteria to be delegated authority under the RDAs, as discussed in the following section.

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<sup>13</sup> 16 U.S.C. §824o(c)(1)(2).

### **III. THE REGIONAL ENTITIES CONTINUE TO SATISFY THE STATUTORY AND REGULATORY CRITERIA FOR DELEGATION**

This section provides a description of each of the seven<sup>14</sup> Regional Entities and describes in detail how each of these Regional Entities has met and continues to meet the relevant statutory and regulatory criteria.

#### **A. Florida Reliability Coordinating Council (“FRCC”)**

Florida Reliability Coordinating Council (“FRCC”) was formed in 1996. Its sole purpose is to ensure and enhance the reliability and adequacy of the Bulk Power System (“BPS”) in Florida. Since becoming a Regional Entity, FRCC has made significant changes in its governance and organizational structure. FRCC amended its bylaws to create two membership divisions — Regional Entity Division (statutory functions) and Member Services Division (non-statutory functions), added a new General Sector to its membership sectors, added new employees strictly dedicated to the compliance and standards functions, and made changes in its organizational reporting structure. All compliance and enforcement staff members are independent of registered entities for which FRCC carries out compliance activities, and the organization is governed by a balanced stakeholder board. FRCC also implemented internal controls in its accounting procedures to ensure there is no cross subsidization of funds between statutory and non-statutory activities.

FRCC continues to meet the relevant statutory and regulatory criteria for delegation as follows:

- 1. FRCC “is governed by an independent board, a balanced stakeholder board or a combination independent and balanced stakeholder board.”** The FRCC board of directors (FRCC Board) is a balanced stakeholder board. The FRCC Board has a minimum of sixteen (16) members, who are allocated among the region’s six sectors, and the chief executive officer (CEO) who serves as a non-voting director. The sector representation is as follows: (i) three directors from the Suppliers Sector; (ii) two directors from the Non-Investor Owned Utility Wholesale Sector; (iii) two directors from the Load Serving Entity Sector (one Municipal and one Cooperative); (iv) three directors from the Generating Load

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<sup>14</sup> As the RDA with SPP terminated in August 2018, SPP RE is not included in this Section.

Serving Entity Sector; (v) three directors from the Investor Owned Utility Sector; and (vi) two directors from the General Sector. FRCC's CEO is an ex-officio non-voting director. Directors are elected by their sector and serve two-year terms.

**2. FRCC meets the requirements of Federal Power Act Section 215 (c)(1)(2), because:**

- a. **FRCC is able to develop and enforce reliability standards that provide for an adequate level of reliability of the bulk power system.** FRCC revised and updated the FRCC Regional Reliability Standards Development Process (RRSDP) manual to improve and clarify the process and establish consistency in standard development with NERC and the other Regional Entities. The RRSDP continues to be based on the set of common attributes that provide for an open, balanced, fair, transparent, and inclusive process. FRCC terminated two standards development projects as NERC's continent-wide standards were determined to be sufficient for FRCC reliability needs. FRCC formally withdrew one project, which had been held in abeyance while the adequacy of the NERC continent-wide standard was evaluated. The evaluation determined that the NERC Reliability Standard was sufficient for FRCC's needs.

Compliance monitoring and enforcement of Reliability Standards is carried out by FRCC's compliance department. FRCC's compliance department staff members adhere to guidelines set forth in the NERC Compliance Monitoring and Enforcement Program (CMEP), and have the pre-requisites (such as Reliability Coordinator Certification, Professional Engineer, Certified Information Systems Security Professional, Certified Information Systems Auditor, etc.) to effectively monitor registered entities' compliance obligations under the Operating, Planning, and CIP Reliability Standards. FRCC has taken additional steps to enforce Reliability Standards and provide an adequate level of reliability for the BPS. For example, its compliance department developed approximately 30 detailed internal procedures for all aspects of the compliance process, which have been regularly reviewed and updated. These procedures help promote consistent and effective application of its internal procedures and ensure that FRCC meets the obligations under the NERC Rules of Procedure.

In 2017, FRCC completed a project to enhance, document, and implement the Possible Noncompliance Review (PNCR) process. In addition, FRCC documented and implemented a mitigation review process to include: Extent of Condition, Root Cause Analysis, Internal Controls and Prevention of Reoccurrence. These projects were part of a larger project to enhance all FRCC Enforcement and Risk Assessment and Mitigation procedures with the goal to prevent repeat violations and improve the reliability of the entities in the FRCC region through forward looking mitigations that work to prevent the next issue.

**b. FRCC has established rules that:**

- i. **Assure its independence of the users and owners and operators of the BPS, while assuring fair stakeholder representation in the selection of**



**its directors and balanced decision-making in any ERO committee or subordinate organization structure.** FRCC has implemented an annual employee recital and disclosure process, during which employees review the *FRCC Conflict of Interest Policy* and renew their responses to FRCC's *Conflict of Interest Questionnaire*, provide a *Disclosure Statement of Stock Ownership of FRCC Member Companies*, and sign a *Non-Disclosure Acknowledgement*. As previously described, FRCC's governance is overseen by a balanced stakeholder board, which assures fair stakeholder representation while also practicing balanced decision making where no one sector can block and no two sectors can pass any decision.

- ii. **Allocate equitably reasonable dues, fees, and other charges among end users for all activities.** The funding for FRCC's Regional Entity division is allocated among FRCC load serving entities (LSE) using a Net Energy for Load (NEL)-based formula. Annually, each entity reports its NEL for the previous year. FRCC provides this information to NERC as part of the business plan and budget development process. FRCC develops an annual budget each year, which is based on common assumptions that NERC and the eight Regional Entities have developed collaboratively, to provide for the resources FRCC needs to carry out all of its delegated functions. The budget and accompanying LSE assessments are approved by the FRCC Board, the NERC Board, and the Commission.
- iii. **Provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties.** FRCC has adopted the NERC CMEP, Appendix 4C to the NERC Rules of Procedure. This is the primary document that FRCC uses to provide fair and impartial procedures for enforcement. With respect to the calculation of penalties, **FRCC consistently uses the penalty calculator tool provided by NERC to provide a consistent application of the penalty and sanctions guidelines.** In addition, FRCC Board directors and alternates are required to sign a *Code of Conduct* in which they commit to act in the best interest of FRCC and refrain from involvement in any situation where there is an actual or potential conflict of interest. Notably, to avoid any conflict of interest or undue influence situation, FRCC does not allow FRCC Board directors or alternates to participate directly in settlement discussions with FRCC on behalf of their registered entities.
- iv. **Provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties.** The RRSDP defines the fair and open process for development, revision, withdrawal, and approval of FRCC Regional Reliability Standards for the FRCC Region. Specifically, it has the following characteristics:

Open Participation – Participation in the RRSDP is open to all entities that are directly and materially affected by FRCC Reliability

Standards or the reliability of the FRCC BPS. There are no financial barriers to participation and participation is not conditional upon membership in any organization, nor unreasonably restricted on the basis of technical qualifications or other such requirements. All FRCC Regional Reliability Standard Development meetings are publicly noticed on the FRCC website.

Balance – The RRS DP has a balance of interests and is not dominated by any two interest categories, individuals, or organizations; no single interest category, individual, or organization can defeat a matter.

Voting – FRCC uses a voting formula that allocates each industry sector an equal weight in determining the final outcome of any standard action. The RRS DP has a balance of interests. Participants from diverse interest categories are encouraged to join the Registered Ballot Body and participate in the balloting process, with a goal of achieving balance between the interest categories. The Registered Ballot Body serves as the consensus body voting to approve each new or proposed Regional Reliability Standard and/or definition.

Notification of standards development – FRCC distributes notices to each member of the Registered Ballot Body, as well as to each stakeholder who indicates a desire to receive such notices, for each action to create, revise, reaffirm, or withdraw a standard. Notices are distributed electronically with links to the relevant information, are posted on FRCC’s Standards web page, and include a readily available source for further information.

Transparency – The RRS DP is transparent to the public.

Consideration of views and objections – Drafting teams give consideration to the written views and objections of all participants, providing individualized written responses to those commenting during formal comment periods and those commenting as part of the balloting process. Drafting teams make an effort to resolve each objection that is related to the topic under review.

In otherwise exercising its duties, FRCC also provides reasonable notice and opportunity for public comment in its compliance monitoring and enforcement activities as required by the CMEP and the NERC Rules of Procedure.

- v. **Provide for taking appropriate steps to gain recognition in Canada and Mexico.** This criterion is not applicable to the FRCC region.

3. **FRCC operates under a delegation agreement that promotes effective and efficient administration of BPS reliability.** On November 2, 2015,<sup>15</sup> the Commission approved the amended and restated FRCC RDA which incorporated benefits of NERC's and FRCC's mutual experience and lessons learned while operating under the predecessor agreement. The revised RDA provides for more efficient and effective execution of responsibilities that promote the reliability of the BPS. These responsibilities include: (i) development and proposal of Reliability Standards; (ii) enforcement of compliance with Reliability Standards; (iii) certification of BPS entities; (iv) registration of owners, operators, and users of the BPS; (v) reliability assessment and performance analysis; (vi) event analysis and reliability improvement; (vii) training and education; and (viii) situation awareness and infrastructure security.
4. On March 6, 2019, NERC, FRCC and SERC filed a joint petition with FERC for approval of the dissolution of FRCC RE – a division of FRCC, Inc. The dissolution of FRCC will result in a more efficient ERO Enterprise, as well as eliminating conflicts of interest within the ERO Enterprise in how the ERO performs its operations. The FRCC Board voted to dissolve FRCC RE on October 30, 2018. As part of its review, FRCC examined factors including, but not limited to, maintaining the reliability of the bulk power system in Florida, customer costs, and stakeholder participation in the governance of a successor Regional Entity. This review was in response to NERC's determination the Regional Entities should be separate corporate entities from NERC registered entities.

**B. Midwest Reliability Organization (“MRO”)**

Midwest Reliability Organization (“MRO”) was formed from the former Mid-Continent Area Power Pool Regional council and a portion of Mid-America Interpool Network as a new corporation for the purpose of becoming a Regional Entity under the Energy Policy Act of 2005 and the Bilateral Principles. The region spans all or part of 16 states and two Canadian provinces. MRO's bylaws provide for members from the following industry sectors: transmission system operators, generators and power marketers, municipal utilities, cooperatives, investor-owned utilities, federal power marketing agency, and Canadian utilities. MRO's bylaws also allow for adjunct members that are not eligible to belong to an industry sector and have a material interest in reliability issues in the MRO region. Membership is at no cost. MRO is independent of all BPS owners, operators, and users, and has no shared employees with any third party. MRO performs

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<sup>15</sup> 2015 RDA Order, *supra* n. 9.

only responsibilities delegated from the ERO and similar functions in the Canadian provinces of Saskatchewan and Manitoba. MRO's board of directors (MRO Board) represents a hybrid governance structure with both independent and stakeholder directors. Currently, MRO's hybrid board consists of 23 directors. Seventeen directors are elected by and represent the industry sectors noted above. Two directors are nominated by the board and elected by all Members to serve as regional directors. A regional director is an employee of a Member and meets the qualifications for directors elected from an Industry Sector. Four independent directors are elected by all Members. **On June 4, 2018, NERC filed a petition with FERC for approval of MRO's amended bylaws, under which MRO would add four board positions consisting of two independent directors and two regional directors.**<sup>16</sup> MRO MRO's hybrid board is structured so that no two sectors can control a vote. The MRO Board has adopted procedures to ensure that it carries out its responsibilities in a non-discriminatory manner, free of conflicts.

MRO continues to meet the relevant statutory and regulatory criteria for delegation as follows:

1. **MRO “is governed by an independent board, a balanced stakeholder board or a combination independent and balanced stakeholder board.”** Throughout the five-year assessment period, MRO was governed by a balanced stakeholder board.
2. **MRO meets the requirements of Section 215 (c)(1)(2) of the Federal Power Act, because:**
  - a. **MRO is able to develop and enforce reliability standards that provide for an adequate level of reliability of the bulk power system.** MRO has a Regional Reliability Standards Process Manual (RRSPM) and a stakeholder CMEP Advisory Council comprised of subject matter experts is available to fulfill its obligation to develop a regional standard should there be a need for a regional Reliability Standard in the future.

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<sup>16</sup> *Petition of the North American Electric Reliability Corporation for Approval for Amendments to Midwest Reliability Organization Bylaws*, Docket No. RR18-8-000 (Jun. 4, 2018).

MRO also has the requisite staff both in terms of number of people and expertise, and adequate processes and procedures, to enforce the Reliability Standards. MRO splits the CMEP function into three distinct steps with their own assigned personnel— (i) Compliance Monitoring, (ii) Risk Assessment and Mitigation, and (iii) Enforcement. Compliance monitoring staff develops compliance oversight plans and conducts monitoring activities to oversee compliance with reliability standards by registered entities. Risk Assessment and Mitigation conducts inherent risk assessments (IRAs) for registered entities, and completes risk determinations for each noncompliance, which includes an independent review of the facts and circumstances. Risk Assessment and Mitigation also works with the registered entity to develop effective and comprehensive mitigation. Enforcement department staff review recommendations made by Risk Assessment and Mitigation staff, verify all relevant facts, and resolve noncompliances through appropriate processing methods.

The factual review conducted by the Risk Assessment and Mitigation and Enforcement staff is intended to ensure a consistent, accurate application of the NERC reliability standards. The three-step process also provides for segregation of duties, establishing independence among those making the findings, those assessing risk, and those determining and negotiating penalties and sanctions. As a result of this approach, registered entities in the MRO region accept responsibility for roughly 95 of all noncompliance.

**b. MRO has established rules that:**

- i. Assure its independence of the users and owners and operators of the BPS, while assuring fair stakeholder representation in the selection of its directors and balanced decision-making in any ERO committee or subordinate organization structure.** In particular, MRO assures the independence of the users and owners and operators of the BPS by establishing processes and procedures for the conduct of its work. For example, by having a three-step process to implement the CMEP, MRO assures that its internal work is subjected to review and validation. MRO also has specific policies that prevent stakeholder conflicts of interest and prevent stakeholders from participating in its CMEP work. **In addition, all MRO members elect the two Regional Directors and found independent directors; the remaining directors are elected by industry sectors.**
- ii. Allocate equitably reasonable dues, fees, and other charges among end users for all activities.** MRO's funding requirements are equitably allocated in a manner similar to the one used by the other Regional Entities. Each year, MRO develops an annual business plan and budget that describes in detail the resources MRO needs to carry out its delegated functions. The annual business plan and budget is reviewed and approved by the MRO Board and then submitted to NERC and ultimately filed with the Commission for approval. Assessments are made to MRO's LSEs through a formula which is based on NEL. MRO does not charge additional fees to

be a member or to participate in its training. The annual business plan and budget as well as annual audits by independent auditors and periodic audits by FERC help ensure that MRO's expenses and assessments to end users are reasonable.

- iii. **Provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties.** To ensure fair and impartial procedures, as described above, MRO has implemented a three-step approach to fulfill its delegated responsibilities under the CMEP. Risk and Mitigation staff completes a risk determination for each noncompliance based on an independent analysis of the unique facts and circumstances. MRO Enforcement staff reviews any recommendations from MRO Risk Assessment and Mitigation staff, verifying that all relevant facts have been gathered, and evaluates the noncompliance for the appropriate enforcement action and penalty, if any.

Assessment of a penalty is reserved for noncompliances that pose greater risk to the reliability of the bulk power system. As a result of the extensive risk assessment conducted by MRO Risk Assessment and Mitigation staff, Enforcement is able to make fair, accurate and reasonable enforcement decisions considering the facts and circumstances coupled with the risk posed by the noncompliance – the greater the risk, the greater the potential for penalty and scrutiny of review and approval.

In addition, MRO has policies and procedures to avoid conflicts of interest in its CMEP work. Those policies and procedures provide:

- (1) MRO's President and CEO and MRO board members do not directly participate in compliance violation investigations, compliance audits, reports, sanction determinations, or other matters within the CMEP.
- (2) An MRO director or member of an MRO organizational group may engage in actions on behalf of his or her employer regarding a compliance monitoring and enforcement matter undertaken by MRO; however, that director or member of an MRO organizational group must recuse himself or herself from any board or organizational group decisions, meetings, and actions related to that compliance monitoring and enforcement matter. Potential concerns about the participation of a MRO director or member of an MRO organizational group are brought to the attention of the President and CEO who will seek an appropriate resolution of the matter with the advice and counsel of the independent directors.

- iv. **Provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties.** MRO has a RRSPM which has been approved by NERC and FERC. This RRSPM is based on the set of common attributes that provide for an open, balanced, fair, transparent and inclusive standard development process, and includes specific provisions relating to the process for the opportunity to comment and be heard. Additionally, MRO organizational group and board meetings are open to the public, and announcements to these meetings are widely disseminated in advance, providing entities an opportunity to provide input to MRO's processes.
- v. **Provide for taking appropriate steps to gain recognition in Canada.** MRO operates under provincial Manitoba regulations which were adopted in 2012. MRO and NERC have a memorandum of understanding with Manitoba Hydro.

MRO and NERC have a memorandum of understanding with Saskatchewan Power Corporation governing MRO's work in Saskatchewan, Canada.

3. **MRO operates under a delegation agreement that promotes effective and efficient administration of BPS reliability.** On May 4, 2018,<sup>17</sup> the Commission approved the amended and restated MRO RDA to reflect the changed geographic footprint of MRO to be effective July 1, 2018. The 2018 RDA maintained the RDA provisions from the 2015 RDA (approved by the Commission on November 2, 2015,<sup>18</sup>) which incorporated benefits of NERC's and MRO's mutual experience and lessons learned while operating under the predecessor agreement. The RDA provides for efficient and effective execution of responsibilities that promote the reliability of the BPS. These responsibilities include: (i) development and proposal of Reliability Standards; (ii) enforcement of compliance with Reliability Standards; (iii) certification of BPS entities; (iv) registration of owners, operators, and users of the BPS; (v) reliability assessment and performance analysis; (vi) event analysis and reliability improvement; (vii) training and education; and (viii) situation awareness and infrastructure security.

MRO has adopted high reliability organization principles in its approach to its delegated responsibilities, an approach that supports risk-based compliance monitoring and enforcement. These principles recognize risk, and emphasize self-monitoring with strong corrective action programs. The approach has fostered greater engagement with registered entities to solve technical problems and resulted in a corporate theme—clarity, assurance, and results. Clarity sets clear expectations for registered entities on the technical requirements of the standards. Assurance measures performance against these key requisites. Results can be seen in improved reliability. For example, MRO leverages the technical expertise of subject matter experts on stakeholder-led committees to develop application guides for NERC standards that provide clear expectations of compliance.

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<sup>17</sup> *North American Electric Reliability Corporation et al.*, 163 FERC ¶ 61,094 (2018).

<sup>18</sup> 2015 RDA Order, *supra* n. 9.

While these application guides are not authoritative, they provide much needed direction on compliance requirements, and many have been endorsed by the ERO Enterprise as Implementation Guidance. As a result, MRO has seen a measurable drop in the frequency and severity levels of violations in higher risk standards, beginning with the most violated Reliability Standard several years ago, PRC-005.

Additionally, an MRO stakeholder-led organizational group developed an internal controls and procedures framework for use by registered entities to strengthen their internal compliance programs. These types of guidelines provide the necessary clarity to industry to assure that key reliability requirements are met.

Registered entities, too, need to provide assurance to MRO staff that they understand the requirements and have established sustainable management practices to detect, correct, report, and prevent problems. Registered entities that have demonstrated their ability to identify their own noncompliances, accurately assess the risk, mitigate the noncompliances and put actions in place to prevent recurrence, as provided in the NERC guide for the ERO Enterprise Self-Logging Program, are eligible to participate in the Self-Logging Program in the MRO Region. Through the assessment period, MRO has 24 registered entities participating in the program.

### C. Northeast Power Coordinating Council, Inc. (“NPCC”)

Northeast Power Coordinating Council, Inc. (“NPCC”) was established as the voluntary, international regional reliability organization for Northeastern North America in January 1966. NPCC is a not-for-profit corporation with a Regional Entity division that performs the statutory functions delegated by NERC and a Criteria Services division that establishes, monitors, and enforces compliance with regionally-specific criteria. The NPCC geographic region includes the State of New York and the six New England states as well as the Canadian provinces of Ontario, Québec and the Maritime provinces of New Brunswick and Nova Scotia.

NPCC continues to meet the relevant statutory and regulatory criteria for delegation as follows:

1. NPCC “is governed by an independent board, a balanced stakeholder board or a combination independent and balanced stakeholder board.” NPCC’s hybrid board of directors consists of seven stakeholder voting sectors that each consist of a maximum of two directors per sector, an independent sector consisting of two independent directors, an



independent board chair with voting rights to preclude board deadlocks, and the President and CEO. Within NPCC, no two sectors can control and no one sector can block action.

**2. NPCC meets the requirements of Section 215(c)(1)(2) of the Federal Power Act, because:**

- a. NPCC is able to develop and enforce reliability standards that provide for an adequate level of reliability of the bulk power system. NPCC participates in, and supports the development of, all NERC continent-wide Reliability Standards. NPCC also has developed a Regional Standard Processes Manual (“RSPM”) that provides the design-basis approach to a consensus building process by which NPCC may develop regional Reliability Standards and regional variances to be proposed to the ERO for adoption, under delegated authority by the FERC and the Canadian provincial regulatory and/or governmental authorities. This procedure contains common attributes that provide for an adequate level of reliability to provide for an open, balanced, fair, transparent, and inclusive standards development process. NPCC’s RSPM sets forth the structure for developing Reliability Standards that provide for an adequate level of reliability. NPCC revised its RSPM for better alignment with the NERC standards development process and NPCC Regional stakeholders’ needs. FERC approved the NPCC RSPM on December 23, 2014. In 2018 NPCC has also initiated a revision to the RSPM to identify further opportunities to align the standards development processes with NERC and explicitly clarify the process and authority provided by NERC to develop any further Québec interconnection-wide Variances required for NERC continent-wide standards.

Illustratively, during the assessment period, NPCC was able to initiate the successful retirement of Regional Reliability Standard PRC-002-NPCC-01 – Disturbance Monitoring. The regional standard was no longer needed to ensure that adequate disturbance data is available to facilitate Bulk Electric System (BES) event analyses. NPCC participated and led the development of continent-wide Reliability Standard PRC-002-2 Disturbance Monitoring and Reporting Requirements, to facilitate retirement of the regional standard. FERC approved the retirement in a letter order (RD16-8-000) dated August 16, 2016.

In addition, as allowed by the NERC Rules of Procedure, NPCC developed a revision to the Québec variance for Reliability Standard NERC PRC-006-3 - Automatic Underfrequency Load Shedding. The Québec Interconnection-wide Variance was developed in accordance with the NPCC RSPM and approved by the NPCC Board of Directors on May 13, 2017 and the NERC Board of Trustees on August 10, 2017.

NPCC is also engaged in a revision of the Regional Reliability Standard, PRC-006-2 Automatic Underfrequency Load Shedding (“UFLS”). The revision is necessary to remove redundancies with the latest version of the continent-wide Reliability Standard PRC-006-3 and will incorporate the Regional Reliability Criteria contained in Directory 12, allowing retirement of that Directory. The revision will

enhance the efficient completion of UFLS studies within NPCC and clarify BES system performance and UFLS program requirements.

Compliance and enforcement activities are carried out by the NPCC compliance and enforcement staff and are independent of all users, owners and operators of the North American BPS. Compliance and enforcement activities are governed in the U.S. by the RDA between NERC and NPCC, delegating portions of NERC's authority as the ERO to NPCC.

NPCC has the requisite compliance and enforcement staff to identify users, owners and operators of the bulk electric system and to monitor and enforce the Reliability Standards. NPCC's compliance staff is divided into four sub-program areas: (i) Compliance Implementation, Registration, and Certification; (ii) Compliance Entity Risk Assessment; (iii) Compliance Monitoring; and (iv) Compliance Enforcement. Compliance Implementation, Registration, and Certification personnel carry out the entity registration and certification activities, administer the compliance tools and portals, and perform entity outreach and education. The Entity Risk Assessment conducts IRAs and ICEs, assists with the development of annual implementation plans, and provides the basis for each registered entity's COP. Compliance Monitoring conducts all compliance monitoring activities to oversee compliance with the NERC Reliability Standards. Monitoring activities include audits, spot checks, and self-certifications. Enforcement determines the relevant facts and circumstances, evaluates the risk, evaluates mitigation, assesses compliance history, determines a disposition method for each noncompliance, and determines penalty sanctions in consistent fashion. When necessary, enforcement works with the registered entity on understanding the noncompliance, determining the root cause, and appropriately mitigating the noncompliance.

**b. NPCC has established rules that:**

- i. Assure its independence of the users and owners and operators of the BPS, while assuring fair stakeholder representation in the selection of its directors and balanced decision-making in any ERO committee or subordinate organization structure.** The rules and procedures contained in the RDA, Rules of Procedure, amended and restated NPCC bylaws, and other NPCC committee governance documents assure the independence of the users and owners and operators of the BPS while assuring fair stakeholder representation and balanced decision-making at the same time. Fair stakeholder representation and participation is assured by NPCC's committees, subcommittees, task forces and other groups as the board of directors may deem appropriate. Industry technical experts from within the membership also provide valuable input to the board through various working groups and task forces as well as the committees.

- ii. **Allocate equitably reasonable dues, fees, and other charges among end users for all activities.** The allocation of dues, fees, and other charges by NPCC is governed by Article XIII of its bylaws. Funding of Regional Entity division activities are undertaken pursuant to Section 215 of the Federal Power Act in accordance with the funding provisions and procedures of that law and related FERC regulations and orders. After review and endorsement by the NPCC Finance and Audit Committee, the NPCC Board of Directors approves the annual Business Plan and Budget in time for submission to the ERO and to FERC for approval. NPCC funds reliability activities in Canadian provinces pursuant to the mechanisms established by the applicable Canadian provincial regulatory authority. Budgets for the costs of reliability activities are allocated equitably based on the NEL and other relevant factors consistent with applicable law, the RDA, and any agreements with Canadian provincial authorities. NPCC members are not assessed an annual membership fee. For NPCC's Criteria Services division, which establishes and monitors regional-specific non-statutory criteria, Full Members that perform the Balancing Authority function are assessed and pay based upon NEL. Special assessments for Criteria Services may be separately budgeted to Full Members that perform the balancing authority function or upon Full Members with Full Members' consent.
- iii. **Provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties.** The NERC Rules of Procedure is the primary document that NPCC uses to guide its fair and impartial procedures for enforcement. With respect to penalties, NPCC consistently uses the NERC provided penalty calculator tool for consistency in penalty calculation determinations. NPCC has in place a *Conflict of Interest Policy* that requires each NPCC director, officer, and employee to avoid and refrain from involvement in situation where there is an actual conflict of interest, annually disclose any actual or potential conflicts of interest that may arise, recuse himself or herself from participation in any action involving an actual or potential conflict of interest, and refrain from voting on any actions where there is an actual or potential conflict of interest. In addition, NPCC's *Code of Conduct*, which applies to its officers, board of directors, employees, and all participants of NPCC committees, task forces, and working groups, requires each individual to recognize conflicts of interest that may arise and to take steps to disclose such conflicts of interest and to refrain from voting and/or influencing others with respect to such conflicts of interest.
- iv. **Provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties.** NPCC follows a RSPM that provides that participation in the development of a regional Reliability Standard shall be open to all organizations that are directly and materially affected by the NPCC BPS reliability, that there shall be no undue financial barriers to participation, and that participation shall not be conditioned upon

membership in NPCC or unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams are open to the NPCC members and others.

Compliance and enforcement activities are carried out by the NPCC compliance staff and are independent of all users, owners and operators of the North American BPS. Compliance and enforcement activities are governed in the U.S. by the RDA between NERC and NPCC, delegating portions of NERC's authority as the ERO to NPCC. In August 2018, NPCC notified NERC that it elected to conduct all hearings pursuant to NERC's consolidated hearing process.

- v. **Provide for taking appropriate steps to gain recognition in Canada and Mexico.** There are various regulatory structures in which NPCC is recognized in the Northeastern Canadian provinces of New Brunswick, Nova Scotia, Ontario, and Québec

New Brunswick – Through the New Brunswick Electricity Act and implementing regulations, NPCC is designated as a Compliance Body within New Brunswick. On August 10, 2016, as contemplated in the NB Electricity Act, NPCC and the New Brunswick Energy and Utilities Board (“NBEUB”) updated and renewed a Service Contract whereby NPCC provides compliance monitoring and enforcement activities and other services for the NBEUB. Additionally, the NBEUB, NPCC, and NERC entered into a Memorandum of Understanding (MOU) on August 10, 2016, which describes the roles and responsibilities of the three entities and facilitates data sharing. These two documents, along with the NB Electricity Act, are the governing documents with respect to conducting CMEP and other reliability related activities in New Brunswick. Based on these governing documents, NPCC performs compliance and enforcement activities in New Brunswick on all New Brunswick registered entities. The NBEUB retains the ultimate authority to determine whether a violation occurred.

Nova Scotia – The regulatory structure in Nova Scotia is based upon a May 9, 2010 MOU between NPCC, Nova Scotia Power, Inc.(NPSI), and NERC and a July 2011 Order from the Nova Scotia Utility and Review Board (NSUARB). Based on these governing documents, NPCC is designated to perform compliance and enforcement activities in Nova Scotia upon NPSI. The NSUARB retains the ultimate authority to determine whether a violation occurred.

Ontario – The regulatory structure in Ontario stems from the Ontario Electricity Act, the Independent Electricity System Operator (IESO) Market Rules, and a February 5, 2010 MOU between NPCC, the IESO, and NERC. In Ontario, the IESO is the subject to the NERC Reliability Standards

through NPCC. NPCC performs compliance and enforcement activities on the IESO.

Québec – The regulatory structure in Québec is governed by Chapter R-6.01, an Act respecting the Régie de l'énergie (Régie), a May 8, 2009 MOU between NPCC, the Régie, and NERC, a September 24, 2014 MOU between NPCC, the Régie, and NERC, several Régie decisions, and a Québec specific CMEP (QCMEP). Based on these governing documents, NPCC performs compliance and enforcement activities in Québec on all Québec registered entities. The Régie retains the ultimate authority to determine whether a violation occurred.

NPCC has also testified before the Régie in regulatory proceedings related to the designation of the Reliability Coordinator for Québec.

3. **NPCC operates under a delegation agreement that promotes effective and efficient administration of BPS reliability.** On November 2, 2015,<sup>19</sup> the Commission approved the amended and restated NPCC RDA which incorporated benefits of NERC's and NPCC's mutual experience and lessons learned while operating under the predecessor agreement. The revised RDA provides for more efficient and effective execution of responsibilities that promote the reliability of the BPS. These responsibilities include: (i) development and proposal of Reliability Standards; (ii) enforcement of compliance with Reliability Standards; (iii) certification of BPS entities; (iv) registration of owners, operators, and users of the BPS; (v) reliability assessment and performance analysis; (vi) event analysis and reliability improvement; (vii) training and education; and (viii) situation awareness and infrastructure security.

#### **D. ReliabilityFirst Corporation**

ReliabilityFirst Corporation ("ReliabilityFirst") was formed from parts of the former East Central Area Reliability Council, Mid-America Interpool Network, and the Mid-Atlantic Area Council regional reliability councils on January 1, 2006. The organization was specifically designed to address changes required by the Energy Policy Act of 2005 and to support the ERO in a self-regulating model by which the industry participants establish their own standards and independent Regional Entities determine compliance to those standards. The organization was modified from top to bottom compared to the legacy reliability councils it replaced, and exists solely to serve as a FERC-approved Regional Entity performing only those functions delegated to

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<sup>19</sup> 2015 RDA Order, *supra* n. 9.

it by NERC as the ERO. All ReliabilityFirst staff are independent of registered entities, the organization is governed by a hybrid board of directors, which includes both independent and balanced industry sector directors, and the organization is funded (through the ERO) by all load-serving entities in the footprint as opposed to members. Membership is free.

ReliabilityFirst continues to meet the relevant statutory and regulatory criteria for delegation as follows:

1. **ReliabilityFirst “is governed by an independent board, a balanced stakeholder board or a combination independent and balanced stakeholder board.”** ReliabilityFirst is governed by a combination independent and balanced stakeholder board, which consists of 14 directors: (i) three are independent directors; (ii) three are at-large directors elected by all the industry sectors voting together as a single class; and (iii) eight are elected by their industry sectors (suppliers elect two directors, transmission companies elect two directors, Regional Transmission Organizations elect one director, small LSEs elect one director, medium LSEs elect one director, and large LSEs elect one director).
2. **ReliabilityFirst met the requirements of Section 215 (c)(1) (2) of the Federal Power Act, because:**
  - a. **ReliabilityFirst is able to develop and enforce reliability standards that provide for an adequate level of reliability of the bulk power system.** Although ReliabilityFirst no longer develops regional Reliability Standards in order to avoid duplication with the NERC continent-wide Reliability Standards, ReliabilityFirst has adopted a regional Reliability Standards Development Procedure (RRSDP), and has otherwise proved its ability to develop regional Reliability Standards, as illustrated by its development of ReliabilityFirst regional standard BAL-502-RFC-02 - Planning Resource Adequacy Analysis, Assessment and Documentation, which was approved by the Commission on March 17, 2011. The purpose of the regional standard is to establish common criteria, based on “one day in ten” loss of load expectation principles, for the analysis, assessment, and documentation of resource adequacy for load in the ReliabilityFirst footprint. During the assessment period, ReliabilityFirst revised this Regional Standard (now titled BAL-502-RF-03) to add time horizons to its requirements, and to include a requirement for planning coordinators to identify any gap between the needed amount of planning reserves defined in Requirement R1.1 and the planning reserves determined from the resource adequacy analysis. FERC approved the revised Regional Standard on October 16, 2017.

ReliabilityFirst has sufficient staff with the requisite expertise to conduct compliance audits, investigations, spot checks, and other compliance reviews, and to enforce Reliability Standards as demonstrated in part by its performing over X audits and over X spot checks during the assessment period, and ensuring the

mitigation of over X alleged violations of those standards. These activities have resulted in tangible improvements to the reliability of the BPS. ReliabilityFirst develops a Compliance Oversight Plan for each entity, based on the key Risk Elements identified by NERC and ReliabilityFirst, and the unique risks posed by the entity. It then tailors compliance monitoring activities around these Compliance Oversight Plans, to provide a customized, risk-based approach. To enhance its risk-determination process in enforcement, ReliabilityFirst developed a “Risk-Harm” process which, among other things, provided for technical experts to answer a series of questions about the risk and harm posed by each violation using a common scale to ascertain a quantified risk assessment for each violation. Additionally, for serious violations of the NERC Reliability Standards, ReliabilityFirst works with registered entities to implement substantial reliability enhancements beyond baseline compliance, to improve reliability on their system and on the BPS.

**b. ReliabilityFirst has established rules that:**

- i. Assure its independence of the users and owners and operators of the BPS, while assuring fair stakeholder representation in the selection of its directors and balanced decision-making in any ERO committee or subordinate organization structure.** As described earlier, ReliabilityFirst is governed by a combination independent and balanced stakeholder board. Pursuant to ReliabilityFirst’s bylaws, no two industry sectors can control any ReliabilityFirst decision and no single industry sector can veto any ReliabilityFirst decision. This hybrid board structure assures ReliabilityFirst’s independence, while still assuring fair stakeholder representation and balanced decision-making. To further assure ReliabilityFirst’s independence of the users, owners and operators of the BPS, ReliabilityFirst has the following protections in place:
  - First, ReliabilityFirst adopted the NERC CMEP, Appendix 4C to the NERC Rules of Procedure, which provides fair and impartial procedures for the monitoring and enforcement of Reliability Standards.
  - Second, all ReliabilityFirst employees, contractors, and directors sign and must adhere to non-disclosure and confidentiality agreements and conflict of interest forms, and ReliabilityFirst employees, contractors, and directors are governed by the ReliabilityFirst *Conflict of Interest Policy*, the ReliabilityFirst *Code of Business Conduct and Ethics*, and Section 1500 of the NERC Rules of Procedure.
  - Third, to ensure the independence of its staff and eliminate any potential conflicts of interest, ReliabilityFirst does not allow stakeholder participation in its compliance or enforcement activities (i.e., a registered entity staff member may not be on a ReliabilityFirst audit or compliance investigation team).





activities. A registered entity has the right to receive notice when it is placed on the NERC Compliance Registry, and it may appeal its registration to NERC and to the Commission.

The CMEP requires ReliabilityFirst to provide notice to a registered entity when it determines that the registered entity has violated a Reliability Standard, and the registered entity has an opportunity to respond. If a registered entity wishes to contest an alleged violation of a Reliability Standard or a penalty, it may request and receive a hearing, and may appeal the hearing decision to NERC. A registered entity also has the right to request a hearing to contest a twice-rejected mitigation plan or a remedial action directive.

At the conclusion of an enforcement matter, NERC publicly files a Notice of Penalty with the Commission, which promotes openness and the opportunity for public comment. The ERO balances the interest in openness with the concern for the security of critical infrastructure information, and as such, all sensitive critical infrastructure information is redacted from all public Notice of Penalty filings.

- v. **Provide for taking appropriate steps to gain recognition in Canada and Mexico.** This criterion is not applicable to ReliabilityFirst, as its geographic boundaries do not include any portion of Canada or Mexico.

- 3. **ReliabilityFirst operates under a delegation agreement that promotes effective and efficient administration of BPS reliability.** On November 2, 2015,<sup>20</sup> the Commission approved the amended and restated NERC and ReliabilityFirst RDA which incorporated benefits of NERC's and ReliabilityFirst's mutual experience and lessons learned while operating under the predecessor agreement. The revised RDA provides for more efficient and effective execution of responsibilities that promote the reliability of the BPS. These responsibilities include: (i) development and proposal of Reliability Standards; (ii) enforcement of compliance with Reliability Standards; (iii) certification of BPS entities; (iv) registration of owners, operators, and users of the BPS; (v) reliability assessment and performance analysis; (vi) event analysis and reliability improvement; (vii) training and education; and (viii) situation awareness and infrastructure security.

ReliabilityFirst only performs those activities delegated to it under the RDA. ReliabilityFirst has promoted effective and efficient administration of the BPS in its footprint during the assessment period through its successful implementation of the CMEP. For example, during the assessment period, ReliabilityFirst **successfully processed and ensured the mitigation of over X violations; completed X audits; analyzed X events;** and conducted significant outreach efforts. These outreach efforts included a widely used assist visit program (targeted training based on the needs of the entity), bimonthly newsletters, and various risk-based training events and workshops throughout the year.

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<sup>20</sup> 2015 RDA Order, *supra* n. 9.

## **E. SERC Reliability Corporation**

SERC Reliability Corporation (“SERC”) was incorporated in April 2005, replacing the regional reliability council previously in existence since 1969. The new organization was redesigned to meet Federal Power Act §215 and FERC criteria for delegating statutory authorities and responsibilities. SERC's scope includes only statutory functions delegated by NERC. The organization does not perform any registered entity functions and has no business affiliations with any registered entities. Under SERC’s bylaws, SERC has a balanced stakeholder board with seven sectors. All SERC staff are independent of registered entities. The organization is funded through the ERO. Membership is free and open to all owners, operators, and users in the SERC region.

SERC continues to meet the relevant statutory and regulatory criteria for delegation as follows:

- 1. SERC “is governed by an independent board, a balanced stakeholder board or a combination independent and balanced stakeholder board.”** SERC is governed by a balanced stakeholder board. Stakeholders are classified by the SERC Board Executive Committee in one of seven sectors (investor-owned utility sector, federal/state sector, cooperative sector, municipal sector, marketer sector, merchant electricity generator sector, and ISO-RTO sector). SERC’s bylaws establish voting rules that ensure that no two sectors are able to approve a decision and that no one sector can veto a decision.
- 2. SERC met the requirements of Section 215 (c)(1)(2) of the Federal Power Act, because:**
  - a. SERC is able to develop and enforce reliability standards that provide for an adequate level of reliability of the bulk power system.**

Standards: The SERC RRS DP defines the process for the development, revision, reaffirmation, and withdrawal of regional Reliability Standards. The SERC RRS DP requires any proposed regional Reliability Standard to be more stringent than a continent-wide Reliability Standard, whether the regional Reliability Standard addresses matters that the continent-wide Reliability Standard does not or the regional Reliability Standard is necessitated by a physical difference in the BPS within the SERC region. SERC regional Reliability Standards are required to provide for as much uniformity as possible with continent-wide reliability standards. Proposed SERC regional reliability standards are subject to approval by

NERC and FERC prior to becoming mandatory and enforceable within the SERC region.

SERC has one FERC-approved regional Reliability Standard, PRC-006-SERC-02, which addresses automatic underfrequency load shedding requirements. SERC currently is not developing any additional Regional Reliability Standards because the continent-wide NERC Reliability Standards are presently adequate for the SERC region. SERC also participates in the NERC Standards Committee, hosts biannual meetings of the SERC Standards Committee, and hosts specific commenting sessions for NERC Standards Projects as NERC requests comments, all of which involve the discussion of proposed changes to NERC Reliability Standards.

Compliance: SERC's authority to monitor reliability standards is based on the authority granted in its Delegation Agreement with NERC. SERC has the expertise on staff to conduct compliance audits, investigations, spot checks, and other compliance reviews for the Operating, Planning, and CIP Reliability Standards. SERC develops and posts an annual CMEP implementation plan that is complementary to the NERC CMEP, but also addresses reliability issues specific to the SERC region. SERC utilizes off-site and on-site audits, spot checks, and other compliance monitoring methods to assess registered entity compliance with NERC Reliability Standards. Compliance prepares detailed reports on each audit and makes recommendations to Enforcement about possible violations of NERC Reliability Standards.

Enforcement: Over the past five years, SERC has demonstrated its ability to enforce Reliability Standards by processing approximately 800 alleged violations originating from audits, spot checks, self-certifications, self-reports, and compliance investigations following the requirements of the CMEP and NERC ROP. Enforcement staff conducts a thorough assessment of all possible violations to determine whether there is a sufficient basis to allege a violation. If a sufficient basis exists, Enforcement staff determines the complete scope of the violation and the actual and potential risk to the reliability of the BPS. Enforcement staff reviews the registered entity's mitigating activities to ensure that the entity corrects the noncompliance and prevents recurrence. Enforcement staff also participates in settlement negotiations with the registered entity. SERC's processing of possible violations has improved because of increased resources and improved tools such as CE, FFT, and the SNOP filing mechanisms.

**b. SERC has established rules that:**

- i. Assure its independence of the users and owners and operators of the BPS, while assuring fair stakeholder representation in the selection of its directors and balanced decision-making in any ERO committee or subordinate organization structure.** SERC's bylaws allow each SERC member company to appoint a director to SERC's board. The SERC Board Executive Committee is made up of 12 sector representatives from among

the directors. All directors, alternate directors, and board committee representatives are required to comply with SERC's standards of conduct policy that prohibits participation in decisions that could pose a conflict of interest.

SERC's bylaws establish voting rules that ensure that no two sectors are able to approve a decision and that no one sector can veto a decision. These voting rules assure SERC's independence of the users, owners, and operators of the BPS. In addition, SERC has adopted the NERC CMEP, Appendix 4C to the NERC ROP, which provides fair and impartial procedures for the monitoring and enforcement of Reliability Standards. In addition, SERC employees and contractors sign non-disclosure and confidentiality agreements and conflict of interest forms.

- ii. **Allocate equitably reasonable dues, fees, and other charges among end users for all activities.** SERC develops a budget annually that will accomplish all delegated duties. The budget is reviewed and approved by SERC's board before going to NERC and FERC. The budget is paid by all registered entities based on their proportionate share, based on the NEL. Pursuant to §202 of the NERC ROP, NEL is the net generation of an electric system plus energy received from others less energy delivered to others through interchange. It includes system losses but excludes energy required for the storage of energy at energy storage facilities. Each entity reports the energy generated on an annual basis for the previous year. After verification by SERC, this data is provided to NERC.
- iii. **Provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties.** SERC has adopted without exception the NERC CMEP, Appendix 4C to the NERC ROP, and the associated *Sanction Guidelines*, ROP Appendix 4B, which provide fair and impartial procedures for the enforcement of Reliability Standards within the SERC region. SERC maintains a *Conflict of Interest Policy* to ensure the integrity and independence of its compliance and enforcement staff. To ensure consistency and remain fair, unbiased and balanced in assessing penalties, SERC follows the *Sanction Guidelines* of NERC and compares the proposed penalty with similarly situated violations that have been filed with and approved by FERC. All proposed penalties are reviewed and approved by SERC's Managing Counsel, the General Counsel, and the CEO.
- iv. **Provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and other exercising its duties.** The SERC RRSDP requires SERC to provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in development reliability standards.

SERC provides for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in its CMEP activities. A registered entity has the right to receive notice when it is placed on the NCR, and may appeal its registration to NERC and to the Commission.

The CMEP requires SERC to provide notice to a registered entity when it determines that the Registered Entity has violated a Reliability Standard, and the registered entity has an opportunity to respond. If a registered entity wishes to contest an alleged violation of a Reliability Standard or a penalty, it may request and receive a hearing, and may appeal the hearing decision to NERC. A registered entity also has the right to request a hearing to contest a twice-rejected mitigation plan or a remedial action directive.

At the conclusion of an enforcement matter, NERC publicly files a NOP with the Commission, which promotes openness and the opportunity for public comment. The ERO balances the interest in openness with the concern for the security of critical infrastructure information, and as such, all sensitive critical infrastructure information is redacted from all public NOP filings.

- v. **Provide for taking appropriate steps to gain recognition in Canada and Mexico.** The SERC region does not extend into any part of Canada or Mexico. Thus SERC has no need to establish rules that provide for taking appropriate steps to gain recognition in Canada or Mexico.
3. SERC operates under a delegation agreement that promotes effective and efficient administration of BPSreliability. On May 4, 2018,<sup>21</sup> the Commission approved the amended and restated SERC RDA to reflect the changed geographic footprint of SERC to be effective July 1, 2018. The 2018 RDA maintained the RDA provisions from the 2015 RDA (approved by the Commission on November 2, 2015,<sup>22</sup>) which incorporated benefits of NERC's and SERC's mutual experience and lessons learned while operating under the predecessor agreement. The SERC RDA provides for more efficient and effective execution of responsibilities that promote the reliability of the BPS. These responsibilities include: (i) development and proposal of Reliability Standards; (ii) enforcement of compliance with Reliability Standards; (iii) certification of BPS entities; (iv) registration of owners, operators, and users of the BPS; (v) reliability assessment and performance analysis; (vi) event analysis and reliability improvement; (vii) training and education; and (viii) situation awareness and infrastructure security. SERC only performs those activities delegated to it under the RDA. SERC also performs outreach, included a widely used assist visit program (targeted training based on the needs of the entity), monthly newsletters, and various risk-based training events and workshops throughout the year.

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<sup>21</sup> *North American Electric Reliability Corporation et al.*, 163 FERC ¶ 61,094 (2018).

<sup>22</sup> 2015 RDA Order, *supra* n. 9.

**F. Texas Reliability Entity, Inc.**

Texas Reliability Entity, Inc. (Texas RE) is a non-profit Texas corporation that was formed to serve as the Regional Entity for the Electric Reliability Council of Texas, Inc. (ERCOT) region, and to preserve and enhance reliability in the region. Texas RE also performs non-statutory activities as the Reliability Monitor for the ERCOT region pursuant to its January 1, 2016 agreement with the Public Utility Commission of Texas (PUCT) and the Electric Reliability Council of Texas (ERCOT), the Independent System Operator in the region. As Reliability Monitor, Texas RE monitors and reports to the PUCT regarding market participants' compliance with state electric reliability regulations and reliability-related ERCOT Protocols and Operating Guides. The ERCOT region is the geographic area located within the state of Texas that operates under the jurisdiction of the PUCT and is not synchronously interconnected with any other interconnection. The ERCOT region includes approximately 90 percent of the state's electric load and 75 percent of the land area in Texas.

Texas RE continues to meet the relevant statutory and regulatory criteria for delegation as follows:

1. **Texas RE “is governed by an independent board, a balanced stakeholder board or a combination independent and balanced stakeholder board.”** Texas RE is governed by a combination independent and balanced stakeholder board consisting of nine members: four independent directors; two industry-affiliated directors; the Texas RE CEO; and two ex-officio non-voting directors (the Public Utility Commission of Texas Chairman or delegate, and the Public Counsel from the Office of Public Utility Counsel). The independent directors are elected by Texas RE membership to serve staggered three-year terms. The two industry-affiliated directors may not be from the same market sector and may not concurrently serve on the ERCOT ISO board of directors.
2. **Texas RE met the requirements of Section 215 (c)(1) (2) of the Federal Power Act, because:**
  - a. **Texas RE is able to develop and enforce reliability standards that provide for an adequate level of reliability of the bulk power system.** Texas RE follows the requirements as defined by the NERC Rules of Procedure, including the CMEP,

and by its RDA with NERC, including Texas RE's current Standards Development Process (SDP). Texas RE has used these documents to develop regional standards and to audit and enforce compliance with Reliability Standards. Texas RE's Member Representatives Committee (MRC) oversees development of Texas RE Regional Standards.

Standards Development: Texas RE participates in the NERC Standards Committee and develops, comments, and votes on NERC Reliability Standards. Texas RE also facilitates the NERC Standards Review Forum (NSRF) on a monthly basis. The NSRF, which reports to the Texas RE MRC, is a stakeholder forum in the Texas RE region that discusses current NERC Reliability Standards and upcoming enforceable standards. In 2018, the Texas RE Reliability Standards Department conducted a five-year review of Regional Standard IRO-006-TRE-1 and, based on stakeholder input, recommended its retirement. In accordance with the SDP, Texas RE followed the steps to retire the regional standard.

Compliance: Between January 1, 2015, and December 31, 2018, Texas RE successfully completed more than 200 audits or spot checks of registered entities for compliance with Reliability Standards, including Critical Infrastructure Protection Reliability Standards. More than 400 potential instances of noncompliance were discovered by Texas RE staff. Texas RE conducted Inherent Risk Assessments on all registered entities in its region, and used a risk-based approach to determine the scope of each compliance monitoring engagement. Texas RE staff also investigated possible violations of the Reliability Standards arising from BPS disturbances, outages, self-reports, and complaints. Texas RE requires all risk assessment and compliance monitoring employees to, at a minimum, complete NERC training classes for auditors and meet all other requirements of the Compliance Monitoring Competency Guide of the ERO Enterprise Compliance Monitoring and Enforcement Manual.

Enforcement: In addition to the auditing program, Texas RE has a separate Enforcement group with a dedicated staff. The Enforcement group processes noncompliance identified through audits, spot checks, self-certifications, complaints, and self-reports, including self-logging. The Enforcement group significantly improved case processing efficiencies and by 2017 processed more violations than in 2015 and 2016 combined. Texas RE is committed to handling violations in a clear and transparent manner, with emphasis on establishing mitigation and maintaining reliability.

**b. Texas RE has established rules that:**

- i. Assure its independence of the users and owners and operators of the BPS, while assuring fair stakeholder representation in the selection of its directors and balanced decision-making in any ERO committee or subordinate organization structure.** The Texas RE bylaws and corporate policies assure the organization is independent of users, owners, and operators of the bulk power system, while assuring fair stakeholder

representation in selection of its directors and balanced decision-making. The Texas RE bylaws provide that the organization has a combination independent and balanced stakeholder board consisting of nine members: four independent members, two industry-affiliated members, the Texas RE CEO, and two ex-officio, non-voting members representing the Public Utility Commission of Texas and the Office of Public Utility Counsel. The four independent directors are elected by Texas RE membership to serve staggered three-year terms. Texas RE membership is free, voluntary, and open to any entity that is a user, owner, or operator of the ERCOT region BPS or that qualifies for membership with Texas RE and complies with the Texas RE bylaws. In addition to the structure of the board, independent directors and members of their immediate families or households may not: (1) have current or recent status (within the past two years) as a director, officer or employee of an ERCOT region NERC registered entity, or (2) have direct business relationships, other than as customers, with any NERC registered entity. The two industry-affiliated directors are selected by the Texas RE MRC to serve two-year terms. The Texas RE MRC is made up of stakeholder entities. The two industry-affiliated directors must come from different Texas RE membership sectors: System Coordination and Planning, Transmission and Distribution, Cooperative Utility, Municipal Utility, Generation, or Load-Serving and Marketing.

- ii. **Allocate equitably reasonable dues, fees, and other charges among end users for all activities.** Texas RE's bylaws and its RDA with NERC provide that it will allocate equitably reasonable dues, fees, and other charges among end users for its statutory activities. Each year Texas RE produces a draft budget using templates provided by NERC and posts the draft on its website for public comment. The budget includes the costs necessary to perform Texas RE's statutory functions under the RDA with NERC and any expected income. The budget is reviewed for reasonableness by the Texas RE MRC and approved by the Texas RE board of directors, NERC, and FERC. Pursuant to Exhibit E to its RDA, assessments to fund Texas RE delegated functions and related activities are allocated to all load-serving entities in the region on the basis of NEL. Penalty monies received by Texas RE are applied as a general offset to its budget requirements for the subsequent fiscal year.
- iii. **Provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties.** Texas RE has adopted and implemented the CMEP in accordance with its RDA with NERC. Texas RE strives to be fair, unbiased, and balanced in its enforcement actions and imposition of penalties, and its internal procedures incorporate these concepts. After a possible violation is discovered, either through registered entity self-identification methods or Texas RE compliance monitoring activities, the violation is reviewed and verified by the Enforcement group. Penalties are calculated using the NERC *Sanction Guidelines* and are reviewed in relation to similar penalties assessed in this and other regions.



In addition, all penalties are reviewed by the Texas RE Director of Enforcement and by the Chief Operating Officer prior to issuance.

Texas RE also has policies and procedures to ensure its employees act with independence, ethics, integrity, fairness, and openness. All Texas RE employees and contractors must annually sign an ethics agreement, which requires them to conduct Texas RE business and activities ethically, with integrity, and refrain from situations where they have any conflict of interest. A conflict of interest arises when: (1) a person is in a position to derive a personal or financial benefit based on his or her actions or status as a Texas RE representative, or (2) the action of any Texas RE representative is in any way detrimental to the best interests of Texas RE. A “personal or financial benefit” includes any ownership, investment, or compensation interest by the employee or a member of the employee’s household. An employee must immediately inform the Texas RE Legal Department if a conflict of interest or even the appearance of a conflict of interest might exist, to allow the Legal Department to evaluate the situation. After full disclosure by the employee, the Legal Department may agree to conditions that appropriately limit any potential influence from a conflict of interest.

Texas RE also follows the CMEP requirement to provide biographies of all potential audit team members to registered entities prior to a compliance engagement and provide opportunity for entities to object to use of any employee where a potential conflict of interest may exist. At the end of each compliance monitoring engagement, registered entities are also provided a questionnaire which allows them to directly report to NERC any concerns they have with fairness, openness, or objectivity with respect to how Texas RE conducted the engagement. In addition, Texas RE has an ethics and compliance hotline to allow anyone to report (anonymously if desired) any noncompliance by a registered entity and any ethics complaints they have concerning Texas RE.

- iv. **Provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties.** As part of its RDA, Texas RE follows its approved SDP, which provides reasonable notice and opportunity for public comment, due process, and balancing of interests during development of Regional Standards. The SDP requires that proposed regional standards must be drafted by a standards drafting team and be posted for a public comment period prior to any vote on the standard.

Texas RE also conducts its general operations in a manner that is transparent to the public. As required by its bylaws, it posts public notices of its board and committee meetings on its public website and posts meeting materials, including draft budgets, for public review prior to the meetings. The Texas RE public website includes training materials, useful compliance information, and the contact information for key Texas RE personnel.

Texas RE also provides due process to registered entities seeking to contest a violation, penalty, or sanction. Texas RE adheres to the NERC Rules of Procedure and CMEP, which require Regional Entities to provide registered entities reasonable notice of possible violations, the ability to contest a violation or penalty or sanction, and the ability to appeal such matters.

- v. **Provide for taking appropriate steps to gain recognition in Canada and Mexico.** This criterion is not applicable to Texas RE.

- 3. **Texas RE operates under a delegation agreement that promotes effective and efficient administration of BPS reliability.** Texas RE is a Regional Entity organized on an Interconnection-wide basis.<sup>23</sup> On November 2, 2015,<sup>24</sup> the Commission approved the amended and restated Texas RE RDA which incorporated benefits of NERC's and Texas RE's mutual experience and lessons learned while operating under the predecessor agreement. The revised RDA provides for more efficient and effective execution of responsibilities that promote the reliability of the BPS. These responsibilities include: (i) development and proposal of Reliability Standards; (ii) enforcement of compliance with Reliability Standards; (iii) certification of BPS entities; (iv) registration of owners, operators, and users of the BPS; (v) reliability assessment and performance analysis; (vi) event analysis and reliability improvement; (vii) training and education; and (viii) situation awareness and infrastructure security.

#### **G. Western Electricity Coordinating Council (WECC)**

Western Electricity Coordinating Council ("WECC") is the successor to the Western Systems Coordinating Council ("WSCC"), which was formed in 1967. WECC, established in April 2002, continues to be responsible for promoting and coordinating electric system reliability among industry stakeholders as had been done by WSCC since its formation. WECC's regional area extends from Canada to Mexico. It includes the provinces of Alberta and British Columbia, the northern portion of Baja California, Mexico, and all or portions of 14 Western states. Membership in WECC is open to all entities with an interest in the operation of the BPS in the Western Interconnection. All meetings are open and anyone may participate in WECC's standards development process.

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<sup>23</sup> 18 C.F.R. § 39.8(e) ("The Electric Reliability Organization shall and the Commission will rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of BPS reliability and should be approved.")

<sup>24</sup> 2015 RDA Order, *supra* n. 9.

In 2013, the WECC board of directors approved the bifurcation of the company into a Regional Entity (WECC) and a Reliability Coordination Company (Peak Reliability). The bifurcation, which became effective in 2014, was the culmination of significant work and signaled a major landmark in the history of the organization. Under this new structure, the reliability coordinator and interchange authority functions in the Western Interconnection were undertaken by Peak Reliability, a separate and independent company from WECC. **Peak Reliability provides core and other associated reliability coordination services within the Western Interconnection. In July 2018, Peak Reliability announced its intent to wind down operations by the end of 2019.**

WECC continues to meet the relevant statutory and regulatory criteria for delegation as follows:

1. **WECC “is governed by an independent board, a balanced stakeholder board or a combination independent and balanced stakeholder board.”** Since bifurcation, WECC has been governed by an independent board of nine directors, who are precluded from having any affiliation with any WECC members or Registered Entities operating in the Western Interconnection.
2. **WECC met the requirements of Section 215 (c)(1) (2) of the Federal Power Act, because:**
  - a. **WECC is able to develop and enforce reliability standards that provide for an adequate level of reliability of the bulk power system.** WECC’s authority to enforce Reliability Standards is based on the authority granted in its RDA with NERC. FERC’s approval of the RDA conferred authority to WECC to manage and enforce compliance with FERC-approved Reliability Standards. Additionally, WECC develops Regional Criteria and practices to improve the functioning and efficiency of the Western Interconnection. This combination provides a forum for addressing system-wide issues and an oversight role to promote reliable operation of the Western Interconnection.

WECC used its reliability standard development and enforcement abilities to address changes occurring in the Western Interconnection and to further reliable operations in the interconnection. WECC proposed revisions to Regional Standard BAL-002-WECC to change required contingency reserves. The change requires a potentially higher amount of reserves than would be required by the continent-wide standard and provides a calculation method which is much clearer and easier to implement and audit than what was found in the prior version. On two occasions, WECC proposed revisions to Regional Standard BAL-004-WECC: once to address

the application of an Automatic Time Error Correction exemption, and another to specify a calculation methodology. WECC also made revisions to Regional Standard IRO-006-WECC, to address entities' operations related to unscheduled flow relief. WECC proposed changes to Regional Standard VAR-501-WECC addressing use and operation of power system stabilizers within the interconnection. Further, WECC made revisions to Regional Standard FAC-501-WECC to address aspects related to the implementation of transmission maintenance inspection plans. WECC has proposed the retirement of Regional Standards PRC-004-WECC (dealing with protection systems and remedial action scheme misoperations) and VAR-002-WECC (dealing with automatic voltage regulation), as development of continent-wide reliability standards made the regional standards redundant and/or providing no greater reliability benefits.

WECC demonstrated its ability to enforce reliability standards during the assessment period through continued development and improvement of its CMEP activities and annual implementation plans. WECC worked collaboratively with the other Regional Entities and NERC in coordinating monitoring and enforcement activities for Registered Entities operating in multiple regions.

**b. WECC has established rules that:**

- i. Assure its independence of the users and owners and operators of the BPS, while assuring fair stakeholder representation in the selection of its directors and balanced decision-making in any ERO committee or subordinate organization structure.** WECC's bifurcation-related institution of an entirely independent board of directors was accompanied by the creation of a Member Advisory Committee (MAC). While directors are directly elected by the WECC membership, member interests are represented and input is given through the members themselves, but also by the MAC, which provides information and recommendations directly to WECC's Board of Directors regarding WECC policies and proposed board decisions. In addition, WECC staff members, and representatives from WECC member entities, routinely participate in WECC, ERO and ERO Enterprise committees and work groups.
- ii. Allocate equitably reasonable dues, fees, and other charges among end users for all activities.** The allocation of dues, fees and other charges is governed by Section 11.1 of the WECC bylaws, Funding of Reliability Activities. WECC funds all activities undertaken pursuant to Section 215 of the Federal Power Act in accordance with the funding provisions and procedures of that law and related FERC regulations and orders. The WECC Board approves an annual business plan and budget for submission to NERC and to FERC for their approval. WECC funds reliability activities undertaken outside the United States pursuant to agreements with appropriate Canadian or Mexican authorities in accordance with the provisions of those agreements. WECC has allocated recovery of its reliability activities based upon the NEL of participants in the Western

Interconnection. To the extent that WECC elects to engage in activities not eligible for funding pursuant to Section 215 of the Federal Power Act, it does so through the use of service fees and charges paid by the persons or entities that voluntarily participate in such activities. Those separate funds wholly support WECC's non-§215 activities.

- iii. **Provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties.** WECC's RDA with NERC is based on the NERC *pro forma* Delegation Agreement and has been reviewed and approved by FERC. In coordination with NERC, WECC develops annual CMEP Implementation Plans, which identify how WECC will monitor Registered Entities' compliance with Reliability Standards. Along with NERC and other ERO Regional Entities, WECC has developed monitoring processes which assess individual Registered Entity risks and their potential impact on the BES; WECC tailored its monitoring and enforcement actions accordingly. WECC uses the NERC *Sanction Guidelines* as a framework for assessing fair and reasonable penalties, and considers all facts associated with the registered entity and the alleged violation. Individuals responsible for assessing, recommending, or negotiating penalties are not otherwise involved in compliance monitoring or discovery of violations. In other words, WECC specifically segregates the duties associated with violation discovery or review and violation disposition and penalty assessment. Furthermore, WECC has a layered review approach to penalties, including non-monetary ones. WECC's director of enforcement reviews all cases and proposed sanctions and penalties with the assistance of attorneys from WECC's Legal Department. WECC management reviews the processes and procedures bi-annually. WECC's director of enforcement and managers within WECC's Enforcement group are Certified Compliance and Ethics Professionals. Finally, WECC's Enforcement staff receives regular training on all aspects of their duties to ensure consistency of application.
- iv. **Provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties.** WECC uses the FERC-approved WECC Reliability Standards Development Procedures to develop regional Reliability Standards along with regional criteria and regional business practices. These procedures assure that standards, criteria or practices will be developed in a fair and open manner, with contribution and review by subject matter experts, and that all affected and interested parties will have the opportunity to comment and vote during their promulgation. Illustratively, proposed standards are drafted by a standards drafting team, publicly posted, and subject to a mandatory public comment period prior to any vote.

In regard to the exercise of its other duties, WECC posts on its website notices of, and agendas and materials for board and committee meetings.

WECC also adheres to the NERC Rules of Procedure and the CMEP processes, which provide due process protections to registered entities with respect to compliance obligations and enforcement of standards violations. Accordingly, registered entities are provided reasonable notice of possible violations, and the right to contest a violation, penalty or sanction, and to appeal the Regional Entity's decisions to the NERC Board of Trustees Compliance Committee, and the Commission.

- v. **Provide for taking appropriate steps to gain recognition in Canada and Mexico.** WECC has negotiated various agreements with the applicable governmental authorities for British Columbia, Canada, Alberta, Canada, and Baja, Mexico, the three international areas included in the Western Interconnection.

British Columbia (BC):

Under an Administration Agreement between the British Columbia Utilities Commission (BCUC) and WECC, WECC acts as the administrator for the BCUC in carrying out certain activities relating to the Mandatory Reliability Standards program in British Columbia. Working under this agreement, WECC recommends entity registrations, receives and reviews self-reports, self-certifications, and periodic data submittals; conducts audits; and provides reports relative to the nature, severity and remediation of possible violations. At the BCUC's request, WECC has set up a separate webCDMS portal, an electronic system to collect compliance data, dedicated to BCUC and its entities.

Alberta:

WECC acts as the Compliance Monitor for the Alberta Market Surveillance Administrator (Alberta MSA), under a Services Agreement between the Alberta MSA and WECC, in carrying out certain activities related to Alberta Reliability Standards, specific to the Alberta Electric System Operator (AESO), in Alberta, Canada. WECC operates under the Services Agreement with the Alberta MSA in conjunction with a pre-existing membership and operating agreement with the AESO. Similar to BCUC, WECC uses a separate webCDMS portal for the Alberta MSA and AESO.

Mexico:

Under a membership and operating agreement between Comisión Federal de Electricidad (CFE) and WECC, WECC acted as CFE's compliance monitor for certain activities in Baja California, Mexico, monitoring compliance with CFE's mandatory Reliability

Standards. In the latter part of the assessment period, Mexico's electricity market and regulatory structures changed dramatically. Mexico is moving from a fully vertically integrated national electricity company to an open market, permitting both private and public entities to participate in the generation, transmission and distribution of electricity. WECC and NERC negotiated a memorandum of understanding with the new Mexican regulatory agency, Comisión Reguladora de Energía (CRE); and WECC negotiated revisions to or new member and operating agreements and service agreements with the CRE and other Mexican agencies (which now perform different roles and functions under the new Mexican regime). WECC continued to formulate and implement annual Implementation Plans, with CFE or CRE, to establish the scope for standards monitoring, descriptions of monitoring methods, and outreach and training activities WECC undertakes for Mexican agencies and Baja-California-area market participants. As in British Columbia and Alberta, WECC uses a separate webCDMS portal for use by Mexican government agencies and market entities.

WECC does not have enforcement authority for any of the international jurisdictions within the Western Interconnection. WECC provides registration recommendations, compliance monitoring, reviews of mitigation plans and completed mitigation plans, and assessment recommendations with respect to alleged violations.

- 3. WECC operates under a delegation agreement that promotes effective and efficient administration of BPS reliability.** WECC is a Regional Entity organized on an Interconnection-wide basis.<sup>25</sup> On November 2, 2015,<sup>26</sup> the Commission approved the amended and restated WECC RDA which incorporated benefits of NERC's and WECC's mutual experience and lessons learned while operating under the predecessor agreement. The revised RDA provides for more efficient and effective execution of responsibilities that promote the reliability of the BPS. These responsibilities include: (i) development and proposal of Reliability Standards; (ii) enforcement of compliance with Reliability Standards; (iii) certification of BPS entities; (iv) registration of owners, operators, and users of the BPS; (v) reliability assessment and performance analysis; (vi) event analysis and reliability improvement; (vii) training and education; and (viii) situation awareness and infrastructure security.

WECC worked to maintain and improve the reliability and efficient administration of the Western Interconnection through a variety of activities in fulfillment of these responsibilities. WECC took active steps to review WECC regional standards, their interplay with NREC promulgated and FERC approved continent-wide Reliability Standards, and operations within the Western Interconnection. During the assessment

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<sup>25</sup> 18 C.F.R. § 39.8(e) ("The Electric Reliability Organization shall and the Commission will rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of BPS reliability and should be approved.")

<sup>26</sup> 2015 RDA Order, *supra* n. 9.

period, WECC continued to develop and retire Regional Reliability Standards as deemed appropriate to foster reliable operations in the interconnection. WECC also participated in the development, amendment and retirement of NERC Reliability Standards; and assisted Canadian and Mexican regulatory authorities to adopt identical or similar Reliability Standards as those regulators deemed appropriate for their jurisdictions.

WECC likewise promoted effective and efficient administration of the BPS in the Western Interconnection during the assessment period through its implementation of NERC's CMEP approved by the Commission. WECC followed and implemented ERO-wide development and advancement of CMEP processes and activities through a risk-based approach; risks *vis a vis* individual Registered Entity risks and regional/Western Interconnection risks. WECC assists Canadian and Mexican authorities, with jurisdiction in the Western Interconnection, to adopt Reliability Standards, to monitor compliance with their adopted standards, to identify and register BPS entities, to conduct reliability assessments, performance analysis, and event analysis, and to train and educate (both regulators and BPS entities) with regards to compliance responsibilities, reliability improvement, situational awareness and infrastructure security.

WECC undertook assessments of entities within its region to determine whether registration was required pursuant to Commission approved revisions to the definition of the Bulk Electric System (BES) and its exclusions and inclusions. This aided in administering the BPS in identifying entities which were no longer to be registered and through identification of facilities which did and which did not constitute BES facilities for which registered entities would have compliance responsibilities. WECC also took and maintains efforts to associate responsible registered entities with their Planning Authorities, Transmission Planners, etc. and to have those entities confirm their respective roles and relationships.

WECC undertook periodic Operational Practices Surveys to review and share best practices of surveyed-entities' operational procedures and practices. Beginning in 2016, WECC conducted Reliability Assurance Visits in partnership with NERC. During these visits, WECC discusses with entities their operational practices, to identify and share with Western Interconnection entities (and beyond) where there are areas of excellence or concerns. WECC produces a public report that provides high level findings and concerns discovered during the Reliability Assurance Visits and holds a workshop to review the general findings.

Further, WECC managed a comprehensive planning database, provided guidance on the analysis and modeling of the transmission system, and developed scenario studies of system performance to establish operating policies and limits, and regional transmission planning. WECC provided forums and means of exchange for regional planners, Transmission Planners, and others involved in the modeling and planning for the systems comprising the Western Interconnection and the interconnection as a whole; thus facilitating their work and WECC's own responsibilities for reliability assessments, performance analysis and reliability improvement. In addition, WECC performed annual assessments of 10-year loads and resources in the Western Interconnection and created a 10-year coordinated plan of system growth. WECC also provided information to NERC



for its annual summer and winter assessments of the reliability of the BPS. WECC continued production of an annual *State of the Interconnection* report to provide WECC's members and stakeholders with an independent assessment of data collected annually in the Western Interconnection. WECC studied the impacts the Clean Power Plan could have on electricity generation and transmission in the Western Interconnection. The study provided information to owners and operators of BPS facilities, state and regional authorities and federal agencies concerning the impacts identified and would have enabled them to plan generation and transmission operations and facility expansion and retirements in recognition of the potential impacts. Further, WECC undertook and published an independent study of the relationships between natural gas supply and natural gas transmission and electricity generation and electricity transmission; how natural gas industry operations and capabilities affect electricity industry participants and electricity generation and transmission; and the impacts of possible decisions to be made affecting both the natural gas and electricity markets of the Western Interconnection.

#### **IV. CONCLUSION**

For the reasons stated above, each of the seven Regional Entities (FRCC, MRO, NPCC, ReliabilityFirst, SERC, Texas RE, and WECC) continues to meet the Regional Entity delegation criteria provided in Section 215 of the Federal Power Act and part 39 of the Commission's regulations.