NERC
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

July 29, 2015

VIA ELECTRONIC FILING

David Erickson
President and Chief Executive Officer
Alberta Electric System Operator
2500, 330 - 5 Avenue SW
Calgary, Alberta
T2P 0L4

RE: *North American Electric Reliability Corporation*

Dear Mr. Erickson:

The North American Electric Reliability Corporation ("NERC") hereby submits Notice of Filing of the North American Electric Reliability Corporation of Revisions to NERC Compliance Registry and Rules of Procedure. NERC requests, to the extent necessary, a waiver of any applicable filing requirements with respect to this filing.

Please contact the undersigned if you have any questions.

Respectfully submitted,

/s/ Nina H. Jenkins-Johnston

Nina H. Jenkins-Johnston
Senior Counsel for the North American Electric Reliability Corporation

Enclosure

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BEFORE THE
ALBERTA ELECTRIC SYSTEM OPERATOR

NORTH AMERICAN ELECTRIC)
RELIABILITY CORPORATION)

NOTICE OF FILING OF THE NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION OF REVISIONS TO NERC COMPLIANCE REGISTRY AND RULES OF PROCEDURE

The North American Electric Reliability Corporation ("NERC") hereby submits this filing in accordance with the Federal Energy Regulatory Commission's ("FERC") March 19, 2015 Order ("March 19 Order") largely approving NERC's Risk-Based Registration ("RBR") Initiative in the referenced docket.[1] In the March 19 Order, FERC found "reasonable NERC's overall goal of ensuring entities are registered and made subject to the Reliability Standards based on the risk they pose to reliability" and held that "[m]any of the proposed revisions clearly promote this goal and are adequately justified."[2] This filing provides notice of the removal of the Load-Serving Entity ("LSE") functional registration category from the NERC Compliance Registry ("NCR") and limited changes to the NERC Rules of Procedure ("ROP").

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[1] *See North American Electric Reliability Corporation*, *Order on Electric Reliability Organization Reliability Organization Risk Based Registration Initiative and Requiring Compliance Filing*, 150 FERC ¶ 61,213 (2015) ("March 19 Order").

[2] *Id.* at P 2.

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I. Key Highlights of the Compliance Filing

The RBR Initiative assures that the right entities are subject to the right set of Reliability Standards, using a consistent approach to registration and risk assessment. NERC's proposal to remove the LSE function from the NCR is consistent with this goal. Removal of LSEs from the NCR will have little to no impact on the reliability of the Bulk Electric System ("BES") for the following four reasons.

First, the activities performed by the LSE function are primarily commercial in nature.[3] The LSE functional registration category encompasses organizations that secure energy and transmission service to serve the electrical demand and energy requirements of end-use customers. In the course of conducting this commercial activity, LSEs collect load information; however, they primarily verify or communicate information. To the extent that an organization registered as an LSE could directly affect reliability because it has the requisite ability, authority or assets to do so, such organization is also registered for other functions. This ensures continuity of NERC Reliability Standard compliance obligations.

Second, tasks currently assigned to the LSE function under NERC Reliability Standards would continue to be performed by other functions subject to currently applicable LSE Reliability Standard Requirements[4] or by market participants (including LSEs) pursuant to existing tariffs, market rules, market protocols and other market agreements.[5] There are

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[3] NERC notes that LSEs are similarly situated to Purchasing-Selling Entities ("PSEs") and Interchange Authorities ("IAs"). In the March 19 Order, FERC agreed to remove these two functions from the NCR because PSEs are "primarily market-driven" and IAs perform "a commercial function, essentially quality control activity in verifying and communicating interchange schedules." March 19 Order at PP 25-26.

[4] Most of the organizations currently registered as LSEs are also registered under these other functions.

[5] NERC notes that the current version of the NERC Reliability Functional Model Technical Document -- Version 5 provides that the "LSE defined in the [NERC Functional] Model is not to be confused with or equated to the LSE as defined in any tariff or market rule." This language distinguishes LSE compliance obligations under NERC

currently 461 organizations registered for the LSE function. Four hundred and nineteen (419) of the 461 LSE organizations would have deactivated LSE functions ("deactivated LSEs"), but would remain on the NCR for one or more functions[6] that are also subject to NERC Reliability Standard Requirements currently applicable to the LSE function.[7] With respect to the four LSE-Only Requirements, there is little to no risk to reliability from removal of the LSE function from the NCR. The tasks at issue for these LSE-Only Requirements are either no longer deemed necessary for reliability or performed by another function pursuant to other Reliability Standards Requirements or pursuant to non-Reliability Standard sources. Only 41 organizations would be deregistered (i.e., completely removed) from the NCR ("deregistered LSEs") as a result of the proposed removal of LSEs from the NCR.[8] As shown in **Appendix E**, the load information currently provided by these 41 LSE organizations potentially eligible for deregistration would continue to be provided in support of reliability, pursuant to tariffs, market rules, market protocols and other market agreements.

Third, the 41 potential deregistered LSEs represent a small percentage of load in their respective BA areas – ranging from 0.3% to 3.39%. Even in the Regional Entity footprint facing

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Reliability Standards from LSE obligations under tariffs or market rules. Since NERC is proposing to remove LSEs from the NERC Compliance Registry, this distinction would no longer be necessary.

[6] These other functions are DPs, Generator Owners ("GOs"), Generator Operators ("GOPs"), Transmission Owners ("TOs"), Transmission Operators ("TOPs"), Resource Planners ("RPs"), and/or BAs.

[7] In the March 19 Order, FERC was persuaded by NERC's proposed removal of IAs because "all currently registered [IAs] are also registered as either a balancing authority or reliability coordinator, and will remain subject to the applicable Reliability Standards." March 19 Order at P 26.

Only four Reliability Standards solely apply to the LSE function. One is proposed for retirement and the replacement Requirement does not apply to LSEs. One is being addressed by NAESB, which FERC recognized is commercial in nature with minimal reliability implications. The remaining two are addressed by other means, as discussed below.

[8] **Appendix A** of **EXHIBIT D** lists a total of 43 entities. The June 19, 2015 NCR includes two additional registered entities that either have since deregistered or which will deregister separate and apart from the implementation of the RBR rules and initiative.

the largest projected load growth (projected at 7%), the estimate of LSE entities that would be completely removed from the NCR account for approximately 193 MW (0.17%) of total load. Fourth, NERC reviewed current and historical compliance monitoring and enforcement activities as to organizations registered for the LSE function. To date, no violations by an entity in its LSE function have caused or exacerbated system disturbances or events. These statistics are identified in "Notice of Filing of the North American Electric Reliability Corporation of Risk-Based Registration Initiative Rules of Procedure Revisions," submitted on January 6, 2015 ("January 6 Filing").[9] No significant violations involving the LSE function have occurred since the January 6 Filing.

In compliance with the March 19 Order, NERC addresses the following six items from FERC relating to NERC's proposal:

- the increased threshold for registration of DPs to 75 MW results in 41 LSEs, an increase from 14 previously identified in the January 6 Filing, that could be deregistered;[10]
- the peak load of LSE organizations that could be deregistered on an individual and BA basis is small;[11]
- obligations under NERC's Reliability Standards applicable to LSEs would be ensured by other functional categories;[12]
- obligations under alternative sources of authority applicable to LSEs would be ensured by deregistered LSEs or other market participants (see **Appendix E** for specific tariff provisions, agreements, market rules or other documents and the load information to which they relate);[13]

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[9] January 6 Filing at pgs. 32-34.

[10] *Id*. at PP 39-41.

[11] *Id*. at PP 39-41.

[12] FERC further directed NERC to ensure that NERC address any potential reliability gaps created by the proposed removal of the LSE functional registration category from future modified Reliability Standards. *See Id*. at PP 37, 40, 41, 43.

[13] *See Id*. at P 41.

- DP-LSE organizations will have little to no effect on reliability due to load growth, as shown by the individual peak load as well as the individual BA area analysis;[14] and

- NERC has coordinated with NAESB to address the transition of commercial-related obligations necessitated by the proposed retirement of the LSE function.[15]

In addition, NERC has complied with the directives of the March 19 Order to:

- "modify [the NERC ROP]" to "include Reliability Standard PRC-005 (Transmission and Generation Protection System Maintenance and Testing) as applicable to underfrequency load shedding-only distribution providers ["UFLS-Only DPs"];"[16] and,

- "modify. . .[the NERC ROP] . . . to state that "[t]he NERC-led review panel shall also include a review of individual and aggregate system-wide risks …."[17]

Finally, NERC commits to "provide notice to the Commission when a [NERC-led] review panel decision is posted" so as to "provide the Commission with an opportunity for review where no appeal occurs."[18]

II. Procedural History

On January 6, 2015, NERC submitted a filing of proposed revisions to the NERC ROP that would implement NERC's RBR Initiative. On March 19, 2015, FERC issued an order largely approving the RBR Initiative and denying, without prejudice, NERC's proposed removal of the LSE functional registration category from the NCR.

On April 13, 2015, NERC posted the changes to the NERC ROP as well as NERC's proposed removal of the LSE functional registration category from the NCR on the NERC

[14] *Id*. at P 41.

[15] *See Id*. at P 42.

[16] *Id*. at P 2.

[17] *Id*. at P 68.

[18] *Id*. at P 69.

website for a 45-day comment period.[19] NERC received 10 sets of comments in response to the posting.[20] NERC's consideration of the comments is included in **EXHIBIT C**. On June 22, 2015, the NERC Board of Trustees approved the proposed changes to the NERC ROP.

III. Removal of the LSE Functional Registration Category

A. The Activities Performed by the LSE Function are Commercial in Nature.

The NERC glossary defines an LSE as an entity that "[s]ecures energy and transmission service (and related Interconnected Operations Services) to serve the electrical demand and energy requirements of its end-use customers."[21] As set forth in the January 6 Filing, this definition reflects the fact that LSEs are primarily involved with contracting rather than with physical operations of the BPS. Ownership of BES assets (or of any physical assets) is not a pre-condition for LSE registration. Owners and operators of BES Elements are registered under other functions. The LSE ensures an adequate power supply for its customers, including contracting for associated transmission service, to deliver that supply to a DP, who is responsible for the final delivery to its end use customers. The NERC Functional Model similarly provides that "[u]nlike the Distribution Provider, the Load-Serving Entity, does not have Bulk Electric System assets ("wires") but does take title to energy."[22] As a result, LSEs cannot take actions on the grid to impact reliability. Unlike Reliability Coordinators ("RC") that serve as the highest

[19] Article XI, Section 2 of the NERC Bylaws require all Rules of Procedure amendments to be approved by the NERC Board of Trustees. All proposals for amendment shall be posted on NERC's website and subject to public comment for a minimum of 45-days prior to Board of Trustees' action. All such changes shall be submitted to the applicable governmental authorities.

[20] http://www.nerc.com/AboutNERC/Pages/Rules-of-Procedure.aspx.

[21] *See* Glossary of Terms Used in NERC Reliability Standards, available at: http://www.nerc.com/pa/Stand/Glossary%20of%20Terms/Glossary_of_Terms.pdf.

[22] *See* Reliability Functional Model Technical Document, version 5 (Functional Model) at page 26, available at: http://www.nerc.com/pa/Stand/Functional%20Model%20Archive%201/FM_Technical_Document_V5_2009Dec1.pdf.

authority on the grid and that issue Reliability Directives, the LSE only receives instructions and relays information to the Distribution Providers and Transmission Operators.[23] In addition, during an emergency operating condition, RCs can bypass LSEs and issue directives directly to a Distribution Provider or Transmission Operator.[24]

B. Tasks Assigned to LSEs Would Continue to be Performed if LSEs are Removed from the NCR.

Out of the 72 NERC Reliability Standard Requirements that are assigned to LSEs, only 7 Requirements and sub-Requirements in 4 Reliability Standards solely apply to LSEs. Compliance obligations pursuant to the majority of NERC Reliability Standards applicable to LSEs would continue to be performed even after removal of the LSE function from the NCR.

While deregistered LSEs would no longer be subject to compliance with Reliability Standards, the load information currently supplied by LSEs would continue pursuant to existing tariffs, market agreements, market protocols and market rules.

1. Obligations for LSE Requirements Applicable to Other Functions.

As shown in **Appendix C**, with very few exceptions,[25] LSE Requirements are applicable to one or more of the following seven functions: DPs, GOs, GOPs, TOs, TOPs, RPs, or BAs.[26] In other words, even with removal of the LSE function, compliance obligations continue through

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[23] *Id.* "The Load-Serving Entity **reports** its generation (affiliated and non-affiliated) arrangements to serve load to the Balancing Authority, which **forwards** this information to the Reliability Coordinator, for day-ahead analysis" and "The LSE **communicates** requests for voluntary curtailment to the appropriate end-use customer loads, thereby ensuring that these loads will in fact be curtailed." (emphasis added).

[24] *Functional Model* at pg. 63 "Depending on the need to implement this type of curtailment, load is either curtailed automatically (such as in the case of underfrequency or undervoltage load shedding), or a curtailment directive is made by the Reliability Coordinator, Balancing Authority, or Transmission Operator directly to the Distribution Provider for physical implementation (except when this can be accomplished directly by the Transmission Operator)."

[25] The exceptions are BAL-005-0.2b, R1.3; EOP-002-3.1 R9-9.1; INT-011-1 R1; and MOD-004-1 R3 (3.1-3.2).

[26] This list includes Reliability Standards for which NERC proposes to remove LSEs as a responsible entity.

other functions. Out of the 461 organizations registered as an LSE, 419 would be potentially eligible to be a deactivated as an LSE, but would remain registered on the NCR as follows:

- 382 DPs;[27]
- 30 BAs, GOPs or TOPs; and
- 7 GOs, TOs or RPs.[28]

In addition to the 419 organizations deactivated as an LSE, other organizations that are not LSEs, but that are registered for one of these seven functions are subject to Reliability Standard Requirements that currently apply to the LSE function.

2. Obligations for LSE-Only Requirements.

The following Requirements and sub-Requirements are solely applicable to LSEs:

- BAL-005-0.2b Requirement R1.3;[29]
- MOD-004-1 Requirements R3, R3.1, R3.2;[30]
- INT-011-1, Requirement R1;[31] and
- EOP-002-3.1, Requirement R9.[32]

The removal of LSEs from the NCR will not create a reliability gap either because other functions continue to ensure that load information continues either through existing or revised

[27] Out of the 72 Reliability Standard Requirements applicable to the LSE function, 55 apply to DPs.

[28] The final (and 38th) potential organization not registered as a DP is in fact an LSE-only organization in the process of deregistration, because it does not meet any of the currently effective criteria for registration as an LSE.

[29] This is one sub-Requirement in the Reliability Standard.

[30] Reliability Standard MOD-001-2 was submitted on February 18, 2014 and proposes to retire Reliability Standards MOD-001-1a, MOD-004-1, MOD-008-1, MOD-028-2, MOD-029-1a, and MOD-030-2. Within MOD-001-2, the LSE is not listed in the applicability section.

[31] This is the only Requirement solely applicable to the LSE function.

[32] EOP-002-3.1 was merged, along with EOP-001-2.1b and EOP-003-2 to create EOP-011-1. Proposed EOP-011 has removed the LSE function.

pending Reliability Standards or because the Reliability Standard is no longer needed for reliability.

a. BAL-005-0.2b

NERC Reliability Standard BAL-005-0.2b, Requirement R1.3 can be retired through the NERC Reliability Standards Development Process ("RSDP") for three reasons. First, other Reliability Standards hold the BA or the DP responsible for needed load information. The primary reliability purpose of BAL-005-0.2b is to account for all facilities and load electrically synchronized to the Interconnection within a metered boundary of a BA to balance resources and demand. BAL-005-0.2b, R1 already requires all load, generation and transmission operating within an Interconnection to be accounted for, and included, within the metered boundaries of a BA area. This requirement already holds the BA responsible for load information. Under BAL-001-1, the BA must account for load because it must maintain Interconnection steady-state frequency within defined limits by balancing real power demand and supply in real-time. Similarly, BAL-005-2b, R8 states that it is the obligation of the BA to ensure appropriate data acquisition for and calculation of ACE at least every six seconds. Second, NERC notes that NERC Rule of Procedure 501.1.4.4 provides that the registration process will ensure all loads and generators are under the control of a single BA. Third, DPs have assigned geographical areas in which load would reside and have metered boundaries that enable them to account for load. Given that most of the LSE organizations are also registered as DPs, there would be a minimal impact on reliability if BAL-005-0.2b Requirement R1.3 were retired.

b. MOD-004-1

The Transmission Service Provider ("TSP") is the appropriate function to address the load information obligations currently assigned to LSEs in MOD-004-1. The role of LSEs

pursuant to MOD-004-1 (inclusive of Requirements R3, R3.1, R3.2) is no longer deemed necessary for reliability because the TSP is already assigned compliance obligations pursuant to MOD-001-2, which was submitted on February 18, 2014. The LSE is not an applicable entity in MOD-001-2. As a result, MOD-004-1 is already proposed for retirement. MOD-004-1 is one of two MOD Reliability Standards that provides for TSPs to calculate the amount of MW transfer capacity on a Flowgate that remains available for additional transmission service above-and-beyond existing uses of the transmission system. NERC maintains that there is a reliability benefit to understanding how TSPs make this calculation; however, there is no reliability benefit to prescribing the manner in which LSEs or RPs determine the inputs for this calculation. Since NERC has determined, as set out in the MOD-001-2 filing, that the prescriptive tasks encompassed by MOD-004-1 (Requirements R3, R3.1, R3.2)[33] are not necessary for reliability, the removal of LSEs as applicable entities for this Reliability Standard would not create a reliability gap.

c. INT-011-1.1 and Coordination with NAESB

In the March 19 Order, FERC was "persuaded by NERC that [INT-011-1.1] is commercial in nature and has minimal reliability implications."[34] The purpose of INT-011-1.1 is to ensure that transfers within a BA area using Point-to-Point Transmission Service are communicated and accounted for congestion management procedures. Each LSE that uses Point-to-Point Transmission Service for intra-BA area transfers must submit a Request for

[33] These prescriptive tasks involve load forecasting and specifically cover Loss of Load Expectation (LOLE), Loss of Load Probability (LOLP), Deterministic risk-analysis, and Reserve margin or resource adequacy requirement studies established by other entities, and identifying expected import path(s) or source region(s). In NERC's filing proposing the retirement of MOD-004-1, NERC also notes the commercial nature of these tasks.

[34] March 19 Order at P 42.

Interchange unless the information about intra-BA transfers is included in congestion management procedure(s) via an alternate method.

Following the issuance of the March 19 Order, NERC had extensive discussions with NAESB leadership on whether removal of any of the LSE Reliability Standards warranted development of a NAESB standard. NERC updated its LSE mapping excerpt from the RBR Petition to reflect recent filings and other activities and submitted it to the NAESB Wholesale Electric Quadrant (WEQ) Standards leadership for review. NAESB identified INT-011-1 as a candidate for a standard. Reliability Standard INT-011 ensures that LSEs with intra-BA agreements submit a Request for Interchange unless it is entered into a congestion management procedure. This Reliability Standard, among other things, targets older or grandfathered agreements, and none of the entities registered solely for the LSE function have any of these agreements. Further, the NAESB standard, Electronic Tagging Functional Specification, requires e-tag data be included for point-to-point transactions including grandfathered agreements.

The WEQ Executive Committee Chair and Vice Chair agreed to submit a request to NAESB to ensure that this commercially-related practice under INT-011-1 is considered for a business practice standard development project through the NAESB process. If NAESB pursues development of this standard, it will be subject to a vote at the regular WEQ Executive Committee in August 2015 and, if approved, filed with FERC in the 3rd Quarter 2015.

d. EOP-002-3.1[35]

Proposed Reliability Standards EOP-011-1 (Emergency Operations) and PRC-010-1 (Undervoltage Load Shedding)[36] consolidate, streamline and clarify the existing requirements of certain currently-effective Emergency Preparedness and Operations (EOP) and Protection and Control (PRC) Reliability Standards. Currently effective EOP-002-3.1 applies, inter alia, to LSEs. Proposed EOP-011-1, which would replace EOP-002-3.1, would apply to BAs, RCs and TOPs, but not LSEs. NERC maintains that it is appropriate to eliminate LSE role in this Reliability Standard, and more broadly from Reliability Standard load shedding obligations, because appropriate entities are already proposed to be assigned this role. Therefore, this poses little to no risk to reliability.

As noted in the supporting documents to the EOP-011-1 filing submitted on January 8, 2015,[37] LSEs have no real-time reliability functionality with Energy Emergency Alerts issued pursuant to EOP-002-3.1. Requirement R9 of EOP-002-3.1 is in place to enable a TSP to change the priority of a service request. This previously involved the deficient LSE requesting its Reliability Coordinator to initiate an Energy Emergency Alert, to ensure the service would not be curtailed by using a Transmission Loading Relief. Under a NAESB standard (WEQ Etag Spec v1811 R3.6.1.3), this process and the technology have been modified and the TSP now has

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[35] On June 18, 2015, FERC issued a Notice on Proposed Rulemaking ("NOPR") proposing to approve Reliability Standards EOP-011-1 (Emergency Operations) and PRC-010-1 (Undervoltage Load Shedding) which consolidate, streamline and clarify the existing requirements of certain currently effective Emergency Preparedness and Operations (EOP) and Protection and Control (PRC) Reliability Standards (Docket Nos. RM15-7-000, RM15-12-000, and RM15-13-000). That same day, FERC also issued a NOPR proposing to approve revisions to the Transmission Operations (TOP) and Interconnection Reliability Operations and Coordination (IRO) Reliability Standards (Docket No. RM15-16-000). In these NOPRs, FERC noted that its final ruling on those Reliability Standards will be guided by support regarding LSEs that is provided in this compliance filing.

[36] While PRC-010-1 is included in FERC's EOP-011-1 NOPR, it is not the focus of the ensuing discussion.

[37] *See* Exhibit D, Mapping Document, at pg. 33; *and id.*, at Exhibit A, Application Guidelines, at pg. 16.

the ability to change the transmission priority itself. As a result, the proposed removal of the LSE from the NCR does not create a reliability gap.

NERC similarly proposes to update LSEs' real-time responsibilities in NERC Reliability Standard TOP-001-3. NERC Reliability Standard TOP-001-3 is designed to prevent instability, uncontrolled separation, or Cascading outages that adversely impact the reliability of the Interconnection by ensuring prompt action to prevent or mitigate such occurrences. For Requirements R3 through R6 in TOP-001-3, FERC states that the issuance and compliance of operating instructions under proposed Reliability Standard TOP-001-3 is not limited to the real-time operations time horizon, but includes same-day operations. Furthermore, FERC stated that if a TOP or BA issues an operating instruction to an LSE such as to carry out interruptible load curtailments, it is not clear what entity would respond to this operating instruction if the LSE is removed from proposed TOP-001-3, Requirements R3 through R6. NERC maintains that load shedding is limited to real-time operations. The Glossary definition of "operating instruction," which becomes effective July 1, 2016, is "[a] command by operating personnel responsible for the Real-time operation of the interconnected [BES] to change or preserve the state, status, output, or input of an Element of the [BES] or Facility of the [BES] System." LSE-only organizations cannot take any action to actually change or preserve the state, status, output or input of such facilities.[38] The Reliability Functional Model Technical Document similarly states that non-voluntary load shedding is usually implemented in real-time to address imminent reliability concerns. While the LSEs reach out to end-use customers and demand / request that they make their load available for curtailment during real-time load shedding, it is the DP that is

[38] *See Supplemental Information to Petition of the North American Electric Reliability Corporation for Approval of Proposed Transmission Operations and Interconnection Reliability Operations and Coordination Reliability Standards* (filed May 26, 2015).

tasked with either following Operating Instructions of the BA or TOP or informing its BA or TOP of its inability to do so. Similarly, the Reliability Functional Model Technical Document states that the LSE could be bypassed in the decision-making and communication of load shedding.

3. LSE Obligations for the 41 LSEs Potentially Eligible for Deregistration Continue under Tariffs, Market Agreements, Market Rules and Market Protocols.

As shown in **Appendix A**, taking into account the LSE-only organizations and application of the increased MW criterion for registration of DPs,[39] a total of 41 LSE organizations are potentially eligible for deregistration. These 41 LSE organizations are currently registered as follows: 9 LSE-only organizations, 4 LSE-PSEs, and 28 LSE-DPs. FERC requests specific information about the alternative sources of authority available to obtain load information in support of reliability currently provided by these 41 deregistered entities.

NERC notes that these LSE Requirements generally cover two categories of information: (1) ahead-of-time tasks and (2) real-time tasks. Ahead-of-time tasks include submission of load profiles and forecasts to BAs, RPs and TPs, arranging for transmission service from TSPs, and submitting request for interchange-to-interchange coordinators. Real-time tasks involve receiving requests for voluntary load curtailment and communicating such requests to end-use customers as directed by a BA or a DP.[40]

In this section, NERC highlights tariffs and market protocols for independent system operators and regional transmission organizations where the majority of the 41 LSE

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[39] The DP entities included in the 41 deregistration count do not qualify for registration under any other DP registration criteria.

[40] The Glossary definition of "operating instruction," which becomes effective July 1, 2016, is "A command by operating personnel responsible for the Real-time operation of the interconnected [BES] to change or preserve the state, status, output, or input of an Element of the [BES] or Facility of the [BES] System."

organizations potentially eligible for deregistration are located. These tariffs and protocols ensure that LSEs' or the ahead-of-time and real-time tasks continue; however, in **Appendix E**, NERC provides a complete overview of the alternative sources that cover all 41 LSE organizations potentially eligible for deregistration.

a. Electric Reliability Council of Texas, Inc.

Nearly half of the 41 LSEs potentially eligible for deregistration are located in the Electric Reliability Council of Texas, Inc. ("ERCOT") BA and RC. With respect to ahead-of-time tasks, ERCOT protocols detailed in **Appendix E** call for the development of demand forecasts and load profile development by ERCOT, partly based on load data research conducted by transmission service providers and distribution service providers. With respect to real-time tasks, ERCOT protocols require load resources to be registered enabling them to participate in voluntary load response in real-time. Otherwise, load shed and interruptible load responsibilities under the ERCOT protocols do not contemplate a role for LSEs to actually shed load. In fact, under the ERCOT protocols, each LSE applicant within the ERCOT Region shall designate the Qualified Scheduling Entity ("QSE") that will perform QSE functions per these Protocols on behalf of the LSE. These functions include load shed and interruptible load responsibilities.

Under the ERCOT market structure, market participants failing to comply with such procedures and protocols can face a fine up to $25,000 per violation of these procedures and protocols.

b. California Independent System Operator, Inc.

Five of the 41 LSEs potentially eligible for deregistration are located in the California Independent System Operator ("CAISO") BA and Peak Reliability is the RC for these entities. Four of the five are LSE-DPs and one is an LSE-PSE. The CAISO market structure is such that

ahead-of-time and real-time data will continue to be provided to CAISO even if the LSE function is removed from the NCR. Under the CAISO tariff, the LSE is a metered subsystem (MSS) which is responsible for balancing its own load and resources within its territory. Each MSS has a Metered Subsystem Agreement with an MSS aggregator and CAISO. These agreements detail the metering and load obligations of its signatories, and obligate the parties to comply with the CAISO tariff or otherwise be subject to monetary sanctions. With respect to ahead-of-time tasks, section 4.9.10 of the CAISO tariff provides that MSSs, CAISO, and participating TOs shall coordinate to share projected load growth for planning purposes. With respect to real-time tasks, Sections 4.2 and 4.9 address MSS load shedding and specify that CAISO communicate with the MSS Operator, which owns the MSS. The MSS Operator in turn is responsible for notifying its customers and generators connected to its system of curtailments and service interruptions. Furthermore, these provisions specify that the MSS Operators and System Resources shall comply fully and promptly with dispatch instructions and operating orders.

c. Midcontinent Independent System Operator, Inc.

Five of the 41 LSEs potentially eligible for deregistration are located in the Midcontinent Independent System Operator ("MISO") BA and MISO also serves as the RC for these entities. The MISO market structure is such that ahead-of-time and real-time data will continue to be provided to MISO even if the LSE function is removed from the NCR. With respect to ahead-of-time tasks, Section 38.9 provides that the local BA shall receive data specified in its BA Agreement. For example, this BA Agreement provides that each BA shall continue to be responsible for the coordination of controllable loads with LSEs within its BA area. Each BA shall also provide an hourly seven-day look-ahead forecast for its BA area to the MISO by the close of the day-ahead market. To the extent that the BA is submitting a load forecast for an

independent third party, it only will be required to submit a good faith estimate based upon the information it has available. The MISO tariff also mandates that TOPs receive ahead-of-time information, including MISO BA load forecast, day-ahead schedules for all resources, and forecast commitment status, so that the TOP can perform local reliability analysis. With respect to real-time data, Sections 38.2 and 40.2 of the MISO tariff provides that a Market Participant that is an LSE or is purchasing on behalf of an LSE shall respond to Transmission Provider directives to curtail appropriate amounts of Load Modifying Resources.

C. The 41 Organizations Potentially Eligible for Deregistration Represent a Small Percentage of Load.

As shown in **Appendix A**, as a result of surveys, studies and respective analysis thereof, the 41 organizations potentially eligible for deregistration represent a small percentage of load. RCs and BAs responded that the amount of load in the affected region would not pose any reliability risk if the 41 entities were removed from the NCR as an LSE. Specifically, the affected load of the 41 organizations ranges from 0.3% to 3.39% in their respective BA areas. Even in the Regional Entity footprint facing the largest load growth (projected at 7%), the estimate of LSE-only organizations that would be completely removed from the NCR account for approximately 193 MW (0.17%) of total load. The RCs and BAs did not identify any concerns with respect to load or forecast changes, mitigation of contingencies or changes in reserve margins. Accordingly, because the 41 entities represent a small percentage of load, there is little to no risk to reliability by their removal as an LSE from the NCR.

D. Violation History Supports the Removal of the LSEs from the NCR.

No significant violations involving the LSE function have occurred since the December 11 Petition. NERC provides, for ease of reference, language below from its January 6 Filing at pgs. 32-34 on violation history.

NERC has reviewed the compliance history and the nature of instances of noncompliance relating to LSEs and determined that the removal of this function from the NCR poses an insignificant risk to the reliability of the BPS. Of the approximately 8,000 unique confirmed violations or posted issues, there have been 397 (4.96%) violations applied solely to the LSE function, and another two (included above as well in the PSE count) that were for LSE and PSE combined. Of these 397 violations, 370 (93.7%) were of Standards that are or would no longer be applicable to the LSE function after the removal of LSEs from the applicability section in CIP Version 5, Project 2008-02, Project 2009-03, and Project 2014-03. As discussed above, the only Reliability Standards that would remain applicable to LSEs are BAL-005-0.2b, FAC-002-1, INT-011-1, MOD-004-1, MOD-020-0, MOD-031-1, MOD-032-1, NUC-001-2.1, and TOP-002-2.1b).

The remaining 27 instances of noncompliance with these Reliability Standards represent only approximately a third of a percent of all unique confirmed violations or posted issues. Of these 27 remaining instances of noncompliance of the nine Reliability Standards that would remain applicable to LSEs, nine instances of noncompliance were for entities that are no longer on the NCR—all of the 27 instances posed only a minimal risk to the BPS. These instances of noncompliance were of IRO-005-1 (1 instance), MOD-019 (1 instance), MOD-020 (1 instance), and MOD-021 (1 instance), and TOP-002 (23 instances, 9 of which were for entities no longer on the NCR).

The single IRO-005 violation was of Requirement 13 and was filed in the Omnibus filing NP10-2-000. The three MOD violations were all self-reported by the same Registered Entity and were filed as FFTs in 2012. These instances were caused by an internal communication and administrative oversight that led to the entity not responding to the RE. The LSE at issue did not

have any interruptible demands or Demand-Side Management programs, and any response to the request would have been null.

The TOP-002 instances of noncompliance included eight violations of TOP-002 R3 and 15 of R18. Of the remaining noncompliance with R3, one was caused by an email error where the entity had transmitted the information but the transmittal failed, in the second, the required data reporting was actually being performed by other entities on behalf of the LSE. The two remaining R18 violations were caused by insufficient documentation that neighboring entities used uniform line identifiers where the REs found that the LSE at issue did in fact use uniform line identifiers; they just did not have adequate documentation of that fact. Based upon this compliance history and the nature of the issues, potential noncompliance by LSEs pose little risk to the reliability of the BPS.

No significant violations that have caused or exacerbated system events or disturbances have occurred since the December 11 Petition.

IV. Changes to the NERC Rules of Procedure

FERC directed the following two modifications to language in the NERC ROP:

> (1) include Reliability Standard PRC-005 as applicable to UFLS-Only DPs in Section III.B of Appendix 5B;[41] and
>
> (2) modify proposed Section III.D.9 of Appendix 5A of the NERC ROP to substitute "shall" for "may," to state that "[t]he NERC-led review panel shall also include a review of individual and aggregate system-wide risks."[42]

NERC included PRC-005 as a Reliability Standard applicable to UFLS-Only DPs; however, NERC is not including a version reference for this Reliability Standard because there are four

[41] March 19 Order at PP 18, 55.

[42] *Id*. at P 68.

versions of PRC-005 in various stages of development.[43] Instead, NERC is proposing a footnote in the NERC ROP to explain that for the period of time that each version of PRC-005 is in effect, that version applies to any UFLS-Only DP on the NCR.

FERC also directed NERC to provide FERC with an opportunity to review decisions by the NERC-led review panel[44] in cases where no appeal occurs[45] by notifying FERC when it posts a NERC-led review panel decision. FERC noted that similar to the process for review of "find, fix and track" postings, as well as "compliance exception" postings, FERC will review such matters and determine within 60 days of receiving notice from NERC whether any formal FERC review is warranted. If FERC takes no action within 60 days, FERC will consider the matter closed. NERC will notify FERC of such decisions as directed by the March 19 Order and will implement this aspect of the March 19 Order pursuant to internal registration program policies and procedures.

In addition, to ensure a complete set of proposed revisions to the NERC ROP regarding the March 19 Order, NERC is including, in the instant compliance filing, the previously-filed NERC ROP amendments that remove references to "Load-Serving Entities" from the list of functional registration categories to which Reliability Standards may apply under the NCR. As set forth in NERC's original January 6 Filing and the instant filing, references to "Load-Serving Entities" from Section 302.1 ("Essential Attributes for Technically Excellent Reliability

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[43] *See* **EXHIBIT C** for a discussion of the above-mentioned versions of PRC-005.

[44] The NERC-led review panel makes registration decisions involving: (A) the materiality test set forth in the notes in Appendix 5B, Statement of Compliance Registry Criteria; (B) a sub-set list of Reliability Standards (which specifies Requirements and may specify sub-Requirements); or (C) a dispute by an entity whose registration status is at issue regarding the Regional Entity's application of Appendix 5B, Statement of Compliance Registry Criteria.

[45] Under Section III.B.13 of Appendix 5A, registered entities that do not agree with a determination of the NERC-led review panel may appeal that decision to the Board of Trustees Compliance Committee.

Standards"), Appendix 5A ("Organization Registration and Certification Manual"), and Appendix 5B ("Statement of Compliance Registry Criteria") should be removed.[46]

Respectfully submitted,

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Date: July 29, 2015

[46] *See* **EXHIBIT B** showing proposed redline changes to the NERC ROP as well as **EXHIBIT C** Consideration of Comments.

EXHIBITS A—D and APPENDICES A – E

(Available on the NERC Website at

http://www.nerc.com/FilingsOrders/ca/Canadian%20Filings%20and%20Orders%20DL/Attach_RBR_ROP_Compl_Filing.pdf)